

Webinar Transcript for "Key Revisions to the Uniform Guidance"

A Webinar by the Vander Weele Group.

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Presenter: Elizabeth Mackay

With introduction by: Maribeth Vander Weele

Facilitator: Sydnie Long

INTRODUCTION

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Maribeth Vander Weele: Greetings, everyone! Welcome to "Key Revisions to the Uniform Guidance." I'm Maribeth Vander Weele. I'm CEO and President of the Vander Weele Group. Our firm provides grants monitoring and grants oversight and related services. So, we're really happy you're here today.

Our presenter is Liz Mackay, who is an attorney and a compliance expert. She was part of a team overseeing \$10 billion of grants for the state of New Jersey.

The Uniform Guidance, as some of you know, was created in 2014 by eight of the largest Federal grant-making agencies through a committee that reported to the OMB, the Office of Management and Budget. So, we're really excited to have Liz talk about how this Uniform Guidance has been evolving, and the latest rounds of revisions.

But before we go into our presentation, I'd like to turn it over to Sydnie Long from our team, just to discuss a few housekeeping matters. Sydnie?

HOUSEKEEPING

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Sydnie Long: Thank you, Maribeth. Good afternoon, everyone, and thank you again for joining us today.

My name is Sydnie, and I will be your facilitator for today's presentation. But first let's go over some housekeeping items.

This presentation will last approximately 30 minutes, followed by a question segment.

We will be recording this webinar and will make it available on our website in a few days' time for you to review and refer to.

Please be sure to keep your microphones muted throughout.

If you have any questions throughout the presentation, please use the Q&A feature, located at the bottom of your Zoom window.

The Q&A feature is different from the Chat feature, so please ensure you use Q&A to post your questions.

We will take about five minutes at the end to answer those questions.

In regards to the Chat feature, I have posted a few resources there for your reference.

And with all of that, I will now turn it over to our presenter, Liz Mackay.

PRESENTATION

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Elizabeth Mackay: Thank you, Sydnie, and thank you, Maribeth. And good afternoon. So, glad that you could join us. Since we only have a half hour, this will be a jam-packed 30 minutes.

And, as Maribeth noted, the Uniform Guidance is considered the canon, if you will, of Federal grants administration. But the term "Uniform Guidance" is really a misnomer. That's the shorthand for the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. So, the provisions in the Uniform Guidance are really not guidelines or best practices. They're requirements. The Uniform Guidance was established in December 2014, so it hasn't been around for very long. And this is really the most comprehensive revision that we've seen in those 10 years.

Today, we're discussing some of the highlights of those revisions for the categories that you see on this slide. I would encourage you, however, to read the comprehensive set of revisions, because there very well may be something that's important to you in these revisions that we won't cover today. And we've put in the Chat room the Federal Register citation, so that you can look at these revisions yourselves.

And, of course, I must present the caveat that what you will hear today shouldn't be construed as legal advice. But again, highlights of what we perceived as some of these important revisions.

And we're going to start with the Clarifications category, because that's what OMB holds is why they revised the Uniform Guidance. There was some lack of clarity with respect to practitioners as to what should be done and what must be done. But we'll see if you agree that there's a little bit more than clarifications in here.

First clarification and the OMB here is attempting to be much more precise in their language. Usually, throughout the Uniform Guidance, they talk about non-Federal entities. But going forward, the OMB would like us to use instead terms like "recipient" and "subrecipient." And the Uniform Guidance regulations usually do apply to a recipient or a subrecipient or both. So, OMB wants that stated directly. And, of course, the recipient is usually the first order of receipt of those Federal awards, and then usually the funds flow down to the subrecipient. The funds being forwarded are the subawards through that pass-through entity.

And I was, when I worked at the state of New Jersey, in some heated discussions about whether an agency was actually a recipient or whether it was a subrecipient or a beneficiary. And other than suggesting that perhaps we need to get out more in the state government, I think that example shows you the importance of the correct terminology for a recipient or a subrecipient or a beneficiary, because different responsibilities accrue to those different Titles.

In addition, OMB revised the entirety of Title 2. So, as we're focusing for the most part on Title 2, Part 200, in fact, they revised many Sections under that Title. If you're contracting with Federal grant funds, for example, you need to know this revision to Title 2, Part 25.

As a recipient of Federal funds, including a contractor that receives Federal funds, you must obtain a unique entity identifier, or a UEI. It used to be called a universal identifier. And, in fact, some of you may remember we used to use DUNS numbers as identifiers. But Dun & Bradstreet no longer has that category here; it's all Federally managed.

And when I was a manager on some of the smaller construction mitigation projects, using contractors who were really not accustomed to Federally funded projects, this concept would send them into a tizzy. So, I think the lack of familiarity was probably the reason for the seeming confusion. But it really isn't that confusing.

Again, recipients and contractors must register at SAM.gov. That's the System for Award Management. And if you are not registered in SAM.gov, you will not get paid by the Federal government. So, SAM.gov is very important.

And it's SAM.gov you'll receive your UEI. The clarification, though with respect to this Section, is that the responsibility for obtaining this UEI stops at the first order of subcontractors. It's the first-tier subrecipients or subcontractors. So, in other words, if you hire a contractor, they hire a subcontractor, and then that subcontractor needs

to hire someone to help out their business, that third or that last order of subcontractors do not need to obtain a UEI. So, that was a clarification in that particular Part.

Again, you may want to review the other Sections that were revised for Title 2. And that is also part of the Federal Register, the citation of which you'll find in the Chat.

Another clarification, which it forces the drive by OMB, or the effort by OMB to be specific. Monitoring and reporting program performance, which is covered in Section 200.329, reads now before October 1st, monitoring by the non-Federal entity. So, it's "monitoring and reporting program performance by the non-Federal entity." That is revised to state: "monitoring by the recipient and subrecipient," because both bear the responsibility for monitoring.

And Paragraph B within this Section addressed a kind of a conflict or difference of interpretation with respect to reporting for financial and performance periods of time. So, the Federal agency or pass-through entity should align the due dates of performance reports and financial reports. It's not a requirement, as may have been thought. And, whereas it makes sense to have the same time period for your expenditures as you do for your performance reporting—I call them institutional constraints—may make that more difficult, because you may have your financial management system in one place, it's one system and a different system for your grants management—you know, tracking the performance of your program. So, that's why this is a *should*. It is not a *must*.

Also clarifications with respect to subrecipient and contractor determinations. And there's a little bit of a double clarification here. So, the Federal Government is making it clear that the Federal awarding agency does not have a direct legal relationship with subrecipients or contractors. There's no privity of contract. But the Federal agency is responsible for monitoring the pass-through entity's oversight of the first-tier subrecipients. So, remember: the Federal Government does have an agreement, does have a legal relationship with the recipient because they receive the funding directly from the Federal agency. And the Federal agency is going to make sure that the pass-through entity is carrying out its monitoring obligation.

So, this Section is clarifying what the Federal agency's role is. But at the same time, it's putting the pass-through entity on notice, or reminding them about their responsibility.

And a couple of the revisions very pointedly address the prevention of fraud or awareness of fraud. For example, with respect to pass-through entity responsibility. And, I would say, maybe an expansion of that pass-through agency's responsibility, which is usually a state government or a state agency. But that agency must evaluate the subrecipient's risk of noncompliance with the Federal award. And the Uniform Guidance states that there are certain factors that you need to consider, to see, to have

confidence in terms of their their compliance, their risk. A risk assessment is what we would call it. And you look at things like your experience in managing this type of a program. A lot of experience, lower risk. Have you had a single audit? If you have, that's a lower risk that you haven't been audited. And if you were audited and had findings, that's a higher risk than not having findings.

But this responsibility, as you can see here, has been revised to include fraud risk. So, it's "evaluate each subrecipient's risk of noncompliance." That's what we have right now. But then, next week, as of October 1st, it will be, "evaluate each subrecipients fraud risk and risk of noncompliance." So, very clear that you have to look at this in a broader sense. It's not just compliance with these rules and regulations, it's the risk of fraud to that award.

And one of the first things that you need to do, and this is a must is, you must check the subrecipient or contractor in SAM.gov, the System for Award Management, to make sure that they are not suspended or debarred, because that will be reported in SAM.

Okay, another example of more emphasis on this fraud awareness concerns mandatory disclosure or mandatory reporting. And the non-Federal entity or applicant for a Federal award must disclose violations of Federal criminal law that are associated with that particular award.

Now, that requires adjudication, right? Because it's violations of Federal criminal law. That requires either a guilty plea or a trial, some kind of a determination that's resolved in the legal system.

So, as we know, the wheels of justice grind slowly, so timeliness is a problem. So, this has been revised to state: "An applicant, recipient, or subrecipient of a Federal award must promptly disclose credible evidence of the commission of a violation of criminal law. So, in essence, the threshold for mandatory reporting has been lowered to some degree. But again says you must be alert for potential fraud, credible evidence of fraud.

And I'd like you to see the language, and I apologize because this slide is a little bit wordy. But it is again stating, if you look at the bold print we went from currently "all violations of Federal criminal law." But effective October 1st, mandatory reporting for "credible evidence of the commission of a violation of Federal criminal law," and that's involving fraud, conflict of interest, bribery, gratuity violations, as well as a violation of the *False Claims Act*, the civil law.

And now we'll talk about the threshold category, Raised Thresholds. And again, 2014 was when the Uniform Guidance was established. Really haven't raised any thresholds since that point in time, and as we know, there's a detail named inflation that comes into play.

So, two important thresholds that were raised here. If you expend more than a million dollars from a Federal award, you must have a single audit. That's up from the old threshold of the existing threshold right now of \$750,000 in Federal expenditures. Right? 1 One million dollars is, I think, much more appropriate when you consider 2014 thresholds versus 2024. Again, we're accounting for inflation.

And, if you receive \$35 million in a Federal award, you must negotiate, as a recipient, with the Federal awarding agency for an indirect cost rate. So, indirect costs are things like salaries, utilities, your rent. You need to pay all of those to be able to carry out the program, your particular program for which you receive the award. But, of course, it's hard to attach that to just that program.

So, you receive some reimbursement or some payment for indirect costs, and the indirect cost rate is your indirect costs divided by your total direct costs. So, if you don't have \$35 million in Federal award, so you don't have to negotiate that rate. There's a de minimis rate, and you can charge up to 15 percent of your indirect costs to your grant. And that is up from 10 percent originally. So, again, speaking to the effect of inflation here, up to 15 percent without actually negotiating.

Another provision here, an increased threshold that I don't have in a different slide, for example, is equipment.

The disposal of equipment now, up to \$10,000, does not require any kind of Federal agency sign-off. There's no rules for that. Same thing for supplies up to \$10,000. No permission from the Federal government. You dispose of them as you will. That \$10,000 is up from \$5,000. \$5,000 in 2014 is very different from \$5,000 in in 2024.

And there were a few really interesting revisions with respect to Procurement, and in some ways more flexibility.

So, there was also a clarification. So, this can go into your clarification category or procurement. And there was some question given the language as to whether or not an independent cost estimate was a *must* or a *should*. So, this Section has been revised to make it clear. You must have an independent cost estimate before you receive bids or proposals for your procurement using Federal funds.

And it makes sense, because before you set out to buy something, whether you're buying a service or you're buying a commodity, you should have some idea as to what that will cost. And when you have your independent cost estimate in hand that will speak to the cost reasonable aspect of why that is an eligible cost. Why, this procurement is an eligible cost. Because to be an eligible cost in terms of Federal grants, you have to have a necessary cost. It has to be a reasonable cost. So, that's your independent cost estimate. And it must be allocable, and allocable means it must pertain to the award.

Now, we know that states that receive Federal funds can procure related to that award using their own state procurement laws. Now, tribal nations may also use their own procurement laws. There have been goals to hire Minority- and Women-Owned Businesses, many cases as subcontractors. You must show that you've taken affirmative steps to include Minority- and Women-Owned Businesses in your contracting pool. Now, Veteran-Owned Businesses are also part of that.

One Section that the OMB removed was the preclusion of geographic preferences. And this was within the United States, because obviously we have the *Buy America Act*, which states that for certain construction materials, they have to be sourced within the United States. But prior to this revision, if you were Oklahoma and you're trying to procure contractors to provide you a service with your Federal funds, well, Oklahoma could not post that RFP and state "only Oklahoma businesses need apply." You could not do that; that was prohibited. That restriction is now lifted. And that's related to the following slide, or actually the following two slides.

Because, pursuant to this new Section 200.318, the procurement standards do not prohibit recipients or subrecipients from using things like project labor agreements or other collective bargaining agreements. You can require in your procurement construction contractors to use hiring preferences or goals for hiring in disadvantaged communities. You can use agreements intended to ensure community benefits. Or again, put out your RFP and require some benefits to the community. And this type of provision was really nowhere to be found before in the Uniform Guidance. And again, this is permission. It's not a requirement.

And we at Vander Weele Group have done a fair amount of work with the Department of Energy programs that are in the *Bipartisan Infrastructure Law* and the *IIJA*. And these provisions in those in those programs are requirements. The requirements for the Grid Resiliency and Infrastructure awards, for example. Because, when you apply for these grants, your community benefits plan is evaluated at 20 percent of your application. 20 percent of your score for your application. Community benefits. Your climate mitigation efforts, because that's the point of the Grid Resiliency and Infrastructure awards, climate mitigation efforts must benefit what they call the DACs, the disadvantaged communities.

So, this Section gives you permission to require these types of provisions, doesn't require them, but that is pretty much in keeping with the approach that we've seen in some of these more recent programs.

And in the same spirit, Section 200.319 says that you may, as a procuring Entity, incorporate a scoring mechanism, or, I would say, give extra credit, for bidders that commit to hiring for certain types of pools of workers, creating certain types of jobs, providing certain worker protections, on the job training. Again, it's not a must, but you can give extra credit. And considering these efforts, when you're scoring your proposals that come in. And also, with the Uniform Guidance revision, they

offer a new template for your NOFOs, for your notices of funding opportunity. And the NOFO is more streamlined, it's simpler, it's less burdensome, and the goal here is to create a more level playing field with respect to applying for Federal funds, to try to make it simpler, so that a much broader community can apply for these programs or apply for work.

And then with respect to costs, and this is really Federal approval of costs, because you can see at the top Section there were 10 items removed from the list that require prior written approval. So, trying to streamline this process. These are 10 items. Again, you may want to review this yourselves, because there are a variety of costs that would meet this revision. Excuse me, that would have this revision apply. And also written approval by the Federal agency is required for pre-award costs. So, if you spend money before your actual grant has been awarded, before you have the Grant funds, you have to have written approval for that, but not prior written approval. So, think about that. If you're in an emergency situation, you know there's a flooding, and folks can't get back into their homes, well, you could buy cots and put them out. And once you have FEMA or HUD approve of getting those cots, so these folks have some place to sleep, you're good. But it's not prior approval prior to purchasing those cots, which again creates a real administrative burden.

And then, finally, with respect to intangible property, this was kind of an interesting Section. This has been newly added to the Uniform Guidance, and it states that Federal agencies should work with recipients to maximize public access to Federally funded research results and data. It goes on. Now, the Federal government is really encouraging the collaboration of for-profit entities in programs that are involving research. Because, again, if we're talking about things like climate change, we're talking about the *CHIPS act*, we want the private sector ideas and their investment. So, what needs to happen is a way to share those results, again, that are protecting intellectual property, but sharing the results.

And, in fact, one of the requirements of the Grid Innovation Program, is a broader applicability of that project's approach to mitigation. You know, technology, their methodology. So, the applicability isn't just for that project. It must be something that's shared. So, we need to find the best way to share those results. As OMB says, maybe for something like intellectual property, intangible property, FOIA isn't the most appropriate vehicle. So, OMB is offering: We'll try to figure that out. Federal agencies, you work with the recipients to maximize the public access, and figure out a safe way to do this for the corporations.

So, again, we've covered quite a bit of information in a half hour, so I'll stop right here. And Sydney, would you like to see if there are any questions?

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QUESTIONS AND ANSWERS

00:28:10.930 --> 00:45:40.290

Sydney Long: Thank you so much, Liz, for that wonderful presentation. Yes, we do have a couple of questions, so we'll turn to the Q&A portion, now. As a reminder to everyone, if you do have any questions that you would like to ask, please post them in the Q&A section, that you will find at the bottom of your Zoom window.

So, for our first question: "You mentioned the term beneficiary on one of the slides, how does the Uniform Guidance define beneficiaries?"

Elizabeth Mackay: It was interesting because, when the OMB had the comment period for these revisions that started, I believe it was last October, October 2023, quite a few comments came in requesting that the OMB, in the Uniform Guidance, define beneficiary. And OMB declined to do so, stated in several Sections. We know that a beneficiary, just in plain English, would be: who is ultimately assisted by this program, by this award. But, in fact, whether that beneficiary is a person or an entity, whether that beneficiary directly receives the benefit from the government or it's indirect through subrecipients, is going to vary from program to program. So, the OMB declined to specifically define that in the Uniform Guidance and said, you have to look at your specific programs to define that term.

Sydney Long: Thank you, Liz. All right. We have a couple more questions that have come through. So, the first one, do you have any recommendations on what an organization should submit if they do not meet the mandatory Single-Audit threshold of one million dollars?

Elizabeth Mackay: So, if they don't...? They don't meet the single...?

Sydney Long: Do you have any recommendations?

Elizabeth Mackay: So, they have to have a Single Audit, in other words.

Sydney Long: Yes, if they don't meet the mandatory Single-Audit threshold of one million dollars, what should that organization submit?

Elizabeth Mackay: Well, you would still be subject to the monitoring from the recipient or subrecipient from whom you've obtained those funds. It wouldn't necessarily be a single audit, per se, but you would still be subject to monitoring.

Sydney Long: Okay.

Maribeth Vander Weele: And Sydney. I also put an answer in the Q&A, as well to that.

Elizabeth Mackay: Great. Yeah, Maribeth, what did you answer?

Maribeth Vander Weele: So, you're not required to have an annual audit, you know, obviously. But you must ensure that your grant-related records are available for review or audit by the appropriate officials. Exactly what Liz said. And these officials can include the Federal agency, pass-through agency, or the GAO. So, it's simply keeping a record, as you must, for all grants. For your expenditures.

Sydney Long: Great. Thank you both.

Another question: Can the required independent cost estimate discussed in the procurement section of your presentation be provided by an entity that also ends up submitting a bid?

Elizabeth Mackay: That would be no, because then it wouldn't be independent. And there's actually another section in the procurement rules that says that if you developed a proposal, or help to develop studies that led to the RFP, to the procurement, you cannot then bid on the procurement. So, what I remember when I was at the State, we would ask, you know, certain consulting firms, 'Could you please give us an independent cost estimate for this aspect of the project or this potential RFP coming up,' and they would say, 'Let me check first and see if we're going to bid on that.' And if the answer was no, we don't have any interest, then they do an independent cost estimate for us. So, that's the key word, is independent.

Sydney Long: Great. Thank you. A few more questions.

Can you explain how the recent initiatives in the newly added state aim to maximize public access to Federally funded research results?

And then a second question within that is, what specific strategies or policies are being implemented to ensure transparency and accessibility for the public?

Elizabeth Mackay: And again, right now, as it stands right now, really the only tool that's available for revealing for transparency is FOIA. The *Freedom of Information Act*, or the states have similar acts. Right now, that's all that's available. But again, that's why the thought is, let's see what the companies involved in the research along with the Federal agency, can come up with. But, as far as I know, anyway, it's right now it's still really FOIA is how you would share that information. And let's talk about having different websites that are guarded in some ways with respect to your intellectual property and protecting that, but providing the research, and I know the Department of Energy is working on that.

Maribeth Vander Weele: I think that is just a fascinating new clause. I think it has explosive implications. And I imagine, since this is so new a provision that they're working to set up those alternatives to the *FOI Act*. But I think this is a powerful, powerful new move toward transparency.

Elizabeth Mackay: Absolutely. And again, I know because it's really brought this whole issue to a head, the Department of Energy is working, I believe in terms of the most logical way to do this would be through a website. But they've been working on how best to present that information.

Sydney Long: Thank you.

So, with the upcoming October 1st changes requiring pass-through entities to evaluate both fraud risk and compliance risk for subrecipients, what are some best practices for implementing a robust risk assessment process. Specifically, how should state agencies and pass-through entities approach the evaluation of credible evidence of fraud or other violations when the mandatory reporting threshold has been lowered? Also fantastic webinar, Liz and team. Thank you.

Elizabeth Mackay: Thank you to the questioner, and I think that with respect to the risk assessment—and there are, you know, logical questions or logical factors that would go into the risk assessment—and what you really look for just in terms of a regular or pre-revision risk assessment is internal controls. And that's where you would tend to find your potential for fraud risk. How tight are your internal controls? Is the person in finance who's paying that bill the same person who submitted that bill? You know, things like that. Do you have those kinds of controls established? And if you don't, then I would say, yes, you have a greater potential for risk. That still isn't credible evidence, though, of risk. That would be actual signatures on documents, in that situation I described, that are the same, and some loss of funding, some gaps in terms of funding being put to work. Then you'd say, well, that's credible evidence. Maribeth, did you say—Maribeth has had an illustrious career working as an investigator, so...

Maribeth Vander Weele: Right. So, we hope to do a separate webinar just on the fraud risk and compliance risk. And Liz is absolutely right. Looking at internal controls is actually part of the current monitoring process. But you'd also look at past performance, for example. Did this event have past incidences, lawsuits, bankruptcies, or well, bankruptcies, maybe not. But lawsuits for civil fraud, for example, might be a fraud risk. And in regarding mandatory reporting of credible evidence of fraud, I mean that is somewhat subjective. Every organization looks at it. Many of the Fortune 500 organizations, for example, have an internal investigative unit. They'll receive a question over their hotline, or an allegation over the hotline, which we've done a lot of work with in the past, and determine to some degree whether there's some credibility to it. Doesn't have to be the standard proof of criminal prosecution, but if there's enough evidence that says there really is something here, then there is that mandatory reporting. So, each incident would have to be looked at individually by professionals who have that background, by your general counsel in the organization. And the general counsel in the organization is usually the one who ultimately makes the decision of whether something is subject to mandatory reporting. At least in the corporate world.

Sydney Long: Great. Thank you both.

So, another question: do these revisions apply only to awarded grants post October 1st or to all grants in flight as well?

Elizabeth Mackay: That's a good question. I would say awards... I will double check on that, because that's an important question. I would think it would apply to all awards.

Sydney Long: Okay.

Maribeth Vander Weele: Well, I mean, you can't retroactively apply a legal requirement that wasn't in existence when the activity took place. Right?

Elizabeth Mackay: Oh, right! What I would be saying is from October 1st forward, in other words, if you received a grant...

Maribeth Vander Weele: Oh, I see.

Elizabeth Mackay: ...last month, and you're going to procure next week, then I would say it applies.

Maribeth Vander Weele: I see.

Elizabeth Mackay: Certainly not retroactive. No, no, no.

Maribeth Vander Weele: If the activity happens to before 10/1, then it's not subject.

Elizabeth Mackay: Exactly, exactly. I misinterpreted that question.

Maribeth Vander Weele: We're getting lots of questions. We hope everybody understood that the 30 minutes was for the presentation itself, and then we appreciate you staying on.

Go ahead, Sydney, with the next questions.

Sydney Long: Thank you.

So, the next question is, you said that an awardee can use an indirect rate up to 15 percent if they are using the de minimis rate—if I pronounced that correctly—if they are basing their indirect rate off of their NICRA rate, must they use that rate exactly? Or are they also allowed to use any percentage up to that rate?

Elizabeth Mackay: My understanding is that you could. It's very specifically set up to 15 percent, allowing for lower rates.

Sydney Long: Okay.

Maribeth Vander Weele: So, the answer is, Yes.

Sydney Long: Thank you.

What fiscal year end applies to the new one million-dollar Single-Audit threshold?

Elizabeth Mackay: It would, I mean, this revised threshold again would apply after October 1st. So it's not, I would say it's not retroactive to a fiscal year. I'm not sure I'm understanding the question, maybe.

Sydney Long: I'll read it again. What fiscal year end applies to the new one million-dollar Single-Audit threshold?

Elizabeth Mackay: Yeah, I would say, if you have an award, if you received the award three months ago, at the end of your fiscal year, you would have to have... The one million-dollar threshold would apply to you. But if I'm not answering, if I'm not answering the question correctly, then please— Actually let me show you, this is my email address elizabeth@vanderweelegroup.com. Yeah, if I'm not answering the proper question, please email me, and we can have a discussion about that.

Sydney Long: Okay, couple more questions, and then we'll wrap this up just because we are going a little over on time.

But, so the person who asked the earlier question about the 15 percent rate...

Elizabeth Mackay: Right.

Sydney Long: ...has some follow-up questions. So, who would be qualified to provide such estimates? Could they be based off of the subrecipients and/or our state department's previous experience with similar projects? Or does the estimate need to be provided in a formally quoted budget by a third party specific to the project at hand?

Elizabeth Mackay: Yeah, my understanding is not that you need a third party at hand, and again, your prior experience would be would dictate that. But you do have to have an explanation for why you're using the rate you are to the awarding agency. The awarding agency cannot just deny your rate because it's a certain number, but you do have to provide some... You know, it's like anything else, you have to record reasons for why you're doing things when you're dealing with Federal grants. So, you do have record your rationale.

Maribeth Vander Weele: So, that would be market research could also apply, correct?

Elizabeth Mackay: Right.

Maribeth Vander Weele: For example, when we do a GSA schedule and they check whether we have reasonable rates, they go on the GSA portal, and they look at competitors and say, are their rates aligned with their competitors?

And again, all of this is still moving, right? And we yet to see... I mean, one of the things we do every year—which we'll do another webinar on is we look at how the regulators are interpreting some of these things through audits and such. But there's just not enough time. This hasn't been out yet, and so we don't know exactly how they're going to interpret that. But traditionally we can draw on what some of the other agencies do, or how this is applied in other venues. And the GSA website has a lot of pricing on it. And so what I would recommend, so, you check with your contracting officer and say, is this acceptable?

And because contracting officers interpret things differently. So, that is your gold standard is getting something in writing from the contracting officer saying, look, I did this research online. Here's what this price is. Is this acceptable?

Elizabeth Mackay: And I think, too, in that theme, as the Federal agency is going to look at, it's with similar projects. You know, similar dollar value projects, similar types of programs. What has the indirect cost rate been? And you know, if you're requesting a 12 percent and normally, that's an eight percent rate or six percent rate, then maybe you have to do a bigger lift to try to get that through the Federal awarding agency. But again, you have my email address. If you'd like to have more of a discussion about this, please reach out to me, and we can set up a call.

Maribeth Vander Weele: Yeah, and I just put the GSA advantage website in in the Chat. But once again, you have to run that by your contracting officer, and I think that's true of the next question.

And if you don't mind, Sydnie, it says, if the interpretation that the revisions applied to all grants, what is your guidance on whether entities can approach the funder like DOE per application of the new 15 percent de minimis on a given project rather than the existing 10 percent?

And Liz, I would say, the answer to that is: absolutely! What do you think?

Elizabeth Mackay: Yes. Absolutely. Yeah, I would approach them with that.

Maribeth Vander Weele: What would be the harm? And the benefit would be tremendous.

Elizabeth Mackay: Absolutely. Yeah, you're no worse than your position right now. So, I would most certainly—

Maribeth Vander Weele: Yeah, but that being said, a number of the GRID deployment grants don't have a administrative indirect cost rate. And so

that's kind of what's unusual about some of these grants going out to private and corporate entities. They don't allow for any rate, indirect cost rate, but that again, be specific to the grant that you received, and congratulations for doing so, if you have.

Elizabeth Mackay: Yeah, for example, with the state and tribal formula grants, the pass-through entity, the state, the tribal nation has a 15 percent allocation, I believe, but the ultimate awardee, the for-profit entity, has no allocation for administrative expenses.

CONCLUSION

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Maribeth Vander Weele: Okay, well, I think I'd like to wrap this up. And I want to thank everybody for coming today. Just a reminder, our firm does provide grants monitoring, grants oversight. We do turn-key grant monitoring programs. We also provide training and reviews of your monitoring programs. But we also are building entire grant management functions for specific organizations, and one in particular, and in conjunction with, for example, Cornerstone is on our call today. Virginia is here, and we're supporting their efforts in building grant functions in a particular agency, and we'd love to do that for you. So, give us a call. We're always available. And thank you for attending today.

Elizabeth Mackay: And again, please any questions about this presentation or about the revisions, just shoot me an email, and we can have a conversation. Or if I can answer your question in an email, well conduct it that way. But, please, we're here to answer your questions and help you.

Maribeth Vander Weele: Okay!

Sydney Long: Thank you so much, everyone.

Elizabeth Mackay: Thanks again.

Sydney Long: Please again refer to the resources on the slide and in the Chat, or you can visit our website, vanderweelegroup.com, if you have any additional questions, or if you'd like to join our mailing list. Thank you so much. Bye.

Maribeth Vander Weele: Bye bye, great.

Elizabeth Mackay: Enjoy your day.

END OF TRANSCRIPT