



# Key Topics Related to Grant Accountability and Monitoring

---

21<sup>st</sup> Century Fall Project Director's Workshop  
October 2019



# Grant Monitoring Points of Emphasis

- Personally Identifiable Information (PII)
- Property and Equipment
- Procurement, Including Conflicts of Interest
- Corrective Actions Related to Audit or Monitoring Findings
- What's next



# Personally Identifiable Information - Authoritative Sources

## Code of Federal Regulations

- Family Educational Rights and Privacy Act (34 CFR 99)
- Office of Management and Budget Guidance (2 CFR 200)

## Illinois Compiled Statutes

- Illinois School Student Records Act (105 ILCS 10)
- Personal Information Protection Act (815 ILCS 530)
- Identity Protection Act (5 ILCS 179)



# Office of Management and Budget Guidance (2 CFR 200)

§200.303 Internal controls.

***The non-Federal entity must:***

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.***



## Office of Management and Budget Guidance (2 CFR 200)

### §200.79 Personally Identifiable Information (PII).

PII means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books, public Web sites, and university listings. This type of information is considered to be Public PII and includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. ***The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified.*** Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual.



## Office of Management and Budget Guidance (2 CFR 200)

### §200.82 Protected Personally Identifiable Information (Protected PII).

Protected PII means an individual's first name or first initial and last name ***in combination with*** any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include PII that is required by law to be disclosed. (See also §200.79 Personally Identifiable Information (PII)).



# Family Educational Rights and Privacy Act (FERPA)

- FERPA (20 U.S.C. §1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records
  - This law applies to all schools that receive funds under an applicable program of the U.S. Department of Education
- FERPA provides certain rights to parents and eligible students (students aged 18 and older or students attending a school beyond high school level)
  - The right to inspect and review the student's education records maintained by the school
  - The right to request that a school correct records which they believe to be inaccurate or misleading
  - Schools must have written permission from the parent or eligible student in order to release any information from a student's education record



# FERPA

- FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions:
  - School officials with legitimate educational interest
  - Other schools to which a student is transferring
  - Specified officials for audit or evaluation purposes
  - Appropriate parties in connection with financial aid to a student
  - Organizations conducting certain studies for or on behalf of the school
  - Accrediting organizations
  - To comply with a judicial order or lawfully issued subpoena
  - Appropriate officials in cases of health and safety emergencies
  - State and local authorities, within a juvenile justice system, pursuant to specific state law



# FERPA

- Schools may disclose, without consent, “directory” information; however schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them.
  - These rights must be communicated to parents and eligible students annually



# FERPA

## **§99.7 What must an educational agency or institution include in its annual notification?**

- (a)(1) Each educational agency or institution shall annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under the Act and this part.
- (2) The notice must inform parents or eligible students that they have the right to—
  - (i) Inspect and review the student's education records;
  - (ii) Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
  - (iii) Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and §99.31 authorize disclosure without consent; and
  - (iv) File with the Department a complaint under §§99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of the Act and this part.



# FERPA

- (3) The notice must include all of the following:
  - (i) The procedure for exercising the right to inspect and review education records.
  - (ii) The procedure for requesting amendment of records under §99.20.
  - (iii) If the educational agency or institution has a policy of disclosing education records under §99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.
- (b) An educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.
  - (1) An educational agency or institution shall effectively notify parents or eligible students who are disabled.
  - (2) An agency or institution of elementary or secondary education shall effectively notify parents who have a primary or home language other than English.



## Illinois School Student Records Act (105 ILCS 10)

### **(105 ILCS 10/3)**

b) The State Board, each local school board or other governing body and each school shall take reasonable measures to assure that all persons accorded rights or obligations under this Act are informed of such rights and obligations.

(c) The principal of each school or the person with like responsibilities or his or her designate shall take all action necessary to assure that school personnel are informed of the provisions of this Act.

### **(105 ILCS 10/4)**

(a) Each school shall designate an official records custodian who is responsible for the maintenance, care and security of all school student records, whether or not such records are in his personal custody or control.

(b) The official records custodian shall take all reasonable measures to prevent unauthorized access to or dissemination of school student records.



# What Should Grantees Do?

- Develop and adopt data protection/PII policies and procedures
- Ensure policies and procedures help employees identify PII
  - Include guidance to distinguish between directory/public PII and Protected PII
- Define access restrictions – limited to business need
- Define proper storage and disposal for paper and electronic records



# What Should Grantees Do?

- Establish protocols for actual or suspected breaches
  - A breach is any inappropriate or unauthorized access
- Define consequences for unauthorized or inappropriate access by employees/contractors or other related parties
- Provide TRAINING
- Name a qualified data records custodian and empower that person
- Perform annual FERPA notification
- Consider taking an entity wide inventory of information collected



# Property and Equipment Guidelines

- Requirements related to Property and Equipment may be found at 2 CFR 200.313.
- The Code of Federal Regulations (Uniform Guidance) has established standards for the use, management, and disposition of equipment purchased with federal funds
- Requirements apply to equipment purchased in whole or in part under a federal award. Requirements also apply to equipment purchased under a state award unless a specific exemption has been granted to the program per the Grant Accountability and Transparency Act (30 ILCS 708).
- Grant recipient must have policies and procedure that ensure these requirements are met.



# Property and Equipment

- Grantee must have records that include:
  - Description of property
  - Serial number or other ID number
  - Source of funding, including Federal Award Identification Number (FAIN)
  - Who holds title
  - Acquisition date
  - Cost
  - Location
  - Use and condition of property
  - Ultimate disposition date including date of disposal and sale price, if any



# Property and Equipment

- Documentation that supports information on listing
- A physical inventory of the property must be taken, and results reconciled with records, at least once every two years
- Adequate maintenance procedures to keep the property in good condition
- Adequate controls to safeguard assets against loss, damage, or theft
  - Any such occurrence(s) must be investigated



# Property and Equipment

## 2 CFR 200.313(c)

Use. (1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

- (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then
- (ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.



# Property and Equipment

## 2 CFR 200.313(e)

Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

- (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.



# Procurement Guidelines

- Requirements related to Procurement may be found at 2 CFR 200.317-326
- Must use own documented procurement procedures which reflect applicable Federal, State, and local laws and regulations
  - Strictest law or regulation governs



# Procurement – Conflicts of Interest

- Must maintain and follow written standards of conduct covering conflicts of interest and governing actions of employees engaged in selection, award, and administration of contracts (2 CFR 200.318)



# Conflicts of Interest (continued)

- No employee, officer, or agent may participate in the selection, award, and administration of a contract if **he or she has a real or apparent conflict of interest.**
- Conflict arises if employee, officer, or agent, or any member of his or her immediate family, his or her partner, or organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
- Officers, employees, and agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
- Standards of conduct must provide for disciplinary actions for violations



# Procurement – Methods to be Followed (2 CFR 200.320)

- Micro-purchases – purchases in which the aggregate amount expended is below \$10,000. May be made without further effort so long as the amount charged is deemed reasonable.
- Small purchases – simple and informal procurements for services, supplies, or other property in which aggregate amount expended is between \$10,000 and \$250,000. Price or rate quotations must be obtained from adequate number of qualified sources, greater than 1.
- Sealed Bids and Competitive Proposals– For purchases of services, supplies, and other property in which the aggregate amount is in excess of \$250,000. Bids/proposals publicly solicited and awarded to lowest bidder conforming with material terms and conditions.
- Noncompetitive (sole source) proposals – For purchases available from only one source and must be expressly authorized by pass-through entity via written request.



# General Procurement Standards

- 2 CFR 200.318(b) – Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders
- 2 CFR 200.319 – Competition - All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.
- 2 CFR 200.321 – Minority and Female Businesses - The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- 2 CFR 200.323 – Contract Cost and Price - The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.



# Corrective Action Plans

- Required by 2 CFR 200.331(d)
- Auditee must prepare a corrective action plan that includes for each finding:
  - Name of contact person(s) responsible for corrective action
  - The detailed corrective action planned
  - The anticipated completion date
  - Upon completion: Documentation of satisfactory implementation must be made available for review upon request



# Additional Thoughts

- The previous slides represent emphasized requirements.
- The information provided is not an exhaustive list of testing activities.
- We will still be testing for allowability of expenditures claimed.
- We will still test for Improper Payments (2 CFR 200.53).
  - a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
  - b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.



# What's next?

- Travel Costs
  - Compliance with Code of Federal Regulations (2 CFR 200.474)
  - Compliance with Illinois Compiled Statutes
    - Grant Accountability and Transparency Act (30 ILCS 708/130)



# Resources

- [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)
- [Financial Audit and Monitoring Review Preliminary Survey Questionnaire](#)
- [Personally Identifiable Information Checklist](#)
- [Procurement and Purchasing Checklist](#)
- [Equipment and Inventory Checklist](#)