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And Now for Some Positive News: OIG Shares 'Promising Practices' Among Audit Findings

By Theresa Defino

Government auditors know they have something of a thankless job. Their role is to be perhaps hypercritical: Was that computer bought near the end of the award really necessary? Did a certain principal investigator have to fly first class? And, yes, enjoy yourself at a conference—but what is alcohol doing being charged against a federal award? While awards are generally governed by the Uniform Guidance, there are also questions of reasonableness and subjectivity that must be applied, employing at times the "prudent person" standard.

On Jan. 21, the National Science Foundation (NSF) Office of Inspector General (OIG) issued *Promising Practices for NSF Award Management*, a compilation of common findings from 18 university audits conducted since September 2018 by independent auditors Cotton & Company LLP and written by the firm, in collaboration with OIG.[1]

However, Ken Lish, OIG director of contract grant audits, told *RRC* the real value in the report is the inclusion of 14 links to what OIG dubbed "promising practices": policies, websites, guides and other procedural materials from audited universities that address everything from personal days while on travel, effort reporting and closeout to application of indirect cost rates.

In an interview with *RRC*, Lish explained the report is a way for OIG to capitalize on the more positive observations auditors make but can't include in reports of awardee institutions.

"During the course of our audits, we see a lot of great practices, and research administrators who are working hard to ensure the proper stewardship of NSF funds," he said. "What can be improved upon gets captured in the audit reports of those specific institutions. But we generally don't have a mechanism to share what they're doing great and what others could possibly learn from them."

Promising Practices is "really us trying to help the community learn from one another and share those promising practices, and not always focus on the negative aspects of what we see and typically write about in our standard audit reports," Lish said.

As part of its contract, OIG required Cotton & Company (and another auditing firm) to "specifically identify, document and catalogue the strengths that they were identifying during the course of their audits," Lish said. Then "it became a waiting game until we had enough information that we felt we could tell a compelling story that could be valuable to the recipient community."

'A Lot of Rules' Govern Travel

Findings common among the audits were unallowable expenses, found in all but one of the audits; inadequately supported expenses, found in 12 audits; inappropriately allocated expenses, found in 10; and noncompliance with NSF and/or institutional policies and procedures.[2] Problems with claims related to travel (including lodging and airfare) span three categories.

These include first-class travel without meeting one of five exceptions, such as when necessary for medical needs, combining business and personal travel, and failing to use a U.S. flag carrier.

Asked why managing travel costs seems so difficult, Lish said, “The short answer is there’s a lot of rules related to travel. And, as a result of that, there are lots of areas where control systems can break down. Travel doesn’t easily lend itself to a single process or a single system to ensure compliance with rules. It incorporates both hard rules that are clear-cut, but there’s also more subjective rules that require judgment and that could span multiple systems. It’s one of those complicated areas that recipients need to build those robust controls around...it’s difficult for recipients to have coverage across all of those categories all the time.”

Some institutions have “more robust capabilities” to flag travel costs that are disallowed or types of travel that require more documentation, Lish said. “Finding the right system to meet all the needs is important for helping ensure compliance with all the various travel rules.”

OIG: Experience, Subjectivity Involved

Reasonable cost is defined in the Uniform Guidance: “A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.”[3]

Determining reasonableness “can be subjective and requires that professional judgment,” Lish said. “And we absolutely find times where rational, well-intentioned people can come to different conclusions on whether something is reasonable.”

He added that given auditors’ breadth of experience, “we’ve developed a good idea of what a good standard is for reasonableness,” and “it’s easier for us to identify when something is deviating from that mean...that certainly helps us be able to identify more of a clean standard, even though it’s still a subjective approach.”

Costs for unallowable alcohol expenses also occasionally pop up in audit findings.

“Alcohol is defined as unallowable in the Uniform Guidance. I will say that, generally, what we see is people work hard to comply with that provision,” Lish said. When costs for alcohol are claimed, “it’s normally an issue where something should have been removed and placed onto a different funding source, but the controls didn’t catch it...that’s why it ended up being charged to a federal award.” Individuals can pay for such beverages themselves, he added.

Indirect Cost Rate Analysis Modified

However, one other area of common findings highlighted in the report—lack of sufficient internal controls for indirect cost rate application—may not be found in the future, due to an agreement between OIG and NSF, Lish told *RRC.* Of the 15 audits with this finding, NSF has resolved only one—that of the University of Pennsylvania, and it sided with the university.

The university applied rates for seven awards that were in effect at the time it submitted the award proposal, not those at the time of the award. OIG said the rates were incorrect and resulted from insufficient internal controls. NSF did not sustain this finding, and said institutions generally should “not exceed the rates in effect at the time of the award, thereby avoiding overcharges of indirect costs to NSF awards.”[4] The rates the university used were, in fact, lower.

“This is an area where we’ve had a lot of conversations with NSF and we’ve developed a path forward,” Lish said. “We are in agreement and in alignment with NSF on how to evaluate this issue going forward. Essentially, recipients must have controls in place to ensure that the rates that they're applying do not exceed the rates in effect at the time of the award, which would ultimately result in over-claiming indirect costs on NSF awards."

Going forward, OIG's audit procedures "will seek to identify that a recipient has controls in place to preclude this type of scenario from occurring"—that is, use of a higher rate, Lish said. NSF officials, "while they were brief in what they wrote in the University of Pennsylvania resolution document...explicitly supported that position."

NSF Concurs on Practices

As of *RRC's* deadline, NSF had only resolved three of the 18 audits included in the report; overall, NSF has a backlog of 30 unresolved audits, according to Lish. NSF has the final say on which of OIG's audit findings stick and whether, for example, questioned costs have to be repaid.

Lish said addressing the backlog is a "high priority" for NSF, although he added that he was not speaking on behalf of the agency's resolution branch.

Lish acknowledged that "we absolutely understand that it doesn't serve the recipient community or any of our other stakeholders to publish a report on promising practices if there is underlying disagreement between us and NSF on those practices."

To "remove that risk of disagreement, we provided a draft of the report to NSF for their review," and the agency provided "valuable feedback, which we ultimately incorporated into the final report," Lish said. "We believe there's agreement [on] the promising practices between us and NSF."

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1 National Science Foundation, Office of Inspector General, *Promising Practices for NSF Award Management*, OIG 22-6-002, January 21, 2022, https://bit.ly/3JJltrs.
2 "NSF OIG Common Audit Report Findings and Sub-Findings," *Report on Research Compliance* 19, no. 3 (March 2022).
3 2 C.F.R. § 200.404.
4 Carrie Davison, Management decision letter for the University of Pennsylvania, OIG Report No. 19-1-013, December 2, 2021, https://bit.ly/3H6Ygxm.