



Contract Management Department

Construction Grants Essentials

Key Area Highlights

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Sources of Info for Today's Presentation...Granting Agencies

- TXDOT - *Local Government Project Procedures Manual*
- Texas Uniform Grant Management Standards
- Code of Federal Regulations (e-CFR)
- US Code (USC) - Title 23 Highways, Title 41 Public Contracts
- FHWA – FHWA 1273, Federal Requirements for Construction Projects,
- EPA - *Operating Procedures for “Monitoring Construction Activities” at Projects Funded Under the Environmental Protection Agency’s Construction Grant Programs, A Guide for Grantees*
- FTA – Managing Federally Funded projects
- City of Austin Administrative Bulletin 08-04 – Grants Application and Acceptance Process
- COA projects – AFA reviews, Audit Findings, etc.
- And many many others...

CMD's Construction Grants Program

Improve grants management and oversight to help ensure that resources are used effectively and continue to be available.



When

Key Tasks



Before initiating the procurement process

Identify if grant funding is part of the project.

Bid Document Preparation

Ensure grant requirements are clearly spelled out in the solicitation documents and that bidders are educated on the impacts to their price.

Letting and Award

Determine Responsive / Non-responsiveness requirements for grant funded projects.

Contract Execution

Ensure contractor's grant requirements are clearly spelled out in contract, including timelines and specific deliverables.

Contract Management and Administration

Ensure compliance with grant requirements.

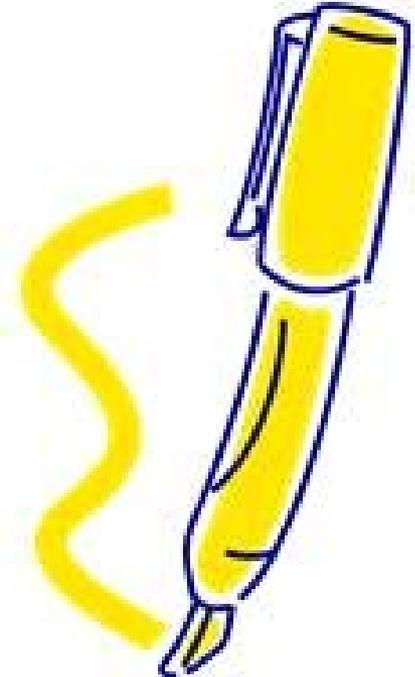
Class Objectives:

- ✓ Recognize what is a grant.
- ✓ Understand COA responsibilities as a grantee.
- ✓ Explore ways to enhance and improve current practices.
- ✓ Explore Common Compliance Pitfalls and Strategies for Success

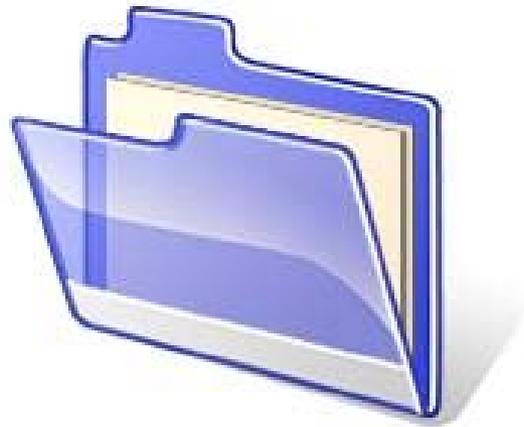
Review Key Area Highlights

Key Area Highlights

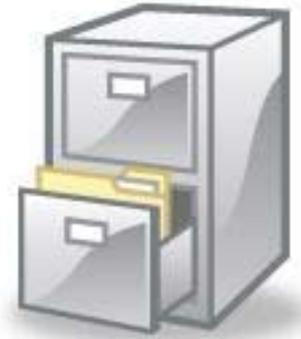
1. Grant File
2. Accounting and Financial Control
3. Payments
4. Change Orders
5. Claims
 - a. Common Causes of Claims
 - b. Claims Prevention
 - c. Claims Resolution
6. Inspections
7. Audits
 - a. Preparing for a Successful Audit
 - b. Common Audit Findings
 - c. Corrective Actions



Grant File



Grant File



Good record systems:

- Improve monitoring of project progress.
- Minimize delays in project completion and cost-overruns.
- Expedite project audits, and
- Minimize the amount of project costs that may be determined ineligible because of lack of documentation



Grant File Content

The complexity of the project files will be determined by the size of the project, but for all projects should contain information on at least the following topics:

- Copy of Grant Agreement.
- Grant Budget. As you spend money, this document will be revised to show funds spent from authorized categories and the remaining account balances.
- Correspondence with funding source.
- Reports: financial reports, progress reports, etc.
- Audit & Project Closeout documentations.

Accounting and Financial Control



Accounting and Financial Control

The purpose of a financial management system is for the:

1. Accountability and control of all project funds, property and other assets; and to
2. Ensure and document that all grant funds and assets are used solely for their authorized purpose.



Accounting and Financial Control

Let's review...

1. Allowable ?

Costs that can be charged to a grant, such as salaries and equipment. Certain types of costs such as alcoholic beverages, are not allowable and may not be charged to a contract or grant.

2. Reasonable ?

A cost that does not exceed in its nature and amount what a prudent person would incur in the conduct of the same business in the same or similar circumstances. (i.e. Market prices for comparable goods or services)

3. Allocable ?

Costs that actually benefit the grant or contract to which they are being charged.

Accounting and Financial Control

The following are some commonly accepted minimum standards for an adequate accounting system:

- The accounting system must identify all project costs and differentiate between eligible and ineligible, allowable and unallowable, and direct and indirect costs. *The purpose for which disbursement was made should be recorded and cross-referenced.*

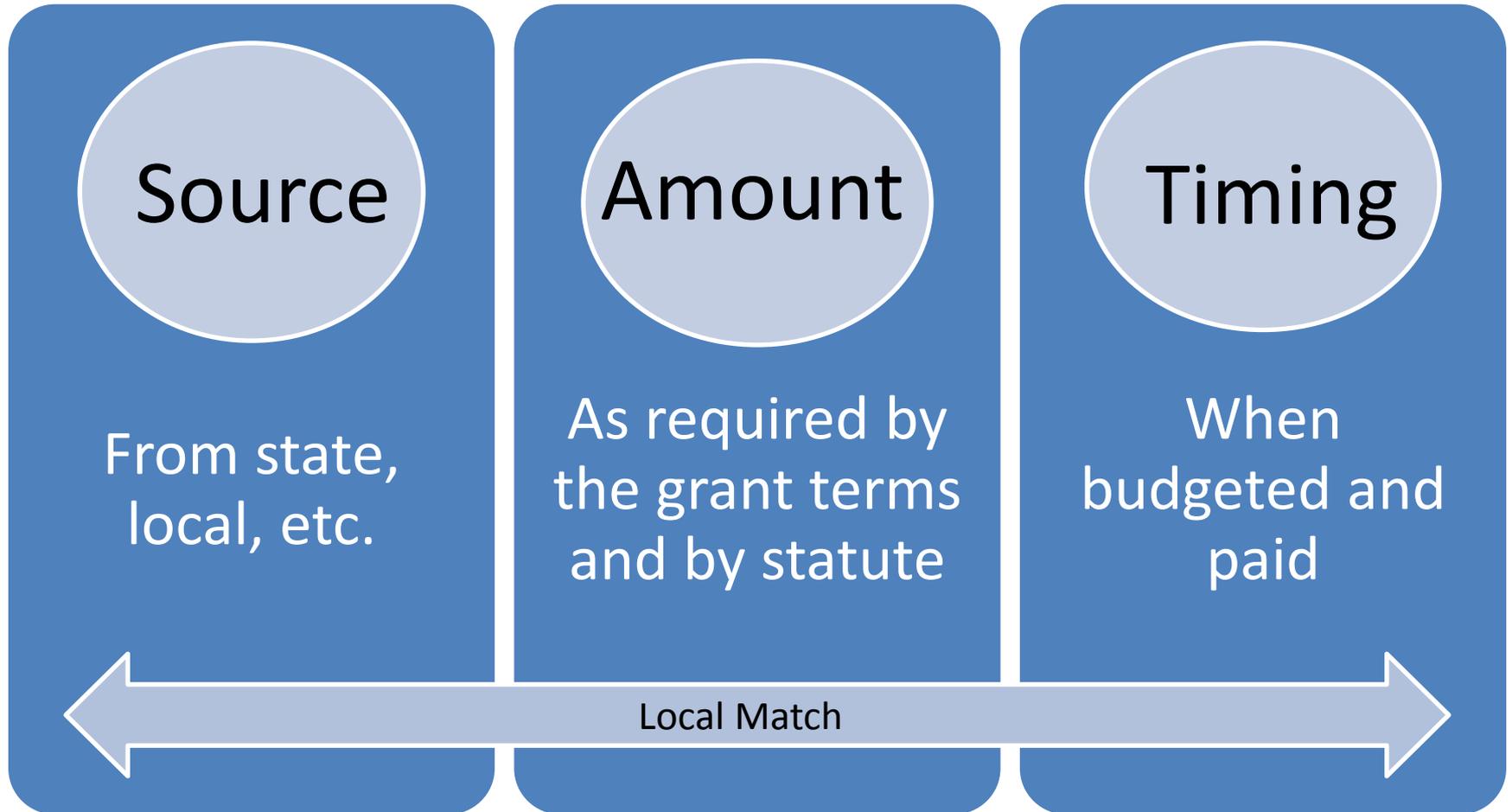


Accounting and Financial Control

- The system must show the receipt and use of all grant funds received in support of the project as well as identification of matching funds.
- This includes purchases of goods, services, and administrative costs.



Grantees must maintain records that show the local match:

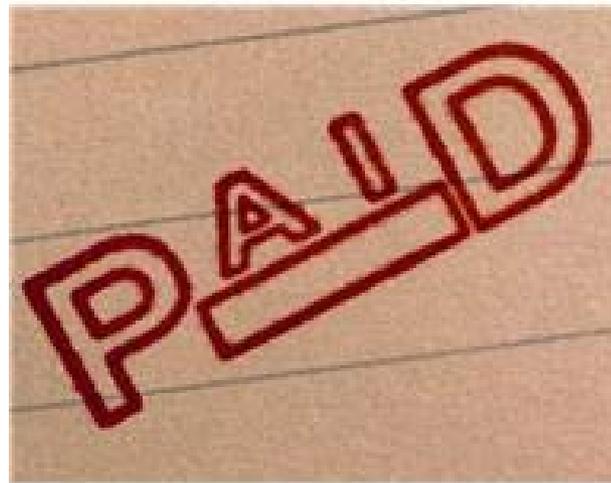


Accounting and Financial Control

- A method of comparing budgeted against actual costs by task, schedule and performing organization should be incorporated into the system. This should be done monthly to allow the PM to better understand fiscal trends, which will assist in financial planning decisions.
- There should be a periodic reconciliation between the grant accounting records, claims for reimbursement, and general ledger.



Payments





Payments...Grantor may request and grantees must be able to produce immediately upon request any of the following:

Hours by person with labor rates noted, or timekeeping printouts

Signed travel report summary by employee showing, expenses by category, hotel, air, ground transportation, per diem, etc.

Documentation of the travel policy (federal or otherwise – this would be a one-time submission)

Receipts or records from “Other Expenses”

Contractor or sub-grantee receipts or records

Travel receipts for a direct reimbursement travel policy, or as requested.

Receipts for equipment purchases over \$5,000

Common Voucher/Payment Problems:

1. Costs weren't actually incurred.
2. Costs were incurred for purposes other than intended (out of scope).
3. Costs incurred outside the grant period.
4. Not adequately documented.
5. Not in the approved budget.
6. Incorrect indirect cost rate used.
7. Not properly matched by local funds.
8. Change in grantee / subgrantee conducting the work, and name & EIN no longer match.
9. Incorrect PO or Contract number used.
10. Mathematical error.





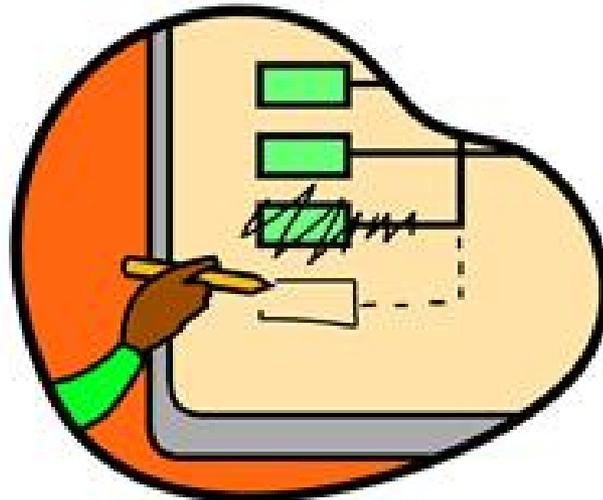
Payments...

Prohibited Use of Grant Funds

While several states, including Texas, have legislation that requires payment of interest penalties to construction contractors for late payment of legitimate invoices, federal law prohibits the use of grant funds for such interest payments.



Change Orders (COs)



Change Order(s)

Contract

The written agreement between the Contracting Agency and the Contractor.

It describes, among other things:

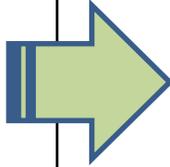
1. What work will be done, and by when;
2. Who provides labor and materials; and
3. How Contractors will be paid.

The following are common reasons for change order initiations by various parties:

Common Types of Change Orders	Common Reasons for and Sources of Change Orders
Change in Scope	Tenant agency has requested a design change.
Unforeseen Conditions	Site conditions differ from the expected. Requested by contractor or professional.
Professional Errors and Omissions	Requested by contractor or professional.
<i>Errors</i>	Professional has incorrectly drawn the construction design plans and specifications.
<i>Omissions</i>	Professional has inadvertently omitted an item or element from the plans.

Determination of federal and/or state funding participation in COs, is based upon:

- Change in Scope
- Unforeseen Conditions
- Errors & Omissions



Allowability of the costs

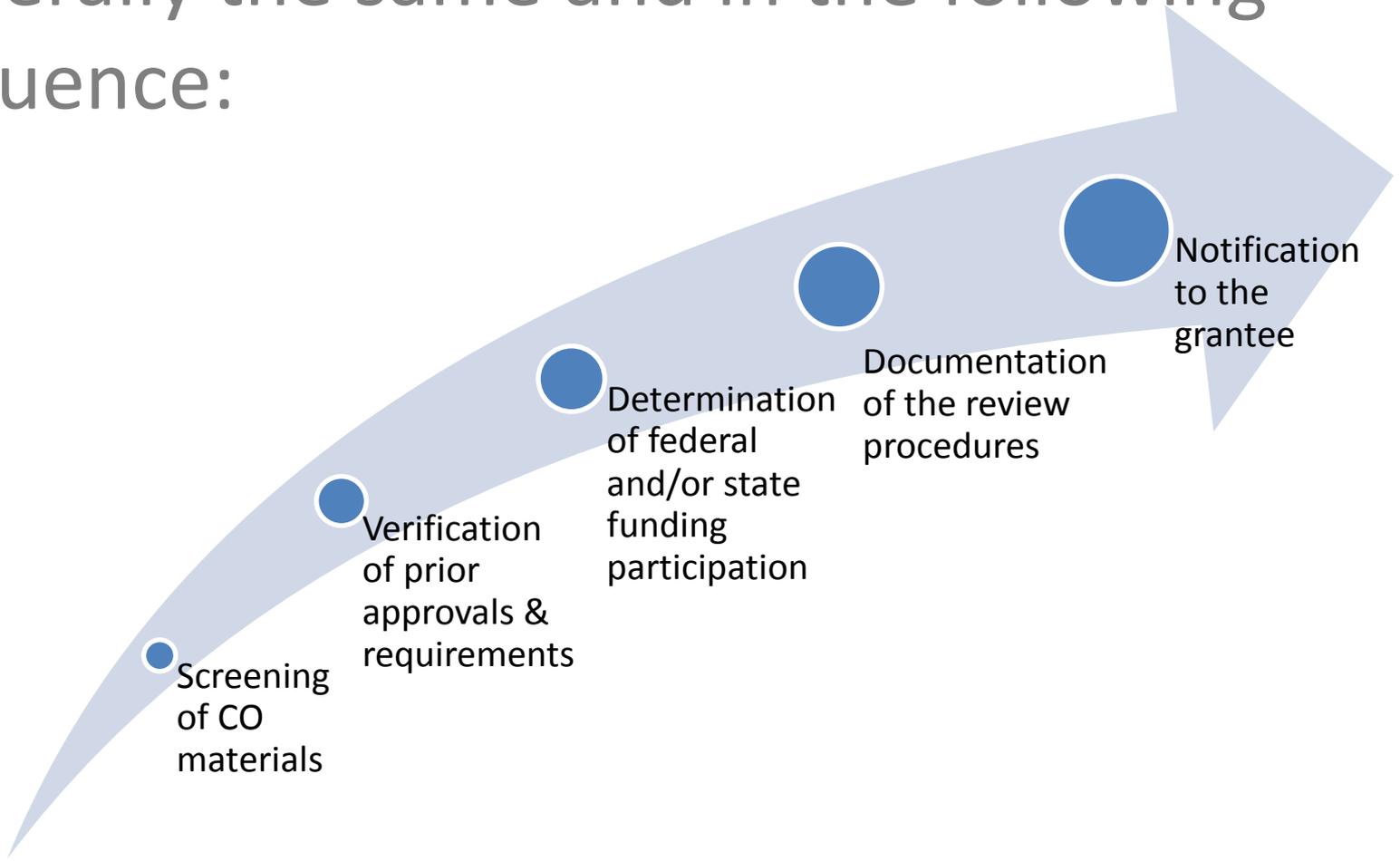
Eligibility of the change

Reasonableness of the method to accomplish the objective

Need for Change



Even though each grantor's requirements will differ, the CO review process should be generally the same and in the following sequence:

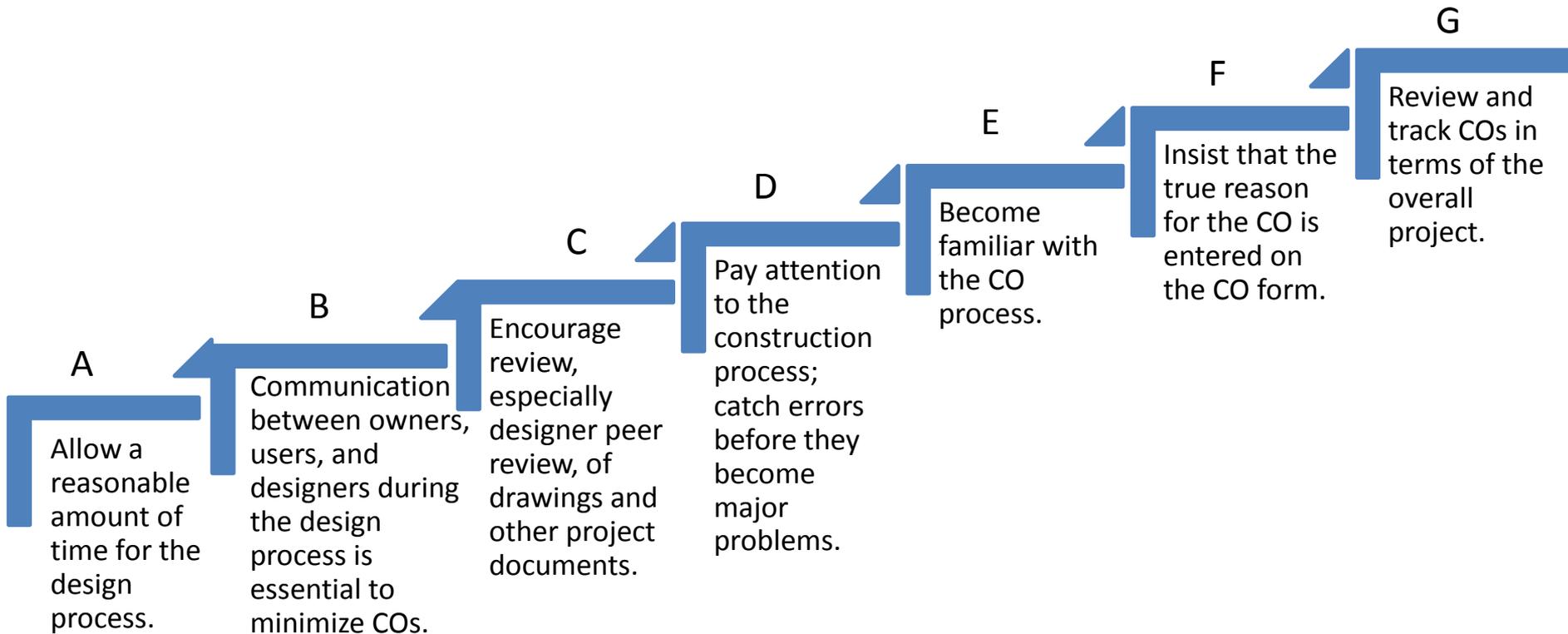


Change Orders (CO)

- If a CO will significantly affect project performance or costs, written approval should be obtained from the grantor before work is started on the change.
- To minimize delays, advance notice should be given to the reviewing agency for prior approvals.
- COA is financially responsible for any non-Federal share of the costs added as a result of a change.
- Furthermore, the grantor will make a detailed review of each CO and if it determines that a CO cost is not allowable for participation, the entire CO may be considered non-Federal costs.



Strategies For Success... A few rules for both owners and designers that will reduce the number of errors and minimize the costs of those that do occur:



After the start of construction, be sure to keep the contractor involved in the communications loop.

Exercise...

Glows & Grows?

Claims



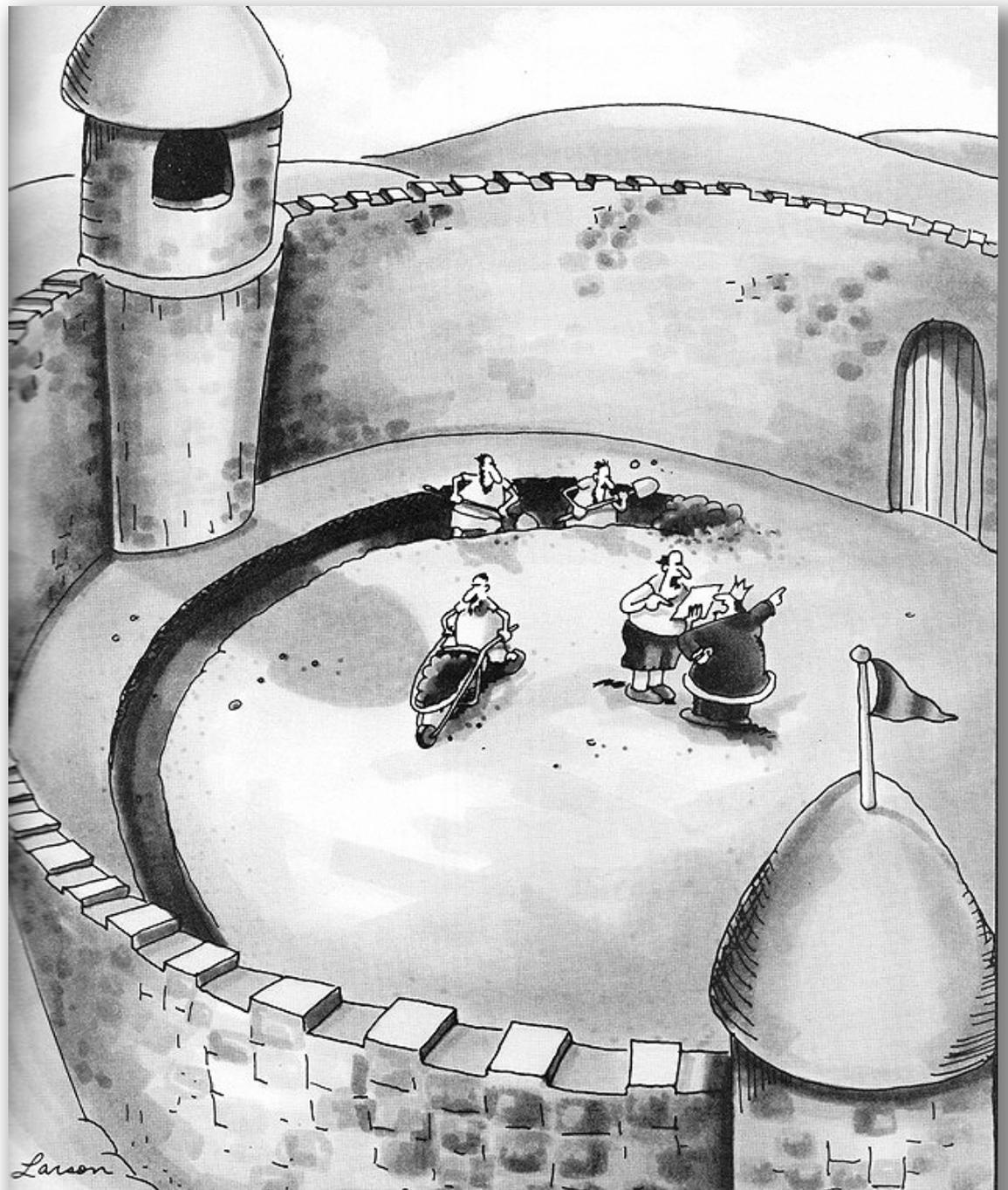


Claims



- A **Claim** means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of money, the adjustment or interpretation of contract terms or other relief.
- A voucher, invoice or other routine request for payment that is not in dispute when submitted is not a claim; however, such a request may be converted to a claim, upon rejection by the grantee.

“Suddenly a heated exchange took place between the king and the moat contractor”



Claims

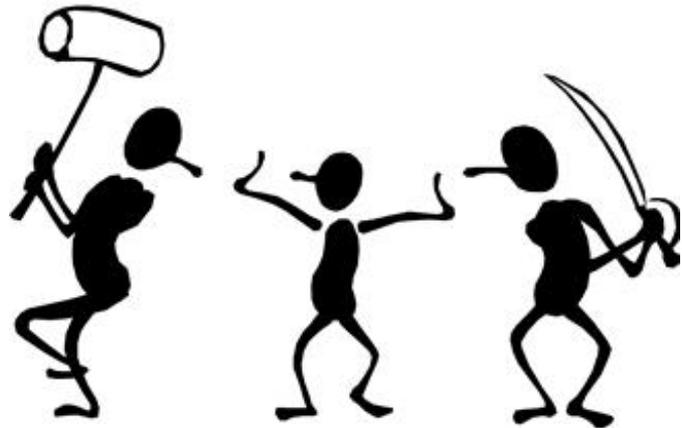
Grantees are solely responsible for project management. The grantee's failure to prevent or successfully resolve contractor claims in a timely manner will greatly increase project costs with no corresponding benefit.



This is particularly important to a grantee because grantors may not participate in certain costs associated with claims.

Exercise....

*Common Causes of
Claims?*





Common Causes of Claims

Defects in plans or specifications

Differing site conditions

Inadequate construction inspection and management

Failure to promptly and fairly address contractor grievances, requests for time extensions, or other problems

Failure to enforce contract provisions on scheduling and completion time

Failure to negotiate time extensions and/or delay costs, if any, associated with change orders

Failure to mitigate effects of delay

Failure to mitigate effects of delay

Strikes

Acts of God

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Claims Prevention

Even though certain tasks may be performed in the grantee's behalf by another party, the grantee remains fully accountable and responsible.



It is, therefore imperative that all contracts specify immediate notification to the grantee of any and all unresolved change orders or disputes.



Claims Prevention

Good management for the prevention of claims should include the following practices:

The grantee evaluating its design engineers ability to oversee construction (previous record with claims, cost and schedule control, for example) and the possible need for construction management early in the design phase.

The grantee insuring that an adequate soils and subsurface investigation is performed during planning and design stages and the results incorporated into the contract documents.

The grantee taking actions to ensure accurate and complete plans and specifications, such as providing for independent third party review prior to requesting bids, holding pre-bid conferences, and ensuring other grantee responsibilities are performed, such as site access.

The grantee insuring that a subagreement provision allowing for arbitration requires any arbitration based settlement or award to include findings of fact, allocation of award to each issue, conclusions of law, basis of award and rationale.

Claims Prevention

Good management for the prevention of claims should include the following practices:

The grantee recognizing the importance of scheduling as a key management tool by:

Specifying that the contractor provide an adequate schedule commensurate with the complexity of the project;

By enforcing the schedule provisions; and by

Requiring periodic updating to show the adjusted project progress and completion date;

The grantee maintaining a fully and completely documented record of all aspects of the work, such as photographs and a daily log of work progress, personnel, and equipment on site.

The grantee demonstrating a knowledge and understanding of common sources of disputes or situations likely to result in claims during construction (such as inordinate delays in reviewing shop drawings), and exercising effective techniques to avoid such situations.

The grantee exercising effective management of properly submitted change orders, resolving all costs and any necessary subagreement time extensions associated with each change order as the change order is executed.

The grantee providing timely responses to contractor requests for direction, clarification, and adjustment.



Claims Resolution

- After a dispute arises, a grantee must assure that everything possible is done to address the issues raised and to mitigate future costs of a claim.
- Since a claim can be a huge potential liability, the grantee must take full control of the situation and, using legal and technical staff for advice and assistance, mount a well organized, thoroughly prepared resolution effort.



Claims Resolution

Resolution of claims should include the following good management practices:

The grantee taking immediate steps to mitigate further costs being incurred by the contractor or any other party, due to the claim issue.

The grantee performing a timely, complete, and thorough review of the issues raised by the claim to determine the degree of merit that each issue may have.

The grantee negotiating with the contractor on the issues in a **good faith** attempt to resolve each issue.

If negotiations are unsuccessful, the grantee utilizing the services of an uninvolved party to provide the grantee a fresh perspective and review of the merits of each issue.

The grantee maintaining a fully and completely documented record of the negotiation process used to resolve the claim.



Claims Resolution

Where arbitration is deemed necessary, it is imperative that the grantee insure that any arbitration award contains a decision setting forth in detail its factual and legal basis.

Otherwise, it may not be possible for the granting agency to determine allowability of the costs awarded.

Inspections





Inspections conducted by the Granting Agencies

Interim Inspections

To ensure that the grantee's project management team and contractors are fulfilling their respective responsibilities.

The frequency of interim inspections is determined by the size and complexity of the project, the rate of progress being achieved, and the nature of problems or issues arising during construction.

Principal areas of focus during interim inspections typically include:

- Grant management and record keeping.
- Compliance with grant and permit(s) conditions.
- Contract administration including claims and change order management.
- Labor Standards and DBE compliance.
- Construction progress and schedule.
- Construction quantity and quality.
- Implementation of the plan of operation including preparation of Operation and Maintenance (O&M) manuals.

Construction Management Evaluations (CME)

A comprehensive on-site review of selected projects by the granting agency. It covers the entire project, including all phases of the project management team's responsibilities and performance.

It is a more formalized procedure than an interim inspection, and differs primarily in the depth, duration, and purpose of the review.

The objective of a CME is to evaluate project management procedures, and through this process gain insight into overall management of the construction grants program.

Typical areas of review include:

- Grant Management, including adherence to grant requirements, procurement requirements, and the adequacy of accounting and recordkeeping systems, and
- Construction Management, including the adequacy of inspection reports, materials testing and certificates, shop drawings, records drawings, record drawings, and progress payment procedures, as well as the handling of claims, change orders, correspondence, labor requirements, and other organizational requirements.

Construction Management Evaluations (CME)

- At the conclusion of the CME, the granting agency presents an exit briefing and prepares a formal report.
- Of particular importance are the action items which may include actions that need to be taken by the grantee to correct deficiencies and actions to be undertaken by the granting agency to assist in the successful completion and audit of the project.

Audits



Closing Out a Grant

Upon completion of your project, there is usually a requirement that the grant be “closed out” with the grantor agency, and that a final audit and report be completed.

Items to consider when approaching the end of the grant:

- Closing out Federal Award
- Preparing for the Final Audit
- Disposing of Equipment





Preparing for a Successful Audit

In accepting a construction grant COA has agreed to make all project-related books, documents, records, and papers accessible to the granting agency for audit purposes.

The objective of the final audit is to determine:

- Which claimed costs are eligible, allowable, reasonable and allocable to the project;
- That the project is put to its intended use; and
- That all applicable laws, regulations, and grant conditions have been complied with.

Exercise....

Common Audit Findings?



Common Audit Findings

Costs claimed which an accounting system cannot document or support

Costs claimed in excess of grant or contract limitations

Costs claimed which have been previously determined ineligible or unallowable

Costs incurred after the authorized contract completion date

Redesign or rework costs – generally not allowable unless they resulted from changes in Federal requirements

Force account/administrative expenses/indirect costs – not having prior written approval

Exceeding funding limitations, and not having maintained adequate records

Unapproved or unallowable change order costs

Non-compliance with procurement regulations

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Common Audit Findings

- Non-compliance with procurement regulations:
 - Improper methods used in selecting professional services firm,
 - Lack of procurement documentation especially regarding
 - Utilization of DBEs
 - Lack of contract negotiation documentation
 - Services performed without an executed bilateral written agreement, and
 - Cost ceilings of contracts exceeded w/o prior written authorization and written amendment to the contract.



Common Grant Audit Findings

- Labor costs based on grant budget or pre-determined allocations rather than actual time records.
 - Support for salaries and wages must reflect an after-the-fact distribution of the actual activity of each employee. Budget estimates or other distribution percentages determined before the services are performed are prohibited.
- Cash requests exceed actual and pending disbursements.
 - Cash advances are:
 - Limited to the minimum amounts needed and are to be timed in accordance with the actual, immediate cash requirements, and
 - Are to be as close as administratively feasible to the actual disbursements by the recipient.

Recipients must maintain procedures to minimize the time elapsing between the transfer of funds from the US Treasury and their disbursement by the recipient or sub-recipient.

Common Grant Audit Findings

- Expenditures benefitting more than one grant are charged directly to a single grant or are allocated without supportable basis.
 - Expenditures which benefit multiple grants must be allocated to those grants on a basis that reasonably matches the benefit received to the cost charged.
- *Excessive charges.*
 - *Decisions must be made on what is most advantageous to the government. I.e. Lease versus Buy*
- *Inadequate support for costs claimed (allowable, allocable and reasonable)*
 - *Generally, accounting records and supporting documents must be retained for 3 years after submission of the final financial status report.*
- *Expenditures incurred outside the approved budget period or outside the approved project scope.*



Common Grant Audit Findings

- Untimely financial reporting and grant closeout.
 - Recipients generally must submit:
 - *Financial Status Reports (FSRs) within **30 days** after reporting periods, and*
 - *All financial, performance, and other required reports including the final FSR, within **90 days** after the expiration or termination of the grant.*
- *Inadequate Financial Management System*
 - *Financial systems must track costs by grant budget line item (i.e. personnel, fringes, supplies, contractual, etc.)*
- *Absence of indirect cost rate proposal.*
 - *Governmental units desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support those costs.*

Corrective Actions for Common Audit Findings

Audit Finding

Corrective Action

Budget Allocations

Grantees charge costs in one grant that are actually carried out in a succeeding budget period in a new grant. E.g. A grantee issues a contract late in the budget year for activities the contractor will complete in the succeeding year under a new grant. Contractor payments span both grants. Auditors question the costs as unallocable to the grant and the Grantor typically must disallow them during audit resolution.

Budget Allocations

Review budget to actual expenditures on a monthly basis. Make sure you charge the costs to the correct grant or budget period. Make sure you seek approval from the Grantor to use funds from a previous budget period in the succeeding new grant budget period or through a no-cost extension. Do not assume the Grantor will approve the request. In many cases, it may not be approved.

Account Reconciliation

Grantees/subgrantees are not reconciling expenditures in their accounting systems/general ledger to amounts claimed. The amount claimed does not match the accounting records. Auditors question the difference between what the account system demonstrates as expended and what the reports show. The grantor must disallow the costs if the grantee cannot reconcile the difference.

Account Reconciliation

Create and implement procedures to conduct a regular reconciliation between the new report and the accounting system and document the process in written procedures. If different offices or individuals prepare the reports, make sure they communicate with one another and reconcile differences.

Staff Time-keeping

Staff allocating time to more than one grant are not keeping timesheets that show actual time spent on each grant. The project director's timesheet does not allocate time between two different grants.....The timesheet only records work hours vs. vacation, sick and other leave. Auditors question total salary costs because they can't determine how much time was actually spent on the different grants. The staff member and supervisor spend significant time during audit resolution reconstructing calendars and checking activities over the year to substantiate time allocated to the grants

Staff Time-keeping

Ensure timesheets report hours by activity or cost center to track the actual time spent on each grant and clearly follow the requirements of the Cost Principles.



Grantor Evaluations/Appraisals

Grantees/subgrantees are not conducting evaluations as required or not maintaining records of evaluations.

Checks

Grantees/subgrantees are not conducting checks on members having substantial involvement with children and youth or vulnerable populations (as defined by state law). See new statutory requirements as of Oct 1, 2009 for Criminal History checks for all new members and funded staff.

Time-keeping

Member timesheets are not signed always by both the member and supervisor. Member timesheets don't add up to the term of service claimed.

Enrollment

Grantees allow staff to begin service before members sign contracts. The auditors deduct hours served before the member signed the contract and question the award earned if the decrease in hours results in less hours served than required to earn the award. The Grantor may have had to rule that the award is not valid because the grant provisions stipulate the conditions for enrollment.

Evaluations/Appraisals

Include regular review to ensure all of the documentation is available. Develop and implement written policies and procedures for conducting subgrantee evaluations.

Checks

Going Forward: Make sure all programs/operating sites understand the requirements of the Grantor's regulations and any specific state laws that may also apply: customize member contracts: and maintain documentation that a background check was done on all new members and funded staff. Make sure you include review of checks in you subgrantee monitoring plans if you have subgrantees.

Time-keeping

Review timesheets and perform random reconciliations of completed timesheets with certifications of hours completed. Make this a part of your monitoring plan if you have subgrantees.

Enrollment

Going Forward: Establish and implement written policies that address staff signing contracts and understanding roles and responsibilities before they begin service.

Audit Findings

Subgrantee Monitoring

Grantees do not have good fiscal monitoring policies and procedures in place to ensure sub-recipient financial systems are set up to manage federal funds. E.g. The grantee fiscal monitoring tool does not include a process to check amounts recorded in the accounting system to amounts claimed on expense reports.

Time and Attendance

Grantees/subgrantees charge salaries to a grant based on budgeted amounts instead of actual after-the-fact time reported on timesheets. E.g. Grantee budgets for 20% of a staff member, claims 20% of the staff time, but timesheets support only 18%. The auditors question the entire claimed salary for all staff. During audit resolution, the grantee has to go back and re-calculate time spent for all staff based on the timesheets. Some disallowances will occur if the claimed costs are not supported by the timesheets.

Corrective Action

Subgrantee Monitoring

Review and strengthen fiscal monitoring policies and procedures of subgrantee financial systems.

Time and Attendance

Make sure accounting staff are reporting payroll expenditures based on actual hours by grant or activity and not using budgeted time entered into the accounting system at the beginning of the year as the allocation method when completing expenditure reports. Develop a system to compare actual time against budgeted time and document the process in writing.

Wrap-Up

Objectives

- ✓ Recognize what is a grant
- ✓ Understand COA responsibilities as a grantee
- ✓ Explore ways to enhance and improve current practices
- ✓ Explore Common Compliance Pitfalls and Strategies for Success
- ✓ **Review Key Area Highlights**

Strategies For Success...

- Understand COA Responsibilities... Make sure you know what is required of you from the beginning
- Conduct grant-related tasks according to the established requirements



Final Thoughts



Since the capital improvement project process is on-going, as are our city needs; it is most likely that COA will continue to seek grant funding for other projects in the future.

With the growth of grant funding over the past few decades, the increasing role of grants in achieving the City's objectives, and constrained resources available to meet diverse needs; **attention to improving grants management and oversight can help ensure that resources are used effectively and continue to be available.**