

Costing & Audit Update

June 2019 COGR Meeting
Washington Marriott, Washington DC

June 6, 2019

COGR

Council On Governmental Relations

An association of research universities

Topics and Presenters

Procurement, Credits and Rebates

Kim Moreland, Wisconsin & Sarah Axelrod, Harvard

F&A and Negotiations Update

Cathy Snyder, Vanderbilt

Audit Update

Mike Daniels, Northwestern & Joe Gindhart, Wash U

Other Topics: Single Audit, Reconciling NIH/HHS “G” Accounts, UG Procurement & Other

Cindy Hope, Alabama & David Kennedy, COGR



University of Wisconsin - Madison

Credits and Rebates
Investigation

The Rocky Road – No Marshmallows in Sight



Subpoenas
arrive,
June 2015

Settlement
Agreement,
March 2019

P-Card Rebates

- UW – Madison Process – very common
- OIG/DOJ
 - Credit the rebate to each individual Federal award or
 - Write the government a check at the end of the year



Credits and Rebates from Vendors

- UW – Madison Stores and Tech Stores Operations
 - Cost plus burden rate changed to
 - Cost before rebate
 - Mismatch with DS-2 from 1999
- Independent consultants demonstrated UW provided cost savings to the government

DISCOUNTS!



Resolution

- Outside Counsel
- Threats of huge fines and FCA violations
- To litigate or not to litigate?
- \$1.5 M



Rebate – Harvard Example

History

- University has a practice of not accepting rebates when negotiating with vendors
- Rebates received relate to credit cards (almost exclusively)
- Annual payment of federal portion of rebate amount paid to the US Treasury about 8 months after each year end
- Federal rebate amounts are allocated based on the amount of credit card spending that was paid on federal awards

Rebate – Harvard Example

DHHS/CAS

- Indicated that rebates should be included in F&A calculations
- This CAS office feels strongly that writing check to the US Treasury is not how they want this handled
- The sponsored portion of the rebate amount should offset the F pool

Rebate – Harvard Example

Discussion with DHHS/CAS

- We disputed that the rebates are primarily F related expenses
- We stated we could provide backup on the split between A & F, would they accept that?
- The total paid to the US Treasury last year was ~\$80,000

Rebate – Harvard Example

Discussion with DHHS/CAS

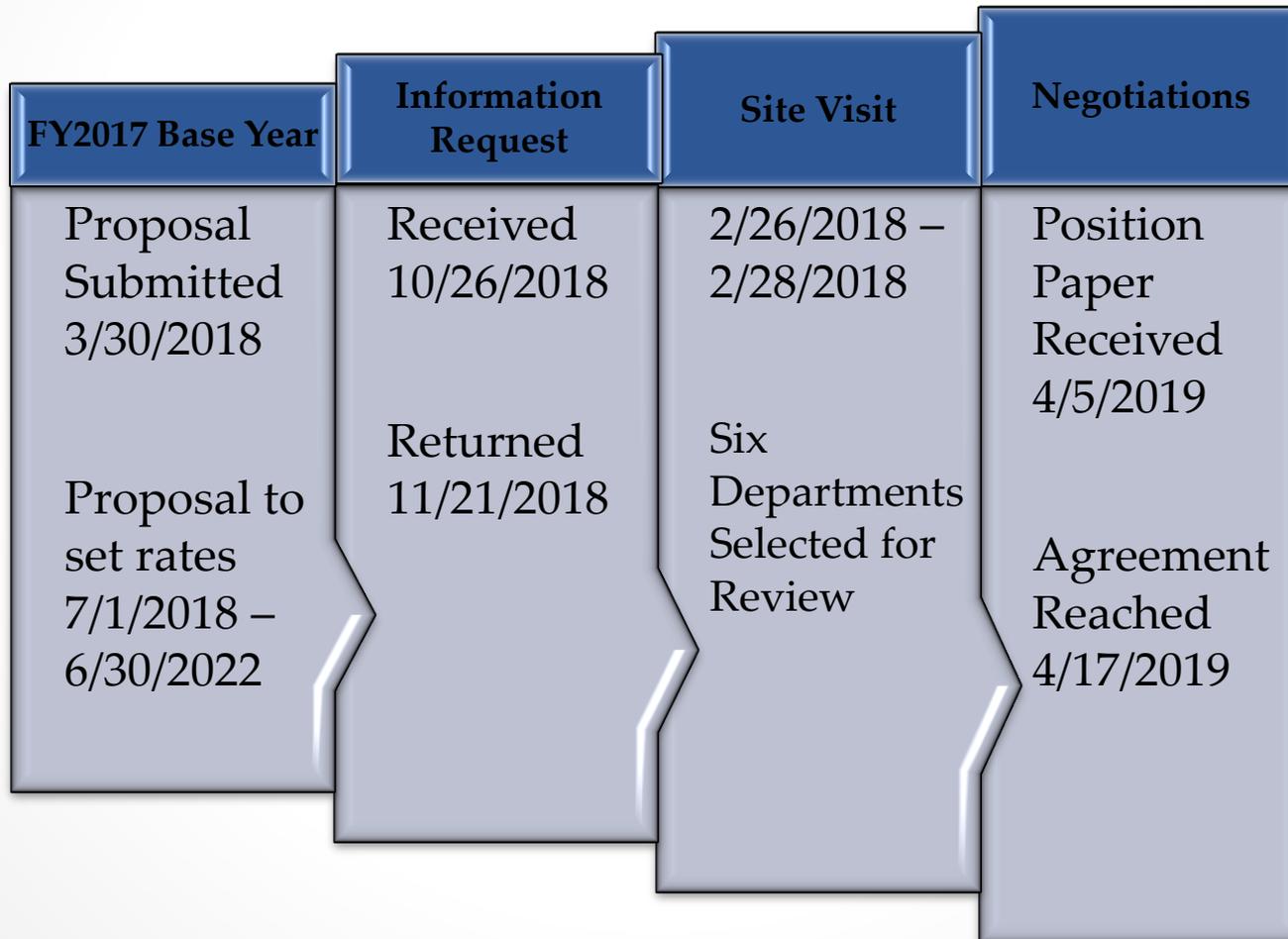
- This was a base year; in our proposal we offset the 2 pools
 - Admin pool, \$1.15M
 - O&M pool, \$160K
- We will make a final check to Treasury as the end of this year, the last year before our new rates are effective
- Starting with our new rates, FY 20, our rebates will be included in our F&A

F&A and Recent Negotiations

- COGR F&A Paper available!
- DS-2 revised form? Someday?
- Negotiation issues?
- Vanderbilt Case Study

Vanderbilt's F&A Timeline

384 Days.....or 1 Year and 19 Days from Submission to Negotiation



Results

- Negotiated with HHS-CAS in DC Office
- Vanderbilt's FY2018 (and FY2019 Provisional) F&A On Campus Research Rate was 57.0%
- FY2018 Value of One Point ~ \$1M
- Proposed Rate with Projections was 60.4%
- Negotiated On Campus Research Rates:

FY2019	FY2020	FY2021	FY2022
57.0%	58.0%	58.0%	58.5%

- Issues:
 - Space – Reduced by 7.6% - *Too High*
 - Projections – Renovations vs. New Building

Stretch ...



HHS OIG Subrecipient Monitoring Audit

- **Objective of Audit:** Determine whether Northwestern (1) awarded subawards and monitored subaward recipients in compliance with Federal regulations and (2) complied with Federal regulations and NIH grant policies relating to expenditures for subawards.
- **Audit Period:** December 26, 2014 through December 31, 2016
- **Length of Audit:** March 16, 2017 to November 6, 2018
- **Other items audited:** On/Off Campus F&A Rates - Documentation for buildings owned by Northwestern or proof of payment for rent or lease payments.
- **Audit Report:**
<https://oig.hhs.gov/oas/reports/region5/51700016.asp>

HHS OIG Subrecipient Monitoring Audit

	Incoming (as Subawardee)	Outgoing (as Pass-through Entity)
Northwestern Fund	Fund 620	Fund 610
Sampled Amount	\$1.1 million (30 samples)	\$800,000 (30 samples)
Salaries and Wages	Northwestern employees - Institutional Base Salary and Effort for exempt - Hourly rate for non-exempt	Subrecipient's employees per invoice - Institutional Base Salary and Effort for exempt - Hourly rate for non-exempt
Fringe Benefit Charges	Calculated fringe benefit charges per negotiated rate	Verified fringe benefit charges per sub's negotiated rate or <u>direct charge benefit categories</u>
F&A rates	Calculated to verify NU's F&A rates	Calculated to verify subrecipient's F&A rates
Risk Assessment	N/A	Audited <u>both</u> pre-award and post-award subrecipient's risk assessments
Other Non-salary charges	Equipment, supplies, travel, etc. - Supporting documentation is essential	Supplies, travel, etc. per sub's Invoice - Supporting documentation required per invoice
Cost Disallowances	None	None

HHS OIG Subrecipient Monitoring Audit

- **Findings:** Inconsistently conducted subaward risk assessments on Northwestern's affiliates and FDP member organizations. No costs were disallowed.
- **Recommendations:**
 - (1) Establish policies to perform subrecipient risk assessments for affiliates; FDP members; and non-Federal subrecipients subject to 45 CFR part 75, and
 - (2) Ensure that subrecipient risk assessments are performed on all non-Federal subrecipients subject to 45 CFR part 75.
- *Footnote 10: Northwestern had two OSR (pre-award) offices, one for the Evanston campus and one for the Chicago campus. The Evanston OSR performed risk assessments on all subrecipients. The Chicago OSR risk assessment procedures viewed affiliates and FDP members as low risk. The Evanston OSR and Chicago OSR offices merged in September 2017, and the combined offices follow Evanston's procedures for subrecipient risk assessments.*

Subrecipient Monitoring Audit Items

- The University does not have adequate controls in place to ensure single audit desk reviews are completed on a timely basis for subrecipients of the Research and Development (R&D) Cluster program. Specifically, the single audit reviews were not completed within six months after the report was accepted by the Federal Audit Clearinghouse.
 - While none of the reports that were reviewed late contained findings requiring the University to issue a management decision; the timing of the University's review procedures would not permit compliance with the requirement to issue management decisions within six months.

Subrecipient Monitoring Audit Items

- The University did not obtain adequate evidence to conclude that payments made to subrecipients were for activities which were allowable and consistent with cost principle requirements as part of its review of expenditures prior to payment.
- The University did not have properly designed processes and controls for monitoring subrecipient's activities in accordance with federal requirements and their internal policies.
- The University did not maintain evidence of a review of the financial and performance reports from the subrecipients. The University was unable to provide evidence of programmatic/progress monitoring for subrecipients.

NSF OIG: Standard Audit Findings

- Airfare upgrades, business class and Fly America
- Maintenance contract costs charged, of which approximately eight months were outside the award period
- Charge full Spring semester tuition to grant that ended on 2/28/XX
- Charged two computers and one graphics card to project six days before project expired

NSF OIG: Not Reasonable / Acceptable

- Dinner costing \$122 per conference participant, exceeds \$23 **GSA per diem rate**
 - Rate also included space rental, AV rental and other customary surcharges
- Scanned documents were unclear and unreadable & some receipts contained handwritten notes describing expenditures – which we **do not consider to be acceptable documentation**

NSF OIG: F&A and Fringe Rates

- Apply F&A rate utilized in proposal budget (lower) vs. rate in effect at date of award (violation of NSF's cost sharing policy)
- Apply on-campus F&A rate to space that is classified as off-campus
- Did not apply correct fringe rate during retro salary adjustment (rate at time of adjustment vs. rate at time of original charge)

NSF OIG: Necessary and Constructive

- There was no research disseminated by the PI at the conference. Furthermore, the event occurred at the end of the grant period, with less than two months remaining on the award. Therefore, we could not determine why attendance at this conference **was necessary to meet award objectives.**
- Employees combined personal travel and business related travel but did not properly document **constructive airfare costs** to verify that personal travel did not increase costs charged to NSF award

Single Audit and the 2019 Compliance Supplement

- 2019 CS at least 2 weeks away?
- Funky interpretations on when new MPT (10k) and SAT (250k) thresholds can be implemented “should be” resolved in CS.
(Note: HHS Policy staff changes are making approvals for > 10k MPT a challenge)
- Payment/Reimbursement/Documentation won't be addressed in CS

Reconciling NIH/HHS “G” Accounts

“We are working with the Department on phasing out the pooled accounts and awaiting direction. We will temporarily hold the collection activities on the pooled accounts. If you know the members that dispute or need guidance/assistance with reconciling their pooled account, please forward to us. We have already worked closely with some of the universities in their discrepancies or issues they have experienced.”



Lingering UG Procurement Issues

Special Thanks to Jeff Silber,
Cornell University

Excerpts from May 21, 2019 FDP Presentation
by

Deb Moore, University of Alaska, Fairbanks
and BJ Pivonka, University of Connecticut

Cost and Price

- 2 CFR 200.323
 - 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.**
 - Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part.

What are Price and Cost Analyses?

- A **price analysis** is a comparison of the price offered on a particular procurement versus the prices offered generally to others. One compares not just identical products, but also reasonable substitutes.
 - This is typically performed by obtaining multiple quotes, bids, reference to standard pricing schedules, etc.
- A **cost analysis** is performed where a price analysis cannot. It is a review of the cost of the elements of the procurement, including profit. Such an analysis suggests what the procurement “should cost” to comparison with the offeror’s price and determine reasonableness.

Cost or Price Analysis

- Material
- Material OH (10% x \$50,000)
- Labor (1000 hrs x \$100/hr)
- Labor OH Rate (125% x \$100,000)
- Other Direct Cost
 - Sub-Total Cost
- G&A Exp (3% x \$290,000)
- TOTAL CONTRACT COST
- Profit (10%)
- FINAL Contract Price

- 50,000
- +5,000
- +100,000
- +125,000
- +10,000
- \$290,000
- +8,700
- \$298,700
- +29,870
- \$328,570

Cost analysis:
NFE must determine reasonableness of each cost element (red), including profit.

Price analysis - total compared against other offerors.

Cost analysis - sum of component estimates compared against offering price.

The Sole Source Question

- Procurement by noncompetitive proposals.
Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 1. The item is available only from a single source;
 2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 3. The Federal awarding agency or pass-through entity **expressly** authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 4. After solicitation of a number of sources, competition is determined inadequate.
- It is important to document and be able to substantiate a non competitive procurement.

Threshold Level Reminders

- Micro Purchase Threshold limit was increased to \$10,000 and [OMB](#) granted permission to use prior to revision of the FAR and UG. Higher levels may be requested from an institution's cognizant agency.
- Simplified Acquisition Threshold was increased to \$250,000 and [OMB](#) granted permission to use prior to revisions of the FAR and UG.
- The use of the thresholds above UG levels (\$3,500/\$150,000) should be documented per [2 CFR 200.318](#).
- Procurements will be subject to the lower of the institution's or federally-approved threshold.

See February COGR Update and/or Meeting Report!

Lunchtime ...

