Compliance:
With Funding Contracts

Gordon Holley, CPA, CA, FCPB, Humanity Financial
Gordon Holley, CPA, CA, FCPB

- Co-founder, President & CEO of Humanity Financial Management
- 30 year CPA, CA
- 45 years board experience
We build financial systems, skills and capacity within social purpose sector and Indigenous organizations.
Certified B Corporation®

Largest Certified B Corp accounting firm in Canada.

B Corps are required to balance purpose and profit.
We work with wonderful organizations
That’s why we love our work and you’ll be in great company.
Agenda

Tuesday’s Session:
1. Overview of Financial Risk & Controls
2. Effective Financial Governance

Today’s Session:
1. Compliance with Funding Contracts
2. Compliance with Regulators (including CRA)
Overview of Financial Risks & Controls

Setting the stage
Compliance:

With Funders

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Why be compliant with funding contracts?

Revenues from funders enable you to:
- Deliver programming
- Fund your infrastructure
- Grow and scale
- Achieve your mission and purpose
- Make your communities stronger and healthier
- Legal agreement

Delivering results in alignment to funding contracts means increased potential for future funding opportunities.
Funding contracts bring clarity

Outlines understanding of:

- Planned activities and outcomes
- Eligible costs covered by the funding contract
- Reporting requirements
- Other important terms and conditions
Contracts can be confusing ...

Jargon or legal terms can be confusing....

✓ Walk through contract with your funder so you understand your contractual obligations are
<table>
<thead>
<tr>
<th>Organizational Risk</th>
<th>Director Personal Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reputation</td>
<td>Reputation</td>
</tr>
<tr>
<td>Fundraising challenges</td>
<td>Personal financial liability</td>
</tr>
<tr>
<td>Repayment of funds</td>
<td></td>
</tr>
<tr>
<td>Duplication of effort</td>
<td></td>
</tr>
</tbody>
</table>
Non-compliance with IRCC Funding Contracts

8.0 DEFAULT

8.1 The following constitute events of default:

A) The Recipient becomes bankrupt or insolvent, is placed in receivership or takes the benefit of any statute relating to bankrupt or insolvent debtors.

B) An order is made or a resolution is passed for the winding up of the Recipient, or the Recipient is dissolved.

C) The Recipient is in breach of the performance of, or compliance with, any term, condition or obligation on its part to be observed or performed.

D) The Recipient has submitted false, misleading, or inaccurate information to the Department.

E) In the opinion of the Department, the Recipient has failed to deliver the Project in an acceptable manner.

F) The activities or anticipated activities of the Recipient are contrary to Canadian law.
Consequences of non-compliance

- Lose goodwill of funder – may be less likely to fund in future

Actual remedies available in contract

- Department may immediately suspend financial contributions/reimbursements
- Department may immediately terminate financial contributions/reimbursements
Common pitfalls in administering funder contracts

3 broad categories:
- People related
- Process related
- Technology/systems
Common pitfalls: people related

People related opportunities generally related to a lack of understanding of:

- Terms & conditions of the contract
- Funder policies and guidelines around entitlements (e.g., how to distinguish and allocate between administrative vs. program costs)
- Funder may have established expense guidelines that differ from organizational guidelines (e.g. permissible travel expenses) or other funders
Effective July 1, 2021

The rates payable in cents per kilometre for the use of privately owned vehicles driven on authorized government business travel are shown below:

<table>
<thead>
<tr>
<th>Province/Territory</th>
<th>Cents/km (taxes included)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alberta</td>
<td>50.0</td>
</tr>
<tr>
<td>British Columbia</td>
<td>55.0</td>
</tr>
<tr>
<td>Manitoba</td>
<td>51.0</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>53.5</td>
</tr>
<tr>
<td>Newfoundland and Labrador</td>
<td>57.5</td>
</tr>
<tr>
<td>Northwest Territories</td>
<td>63.0</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>54.5</td>
</tr>
<tr>
<td>Nunavut</td>
<td>60.5</td>
</tr>
<tr>
<td>Ontario</td>
<td>57.0</td>
</tr>
<tr>
<td>Prince Edward Island</td>
<td>52.5</td>
</tr>
<tr>
<td>Quebec</td>
<td>54.5</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>51.0</td>
</tr>
<tr>
<td>Yukon</td>
<td>61.5</td>
</tr>
</tbody>
</table>

Note:

The kilometre rate payable when a Canadian registered vehicle is driven on government business travel in more than one province or in the USA shall be the rate applicable to the province or territory of registration of the vehicle.

For convenience, the Department of Global Affairs Canada (GAC) kilometre rates:

Module 3: GAC - United States of America Mileage/Kilometre Rates
Module 4: GAC - International Trade Kilometre Rates at Locations Abroad

Common pitfalls: process related

Process related opportunities generally related to employees making assumptions about how they can use/allocate funds. Examples include:

- Approval from funder required prior to making any changes to approved program expenses
- Funder may have established procedures for fund redistribution
Common pitfalls: technology/systems related

Technology & systems related opportunities:

- Accounting system leveraged to ensure accurate bookkeeping and allocation of expenses
Common pitfalls: don’t forget your subcontractors

Subcontractors need to play within the same rules.

✅ Subcontractors need to be clear on the contractual obligations
✅ Need to sign similar legal agreement, agreeing to follow the same rules
Best practices for managing funder contracts

1. Read and understand contract
2. In particular, contract budgets and financial terms
3. Look for spending restrictions, administrative overhead restrictions
4. Definitions of eligible expenditures
Best practices: a blended approach

1. Build Employee awareness & understanding
   - Team kick-off
   - Review contract
   - Review policies, guidelines

2. Understand what changes need to be made
   - Identify change impact
   - Determine gaps
   - Resolve gaps
   - Ensure collective clarity

3. Build knowledge and capability
   - Regular communication
   - Share lessons learned
   - Training where necessary

4. Optimize systems and processes
   - Leverage technology to reduce risks associated with handling data

5. Monitor, reinforce and support
   - Review/monitor work
   - Provide regular feedback to address issues
   - Identify & mitigate risks

Consider tactics that help your team with accelerating their speed of adoption, the utilization and proficiency with new processes, practices, systems.
IRCC examples of best practices: understand the contract

While a basic point, it is not uncommon for organizations to misunderstand or make assumptions about the contract,

✓ Understand the IRCC policies
✓ Observe procedures for redistribution of funds (provide advance written notice where redistributing between line items)
✓ Provide training to the team (what’s different, how to perform the tasks)
IRCC examples of best practices: streamline systems

Accounting systems set up with separate account codes to keep unrelated programs/expenses separate from spending related to the contribution agreement.

Make it easy and efficient for you and your team. As an example, well designed financial systems allow for:

- Actual GST receivable from IRCC vs. estimates
- Actual overhead/admin costs vs. consistent estimated costs
IRCC examples of best practices: financial reporting

Build confidence through transparent and consistent presentation of organization’s financial circumstances throughout all stages of application process

Submit accurate reporting of:

- Administration rates
- Description of financial circumstances
IRCC examples of best practices: solid bookkeeping

Accurate bookkeeping required to produce timely and useful reports that support good decisions and better outcomes

Be mindful of:

- Entering amounts into GLs
- Claiming pre-paid expenses before the SPO has received the benefits
- Keeping expenses in the right cost category
- Ensuring expense submissions are aligned to eligible costs
IRCC examples of best practices: eligible costs

Schedule 2 “Eligible Costs” are not absolute.
Be consistent with how you characterize expenses

✓ You may not be able to use up 100% of funding
✓ Check with your funder for any spending not covered by schedule 2 PRIOR to proceeding
IRCC examples of best practices: subcontractors

You have a fiduciary role over redistributed funds
Your contractual obligations extend to your subcontractor & meet requirements of schedule 4 (Supplementary Terms and Conditions)

- Project objectives must be met
- Provide clear documentation of authorized spending & ensure appropriate documentation
- Conduct regular/periodic review (audit) of redistributed funds
- All reporting requirements must be met
- Internal controls related to organizational management of each contribution agreement apply
IRCC examples of best practices: financial acumen

Build and check for understanding

- What costs support program delivery vs. administrative
- Benefit need based on rates in effect plus anticipated average update (e.g. CPP/EI and benefits)
- Consistency across teams
IRCC best practice: engage with IRCC as partners

IRCC wants the same things you do. As partners, they want to see your organization be successful.

- Check in periodically
- Ask for clarity when required
- Provide feedback on what’s working for you and what can be done differently to improve
Remember to inspect what you expect

- Check to ensure that things are being done properly
- Provide feedback, coaching or training as necessary
Staff team members assigned to track contract spending and prepare claims

- Must have sufficient levels of expertise, training and/or supervision
- Must have sufficient understanding of and adherence to written IRCC policies surrounding entitlements
  - Contract terms (13 pages)
  - Budget submission guidance,
    - Schedule 2: Description of Eligible Costs (6 pages)
    - Schedule 4: Supplementary Terms and Conditions (3 pages)
      - Redistribution of Funding
Time for Coffee
Compliance:
With Regulators (Including CRA)

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Legal / Corporate Structure

- Societies/non-profit corporations can be incorporated either provincially or federally.

- Incorporation legislation varies significantly by jurisdiction:
  - Financial Statement Audit/Review requirements
  - Fundraising
  - Operating a business
  - Earning a profit
  - Payments to directors
Terminology

- **Canada Revenue Agency**
  - After incorporating, organizations can apply for charitable status from the CRA. The CRA classifies incorporated societies or not-for-profit corporations as **either**
    - Non-profit organizations **or**
    - Registered charities

- **CPA Canada – Accounting standards**
  - Not-for-profit organizations includes charities
Charity Required Filings

- CRA
  - Payroll remittances / Sales Tax Returns
  - T3010 – Registered Charity Information Return
  - Change in Directors (plus copy of Annual Report below)

- Jurisdiction of incorporation
  - Annual Report
What happens if Charity does not file a complete return?

- Its Registered Status can be revoked, and it
- Is no longer exempt from tax
- Cannot issue official donation receipts; and
- Has to transfer 100% of its property to a qualified donee or face a 100% revocation tax
2018 to 2019 and 2019 to 2020

- 850+ Charities Education Program (CEP) visits
- 6,550+ Charities contacted to file their T3010 on time
- 2,800+ Charities contacted to improve T3010 accuracy
Revocations in 2015-16

In 2015-16, the Directorate revoked the registration of 1,429 charities. Most of these revocations were at the request of the charity, or because the charity did not file an annual return. Only 1.4% of revocations were as a result of an audit.
Registered Charities – CRA Restricted Activities

- Political activities
  - Unlimited Public Dialogue and Development Activities
  - No partisan political activities
- Related/Unrelated business activities
- Social and fundraising activities
- Management and Administration activities
- Operating through intermediaries
  - Within Canada
  - Outside Canada
Other Regulatory Requirements

- Employment Standards Act
- Human Rights Code
- Proceeds of Crime and Terrorist Financing Act
- Lobbying Act
NPO Required Filings

- **CRA**
  - Payroll remittances / Sales Tax Returns
  - Income Tax - may include one or more of the following:
    - T2 Corporation Income Tax Return (& Provincial Returns)
    - T1044 - Non-profit Organization (NPO) Information Return
    - T3 Trust Income Tax and Information Return
  - Change in Directors (plus copy of Annual Report below)

- **Jurisdiction of incorporation**
  - Annual Report

ACTION REQUIRED
Official Donation Receipts

Registered charities can issue donation receipts for gifts of property from a donor

- Cash gifts
- Fair market value of property

Non-qualifying gifts:

- Gifts of services (Do cheque swap instead)
- Donations in exchange for advertising/sponsorship
- Loans of property
Common Non-compliance Issues

- **Charities**
  - Lending registration numbers – Direction and Control
  - Inadequate books and records
  - Inflated receipt amounts
  - Receipts with inaccurate or missing information
  - Abusive tax shelter gifting arrangements

- **Result**: Lose Registered Charity Status
Questions?
Example - Provincial Sales Tax (BC)

- BC PST charged on most goods and some services purchased in BC.
- Small supplier gross sales under $10,000 in year
- Charged on selling price prior to GST
- Charities and NFPOs required to charge PST if it sells new, used or donated items, even if funds are used for charitable purposes
- Some items are tax exempt:
  - Used clothing and used shoes sold for under $100
  - Children’s clothes and shoes
  - Qualifying books and magazines
PST – additional information

- Additional information:
  - BC Small Business Guide to Provincial Sales Tax
  - Bulletin PST 304, Clubs, Thrift Stores, Societies and Charities
GST/HST for Charities
GST Registration Requirements

- **NFPs and Charities must register where**
  - Revenue from taxable supplies exceeds $50,000 (FP=$30,000) in preceding 4 quarters
  - Exception for Charities/MUSH (not NPOs) if total revenues (including grants and donations) do not exceed $250,000 in current or either of preceding two years
  - May voluntarily register if below threshold
# GST Remittances – Charities are Different!

<table>
<thead>
<tr>
<th>For profit and Not-for-Profit</th>
<th>Charities – Net Tax Method  (unless election filed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>GST/HST Collected</td>
<td>X,XXX</td>
</tr>
<tr>
<td></td>
<td>GST/HST Collected</td>
</tr>
<tr>
<td></td>
<td>X,XXX</td>
</tr>
<tr>
<td></td>
<td>X 60%</td>
</tr>
<tr>
<td></td>
<td>XXX</td>
</tr>
<tr>
<td>Less: GST/HST ITCs</td>
<td>(XXX)</td>
</tr>
<tr>
<td></td>
<td>Less: Certain ITCs on improvements to real property, etc</td>
</tr>
<tr>
<td></td>
<td>(XXX)</td>
</tr>
<tr>
<td>Net Tax Payable</td>
<td>XXX</td>
</tr>
<tr>
<td></td>
<td>Net Tax Payable</td>
</tr>
<tr>
<td></td>
<td>XXX</td>
</tr>
</tbody>
</table>
CRA GST Resources for Charities

- GI-066 How a Charity Calculates the Net Tax to be Reported on its GST/HST Return
- GI-067 Basic GST/HST Guidelines for Charities
- GST/HST Information for
  - RC4082 Charities
  - RC4081 Non-Profit Organizations
- RC4034 GST/HST Public Service Bodies Rebate
Questions?
Public Service Bodies Rebate
<table>
<thead>
<tr>
<th>Public Service Body Activity Type</th>
<th>Rebate factor for the GST or the federal part of the HST</th>
<th>Rebate factor for the provincial part of the HST for public service bodies resident in:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NS</td>
<td>NB</td>
</tr>
<tr>
<td>Municipality</td>
<td>100%</td>
<td>57.14%</td>
</tr>
<tr>
<td>University</td>
<td>67%</td>
<td>67%</td>
</tr>
<tr>
<td>School Authority</td>
<td>68%</td>
<td>68%</td>
</tr>
<tr>
<td>Public College</td>
<td>67%</td>
<td>67%</td>
</tr>
<tr>
<td>Hospital Authority</td>
<td>83%</td>
<td>83%</td>
</tr>
<tr>
<td>Facility Operator</td>
<td>83%</td>
<td>50%</td>
</tr>
<tr>
<td>External Supplier</td>
<td>83%</td>
<td>50%</td>
</tr>
<tr>
<td>Charity</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Qualifying NPO</td>
<td>50%</td>
<td>50%</td>
</tr>
</tbody>
</table>

* Selected public service bodies resident in Newfoundland and Labrador that are also a charity, public institution, or qualifying NPO are entitled to claim a 50% rebate of the provincial part of the HST paid or payable on purchases and expenses used in non-selected public service body activities.

** Selected public service bodies resident in Prince Edward Island that are also a charity, public institution, or qualifying NPO are entitled to claim a 35% rebate of the provincial part of the HST paid or payable on purchases and expenses used in non-selected public service body activities.

***NPP means non-participating provinces, which include all the other provinces and territories not listed above.

Note
The rebate factors for British Columbia apply only to claim periods that end on or after April 1, 2013. The rebate factors for Prince Edward Island apply only to claim periods that end on or after April 1, 2013. The municipality rebate factor for Newfoundland and Labrador only applies to claim periods that end on or after January 1, 2016. Special rules apply if you are resident in British Columbia, Prince Edward Island, or Newfoundland and Labrador and your claim period includes the previously mentioned HST transitional dates. For more information, call GST/HST Rulings at 1-800-959-8287.
<table>
<thead>
<tr>
<th>Type</th>
<th>Registration Status</th>
<th>Eligible to Claim ITCs</th>
<th>Eligible to Claim PSB Rebate</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPO</td>
<td>Registered – Non-Qualifying</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Registered - Qualifying</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Small Supplier – Non-Qualifying</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Small Supplier - Qualifying</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Charity</td>
<td>Registered</td>
<td>Yes - Limited</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Small Supplier</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>NFPO</td>
<td>Charities – Net Tax Method</td>
<td></td>
</tr>
<tr>
<td>------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
</tbody>
</table>
| Claim ITCs             | Yes, except for restricted  
(including ITCs related to exempt activities and Meals & Entertainment) | Limited (since not able to claim ITCs on most purchases)                                     |
| Eligible for PSB Rebate on portion of ITCs not claimable | Yes, if Government funding is at least 40% in either the current year or average of prior two years | Yes                                                                                         |
| Rebate generally applicable only to unclaimable ITCs | ITCs related to exempt activities and non-deductible portion of Meals and Entertainment | All non-claimable ITCs (significant due to Net Tax Method)                                   |
## Allocation of ITCs & PSB Rebate

<table>
<thead>
<tr>
<th>Traditional method - NFPOs (&amp; Charities that elect)</th>
<th>Net of Tax Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primarily Taxable activities</td>
<td></td>
</tr>
<tr>
<td>Combination of Taxable and Exempt activities*</td>
<td>Primarily Exempt activities</td>
</tr>
<tr>
<td>&gt;90% taxable then claim 100% ITCs</td>
<td>Allocate direct costs and apportion overhead costs</td>
</tr>
<tr>
<td>Allocation method needs to be fair, reasonable and consistent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Claim GST/HST Rebate on ITCs not claimed</td>
</tr>
</tbody>
</table>

*Quick Method also available for Qualifying NFPO*
Questions?
Payroll
Employee or Independent Contractor

- CRA Publication - **RC4110 – Employee or Self-employed?**
- Tests as established by the courts
  - Four-part test: Control/Integration/Ownership of Tools/ Chance of profit-Risk of Loss
  - Intention of parties
- McCarthy Tetrault article: Contractor or Employee?
  - [www.mccarthy.ca/pubs/Contractor or Employee.pdf](http://www.mccarthy.ca/pubs/Contractor or Employee.pdf)
## Categories of Non-employees

<table>
<thead>
<tr>
<th>Independent Contractor</th>
<th>Casual Labour</th>
<th>Volunteers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has an established business and many clients</td>
<td>Doesn’t exist</td>
<td>Never receive any $$! (except for: reimbursements of expenses or honorariums of up to $500)</td>
</tr>
<tr>
<td>Provides own equipment</td>
<td>Payees are either employees or independent contactors</td>
<td></td>
</tr>
<tr>
<td>Provides evidence of worker’s compensation coverage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Issues an invoice / charges sales tax</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Received a Form T4A if compensation exceeds $500 per year*

*When in doubt treat as an EMPLOYEE. Do not treat an employee as both a vendor and an employee*
Independent Contractor

- Risk of reassessment
- CRA can go after
  - Income tax
  - CPP/EI – employee
  - CPP/EI – employer
- For up to three years (or longer) – penalties and interest can be significant
## Payroll Risk Reassessment

<table>
<thead>
<tr>
<th>Contractor Entity</th>
<th>Risk borne by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporation</td>
<td>Contractor</td>
</tr>
<tr>
<td>Individual / Proprietorship</td>
<td>Payor</td>
</tr>
</tbody>
</table>

- Reduce
- Accept
- Avoid
- Transfer
Independent Contractors

- Establish procedures to ensure that every independent contractor relationship is supported by a:
  - Signed agreement
  - Competitive bidding process
  - Certificate of worker’s compensation insurance

- General Rule: Directors, Officers and Senior staff are always employees – even if working part-time
Workers Compensation

- Payable on all employment expenses
- Payable on all contractor services
  - Unless proof of coverage obtained
- Rules vary by province
- Need to sign up independently
Payments to Directors & Volunteers

Directors
- Reimbursement of expenses
- Director’s fees – only if in bylaws (T4)
- Payments for services other than director’s fees

Volunteers
- Generally considered business income
- **Exception**: honorariums/gifts that meet criteria (<$500)
  - Can include cash and gift cards
Questions?
Thank You

Gordon Holley, CPA, CA, FCPB

Contact:

✉️ gh@humanityfinancial.ca

📞 (604) 926 8000
1. Get the right people with the right skills