Subrecipient Monitoring Under the New Uniform Guidance

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AGENDA

• What is a pass-through entity?
  • How does a pass-through entity’s responsibilities change under the uniform grant guidance?
  • GAN – Information requirements
  • Risk assessment
  • Enhanced monitoring/performance metrics
  • Enforcement

What is a pass-through entity?
Definitions

• 200.74, Pass-through entity - non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

• 200.93, Subrecipient - a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program.

• 200.23, Contractor (replaces term “vendor” (used in A-133)) – means an entity that receives a contract.

Types of Grant Agreements

• 200.201, Pass-through entity must decide on the appropriate instrument for the Federal Award:
  • Grant agreement
  • Cooperative agreement
  • Contract

Fixed Amount Awards

• Fixed amount awards (New) (See 200.332 and 200.45)
  • Requires prior approval from Federal awarding agency
  • Payments are based on meeting specific requirements of the Federal Award
  • Accountability is based on performance and results
  • Award amount is negotiated using cost principles as a guide (Up to Simplified Acquisition Threshold (currently $150,000))
  • No governmental review of the actual costs incurred
  • Significant changes (i.e., principal investigator, project partner or scope) must receive prior awarding agency written approval
Determination of Nature of Funding 200.330

- A Pass-through entity must make a case-by-case determination as to whether each agreement casts the party as a subrecipient or contractor. Look at the nature of the relationship. It does not matter what the agreement is called.

<table>
<thead>
<tr>
<th>Subaward</th>
<th>Contract</th>
</tr>
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<tbody>
<tr>
<td>Allowable activities based on applicable statute, local plan, State rules</td>
<td>Allowable activities based on terms and conditions of contract</td>
</tr>
<tr>
<td>Management rules</td>
<td>Management rules</td>
</tr>
<tr>
<td>Applicable OMB Circular and State law/policies and procedures</td>
<td>Terms of the contract; and State contract law</td>
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</tbody>
</table>

Subaward vs. Contract

- Subrecipient 200.330(a)
  - Determines who is eligible to participate in a federal program
  - Has its performance measured against whether the objectives of the federal program are met
  - Is responsible for programmatic decision making
  - Is responsible for complying with federal program requirements
  - Uses the federal funds to carry out a program as compared to providing goods or services for a program

Subaward vs. Contract (cont.)

- Contractor 200.330(b)
  - Provides the goods and services within normal business operations
  - Provides similar goods or services to many different purchasers
  - Operates in a competitive environment
  - Provides goods or services that are ancillary to the operation of the federal program
  - Is not subject to compliance requirements of the federal program
OMB/COFAR shifted many new responsibilities to the pass-through

GAN – New Information Requirements

Specific Requirements for Pass-Through Entities (200.331(a))

* Ensure that every subaward contains the following information relating to federal award identification (13 data points):
  1. Subrecipient name (must match the name associated with its unique entity identifier)
  2. Subrecipient unique entity identifier
  3. Federal Award Identification Number (FAIN)
  4. Federal Award Date
Specific Requirements for Pass-Through Entities (200.331(a)) (cont.)

5. Period of performance start and end date
6. Amount of federal funds ‘obligated by this action’
7. Total amount of federal funds ‘obligated to the subrecipient’
8. Total amount of the federal award
9. Federal award project description for FFATA purposes

10. Name of federal awarding agency, pass-through entity, and contact official
11. CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement
12. Whether the award is for “research and development”
13. The indirect cost rate

• The pass-through must reference the requirements of the federal grant and any additional requirements imposed by the pass-through (e.g., identification of any required financial and performance reports)

(incorporated by reference)
Specific Requirements for Pass-Through Entities (200.331(a)) (cont.)

- An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government
- Appropriate terms and conditions concerning closeout of the subaward

Specific Requirements for Pass-Through Entities (200.331(a)) (cont.)

* Pass-through must seek an assurance from subgrantees that access will be provided to records and financial statements

New Risk Management Requirements for Pass-Through Entities
Pass-through must evaluate each subrecipient’s risk of non compliance (federal statute/regulations/terms of award) for purpose of monitoring. (200.331(b))

Timing: before applicant receives funding.

Risk Factors, may include consideration of:
1. Subrecipient’s prior experience with the grant program
2. Results of previous audits
3. New personnel or substantially changed systems
4. Results of federal monitoring

Specific Conditions 200.331(b) and 200.207

Pass-through must consider imposing additional federal award conditions, if appropriate, such as:
- Require reimbursement;
- Withhold funds until evidence of acceptable performance;
- More detailed reporting;
- Additional monitoring;
- Require grantee to obtain technical or management assistance; or
- Establish additional prior approvals.
New Enhanced Monitoring/Performance Metrics

(200.331(d)) – Monitoring

* Pass-through must monitor its subrecipients to assure compliance and performance goals are achieved

(200.331(d)) – Monitoring

* Monitoring must include:
  1. Review of financial and programmatic reports
  2. Ensuring corrective action
  3. Issue a “management decision” on audit findings
Non-construction performance reports: pass-through must submit “performance reports” at least annually, using “OMB-approved government-wide standard information collections”

The performance reports must include:

1. Comparing actual accomplishments to the objectives established by the federal award
   a. Where the accomplishments of the federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful
   b. If performance trend data is useful, federal awarding agency should include this as a performance reporting requirement

2. The reasons why established goals were not met, if appropriate
3. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs
4. Significant developments, problems, delays, adverse conditions
5. Favorable developments
Recommendations for Monitoring Tools (200.331(e))

- Depending on assessment of risk, the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
  1. Training + technical assistance on program-related matters
  2. On site reviews
  3. Arranging for “agreed-upon-procedures” engagements (described in 200.425 Audit Services)

Audit Resolution (200.331(e))

- Pass-through must verify all required subrecipients have single audits
- Audit threshold raised from $500K (A-133 circular) to $750K (uniform grant guidance)
  - Places greater burden on pass-through

Additional Monitoring???

- Uniform grant guidance NPRM (February 1, 2013) proposed reduction in number of types of compliance requirements in the compliance supplement.
- Many pass-throughs opposed this reduction because of burden on them.
200.331(g)

* Pass-through must adjust its own financial records based on audits monitoring, on-site reviews

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200.331(h)

* Pass-throughs must consider taking enforcement action based on noncompliance, including:
  + Temporarily withholding cash payments pending correction
  + Disallowing all or part of the cost
  + Wholly or partly suspending the award
  + Recommending suspension/debarment to federal awarding agency
  + Withholding further federal awards
  + Other remedies that may be legally available

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Enforcement (new for IHEs, Hospitals and Non-Profits)
200.339

* The pass-through may terminate the award for “cause” with notice and opportunity for hearing (200.340 and 200.341)

Important Internal Controls

Oversight responsibility for subrecipient monitoring is tied very closely to internal controls that nonfederal entities, including pass-through entities, are required to have in place. This includes having:

• well-trained and knowledgeable staff members;
• sufficient resources (financial and staffing) dedicated to subrecipient monitoring;
• oversight managers with knowledge to identify the most appropriate methods/tools and extent of monitoring to be used (§200.331(e)(1));
• indicators to help identify risks from outside factors that may affect a subrecipient’s performance (those related to economic conditions, political changes, regulatory changes or unreliable information) (§200.331(b));

Internal Controls (Cont.)

• Official written policies and procedures (e.g., methodology for resolving findings of noncompliance or internal control weaknesses) (§§200.303; 200.331(e));
• Follow-up processes to ensure timely appropriate actions are taken or completed on a subrecipient’s reported deficiencies ( § 200.331(d)(2)); and
• Reviews of the subrecipient’s financial and programmatic reports ( § 200.331(d)(1)).
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