

Policy Number 2013-007
Central Procurement Office
Grant Management and Subrecipient Monitoring Policy and Procedures

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Prepared by: The Central Procurement Office of the State of Tennessee

1. Purposes.

To provide uniformity in the reporting of, and controls over, the expenditure of awards in connection with the delivery of services by subrecipients of federal and state awards.

To establish guidelines for subrecipient monitoring by Grantor State Agencies.

2. Scope.

This Policy applies to all State Agencies that award state or federal funds or non-cash assistance to Subrecipients. Direct Appropriation Grants are exempt from this Policy.

3. Definitions.

For purposes of this Policy, the following terms have the meanings described below:

“Agency” - means each State board, commission, committee, department, officer, or any other unit of State government.

“Award” - means any money, loans, non-cash assistance, granted to the State, or granted by the State to a person or legal entity, for the furnishing by the State of assistance, whether financial or otherwise, to any person or entity to support a program authorized by law.

“Central Procurement Office” - means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

“Chief Procurement Officer” - means the official as defined by Tenn. Code Ann. § 4-56-104.

“Cognizant State Agency” - means the State Agency whose funds comprise the greatest percentage of Awards received by a Subrecipient as determined by Department of Finance and Administration (F&A) Policy 3.

“Contractor” – means an entity that receives a contract as defined in the U.S. OMB’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

“Cost Allocation Plan” - means the method of distributing to various programs the costs

which benefit more than one program and are not directly assigned as approved by the Department of Finance and Administration.

“Direct Appropriation Grant” - means a grant listed on the Department of Finance and Administration Division of Budget’s annual direct appropriation list.

“Endowment Grant” - means a limited Grant Contract that originates from a specific appropriation, effecting an award and conveyance of funds or property to a Grantee for a particular purpose to benefit the general public as a whole or some population of the general public. An Endowment Grant is used to transfer funds to a Grantee pursuant to an appropriation.

“Grant” - means any grant of money awarded to the State, or awarded by the State to a person or legal entity, for the furnishing by the State of assistance, whether financial or otherwise, to any person or entity to support a program authorized by law. A Grant cannot be used for the primary purpose of procuring an end product, whether in the form of supplies, services, or construction, or any contract resulting from such an award that should otherwise be provided on a competitive basis.

“Grant Budget” - means a budget itemizing one or more specific activities or purposes under the grant and the maximum amounts a Grantee, a grant recipient or grant subrecipient may be reimbursed.

“Grant Contract” - means a written contract between the federal government, the State, a Grantee, or a Subrecipient that contains the terms and conditions governing the parties’ duties and responsibilities with respect to an Award.

“Grantee” - means the person or entity receiving an Award.

“Grantor State Agency” - means a State Agency that provides an Award to a person or entity.

“State” - means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Agency” - means the departments, agencies, and entities of the State of Tennessee.

“Subrecipient” - means a non-federal entity that receives an Award from a pass-through entity to carry out part of a federal or state program; but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

4. Grantee Selection Process.

Competition is encouraged with all Grantee selections. On the Grant Contract’s cover sheet, the Grantor State Agency shall identify whether the Grantee selection process was competitive or non-competitive. For a non-competitive selection, the Grantor State Agency

shall provide reasons for the non-competitive selection. For a competitive selection, the Grantor State Agency shall provide a summary of the Grantee selection process to the Central Procurement Office.

5. Advance Payments.

The State discourages advance payments. However, in extraordinary circumstances, advance payments may be authorized if doing so is in the best interests of the State. The Grantor State Agency must provide a Rule Exception Request to justify an advance payment.

6. Cognizant Agency Determination Process.

The Cognizant State Agency shall be responsible for approving the Grantee's Cost Allocation Plan. Other State Agencies that grant funds to the Grantee must abide by the Cost Allocation Plan approved by the Cognizant State Agency. Determination of the Cognizant State Agency shall be made according to Department of Finance and Administration (F&A) Policy 3. Once assigned, the term of responsibility shall continue until the Department of Finance and Administration makes a new determination. Responsibility may be reassigned upon written request and justification to the Department of Finance and Administration by either the Cognizant State Agency or a Grantor State Agency.

7. Cost Allocation Plans.

Cost Allocation Plans shall comply with the applicable accounting and financial standards, either Financial Accounting Standards Board ("FASB") standards or Governmental Accounting Standards Board ("GASB") standards. Subrecipients shall submit any proposed Cost Allocation Plans to the Cognizant State Agency for approval. Methods used for allocating costs may differ between Subrecipients. Once a Subrecipient receives approval for its Cost Allocation Plan, all other Grantor State Agencies shall accept the approved Cost Allocation Plan. However, Grantor State Agencies are not required to fully fund the costs that are charged to a particular program under an approved Cost Allocation Plan if such costs are not allowable under the Grantor State Agency's agreement with the Subrecipient or exceed the prescribed funding percentage or budgets.

7.1 Types of Costs.

7.1.1 Allowable Costs

The total cost of an Award is the sum of the allowable direct and allocable indirect costs less any applicable credits. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost in order to avoid possible double-charging of awards.

Allowable costs must be reasonable for the performance of the award and allocable. Unallowable costs include:

- Alcoholic beverages
- Bad debts
- Contingencies
- Contributions and donations
- Entertainment
- Fines and penalties
- Fundraising and investment management
- Legal services related to claims against the federal government

7.1.2 *Allocable Costs*

A cost is allocable to a particular Award or other cost objective if the goods or services involved are chargeable or assignable to that award or cost objective in accordance with relative benefits received. This standard is met if the cost:

- (1) Is incurred specifically for the Award;
- (2) Benefits both the Award and other work of the Subrecipient and can be distributed in proportions that may be approximated using reasonable methods; and
- (3) Is necessary to the overall operation of the Subrecipient and is assignable in part to the Award.

7.1.3. *Direct Costs*

Direct costs are those costs that can be identified specifically with a particular final cost objective, such as an Award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Such costs include:

- Salaries of persons who provide direct services to program beneficiaries and work on only one program (e.g. aging director, transportation program director);
- Travel costs that can be specifically identified to benefit a particular program;
- Equipment purchased for use in only one program;
- Maintenance or insurance for purchased equipment;
- Supplies which are utilized in only one program;
- A contract for professional services which benefits a single program; and
- Printing which benefits a single program.

7.1.4. *Allocable Direct Costs*

Allocable direct costs are those that benefit more than one program, but do not fall under the criteria of indirect costs. Such costs also include:

- Salaries and benefits of program employees whose work benefits more than one program (e.g. nurses, eligibility workers, etc.);

- Travel costs of employees whose work benefits more than one program;
- Occupancy costs of programs;
- Telephone costs of programs;
- Supplies utilized by more than one program;
- Rental and maintenance of equipment used by more than one program;
- Audit costs; and
- Contracted services that benefit more than one program.

7.1.5. *Indirect Costs (facilities & administrative costs)*

Indirect costs are overhead or administrative costs incurred for joint purposes that cannot easily be allocated to a single use. Such costs include:

- Executive director's salary and benefits (or the administrative portion thereof if the executive director spends time on program-related activities);
- Fiscal officer's salary and benefits;
- Secretarial support of administrative employees;
- Supplies of administrative employees;
- Travel of administrative employees;
- Occupancy costs (e.g. rent and utilities) of administrative employees;
- Postage and telephone costs of administrative employees; and

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- (1) Administrative or clerical services are integral to a project or activity;
- (2) Individuals involved can be specifically identified with the project or activity;
- (3) Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- (4) The costs are not also recovered as indirect costs.

7.2 Cost Allocation.

7.2.1. *Allocation Methods*

Requirements for developing and submitting indirect cost rate proposals and Cost Allocation Plans are contained in Appendices III-VII of the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* as follows below. In the event that a federal requirement for cost rate proposals or Cost Allocation Plans conflicts with a state requirement, the federal requirement shall control.

- (1) Appendix III to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)

(2) Appendix IV to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations;

(3) Appendix V to Part 200—State/Local Government and Indian Tribe Central Service Cost Allocation Plans;

(4) Appendix VI to Part 200—Public Assistance Cost Allocation Plans; and

(5) Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals.

The appendices can be found at the following web address: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

7.2.2. Instructions for Cost Allocation Plans

Each Subrecipient shall prepare a narrative describing in detail the methods used to allocate costs to the various programs. The plan should include an organizational chart and documents and schedules to support the allocation methods.

The following guidelines should be used when preparing the Cost Allocation Plan:

- The nature of the charges to be allocated will depend on the sophistication of the accounting system. The more sophisticated the system, the fewer the types of charges will be treated as allocable direct expense and included for distribution. For example, if each employee keeps a detailed time report, the payroll expenditures might be charged directly to each program, and cost allocation per se would not be involved.
- The Cost Allocation Plan must include plans for allocation of allocable direct costs as well as indirect costs. Allocable direct costs will be included with other direct costs of the program in reports to the Grantor State Agency. Allocations that are reported in separate line items on the grantor reports should involve the indirect cost pool only. An entity may wish to have more than one cost allocation pool so that certain types of costs are allocated on different bases.
- The Cognizant State Agency shall review proposed Cost Allocation Plans.
- Once the cost allocation plan has been approved by the Cognizant State Agency, all other funding state agencies must accept the approved plans. Where a contracting state agency has reason to believe that special factors affecting its awards necessitate special consideration, the contracting State Agency should communicate this to the Cognizant State Agency.
- If a dispute arises between the Cognizant State Agency and a Grantor State Agency, the dispute shall be resolved through an appeals process headed by the Commissioner of the Department of Finance and Administration or his or her designee.

8. How to Distinguish Between a Subrecipient and a Contractor.

The non-federal entity may concurrently receive federal awards as a recipient, Subrecipient, and a Contractor, depending on the substance of its agreement with federal awarding agencies and pass-through entities. Therefore, a State Agency must make case-by-case determinations whether each agreement it makes for the disbursement of federal or state program funds casts the party receiving funds in the role of a Subrecipient or Contractor.

If the agreement between the State and the non-federal entity creates a contractor relationship, the State Agency must ensure that the procurement, receipt, and payment for goods and services complies with applicable state and federal laws, regulations, and policies. If the agreement between the State and the non-federal entity creates a subrecipient relationship, the State Agency must comply with the subrecipient monitoring requirements in Section 10.

When determining whether an agreement creates a subrecipient or contractor relationship, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed below may not be present in all cases, and the State Agency must use judgment in classifying each agreement as creating a subrecipient or contractor relationship. The U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* provides guidance on how to distinguish between a Subrecipient and a Contractor in § 200.330:

8.1 Subrecipient. Characteristics which support the classification of an entity as a Subrecipient include when the entity:

- Determines who is eligible to receive state or federal financial assistance;
- Has its performance measured in relation to whether objectives of a state or federal program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable state or federal program requirements specified in the Award; and
- In accordance with the agreement, uses the state or federal financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the State Agency.

8.2 Contractor. A contract is for the purpose of obtaining goods or services for the State Agency's own use and creates a procurement relationship with the Contractor. Characteristics which support the classification of the entity as a Contractor, when the entity receiving state or federal funds:

- Provides the goods or services within normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of a state or federal program; and
- Is not subject to compliance requirements of the state or federal program as a result of the agreement, though similar requirements may apply for other reasons.

9. State Subrecipient Monitoring Requirements.

9.1 General Requirements for all Subrecipient Contracts

All subrecipient contracts must be monitored by the Grantor State Agency at least once every three years. This does not mean that all subrecipient contracts for a term of one year must be monitored. To determine whether subrecipient contracts with a one-year term will be monitored, Agencies should consider risk factors, e.g., the program's complexity, the Subrecipient's prior experience with the same or similar programs, whether the Subrecipient has new personnel or substantially changed systems, and the extent and results of any federal awarding agency monitoring. The Grantor State Agency shall perform more frequent monitoring if previous monitoring cycles revealed serious deficiencies. If federal subrecipient monitoring requirements on monitoring frequency are more stringent than those under this Policy, the Grantor State Agency shall comply with the federal requirements.

The Grantor State Agency should assign risk to all Subrecipients. At minimum, the Grantor State Agency's risk assignment process shall include the considerations identified in Section 9.2.2 below.

9.2 Annual Subrecipient Monitoring

Each year, all State Agencies governed by this Policy shall develop and submit an annual monitoring plan for review and approval to the Central Procurement Office by October 1.

9.2.1. *Monitoring Plan Components*

The monitoring plan is a summary of the Grantor State Agency's planned monitoring activities for the upcoming annual monitoring cycle and shall include:

- The total subrecipient contracts population;
- The Agency's monitoring cycle, e.g., the state or federal fiscal year;
- All subrecipient contracts the Agency will monitor during its monitoring cycle;
- A description of each state or federal program to be monitored;
- Sample monitoring guides to be utilized for each monitored program;
- Full-time equivalents and personnel classifications for all staff dedicated to monitoring activities;
- A risk assessment for each Subrecipient and its related contracts;
- An explanation of the criteria used to assign risk to Subrecipients and their related contracts;
- An explanation of each finding from the previous monitoring cycle; and
- An explanation of the Agency's corrective action process for each finding.

9.2.2. *Determining the Population to be Monitored*

When selecting the population of subrecipient contracts to be included in its annual monitoring plan, Grantor State Agencies shall consider:

- The Subrecipient's risk of noncompliance with federal statutes, regulations,

- and the federal award's terms;
- The level of programmatic or financial risk to the State;
- Whether the subrecipient contract has been monitored in the past three years; and
- Whether the subrecipient contract has had prior findings indicating serious deficiencies.

9.2.3 *Monitoring Activities*

The Grantor State Agency's monitoring of the Subrecipients identified in its annual monitoring plan shall include:

- Any program-specific monitoring requirements;
- All applicable requirements of Title VI of the *Civil Rights Act of 1964*, as defined in the Title VI Compliance Commission Advisory Memorandum No. 3, April 14, 2004;
- Reviewing any reports required by 2 C.F.R. §§ 200.328 – 200.329;
- Reviewing financial and programmatic reports required by the Grant Contract; and
- Ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Award that the Grantor State Agency detected and communicated to the Subrecipient.

To the extent possible, there should be a separation of duties between monitoring staff and program operations staff to allow for independence and objectivity. Possible conflicts of interest should be disclosed in agency monitoring plans.

9.2.4 *Changes to Monitoring Plans*

Agencies shall submit any proposed changes to an approved monitoring plan and an explanation for each proposed change to the Central Procurement Office for review and approval. The Agency shall document any approved changes to an existing plan.

9.2.5 *Monitoring Reports and Corrective Action Plans*

Grantor State Agencies shall issue reports summarizing any findings or observations identified during monitoring activities within thirty (30) business days of completing all field work. The Agency shall retain a copy of the monitoring report and distribute copies to the Subrecipient and the Comptroller of the Treasury, Division of State Audit.

Upon receipt of a monitoring report with findings, the Subrecipient shall prepare a corrective action plan detailing the actions to be taken to correct such findings. The corrective action plan shall include:

- The name of the contact person responsible for the corrective action plan;

- The corrective actions to be taken; and
- The anticipated completion date.

The corrective action plan shall be submitted to the Grantor State Agency for review and approval. The Grantor State Agency shall have thirty (30) business days to approve, reject, or request additional information about the Subrecipient's plan. If a corrective action plan is not approved, the Grantor State Agency and the Subrecipient shall work together to develop solutions for addressing the monitoring report's findings.

10. Compliance Reviews.

Agency records obtained under this Policy are subject to evaluation by the Chief Procurement Officer, the Comptroller of the Treasury, or their duly appointed representatives.

Related Statutes, Rules and Policies

Tenn. Code Ann. §§ 4-56-101, *et seq.*

Tenn. Code Ann. §§ 12-3-101, *et seq.*

Tenn. Code Ann. §§ 12-4-101, *et seq.*