

INTRODUCTION TO FEDERAL GRANT COMPLIANCE PART 3



LOUISVILLE METERO GOVERNMENT
LUNCH & LEARN SERIES
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Purpose of part 3

1

Continue our deep
dive into 2 CFR 200
Subpart D

2

Review the
Subpart E Cost
Principles and
Subpart F Audit
Requirements

3

Review common
compliance
findings related to
policies and
procedures and
identify strategies
to remain
compliant



SUBPART D



PROCUREMENT REQUIREMENTS

PROCUREMENT REQUIREMENTS: 200.318 GENERAL PROCUREMENT STANDARDS

- Recipients and subrecipients must have and use documented procurement procedures, consistent with 2 CFR 200, state and local laws and regulations
- Recipients and subrecipients must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders

PROCUREMENT REQUIREMENTS: 200.318 GENERAL PROCUREMENT STANDARDS

- **Recipients and subrecipients must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.**
- **No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.**

PROCUREMENT REQUIREMENTS: 200.318 GENERAL PROCUREMENT STANDARDS

- **Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.**
- **The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.**
- **The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.**



Our organization needs to contract with a company to provide IT support to us. The lowest bidder is a company owned by the brother of Sally Jones, our Director of Development. If we contract with this company, will that be a conflict of interest?

- A. Yes, the 2 CFR 200 specifically prohibits awarding contracts to siblings of employees**
- B. Yes, if Sally helped develop the bid criteria or was one of the bid reviewers**
- C. Yes, if Sally helped develop the bid criteria, was one of the bid reviewers, or will administer the contract**



PROCUREMENT REQUIREMENTS: 200.319

COMPETITION

- **All procurement transactions for the acquisition of property or services required under a federal award must be conducted in a manner providing full and open competition.**
- **Recipients/subrecipients must not:**
 - **Place unreasonable requirements on firms in order for them to qualify to do business**
 - **Require unnecessary experience and excessive bonding**
 - **Use noncompetitive contracts to consultants that are on retainer contracts**
 - **Engage in conflict of interest**
 - **Specify only a brand name instead of an equal product**
 - **Use any arbitrary action in the procurement process**



PROCUREMENT REQUIREMENTS: 200.319 COMPETITION

- **Recipients/subrecipients must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in cases where the applicable federal statutes mandate or encourage doing so.**
 - **Exception for architectural and engineering services**

PROCUREMENT REQUIREMENTS: 200.320 METHODS OF PROCUREMENT TO BE FOLLOWED

- **Micropurchases: purchases of like goods or services in aggregate of \$10,000 or less in a single fiscal year**
 - 2 CFR 200 allows recipients and subrecipients that meet certain criteria to raise this threshold as high as \$50,000
 - No formal competition is needed, i.e., no price or rate quotes are needed
 - All costs must be reasonable
 - Costs should be spread equitably among qualified suppliers

PROCUREMENT REQUIREMENTS: 200.320 METHODS OF PROCUREMENT TO BE FOLLOWED

- **Small Purchases**

- **For LMG: Purchases between \$10,000 aggregate and \$40,000**
- **For grantees that are not local governments: Purchases between \$10,000 aggregate and the Simplified Acquisition Threshold, which is currently \$250,000**
- **Recipients/subrecipients must obtain price or rate quotations from an “adequate number of qualified sources as determined appropriate by the” entity.**
 - **LMG agencies must obtain at least 3 quotes**
 - **Adequate number cannot be 1 quote**

PROCUREMENT REQUIREMENTS: 200.320 METHODS OF PROCUREMENT TO BE FOLLOWED

- **Formal Procurement Methods**
 - **For LMG: Purchases above \$40,000**
 - **For grantees that are not local governments: above \$250,000**
 - **Specific methods:**
 1. **Sealed bids – a procurement method in which bids are publicly solicited and firm fixed-price contract is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. Sealed bids method is preferred for procuring construction.**
 2. **Proposals, AKA Request for Proposals (RFP) – a procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of the sealed bids.**

PROCUREMENT REQUIREMENTS: 200.320 METHODS OF PROCUREMENT TO BE FOLLOWED

Noncompetitive Procurement – allowed only in specific circumstances

- 1. Purchases that meet the micropurchase requirements**
- 2. Item is available only from a single source**
- 3. During public exigency or emergency (i.e., a declared emergency)**
- 4. Federal agency provides written authorization to forgo competition**
- 5. After solicitation of a number of sources, competition is determined inadequate.**



PROCUREMENT REQUIREMENTS: OTHER

Subpart D contains a number of other procurement requirements, including:

- **Requirements for contracting with small and minority businesses, women's business enterprises, and labor surplus area firms**
- **Domestic preferences for procurement**
- **Procurement of recovered materials**
- **Contract cost and price requirements**
- **Federal awarding agency or pass-through entity review**
- **Bonding requirements**
- **Contract provisions (see also Appendix II)**



Purchases of like goods or services up to \$10,000 aggregate per fiscal year are called _____.



Through our federal grant program, we are going to construct a homeless shelter. The appropriate competition method will be:

- A. Request for proposals (RFPs)**
- B. Sealed bids**
- C. Noncompetitive procurement**

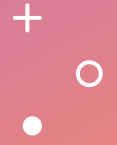


In which of the following scenarios is noncompetitive procurement allowed?

- A. We need to purchase equipment to respond to a declared disaster.**
- B. The equipment that we need is new technology only available from one supplier. No other equipment can meet our needs.**
- C. We bid out the equipment purchase, and only one supplier responded to our bid. We issued the bid a second time, and, again, only the single supplier responded.**
- D. All of the above**

SUBPART D

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- **SUBRECIPIENT MONITORING
AND MANAGEMENT
REQUIREMENTS**



SUBRECIPIENT MONITORING AND MANAGEMENT: 200.331-333

Pass-through entities are organizations that receive federal funding and then grant part or all of that funding to subrecipient organizations. Title 2 CFR 200.331 through .333 contain the requirements pass-through entities must follow 1) before granting the funds and 2) throughout the life of the grants. The next few slides provide an overview of these requirements; however, please understand that subrecipient monitoring and management is detailed work that requires a great deal of time on the part of the pass-through entity.



SUBRECIPIENT MONITORING AND MANAGEMENT: 200.331

- **Pass-through entities that award federal funds to grantees must make a formal, written determination that an entity is a contractor or subrecipient.**

Subrecipient
Determines who is eligible to receive what federal assistance
Has its performance measured in relation to whether objectives of a federal program were met
Has responsibility for programmatic decision-making
Is responsible for adherence to applicable federal program requirements specified in the federal award
In accordance with its agreement, uses the federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity



SUBRECIPIENT MONITORING AND MANAGEMENT: 200.331

- **Pass-through entities that award federal funds to grantees must make a formal, written determination that an entity is a contractor or subrecipient.**

Contractors
Provides the goods and 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 (i.e., secondary) to the operation of the federal program
Is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons



IS THE FOLLOWING A SUBRECIPIENT OR CONTRACTOR RELATIONSHIP?

A Metro agency received \$1 million in federal funding to increase learning among young children. The Metro agency provides funds to ABC Nonprofit to deliver early learning services to children ages 1-4. ABC Nonprofit has provided early learning programming since 2008 and currently serves 200 young children. ABC Nonprofit uses an application review process that ensures all students live within the Russell neighborhood.



IS THE FOLLOWING A SUBRECIPIENT OR CONTRACTOR RELATIONSHIP?

To identify problems early learning students might experience, ABC Nonprofit engages Diagnostic Tests 'R' Us (DTRU) to provide vision and hearing tests for all students. DTRU provides similar services to more than 500 schools, corporations, and other organizations. A list of their fees is available on DTRU's website.

SUBRECIPIENT MONITORING AND MANAGEMENT: 200.332

- **Pass-through entities that award federal funds to grantees must:**
 - **Issue subawards (grant agreements) that clearly identify to the subrecipient that the grant is a subaward of federal funds and include certain, required information in the grant agreements**
 - **Complete a risk assessment on each subrecipient, considering factors such as prior experience, results of previous audits, agency turnover, monitoring results, etc.**



SUBRECIPIENT MONITORING AND MANAGEMENT: 200.332

- **Pass-through entities that award federal funds to grantees must:**
 - **Monitor the subrecipient's activities**
 - **Includes monitoring of financial and performance reports, review of subrecipients' Single Audit, and any other steps necessary to sure that the subaward is used for authorized purposes, and the subrecipient remains compliant and achieves performance goals**
 - **Work with subrecipient to resolve audit findings on the funded program**
 - **Verify that every subrecipient is audited as required by Subpart F**

SUBPART E

COST PRINCIPLES

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COST PRINCIPLES

- **The Cost Principles are found in Subpart E of the Uniform Grant Guidance (Title 2 CFR 200). More specifically, Subpart E:**
- **Provides detailed information about many cost categories, and explains whether they are eligible, ineligible, eligible with restrictions, or eligible with prior federal approval**
- **Lists and details the general Cost Principles, which are represented by the letters A-R-A:**
 - **Allowable**
 - **Reasonable**
 - **Allocable**

ALLOWABLE COSTS

A cost is allowable if it is:

- Included in the approved budget in your grant agreement or in a subsequent budget amendment
- Justified as necessary and reasonable for the performance of the grant program.
 - A cost is **NECESSARY** if it meets an important program objective
 - Lucy is going to discuss reasonableness in the next section of this training.
- Treated consistently as a direct or indirect cost across all grants

ALLOWABLE COSTS

Allowable costs must:

- **Not be charged to another grant or other cost center**
 - **No Double Dipping**
- **Adhere to requirements and all applicable laws**
- **Comply with your policies and procedures that apply to all activities, regardless of funding source**
- **Be net of applicable credits**
- **Be adequately documented**

REASONABLE COSTS

Reasonableness Required Tests:

- **Are the nature and the cost of the expense moderate and a sensible use of funds? – The Prudent Person Test**
- **Would news coverage of grant spending make your organization and Louisville Metro Government look responsible or irresponsible? – The Evening News Test**



REASONABLE COSTS

When assessing cost reasonableness, you must answer many questions related to each cost:

- **Is the cost ordinary and necessary for the operation and efficient performance of the grant award?**
- **Did you act with integrity and prudence when incurring the costs, considering your responsibilities to the people you serve, the taxpayers, Louisville Metro Government, and the federal government?**

REASONABLE COSTS

When assessing cost reasonableness, you must answer many questions related to each cost:

- **Does the cost significantly deviate from your established practices and policies?**
- **Is the cost reasonably priced for the Louisville Metropolitan area?**

ALLOCABLE COSTS

Costs allocated to a grant award must be:

- **Allocated to the award to the extent they benefit that award**
- **Necessary to the grant program's overall operation**
- **Assignable to the federal award in accordance with 2 CFR 200**
- **Incurred specifically for the award**
- **Distributed in proportions that can be approximated and justified using reasonable methods**

SUBPART F

AUDIT REQUIREMENTS



SINGLE AUDIT REQUIREMENTS

- **Recipients and subrecipients expending \$750,000 or more in federal funds in a fiscal year must undergo a Single Audit.**
- **Single Audits are external audits, typically performed by CPAs**
- **Auditors review the grant program(s) in accordance with the annual Compliance Supplement issued by the Federal Office of Management and Budget.**
- **Auditors may issue findings for improper payments and other areas of noncompliance.**



SINGLE AUDIT REQUIREMENTS

- **Recipients and subrecipients must develop Corrective Action Plans (CAPs) to respond to audit findings and implement those plans.**
- **Auditors will perform a review in the next audit year to ensure CAPs were implemented and noncompliance is resolved.**

POLICIES AND PROCEDURES



POLICIES AND STANDARD OPERATING PROCEDURES (SOPs)

An auditor or monitor could issue findings related to a recipient's/subrecipient's policies and SOPs if:

- The entity or program lacks policies and SOPs that are required by the 2 CFR 200 or the federal awarding agency.**
- A policy/SOP is not aligned with federal regulations.**
- Internal controls have not been built into the policy/SOP.**
- Staff have not adhered to the policy/SOP.**

POLICIES AND STANDARD OPERATING PROCEDURES (SOPs)

To avoid findings related to policies/SOPs, your agency or organization should:

- **Research all the policy requirements associated with your grant. You will find these requirements in the 2 CFR 200, the Notice of Funding Opportunity (NOFO), the award letter, and the federal agency's regulations.**
- **Develop all required policies/SOPs and ensure they meet the federal requirements.**
- **Develop any additional policies/SOPs that will help your agency or organization operate the program and remain compliant.**

POLICIES AND STANDARD OPERATING PROCEDURES (SOPs)

To avoid findings related to policies/SOPs, your agency or organization should:

- Include internal controls in all policies and SOPs.**
- Make sure policies and SOPs stay current.**
 - Review at least annually**
 - Update when a policy or process changes**
 - Ensure that staff have easy access to the current version of policies/SOPs**
- Provide training to staff when policies/SOPs change**