

Grants Training

December 9, 2008

Dept of Community, Trade and Economic Development

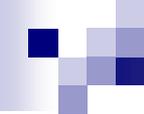


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Scope of Training

- n **Grants issued by CTED.**
- n **Includes Grants funded by state and federal sources.**

Reasons for Training

In '06-'07 biennium, the number of grants were over 28% of CTED's total number of grants, contracts and loans. Dollars were 43%.

Reasons for Training – cont.

- n Some programs have expressed a need for a more agency-wide distinction for grants. There is a brief high level written process in Chapter 3 of the CTED Contracting Guide. Most programs that do grants have their own written procedures. Others rely on what is in the federal grant award, legislation and contract terms and conditions.**

Reasons for Training – cont.

- n **When unaware of the availability of the grant process, we often just default to using other processes, such as those for client services contracts. Applying the client services contract requirements to state grants adds unnecessary requirements.**

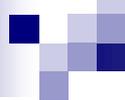
Reasons for Training – cont.

- n **Likewise, if we apply federal Single Audit and other federal requirements to state-funded grants or contracts, we are requiring them to comply with more than they have to by law. The best approach is to identify the correct type of agreement and apply the corresponding standards.**

Timeliness of Training

Grants process is often easier than contracts process-

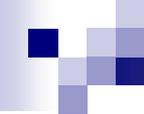
Grants do not include many of the OFM requirements for client and personal services contracts, e.g., staff training and filing with OFM. By processing grants as contracts, we do more than is required and the results are audit risks and unnecessary process, e.g., auditors audit what is entered into AFRS as client services even if the agreement could actually be a grant. So they apply the more stringent client services contracts rules to grants.



Timeliness of Training- cont.

Missed opportunities for flexibility-

Grants often offer more flexibility in deliverables. Contracts offer less. For example, certain grants allow grantees their costs of operation and just make best efforts to meet goals described in the Grant.



Related Trainings

In the past, CTED has not offered training on Grants. Some publishing uses, such as Thompson Publishing and the Office of Financial Management offer training on federal grant requirements such as the Single Audit Act.

Objectives of this Training

- n **Distinguish Grants from other agreements such as contracts, loans and interagency agreements.**
- n **Correctly identify type of process to use for a grant, including requirements and best practices.**
- n **Enter correct grant data, e.g., use expenditure code NZ with Grant.**
- n **Recognize when it is beneficial to use a Grant rather than a Contract designation.**
- n **Understand that how we write the agreement may determine the type of agreement it is, e.g., grant or contract.**
- n **Determine whether or not CTED has the “granting authority” when grants are used.**
- n **Use most streamlined process available, as long as it is correct. To that only include process that adds value.**

Questions

1. **What are the differences between client service contracts and grant agreements?**

Response: Client services provide a specific set of deliverables to agency clients. Grants fulfill a more general government purpose. This is the response for state funded contracts and grants. The response would be somewhat different for federally funded agreements. One reason for that is that there is no such thing as “client services contracts” under federal requirements.

Questions

2. **If CTED issues a grant to another governmental entity, is it a grant or interagency agreement?**

Response: The better approach is identifying it as a grant. That way, the program can use the same process and templates as with the other grantees in that program. And if the type of work is for a general government purpose rather than discrete deliverables and CTED has granting authority, then it should be considered a grant. Only the status of the grantee as a governmental entity would have suggested it be an interagency agreement.

Questions

3. **Can an agreement be both a grant and interagency agreement?**

Response: It should be treated as one or the other, preferably a grant. Although the legal entity receiving the grant would be a governmental entity, the template and process should be that of grant and expenditure coding an “NZ”. Other accounting functions such as General Ledger would be different since we are dealing with a governmental entity.

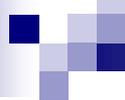
Questions

4. Can grants be issued to for-profit entities?

Response: Yes, unless legislation provides otherwise. For example, ITED has issued grants to renovate playground areas to for-profit pre-school facilities using the Child Care Facility Fund. The caution is to avoid “gifting” to for-profit entities as prohibited under state Constitution, Article VIII, Section 5.

Granting Authority

- n **CTED has the general authority to enter into contracts or grants. Under RCW 43.330.040(2)(c) it can... “(c) Accept and expend gifts and grants, whether such grants be of federal or other funds”.**
- n **Authority to issue grants for specific programs should be stated in its state enabling statute, in the state budget bill, or federal grant award. For example, CTED has the right to grant or “sub-grant” federal grant funds it has been awarded.**
- n **Specific state statutes and budget bills often give CTED specific granting authority, e.g., Affordable Housing Rapid Response Loan Program [RCW 43.185.120]; and Microenterprise Development Program [RCW 43.330.290]. CTED programs should read specific authorities carefully to ensure they have authority to grant before doing so.**



Characteristics of Grants

Grant funds are used to carry out a grantee's program purpose. In return, grantee costs that are eligible for reimbursement may include salaries, rent, software, etc. Contract provide defined goods or services. Both grants and contracts may be reimbursed for the same eligible costs. So, the difference is the deliverables rather than how they are reimbursed.

Grant payments are based on grantee's eligible costs. In performance-based contracts, the contractor is often paid for the deliverable.

Types of Grants

- n **Entitlement-To all entities that qualify for assistance under statutory requirements (usually federal), e.g., Medicaid and Food Stamps.**
 - **Block Grants-Awarded for broad variety of functional areas, e.g., Community Services Block Grant (CSBG), Community Development Block Grant (CDBG), and Low-Income Home Energy Assistance Program (LIHEAP).**
- n **Formula-Awarded to all qualified entities, but allocations based on factors such as poverty rate and geographic area of recipients.**
- n **Discretionary/Competitive-Awarded through a competitive process, e.g., Building for the Arts; and Youth Recreation Facilities.**
- n **Direct Appropriation-Funding and list of grantees from legislature, e.g., Local Community Projects; Jobs in Communities; and Community Development Fund.**

Samples of CTED Grants, by Objective

- n **Safe and Drug Free**
 - grants to local government to limit violence and use of drugs
- n **Housing**
 - weatherization to install insulation in low income homes
 - purchase, construction, or rehabilitation of low-income housing
- n **ITED**
 - small business development
- n **Local Government**
 - development, improvement, or rehabilitation of various public facilities
 - arts, museums, and other public projects
- n **Public Works**
 - water systems

Questions

1. **Can a Grant be “performance-based” (pay for outcomes rather than on costs)?**

Response: Yes. Unless federal funding source requires a cost reimbursement model. And it may be difficult to find a grantee who would take the risk of being paid for performance rather than for its costs.

Questions

- 2. When the State Auditor's Office (SAO) does an audit under the Single Audit Act, does it apply the same rules for grantees and contractors?**

Response: Yes, if CTED has failed to differentiate a state funded contract from a federal funded grant.

Selecting the Right Template

Each template corresponds to a particular type of agreement. For example, if you are doing a grant for human services and it has federal funds, use the template entitled “General Grant Federal”. If the agreement uses federal funds for construction of low-income housing and there’s no requirement for repayment, use the “Capital Related Federal” template. This is because the nature of the work is construction, not the general program purpose of a grant. The only reason we call it a construction grant is because repayment is not required.



How to Use Templates

Each template has six (6) parts:

1. Instructions

2. Cover Sheet -

§ **Enter Name of Project**

§ **Enter Name of Program**

§ **Enter Start Date of Agreement**

3. Table of Contents

How to Use Templates – cont.

4. Face Sheet –

Fill out information required, such as names of parties to the agreement, start and end dates, Taxpayer Identification Number (TIN), etc.

How to Use Templates – cont.

- 5. Special Terms and Conditions – Provisions specific to the Program. The Program may change, add, or omit provisions in order to customize. However, if any title in the Template is to be omitted, the Program should still identify the Title followed by an “N/A” and short explanation of why it is being omitted.**

How to Use Templates – cont.

6. General Terms and Conditions –

Provisions should remain intact as far as both the titles and content are concerned. As with all agreements, not all GTCs will apply to every agreement. But the provision should remain in case unforeseen circumstances result and to retain the standard nature of the Template itself. Should a GTC conflict with a Special Term, such conflict would be resolved in the Special Terms rather than changing the GTC. For example, if the Generals have a term entitled “Advanced Payments Prohibited” but CTED desired to make such payments, the exception would be detailed in the Special Terms and Conditions. It might provide as follows: “Notwithstanding the General Term entitled “Advance Payments Prohibited”, payments may be made to the Grantee for lease payments for the first year of occupancy of low income housing.” Thus, the Special term narrowly defines the General prohibition against advance payment.

Example of Grant Language for Payment and Performance

“... Grantee’s compensation for services rendered to accomplish the purposes stated in this Grant Agreement shall be based on reimbursement of their expenses identified in the Budget...”

Analysis: This example shows the following important components:

- **Maximum consideration – Controls overall expenditure.**
- **References Program Purposes for description of details.**
- **Cost Reimbursement**

Example of Contract Language

“... Contractor costs identified in the Budget shall be reimbursed according to accomplishment of the work products also described in the Scope of Work.”

Analysis:

- **This points to Statement of Work to identify work to be done and price/cost reimbursed.**
- **Points to specific work to be done for a certain amount of money.**
- **Also Cost Reimbursement.**

Example of Loan Language

“Starting on June 30, 2009 Contractor shall repay the principal amount of (\$____) amount with interest accruing at the rate of three percent (3%), compounded quarterly and shall continue to be due each September 30, December 31, March 31, and June 30, for a total of ____ years. The final payment of principal and interest shall be due on or before June 30, ____.”

Analysis:

- **States 4 requirements of a loan: principal amount, interest rate, payment amounts, dates due.**
- **Does not mention collateral, if any.**

Example of Interagency Agreement Language

“CTED shall pay an amount not to exceed (\$____) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Contractor's compensation for services rendered shall be based on the following rates or in accordance with the following terms...”

Analysis:

- **Method of reimbursement may be any type (since interagency usually only refers to fact that the agreement is between governmental entities).**
- **Criteria that makes this an interagency agreement is the fact that it is with another governmental entity.**

Questions

- 1. When will our templates be “approved as to form” by the AAG?**

After the entire agreement has been agreed upon within CTED and before sending to grantee for signature.

Questions – cont.

2. Can one agreement be a combination of grant and loan?

Yes. An example is a capital agreement where not all funds must be repaid. So, part is a loan and part is a grant.

Questions – cont.

- 3. What is the purpose of having 5 different designations for templates as capital, grant, contract, loan and interagency agreement?**

The legislature has determined that there should be different oversight based on who the contractor is. Thus, personal services contracts have more restrictions than interagency agreements. The types of work called for in these various types of agreements requires templates. For example, capital projects includes issues such as prevailing wage, preservation of historical artifacts or usage of the apprentice program. Non-capital contracts are not subject to these rules.

Planning and Risk Assessment

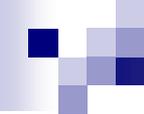
The rules for grants are not the same as for personal service and client service contracts. But since both grants and these contracts are legally binding state Agreements, they share certain characteristics. For example, risk assessments are often required for grants and contracts, but in different rules. SAAM Chapters 15 and 16 require risk assessments for personal and client services contracts. Grants may also require risk assessments in federal rules and state rules of accountability for state funds. See Chapter 43.88 RCW and Internal Contracts, SAAM 20.10.

Risk Related to Services Performed

- n **Program history. Is it new?**
- n **Funding. Is it contingent or unstable?**
- n **Complexity.**
- n **Client health & safety.**
- n **Contractor has responsibility for key decisions.**

Risk Related to Services Performed – cont.

- n Federal Risk Assessment – Has US General Accounting Office or US Office of Management and Budget identified the program as high risk?**
- n Payment method. Does it put risk on CTED or Contractor?**
- n Monitoring Methods. Will monitoring plan mitigate any possible risks?**
- n Who chooses clients? CTED, Contractor, or federal funding source?**



Risk Related to Grantee

- n **Is CTED their only client? Have they had other agreements with the state?**
- n **Does contractor have other funding sources for this type of work?**
- n **Collaboration with partners for service delivery?**
- n **Length of time in business.**
- n **Experience and past performance.**
- n **Accreditation and licensure.**

Risk Related to Grantee – cont.

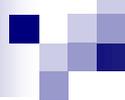
- n **Financial health and practices, such as cost allocation plan.**
- n **Current and prior audit experience.**
- n **Oversight from other funding sources.**
- n **Board of Directors.**
- n **Subcontractors. If there is subcontracting/subgranting, does grantee have effective monitoring to oversee them?**

Risk Related to Grantee – cont.

- n **Organizational changes.**
- n **Management structure. Centralized or decentralized? How much control does organization have over decentralized functions?**
- n **Legal actions – within past 12 months.**
- n **Defaulted contracts – within past 5 years. What were the circumstances?**

Contractual Ways to Mitigate Risks

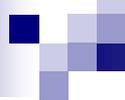
- n **Add clauses to mitigate specific risks, e.g., if timelessness of performance is a risk, tie payments to delivery dates and do not allow contractor to proceed to next deliverable until they have gotten written acceptance for last one.**
- n **Require proof of liability insurance.**
- n **Develop and implement effective monitoring plans and contractor reporting requirements.**
- n **Link payments to performance measures.**
- n **Performance bond or liquidated damages.**



Reducing Risk Through Selection and Checking on Grantee

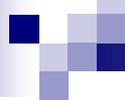
Grant Agreement may include:

- n Solicitation required? None required under general state law, but legislation of federal funding source may require it.**
- n Qualified grantees-selection process should ensure they have ability and track record to deliver timely quality services with fiscal responsibility.**



Reducing Risk Through Selection and Checking on Grantee – cont.

- n Tailor contract, monitoring and audit to the risk posed by the work to be performed and to the contractor. So if the work is complex and the contractor questionable, the grant agreement should have a termination for convenience clause, insurance and turn-over provisions. It should also require thorough monitoring and incremental payment. Audit should be done on an annual basis rather than on a 2 or 3 year cycle.**



Reducing Risk Through Selection and Checking on Grantee – cont.

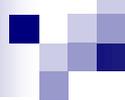
- n Contractor should provide CTED with a copy of audit findings and any relevant legal or administrative action in which it is involved.**

Leveraging

- n **Anti-Supplanting-Federal grants may forbid replacing other funds with theirs. This increases the impact of federal funding.**
- n **Match-Federal matching requirements also increases the impact of federal funding.**

Administrative

- n **Procurement-State requires CTED to use a standard set of statewide procurement rules, no matter what the source of funding is.**
- n **Federal requirements can be different from each agency funding source although Circulars such as A-110 articulates a single set of federal administrative requirements.**



Grant Management at CTED

- n **Provide grantee with guidance and technical assistance.**
- n **Monitor activities to ensure quality of services and appropriate use of funding.**
- n **Document Review:**
 - **Periodic grantee reporting**
 - **Review of grantee audit reports**

Grant Management at CTED – cont.

- n Review invoices and verify delivery of services.**
- n On-site reviews and observations.**
- n Measure and track CTED and client satisfaction with services. This may include client surveys.**
- n Ensure compliance with federal and state regulations.**
- n Document entire process.**

Corrective Action Required When:

- n Failure to ensure client health or safety.**
- n Significant audit or monitoring findings.**
- n Inferior quality of service.**
- n Failure to perform all or part of the Agreement.**
- n Consistent late performance.**
- n Inadequate, unclear, or excessive billing.**

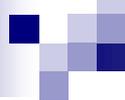
Corrective Action Steps:

- n **Notify grantee both verbally and in writing when the problem is identified.**
- n **Notify grantee of corrective action and dates when it is expected.**
- n **Document conversations with memo to file or follow-up with written letter.**
- n **Seek specialist advice, such as from AAG.**



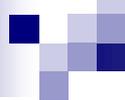
Audit Defined

The broad definition of an audit is an independent examination of a grantee's records or actions to evaluate compliance with financial, legal, contractual or policy requirements. If it is truly independent, it should not be done by grantee or CTED staff.



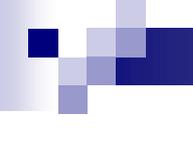
Audit is NOT a Substitute for Monitoring or Managing a Grantee!

The inverse is also not true in that monitoring and managing cannot substitute for audits. The monitoring and managing are carried out by CTED staff to deal with issues with current grants. Audits are usually done from a historical perspective about grants that have already terminated.



Federally Funded Grants Have Their Own Prescriptive Audit Requirements

In addition to the audit requirements, federally funded contracts have rules about things such as expenditures, accounting practices, identified in federal law/rules/certifications and assurances and the General Terms and Conditions. They must be complied with whether or not an audit is required of the grantee. For the most part, regular federal audits are called Single Audits and are only required if the Grantee expended \$500,000 or more in a fiscal year in federal funds from all sources. But the threshold for state-funded grants is only \$100,000.



FEDERAL GRANTS

ADMINISTRATIVE REQUIREMENTS

- n **State, Local and Tribal Governments**
 - OMB Circular A-102
- n **Non-Profits, Hospitals and Higher Ed**
 - OMB Circular A-110 (2 CFR 215)

FEDERAL GRANTS (cont.)

COST PRINCIPLES

- n **State, Local and Tribal Governments**
 - OMB Circular A-87

- n **Non-Profit Organizations**
 - OMB Circular A-122

FEDERAL GRANTS (cont.)

AUDIT REQUIREMENTS

n **State & Local Gov't and Non-Profits**

- **OMB Circular A-133**

n **All Circulars and OMB information:**

- **<http://www.whitehouse.gov/omb/circulars/index.html>**

FEDERAL GRANTS (cont.)

DEFINITION OF FEDERAL GRANT

n **OMB Circular A-110 states that a GRANT is:**

“...when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute.”

FEDERAL GRANTS (cont.)

DEFINITION OF FEDERAL CONTRACT

n **OMB Circular A-110 states that a CONTRACT is:**

“...when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal government.”

FEDERAL GRANTS (cont.)

SUBRECIPIENT VRS VENDOR

n **OMB Circular A-133 defines it this way:**

- **Grant = Subrecipient**
- **Contract = Vendor**

FEDERAL GRANTS (cont.)

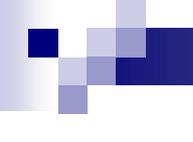
CHARACTERISTICS OF GRANT

- n **Determines who is eligible to receive assistance**
- n **Has performance measured against program objectives**
- n **Has responsibility for programmatic decision making**
- n **Uses funds to carry out a program as compared to providing goods and services**

FEDERAL GRANTS (cont.)

CHARACTERISTICS OF CONTRACT

- n **Provides goods and services within normal business operations**
- n **Provides similar goods and services to many different purchasers**
- n **Operates in a competitive environment**



FEDERAL GRANTS (cont.)

BIG DIFFERENCE BETWEEN A GRANT & A CONTRACT

**GRANTS/SUBRECIPIENTS are subject
to the audit requirements of OMB
Circular A-133**

and

CONTRACTS/VENDORS are not!!!

How CTED Deals With an Audit of a Grantee

Many CTED grants are with the same grantees year after year. These grantees are required to send CTED audits of prior grant periods. Most audit exceptions are not directly related to the CTED program receiving a copy of the audit. But if it does directly relate, CTED must ensure that the grantee responds with an appropriate corrective action plan and ensure that other CTED programs using this contractor are advised of the audit exception. If the audit includes questioned or disallowed costs paid by CTED, CTED may be responsible for recovering these payments made to the grantee. If it does not directly relate to CTED, the CTED program should still factor them into risk assessments. Management letters that result from audits or financial reviews are less serious, but should also be incorporate into the risk assessment.

Questions

1. **How does the monitoring, managing and auditing of a grant differ from that of a contract?**

If federal funds are involved, the differences are that federal grants may require compliance with the Single Audit Act but federal contracts do not. State funded grants and contracts are often monitored and audited the same. But that should often not be the case since grants are not subject to the same OFM SAAM Chapter 15 and 16 requirements that many contracts are. Of course, both contracts and grants are also managed, monitored and audited based on their written agreements.

Questions – cont.

2. **Doesn't the federal funding source make a differentiation between grantee and contractor?**

Yes. The Single Audit Act requires an audit of “sub-recipients”. In such a case, CTED would be considered as a “grantee” of the federal award. Under their terminology, a “contractor” or “vendor” would not be subject to a Single Audit.