

GRANT-MAKING INVOLVING FEDERAL FUNDS 220-RICR-20-00-2
CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

AGENCY: Department of Administration

DIVISION: Accounts and Control

RULE IDENTIFIER: 220-RICR-20-00-2

RULE TITLE: Rules and Regulations for Grant-Making Involving Federal Funds

REASON FOR RULEMAKING: This Regulation seeks to establish a regulatory framework for grant-making by state agencies involving federal funds that is consistent with federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as the Uniform Grant Guidance (UGG) 2 CFR 200. To date, in the absence of grant-making regulations and systems, RI has relied on procurement regulations and process for grant-making.

RULEMAKING ACTION: Proposed Rule

TESTIMONY AND COMMENTS:

COMMENT #1: Received from Richard Jones, RIEMA, on 12/22/2022

“I believe the UEI and SAM issue is a bit confusing as we check on a UEI through the SAM system. It seems to be a play on words, but the UEI does not expire, while being registered in SAM does expire.

However, in doing a bit of research, here is some info I found:

‘While having a UEI is **required for grantees receiving federal funds**. Registering with the SAM is only required for primary awardees receiving funds directly from the federal government’”

RESPONSE: Sections 2.5(A)(12) and 2.6.4(B)(1) of the proposed rule were updated to clarify that subrecipients must have a Unique Entity Identifier (UEI), unless excepted by the federal awarding agency. Registration in SAM is not required as a result of this Part.

COMMENT #2: Received from Richard Jones, RIEMA, on 12/28/2022

“One concern about implementing a generic appeals process that I do have involves our requirements to issue the pass-through funds in a timely manner. The requirement is all the pass-through funding must be out to the local units of government within 45 calendar days of the State accepting the award. There typically is not enough time to notify all subrecipients they have or have not received an award and also have an

appeal to a denied application. Moreover, since there is a requirement to pass through a designated amount in time, there is no residual funding to pay for another award in the event a denied grant application was appealed and subsequently approved for award. I am unsure how RIEMA would fund an application other than to take from its own budget to resolve the appeal.

While an appeals process may be a requirement or best practice, the basis of an appeal needs to be a material fact, such as a perceived bias in the process. If an appeal is allowed simply due to dissatisfaction an award was not received, there could be many instances for appeal because [one applicant] felt the project was better than [another applicant's] project."

RESPONSE: This comment was reviewed and considered. DOA also reviewed alternative grant appeals processes during the drafting of the regulation and again in response to this comment. At this time, the proposed regulatory language will not be altered as it has been determined that the appeals process in the proposed regulation is adequate to meet the needs of the commenter.

AUTHORITY FOR THIS RULEMAKING: R.I. Gen. Laws §§ 35-1.1 and 35-6

CHANGE TO TEXT OF THE PROPOSED RULE: Changes are shown in track changes (colorful font). Black font and strikeout text is the original proposed rule.

A. Corrections in response to comments, as follows:

§ 2.5(A)(12): "Unique Entity Identifier" or "UEI" is a twelve (12) character alphanumeric code assigned by SAM required for entities receiving federal funds directly from a federal agency or from a pass-through entity. A UEI is mandatory for all entities receiving a subaward from the State of Rhode Island, unless an exemption has been made in writing by the federal awarding agency in accordance with 2 CFR 25.110.

§ 2.6.4(B)(1): Subrecipient must have an active, public Unique Entity Identifier (UEI) issued through SAM.gov, unless an exemption has been made in writing by the federal awarding agency in accordance with 2 CFR 25.110. Absent such exemption, Ssuppressed or private UEI records are not sufficient.

B. Corrections in spelling, grammar, and format, as follows:

Header, Regulation Number: 220-RICR-20-00-02

§2.3(C): State Agencies must utilize the procurement process (as dictated by the State Purchases Act R.I. Gen. Laws Ch. 37-2 and associated regulations) when applicable. As such, prior to initiating the grant-making State Agencies should first determine the source(s) of funding. If federal funds are involved, agencies should complete the "Subrecipient and

Contractor Determination Tool" in order to determine if the procurement process or grant-making process should be utilized.

§2.7.5(A): In accordance with 2 C.F.R. § 200.344 (2022), the Subrecipient shall submit all required closeout documentation in the GMS, by the earlier of a) the Closeout Subaward End Date in the subaward agreement, as amended, or b) ninety (90) days after the Performance Period End Date.

REGULATORY ANALYSIS: In the development of the proposed adoption, consideration was given to (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; (3) significant economic impact on small business. No alternative approach, duplication or overlap was identified based upon available information.