

220-RICR-20-00-2

TITLE 220 – DEPARTMENT OF ADMINISTRATION

CHAPTER 20 – ACCOUNTS AND CONTROL

SUBCHAPTER 00 – N/A

PART 2 – RULES AND REGULATIONS FOR GRANT-MAKING INVOLVING FEDERAL FUNDS

2.1 Authority

This Part is promulgated pursuant to the authority granted in R.I. Gen. Laws Chapters 35-1.1 and 35-6.

2.2 Purpose

The purpose of this Regulation is to establish a regulatory framework for grant-making by State agencies involving Federal funds that is consistent with 2 C.F.R. Part 200 (2022). This Regulation shall promote fairness and consistent processes in grant-making. It is intended to expand transparency and access, and to remove barriers for grant seekers. This Regulation also supports the implementation of a grant management system to improve and modernize the subrecipient experience and subaward management by State agencies. This Regulation establishes a centralized location for grant seekers to find and apply for State grant opportunities, and subawards to be managed and tracked.

2.3 Applicability

- A. This Part applies to all State agency grant-making activities funded in whole or in part with Federal funds, or to meet Federal match requirements, unless exempted by the Controller, and any applicants and subrecipients of such grant funds. Such grant-making activities result in the issuance of subawards, and may be competitive or non-competitive.
- B. This Part does not apply to the following:
 - 1. The procurement and issuance of contracts for goods and/or services;
 - 2. Grant-making activities by quasi-State agencies and public colleges; or
 - 3. Direct public benefit and/or claims-based payments to beneficiaries (individuals, families, or households), such as Medicare and Medicaid.
- C. State Agencies must utilize the procurement process (as dictated by the State Purchases Act, R.I. Gen. Laws Chapter 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.

2.4 Incorporated Materials

- A. Unless the terms and conditions of the Federal award indicate otherwise, this Part hereby adopts and incorporates subpart D "Post Federal Award Requirements" of 2 C.F.R. §§ 200.300 – 346 (2022) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations. Subpart D "Post Federal Award Requirements" shall not apply to non-Federal funds as a result of this Part.
- B. Unless the terms and conditions of the Federal award indicate otherwise, this Part hereby adopts and incorporates "Specific Conditions," 2 C.F.R. § 200.208 (2022) and the definitions cited below, from "Definitions," 2 C.F.R. § 200.1 and "Definitions," 2 C.F.R. Part 25 Appendix A(I)(C)(1) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations. These sections shall not apply to non-Federal funds as a result of this Part.
- C. This Part hereby adopts and incorporates 18 U.S.C. § 1001 "Statements or entries generally" and 31 U.S.C. §§ 3729 – 3730 "False Claims" and 3801 – 3812 "False claims and statements; liability" by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations.

2.5 Definitions

- A. For the purposes of this Part, the following words shall have the following meanings:
 - 1. "Grant management office" or "GMO" is a division within the Department of Administration responsible for oversight and technical assistance related to Federal funds received by the State.
 - 2. "Grant management system" or "GMS" means the cloud-based, enterprise-wide system for the management of all Federal financial assistance coming to the State of Rhode Island.
 - 3. "Grant-making activity" means any activity undertaken by a State agency to develop grant programs and materials, solicit and review applications, determine subrecipients, evaluate subrecipient risk, issue and manage subawards, monitor subrecipients, and all related financial management, reporting, compliance, and evaluation tasks.

4. "Funding opportunity" or "Solicitation" means the public-facing notification of available subaward funding, sometimes referred to as a notice of funding availability/opportunity.
5. "Pass-through entity" means a non-Federal entity (such as a State agency) that provides a subaward to a subrecipient to carry out part of a Federal program.
6. "Reviewer" means a person selected by the State agency to evaluate application materials for completeness, eligibility, and/or competitiveness. Reviewers may be State employees or other qualified individuals.
7. "System for award management" or "SAM" as defined in 2 C.F.R. Part 25 Appendix A(l)(C)(1) (2022) means the Federal repository into which a [sub]recipient must provide information required for the conduct of business as a recipient.
8. "State agency" means any Rhode Island State governmental unit that is part of the single legal entity that is the State of Rhode Island. Quasi-State agencies and public colleges are separate legal entities, not covered by this Part.
9. "Subaward" as defined in 2 C.F.R. § 200.1 (2022) means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
10. "Subaward agreement" shall have the same meaning as "Grant agreement", as defined in 2 C.F.R. § 200.1 (2022). A Subaward Agreement may be funded in whole or in part with Federal funds transferred via a State agency acting as a pass-through entity, or non-Federal funds designated as match for Federal award(s).
11. "Subrecipient" as defined in 2 C.F.R. § 200.1 (2022) means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity (in this context, a State agency) to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A Subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
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.

2.6 Grantmaking by State Agencies

2.6.1 Competitive Grants and Subawards: Funding Opportunity Notices, Application Review and Subaward Funding Decisions

A. State agencies acting in their capacity as pass-through entities shall issue all competitive subawards through the GMS, unless the Controller determines it is not in the best interest of the State to do so. This Part shall be effective beginning July 1, 2023.

1. Funding Opportunity: Subaward funding opportunity notices shall be issued through the GMS.

a. Subaward funding opportunities must include at least the following information:

(1) A description of the nature of the grant program, including eligible activities and recipients, and the anticipated duration of the program, including optional extension periods. The maximum allowable performance period, including extensions, may not exceed five (5) years, unless a longer performance period is explicitly allowed by the Federal government.

(2) Identification of the funding source(s) and the estimated or actual total amount of available funds.

(3) Whether a single award or multiple awards may be made.

(4) The maximum individual award amount to be made, if appropriate.

(5) Encouragement of collaboration by entities for community partnerships, if appropriate.

(6) Any additional information required by the Federal grant award.

(7) The due date for submittal of applications and the anticipated time the awards may be made.

b. The State Agency shall document in writing the criteria or factors under which applications will be evaluated for award and the relative importance of each criterion or factor.

2. Public Notice of Competitive Funding Opportunities: A funding opportunity notice for competitive subaward must be posted on the Grants Management Office Funding Opportunity website for a minimum of twenty-

one (21) calendar days, or a shorter period as determined by the Controller, or their designee. In addition, State Agencies may post funding opportunities on their agency websites.

3. Preapplication conference: State Agencies may conduct a preapplication conference before the due date for the submittal of applications to explain the grant application requirements. Statements made at a preapplication conference are not amendments to the solicitation unless a written amendment is issued.
4. State Agencies may hold a Question and Answer (Q&A) period prior to the due date. The dates of any Q&A period shall be displayed, and any Q&A documents shall be posted in the funding opportunity.
5. Subaward applications must be submitted through the GMS.
6. Application review must be consistent with the terms and conditions of the Federal award(s). Applications shall be evaluated by at least three (3) reviewers for programs issuing awards of thirty thousand dollars (\$30,000.00) or more. The State Agency has discretion in determining the number of reviewers for programs with no resulting awards of thirty thousand dollars (\$30,000.00) or more. Reviewers shall be selected at the sole discretion of the State agency.
 - a. The Reviewers shall review each application based solely on consistent evaluation criteria or factors applied to all applications under the program. The Reviewers shall maintain a written record of the assessment of each application in the GMS, which shall include comments regarding compliance with each evaluation criteria or factor, the citation of a specific criteria or factor as the basis of each stated strength or weakness and a clear differentiation between comments based on facts presented in the application and comments based on professional judgment.
 - b. The Reviewers may allow applicants to make oral or written presentations regarding the scope of work, terms and conditions of the grant, budget and other relevant matters set forth in the request for grant applications. Applicants shall be accorded fair treatment with respect to any opportunity for oral or written presentations, and subsequent revisions. The Reviewers may require an applicant to revise its application to reflect information provided in an oral or written presentation.
 - c. Reviewers are required to disclose any real or apparent conflicts of interest. Reviewers shall comply with 2 C.F.R. § 200.318 (2022) incorporated above at § 2.4(A) of this Part and the Rhode Island

Code of Ethics R.I. Gen. Laws Chapter 36-14 and 520-RICR-00-00-1, as applicable.

- d. Reviewers shall abide by the following requirements for confidentiality before, during, and after the evaluation process, unless otherwise required by law or to obtain a legal opinion:
 - (1) All documents and information relating to applications (content, budget, approach to problems, staffing) are to be kept in the strictest confidence;
 - (2) Impressions or judgments concerning the applications are not to be discussed or shared with anyone not officially involved with the evaluation and except for the State agency staff;
 - (3) Questions about any specific proposal or the review process are to be directed to the State agency. Under no circumstances are questions to be addressed to or discussions to be conducted with applicants, members of the public, the press, other units of State government, friends, relatives, business associates, or other reviewers not officially involved in the application process, unless authorized in writing by the State agency;
 - (4) Proceedings of review committee meetings, statements and notes of the reviewers are not to be shared with anyone except other reviewers involved in the application process and State agency staff;
 - (5) Discussions concerning applications are to be kept confidential; and
 - (6) All application and review materials printed/saved outside of GMS are to be shredded, deleted, or returned to the State agency upon completion of the evaluation.
- 7. Subaward decisions: The Reviewers shall make award recommendations to the head of the State agency based on the reviewers' evaluations of each application. The Reviewers' recommendations may include the adjustment of the budgets of the applicants individually or collectively.
 - a. The head of the State agency, or his/her designee, may affirm, modify or reject the Reviewers' recommendations in whole or in part. Modification of the Reviewers' recommendations may include the adjustment of the budget on any proposed award individually or on all awards by an amount or percentage. If recommendations are modified or rejected, prior to issuing tentative notice of award the

head of the State agency, or his/her designee, shall document in writing the specific justifications for the action taken.

8. Subaward decision remedies: The head of the State agency, or designee, may resolve protests of the award or proposed award of a grant. An appeal from a decision of the head of a State agency or designee may be made to the Director of Administration, in accordance with the provisions of R.I. Gen. Laws § 37-2-52 and § 30-00-1.6 of this Title. The Director of Administration's decision shall be entitled to a presumption of correctness in accordance with R.I. Gen. Laws § 37-2-51 and associated Rhode Island law.

2.6.2 Non-Competitive Grants and Subawards

- A. If required or authorized by the terms and conditions of the Federal award(s), Agencies may conduct a non-competitive subaward issuance process. State agencies acting in their capacity as pass-through entities shall issue all non-competitive subawards through the GMS, unless the Controller determines it is not in the best interest of the State to do so.
- B. The State agency shall provide written justification of each non-competitive subaward, to be reviewed and approved by the Controller, or their designee. Such justification shall conform to the format and schedule established by the Controller, or their designee.

2.6.3 Risk Assessment by State Agency

- A. The State agency shall evaluate each Subrecipient's risk of noncompliance with Federal and State statutes, Regulations, and the terms and conditions of the Subaward for purposes of determining the appropriate subrecipient monitoring. For all subawards of thirty thousand dollars (\$30,000.00) or more, such evaluation shall include a review of the self Risk Assessment section of the Annual Organization Registration submitted by the subrecipient. Such evaluation may include, but is not limited to, consideration of the following factors:
1. The subrecipient's prior experience with the same or similar subawards;
 2. The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of 2 C.F.R. Part 200 (2022), and the extent to which the same or similar subaward has been audited as a major program;
 3. Whether the subrecipient has new personnel or new or substantially changed systems;
 4. The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency);

5. The extent and results of prior monitoring and/or auditing by State agencies; and
 6. Credible allegations of fraud, waste, mismanagement, or abuse.
- B. The State agency may impose specific subaward conditions based on the risk assessment the agency completed, in accordance with 2 C.F.R. § 200.208 (2022).

2.6.4 Grant/Subaward Issuance

- A. State agencies shall issue a notice of tentative award to the Subrecipient through the GMS. State agencies shall include the requirements for subaward issuance.
- B. Requirements for Subaward Issuance:
1. Subrecipient must have an active, public Unique Entity Identifier (UEI) issued through SAM.gov. Suppressed UEI records are not sufficient.
 2. Subrecipient must be actively registered in Ocean State Procures (OSP).
 3. Subrecipient must complete the Annual Organization Registration in the GMS consisting of three (3) components, organization profile, risk assessment and Federal Funding Accounting and Transparency Act (FFATA) profile. Only the organization profile is required if the subaward amount is less than thirty thousand dollars (\$30,000.00).
- C. Beginning on a date established by the Controller, State agencies shall use the State of Rhode Island Subaward Agreement template for all subawards funded, in whole or in part, with Federal funds. Each subaward shall be clearly identified to the subrecipient as a subaward. All Subaward Agreements shall include Federal award identification and terms and conditions, as required by 2 C.F.R. § 200.332 (2022) incorporated above at § 2.4(A) of this Part. State agencies are responsible for appending subaward or agency specific terms and conditions through the applicable section(s) in the State of Rhode Island Subaward Agreement.

2.7 Requirements for Grant/Subaward Applicants and Subrecipients

2.7.1 General

- A. Any person or organization, public or private, desiring to receive grant funds covered by this section must submit a grant application to the appropriate State agency. Applications for grant funds shall be made on prescribed forms developed by the State agency. Applications shall be submitted using the GMS, unless such requirement is waived by the State agency, with the approval of the Controller, or their designee.

- B. In order to receive grant funds, an entity shall meet standard registration requirements established by the State for all vendors, as well as meet GMS registration requirements established by the Controller, or their designee.
- C. Grant funds may not be used except pursuant to a written Subaward Agreement, and any disbursement of grant funds without a Subaward Agreement is void.
- D. Receipt of the fully executed Subaward Agreement in GMS is a threshold requirement for payment requests to be submitted. Costs may be incurred from the Performance Period Start Date. Unless "pre-award costs" are explicitly authorized in a Subaward Agreement (Subaward Identification Information section), no costs incurred prior to the Performance Period Start Date are eligible for payment or reimbursement.
- E. If the Performance Period Start Date predates the receipt of the fully executed Subaward Agreement in GMS, the Subrecipient Entity assumes the full risk of any costs incurred prior to the receipt of such.
- F. The State Agency is not obligated to pay or reimburse any costs incurred by an Applicant in anticipation of receiving a fully executed Subaward Agreement in GMS.

2.7.2 Payment Requests

Complete backup documentation is required, in accordance with program requirements established by the State agency, and all applicable Federal requirements.

2.7.3 Reporting

Programmatic and financial reporting shall be completed on the frequency and by the deadlines established by the State agency in the subaward agreement, as amended in the GMS.

2.7.4 State/Federal Monitoring and Auditing

- A. In accordance with 2 C.F.R. § 200.332 (2022) incorporated above at § 2.4(A) of this Part, State Agencies are required to monitor the activities of Subrecipients as necessary to ensure that Subawards are used for authorized purposes, in compliance with Federal statutes, Regulations, and the terms and conditions of the Subaward; and that Subaward performance goals are achieved.
- B. Subrecipients' obligations related to audits and monitoring shall be documented in the subaward agreement.

2.7.5 Closeout and Post-Closeout

- 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 Date in the subaward agreement, as amended, or b) ninety (90) days after the Performance Period End Date.
- B. Continuing responsibilities may apply after closeout, as indicated in the Subaward Agreement.