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Auditor of State

From: Auditor of State's Center for Audit Excellence
To: All IPA Firms
Subject: CFDA's 14.228 & 14.239
Date: May 29, 2015

Our office has recently been made aware of the following information regarding CFDA 14.228 (CDBG) & 14.239 (HOME).

- As has been standing policy for years with the Ohio Development Services Agency (Office of Community Development), the pass-through agency for 14.228 & 14.239, they do not permit their grantees to make subawards to subrecipients. Their grantees maintain a contractor (vendor) relationship with such entities. (Prior policy OCD 13-04; updated draft policy OCD 15-01 – attached)
- It recently came to our attention that beginning with certain grants awarded in 2014, some entities are now forming partnerships for the Community Housing Impact and Preservation (CHIP) /CDBG grants (with another City, County, etc.) – see memo attached.
- **In these partnerships, there is 1 lead entity whose name the grant is in – this is the entity whose SEFA the grant belongs on. All other non-lead partners to the grant are considered vendors/contractors, and therefore the grant does not get reported on their SEFA's.**
- This guidance will be added to these FACCR's next round.
- As for financial statement reporting, you need to consider the potential of a GASB 24 pass-through grant relationship. See AOS Bulletin 2000-008 for further guidance. In addition, for GAAP entities you should review the grant documents and consider whether a receivable should be booked in accordance with GASB 33.

Please send questions to FACCR@ohioauditor.gov .



Development Services Agency

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Program Policy Notice: OCD 15-01

Replaces Program Policy Notice OCD 13-04

SUBJECT: Responsibility for Grant Administration

ISSUED: July 1, 2015

DISTRIBUTED TO: Office of Community Development Award Recipients and their Affiliates

PROGRAM POLICY

This notice frames the Office of Community Development's (OCD) longstanding policy regarding subrecipient relationships in the language of 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* ("uniform guidance"). As a general policy, grantees may not act as pass-through entities, and may not grant subawards to subrecipients to carry out part of an activity included in a grant agreement with OCD. Grantees maintain a contractor relationship with non-employee grant administrators, and retain full responsibility for all federal compliance requirements. Designated agencies that administer statewide programs on behalf of the Ohio Development Services Agency shall be exempt from this policy on a grant-by-grant basis, at OCD's sole discretion.

Background

The uniform guidance outlined at 2 CFR 200 consolidates requirements from eight Office of Management and Budget Circulars (A-21, A-87, A-89, A-102, A-110, A-122, A-133, and A-50), and provides streamlined guidance regarding administrative requirements, cost principles, and audit requirements for federal award-making agencies. Federal agencies, including the U.S. Department of Housing and Urban Development (HUD), adopted 2 CFR 200 as the requirements for federal financial assistance programs by an interim final rule published December 19, 2014 (79 Federal Register 75871). The guidance became effective for all federal awards made on or after December 26, 2014, and becomes effective for all OCD awards, both federally and state-funded, made on or after July 1, 2015.

Definitions

The uniform guidance outlines the structure of federal funding relationships, and defines participants as recipients, pass-through entities, subrecipients, and contractors. The following table provides a summary of relevant terms.

	Reference	Definition
Recipient	§200.86	A non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term recipient does not include subrecipients. See also §200.69 Non-federal entity.
Pass-through entity	§200.74	A non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.
Non-federal entity	§200.69	A state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient.
Subrecipient	§200.93	A non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal 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.
Subaward	§200.92	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. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
Contractor	§200.23	An entity that receives a contract as defined in §200.22 Contract.
Contract	§200.22	A legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used in this part does not include a legal instrument, even if the non-federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or subaward (see §200.92 Subaward).

Responsibility for Grant Administration

In the language of 2 CFR 200, OCD is a *recipient* of federal awards that acts as a *pass-through entity* to provide *subawards* to *subrecipients* to carry out eligible activities. An OCD grantee may not act as a *pass-through entity* unless specifically designated by OCD. Grant administrators that are not grantee employees have a *contractor* relationship with OCD grantees.

Activities undertaken with funds distributed by OCD are the grantee's sole responsibility, and no contracted administrator may assume any autonomy in activity selection, implementation, decision-making, or adherence to applicable state or federal statutes, regulations, or program requirements.

Maintenance of Records

OCD grantees are responsible for the maintenance and physical control of all records associated with the execution of grant terms, conditions, and compliance requirements. Recordkeeping requirements are outlined in OCD grant agreements, and in program-specific regulations for U.S. Department of Housing and Urban Development programs.

* For U.S. Department of Housing and Urban Development program-specific recordkeeping requirements, see 24 CFR 570.506 (Community Development Block Grants), 24 CFR 92.508 (HOME Investment Partnerships Program), 24 CFR 576.500 (Emergency Solutions Grants Program), and 24 CFR 574.530 (Housing Opportunities for Persons with AIDS).



Partnership Agreement Guidance for the Community Housing Impact and Preservation (CHIP) Program

The Ohio Development Services Agency's Office of Community Development (OCD) is providing the following guidance to assist eligible jurisdictions with forming partnerships for the Community Housing Impact and Preservation (CHIP) Program.

City/County chief executive officers or their appointed designees should contact all potential partner communities as quickly as possible to discuss the partnership terms and formation. Those jurisdictions applying jointly must decide which jurisdiction will apply on the partnership's behalf. If funded, the jurisdiction submitting the application will be the grantee, and will be solely responsible for regulatory compliance and abiding by the grant agreement terms. The applying jurisdiction will facilitate the planning process and enter into agreements with each partnering jurisdiction. See the PY 2015 CHIP Program Guidelines for additional details.

Executing a Partnership Agreement

- A. Designate an applicant for the partnership to apply for CHIP Program funding.
- B. Execute partnership agreements between the applicant and each jurisdiction within the partnership that is eligible to receive CHIP Program funds from the state.
- C. Upon execution of the agreement, the partners become part of the grantee's program for program planning, administration, implementation, fiscal obligation, and close out purpose for the CHIP Program grant period.

Note: Unlike the Neighborhood Stabilization Program (NSP), sub-recipient agreements are prohibited. All jurisdictions must abide by Program Policy Notice: OCD 13-04, Agreements for Grant Administration of Office of Community Development Programs. The policy can be found on OCD's Policy Notices web page.

Requirements for Partnership Agreements

All partnership agreements must meet the following standards:

- A. The applicant's and partners' governing bodies must authorize the agreement. The grantee's and partners' chief executive officers must execute the agreement.
- B. The agreement must state that it covers the CHIP Program awarded with funds from the state's CDBG, HOME, and OHTF allocations. The agreement must also include that it remains in effect until the CHIP Program funds are expended, the funded activities are complete and the grant is closed out. The agreement must also state the applicant and other partners cannot terminate or withdraw from the partnership agreement while it remains in effect.
- C. The agreement must outline the responsibilities of both the applicant and the partners. It should describe the applicant's oversight process, as well as record availability for monitoring purposes. OCD requires all records to be retained by the applicant/grantee after the financial closeout.
- D. The agreement must include how program income will be managed.