

FAPMTL 363**Effective Date: December 3, 2016****Most Current Prior Effective Date: October 3, 2011****(A) General purpose.**

- (1) ~~Each County~~ county family services ~~agencies~~ agency (CFSA) and local workforce development ~~agencies (WDA)~~ board (LWDB), as a ~~subrecipients~~ subrecipient of the Ohio department of job and family services (ODJFS), ~~are~~ is required to monitor ~~their~~ its subrecipients. This rule establishes minimal standard monitoring requirements for CFSA's and ~~WDAs~~ LWDBs.

This rule does not negate federal, state, or local requirements of the Workforce ~~Investment~~ Innovation and Opportunity Act or other specific federal programs.

- (2) These standards follow the requirements set forth in the office of management and budget (OMB) ~~circular A-133, the OMB circular A-133 compliance supplement, part 3,~~ 2 C.F.R. part 200 "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" and other applicable federal principles.
- (3) Subrecipient monitoring may include, but is not limited to, formal audits, agreed upon procedures, engagements, on-site reviews, training and technical assistance on program related matters.
- (4) Subrecipient monitoring need not test for all areas of compliance, but serves to provide reasonable assurance that:
- Federal awards are used for authorized purposes in compliance with laws, federal statutes, regulations, and the terms and conditions of the subawards ~~provisions of contracts or grant agreements~~; and
 - Performance goals are achieved.

(B) Definitions.

~~As used in~~ For the purpose of this rule, the following definitions apply:

- (1) ~~"Compliance requirements" include, but are not limited to, compliance requirements listed in the OMB circular A-133, the OMB circular A-133 compliance supplement, part 3, and applicable state and federal laws referenced in the subgrant agreement between ODJFS and each CFSA or WDA, or communicated by ODJFS to a CFSA or WDA pursuant to such subgrant agreements. Examples include, but are not limited to:~~
- ~~Activities allowed or disallowed;~~
 - ~~Allowable costs/cost principles;~~
 - ~~Cash management;~~
 - ~~Eligibility; and~~
 - ~~Reporting.~~
- (1) "Contract" means a legal instrument by which a CFSA or LWDB purchases property or services needed to carry out the project or program under a federal award. The term as used in this rule does not include a legal instrument when the substance of the transaction meets the definition of a federal award or subaward.
- (2) "Contractor" means an entity that receives a contract as defined in this rule.
- (3) "Corrective action" means action taken by the auditee that:
- Corrects identified deficiencies;
 - Produces recommended improvements; or

(c) Demonstrates that audit findings are either invalid or do not warrant auditee action.

- (2)(4) "Federal ~~program~~award" means all the federal financial assistance that the CFSA or LWDB receives directly from the federal awarding agency or ODJFS. All federal awards issued to a non-federal entity CFSA or LWDB are assigned a single number in the catalog of federal domestic assistance (CFDA).
- (3)(5) ~~"Improvement plan" means a written statement of action to be taken by the subrecipient to correct identified deficiencies, produce the recommended improvements, or demonstrate whether the reviewer's findings either are invalid or do not warrant corrective action"~~Federal award date" means the date when the federal award is signed by the authorized official of the federal awarding agency.
- (4)(6) "Internal control" means a process ~~affected~~ implemented by the CFSA or LWDB, an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:
- (a) Effectiveness and efficiency of operations;
 - (b) Reliability of financial reporting for internal and external use; ~~and~~
 - (c) ~~Compliance~~ Evaluating and monitoring compliance with applicable laws and regulations.
- (5)(7) "Pass-through entity" means a non-federal entity that provides a ~~federal~~ subaward ~~award~~ to a subrecipient to carry out part of a federal program. ~~Pass-through entities identify the federal awards to subrecipients, inform subrecipients of federal, state, and local compliance requirements, monitor subrecipient activities, and ensure subrecipients have single audits if required. Pass-through entities also provide technical assistance and training, issue management decisions as to audit findings and ensure corrective action is taken by subrecipients if there are audit findings against the subrecipients' grants.~~
- (6)(8) "Single audit" means an audit that includes both the entity's financial statements and the federal awards as described in 2 C.F.R. part 200 for entities which expend seven hundred fifty thousand dollars or more during the entity's fiscal year in federal awards or subawards ~~the OMB circular A-133, compliance supplement, part 3, subpart e.~~
- (9) "Subaward" means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award. 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 a legal agreement, including an agreement that the pass-through entity considers a contract.
- (7)(10) "Subgrant agreement" is the ~~means~~ grant agreement or legal instrument by which a CFSA or LWDB issues a subaward ~~grant award of federal financial assistance is issued~~ to a subrecipient. ~~Subgrant agreements generally identify a federal award to a subrecipient that includes a CFDA number, a program name, an award year, the federal awards entity, and the program services and requirements. A subgrant agreement may contain identifying information for multiple grant awards being passed through to the same subrecipient. For each grant award passed through to a subrecipient, there will be a subgrant agreement and this subgrant agreement should be considered as an important tool for monitoring subrecipient activities.~~
- (8)(11) "Subrecipient" means a non-federal entity that ~~expends~~ receives a federal awards ~~award received~~ from a pass-through entity to carry out any part of a federal program, but does not include an individual who is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.
- (9) ~~"Vendor" means a dealer, distributor, merchant, or other seller providing goods or services required for the conduct of a federal program. These goods or services may be for use by a CFSA, WDA, or the beneficiaries of the federal program.~~

(C) Subrecipient versus ~~vendor~~ contractor relationship.

(1) The CFSA or LWDB may enter into a contractual relationship to obtain goods or services for the administration of a federal program or may enter into subgrant agreements to make an award of federal financial assistance to an entity to administer a federal program. While contracts require contract monitoring, such monitoring is beyond the scope of this rule, which addresses subrecipient monitoring pursuant to subgrant agreements.

(2) The substance of the relationship is more important than the form of the agreement when making the determination of whether a subrecipient or contractor relationship exists. The CFSA or LWDB shall apply the following guidelines to determine whether an agreement establishes a subrecipient relationship or a contractor relationship. It is not expected that all of the characteristics will be present and judgment should be used in determining whether the relationship between the parties is that of a subgrant agreement or that of a procurement contract. The distinguishing characteristics are as follows:

(1)(a) Subrecipient characteristics:

- (a)(i) Determines who is eligible to receive federal financial assistance;
- ~~(b)(ii) Measures performance against the objectives of the federal program requirements~~ Has its performance measured in relation to whether objectives of a federal program were met;
- ~~(c)(iii) Has responsibility for programmatic decision making and is adhering to the requirements of the federal program;~~
- (iv) Has responsibility of adhering to the requirements of the applicable federal program as specified in the federal award; and
- ~~(d)(v) Uses~~ In accordance with its agreement, uses the federal funds to implement carry out a program for a public purpose specified in authorizing statute, as opposed to providing rather than provide goods or services for the benefit of the CFSA or LWDB program of a pass-through entity;
- ~~(e) Administers the grant from award to closeout;~~
- ~~(f) Develops policies and systems to ensure effective management of federal funds and compliance with federal, state, and local laws and regulations; and~~
- ~~(g) Ensures an established budget of costs exists to operate the program and a method of monitoring actual costs against the budget.~~

(2)(b) ~~Vendor~~ Contractor characteristics:

- (a)(i) Provides services or goods within normal business operations;
- ~~(b)(ii) Provides similar or same goods or services to many different purchasers;~~
- ~~(c)(iii) Normally Operates~~ operates in a competitive environment;
- ~~(d)(iv) Provides goods or services ancillary to the operation of a federally funded program; and~~
- ~~(e)(v) Is not subject to compliance requirements of the federal programs as a result of the agreement; and, though similar requirements may apply for other reasons.~~
- ~~(f) Is not responsible for program compliance but transactions must be structured to allow the pass-through entity to assure compliance.~~

~~The CFSA or WDA may enter into contracts with vendors to obtain goods or services for the administration of a federal program or may enter into subgrant agreements to make an award of federal financial assistance to an entity to administer a federal program. While contracts with vendors require contract monitoring, such monitoring is beyond the scope of this rule, which addresses subrecipient monitoring pursuant to subgrant agreements. The substance of the relationship is more important than the form of the agreement when making the determination of whether a subrecipient or vendor relationship exists. The CFSA or WDA shall apply the following guidelines to determine whether~~

~~an agreement establishes a subrecipient relationship or a vendor relationship. It is not expected that all of the characteristics will be present and judgment should be used in determining whether the relationship between the parties is that of a pass-through entity and a subrecipient or that of a purchaser and a vendor. The distinguishing characteristics are as follows:~~

(D) **Subgrant agreement requirements.**

Each subgrant agreement shall outline, as appropriate, the scope of work, budget, performance requirements, the program authorizing legislation, and the program regulations.

(1) Subgrant agreements must include basic requirements addressing, at a minimum, administrative requirements. Those administrative requirements include:

- (a) Financial management and procurement;
- (b) Financial and program reports;
- (c) Records retention;
- (d) Cost allocation;
- (e) Payment;
- (f) Matching;
- (g) Period of ~~availability~~ performance and closeout;
- (h) Program income;
- (i) Real property;
- (j) Equipment and supplies;
- (k) Monitoring and audits; and
- (l) Other additional requirements to meet federal compliance.

(2) In accordance with those requirements, all subgrant agreements shall contain the following:

(a) ~~Applicable CFDA title and number, award name, and name of federal agency~~ Federal award identification which includes;

- (i) Subrecipient's name;
- (ii) Subrecipient's unique entity identifier; DUNS number
- (iii) Federal award identification number (FAIN);
- (iv) Federal award date of award to the recipient by the federal agency;
- (v) Subgrant agreement period of performance start and end date;
- (vi) Amount of federal funds obligated by this action by the pass-through entity to the subrecipient;
- (vii) Total amount of federal funds obligated to the subrecipient by the pass-through entity including the current obligation;
- (viii) Total amount of the federal award committed to the subrecipient by the pass-through entity;
- (ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
- (x) Name of federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity;
- (xi) CFDA number and name; the pass-through entity must identify the dollar amount made available under each federal award and the CFDA number at time of disbursement;

A commitment is an administrative reservation of funds in anticipation of their obligation



- (xii) Identification of whether the award is research and development; and
- (xiii) Indirect cost rate for the federal award or other approved allocation methodology as detailed in 2 C.F.R. part 200.414.

- (b) Notice of all requirements imposed by the pass-through entity on the subrecipient so that the subaward is used in accordance with federal statutes, regulations and terms and conditions of the federal award.~~any significant applicable compliance requirements, including OMB circular A-133 audit requirements, arranging the audit, and submission of the final audit report to the CFSA or WDA; and~~
- (c) If any of the data elements above change, the changes must be included in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the federal award and subaward including any FAIN or allocation amounts.~~Notice that the CFSA or WDA will perform an annual risk assessment to determine the appropriate level of monitoring of the subrecipient.~~

(E) Risk assessment.

On an annual basis, the CFSA or WDA/LWDB shall determine/evaluate the appropriate degree and method for the monitoring of each subrecipient by performing~~subrecipient's a risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subgrant agreement by performing a risk assessment review.~~ This risk assessment is performed to determine the appropriate degree and method for the monitoring of each subrecipient and to ensure adequate monitoring is performed and resources and personnel are used efficiently.

- (1) The extent and frequency of subrecipient monitoring will depend on several~~may include~~ consideration of such factors as~~including the:~~
 - (a) ~~Amount of the award~~Results of previous audits including whether or not the subrecipient receives a single audit in accordance with federal requirements, and the extent to which the same or similar federal award has been audited as a major program;
 - (b) Type of subrecipient organization;
 - (c) Subrecipient's prior experience with the same or similar federal funds;
 - (d) Subrecipient's prior monitoring results;
 - (e) Complexity of the program requirements;
 - (f) Subrecipient's organizational stability;~~-and~~
 - (g) Subrecipient's reporting history;~~;~~ and
 - (h) Whether the subrecipient has new personnel or new or substantially changed systems.
- (2) Risk assessment review mechanisms shall be in place to identify the following:
 - (a) ~~Where unallowable activities or costs could be charged~~Fiscal policies and procedures as they pertain to a federal and state program~~and be undetected or misappropriated, or improper disposition of property acquired with federal funds;~~
 - (b) Changes to eligibility determination systems;
 - (c) The accuracy of underlying report source data and the validity of the reports;
 - (d) The level of management commitment and understanding of federal requirements and regulatory changes; and
 - (e) Various internal changes that may affect performance, such as:
 - (i) Financial problems;
 - (ii) Loss of essential personnel; and
 - (iii) Rapid growth.

- (3) The CFSA or ~~WDA~~LWDB shall conduct the subrecipient risk assessment review annually. The review shall occur within a reasonable time interval from the beginning of the provision of the service or the establishment of the subrecipient relationship in order to:
- (a) Identify any existing risk factors during the early phase of the grant agreement; and
 - (b) Determine the level of monitoring that shall occur.

(F) **Subrecipient monitoring.**

Subrecipient monitoring requirements are established by ODJFS to provide reasonable assurance that: federal award information and compliance requirements are identified to subrecipients; subrecipient activities are monitored; subrecipient audit findings are resolved; and the impact of any subrecipient non-compliance on the pass-through entity is evaluated.

- (1) The CFSA or LWDB shall monitor the activities of the subrecipient as required by federal and state regulations to ensure that the federal award is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions; and that performance goals are achieved. **Pass-through entity monitoring of the subrecipient must include:**
- (a) Review of financial and performance reports required by the pass-through entity.
 - (b) Follow-up to ensure that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
 - (c) Issuance of management decisions as required by 2 C.F.R. part 200.521 management decision for audit findings pertaining to the federal award provided to the subrecipient from the pass-through entity.

~~(1)~~(2) **Subrecipient monitoring tools may include**, but are not be limited to, the following:

- (a) **Training and technical assistance on program-related materials;**
- ~~(a)~~(b) **An on-site or desk review audit of the subrecipient's records to verify the services being provided are within the scope of the funding being received and the subrecipient has an effective means of determining recipients are eligible for the services being provided.** Allowability of services and eligibility will be monitored by examining one or more of the following items:
 - (i) Program records to review brochures and/or materials disseminated to the public;
 - (ii) Program forms to ensure they capture accurate program services and eligibility requirements; and
 - (iii) Case files, completed applications, service delivery documentation, and other program records and forms to determine the subrecipient is appropriately assessing eligibility criteria and the service delivery documentation is valid.
- ~~(b)~~(c) **An on-site or desk review audit of the subrecipient's records in order to provide reasonable assurance the cost of goods, services, and property are allowable, in accordance with applicable federal regulations and expenditures appear to be within the budget submitted for approval** by examining one or more of the following items:
 - (i) Purchasing records or invoices to ensure expenditures are allowable, necessary, and reasonable;
 - (ii) Monthly expenditure reports to compare with the annual budget amounts to determine an appropriate level of spending and expenditures being charged against the fund are supported by an approved budget;
 - (iii) Invoices and budgets, in order to provide reasonable assurance that costs and charges are within the scope of allowable federal costs. The reviewer may interview management personnel and review procedure manuals, inventory, and

audit reports to ensure the subrecipient has effective control over and accountability for all funds, property, and other assets;

- (iv) Financial records to assure accounting records identify the source of funds and provide for accurate division of charges and costs between federal and non-federal activities;
- (v) Subrecipient's procedure manual or other operating policies to determine the subrecipient has an effective means of communication, internal control, and guidance for its employees to reasonably guard against the misuse of funds;
- (vi) Quarterly/annual inventory reports to determine the subrecipient has a method for safeguarding assets to assure they are used solely for authorized purposes; and
- (vii) Audit reports to determine compliance with any existing corrective action plan.

~~(e)~~(d) An on-site or desk review ~~audit~~ of the subrecipient's records in order to provide reasonable assurance the recipient has acquired goods and services in accordance with applicable state and federal regulations by examining one or more of the following items:

- (i) Subrecipient's procurement policy or manual to determine whether the policy represents an acceptable level of internal control and is in accordance with federal procurement requirements;
- (ii) A sampling of various transactions to ensure the policy is being followed; and
- (iii) Codes of conduct and other policies regarding standards of ethical behavior for making procurements to assure practice of acceptable procurement principles.

~~(e)~~(e) An on-site or desk review ~~audit~~ in order to provide reasonable assurance reports are supported by underlying accounting or performance records and are submitted in accordance with the provisions of the subgrant agreement by examining the following items:

- (i) Pass-through entities' records to assure timely receipt of required reports; and
- (ii) Supporting documentation, for a sampling of reports to assure the accuracy and completeness of data and information included in the reports.

~~(2)~~(3) In accordance with the CFSA or ~~WDA~~ LWDB annual risk assessment review, as described in paragraph ~~(F)~~(E) of this rule, and audit requirements, as described in paragraph (B)~~(5)~~(8) of this rule, subrecipient monitoring may also include evaluation of the following elements, as applicable.

- (a) Cash management, in which the reviewer will provide reasonable assurance federal funds are drawn down only for immediate needs. The reviewer will examine a sampling of expenditures and requests for federal funds to determine an appropriate amount of time elapsed between transfers of funds to the subrecipient.
- (b) Program income, in which the reviewer will provide reasonable assurance income is correctly earned, recorded, and used in accordance with the program requirements. The reviewer will examine a sampling of the subrecipient's records to determine income is properly recorded as earned and deposited as collected.
- (c) Audit requirements, in which the reviewer will provide reasonable assurance the subrecipient has obtained required audits and has submitted and is in compliance with any corrective action plan resulting from said audits. The reviewer will examine the audit report and any existing corrective action plan and obtain documentation of compliance with the existing corrective action plan.

~~(3)~~(4) The CFSA or ~~WDA~~ LWDB shall provide reasonable assurance that the subrecipient obtained any required audits and takes appropriate corrective action on audit findings.

(4)(5) Once the subrecipient monitoring is concluded, findings will be completed by the reviewer and signed by the director of the CFSA or WDAWDB or its designee. A copy will be mailed to the subrecipient, identifying any deficiencies.

- (a) Should the reviewer discover deficiencies or noncompliance issues that may result in the misuse of federal funds, immediate action to correct those issues will occur. The CFSA or WDAWDB is responsible for recovering the funds for payment of expenditures not in compliance with grant regulations.
- (b) The subrecipient will have sixty days from the issuance of the monitoring findings to develop ~~an improvement~~a plan ~~for correction or resolution of~~~~to resolve~~ any deficiencies or noncompliance issues that do not result in ineligible spending of federal funds. Failure of the subrecipient to submit and implement ~~an improvement~~said plan will constitute grounds for ~~contract or~~ subgrant agreement termination.

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