

The Fundamentals of Grant Administration



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Grants, whether from private foundations or from government agencies, are the lifeblood of non-profit organizations. Government grants are also essential to units of local state, county, and city governments. Most people believe that tax dollars or user fees cover the costs of all public services and facilities, but this is not true.

The costs associated with the construction of public water or sewer improvements, for example, are enormous. Even with access to low-interest government loans, small communities could never afford public water systems without the initial assistance of government grants. User rates are set to generate asset management reserves and pay down debt service costs. If whole system constructions were to be covered completely by user rates, hundred-dollar monthly water bills would be the norm. Routine road maintenance often depends upon the periodic infusion of grant monies, and repairs to bridges and overpasses would often not be feasible without grant dollars.

When grant monies are available, they are often provided from a federal agency to a state agency and then flow from the state agency to local municipal coffers. These federal grants are always welcomed by a community, but they also always come with a significant number of

strings attached. In return for receiving the grant money, the community must demonstrate that they adhere to all federal laws and that the money will be used for a lawful purpose.

The vast majority of communities do follow all federal regulations, of course, but adherence to these laws can sometimes be difficult to demonstrate. For example, if all of the firemen in a community happen to be white, how does the community demonstrate that it is nondiscriminatory? How does a city demonstrate that it is an equal opportunity employer or has fair housing practices?

Most city officials are elected based on popularity or qualifications other than grant administration. It is something they deal with infrequently, and they are simply not adept at the administration of a federal grant with complex documentation requirements. The grants usually contain legal descriptions that may be unfamiliar, and they use terms that are not part of the everyday vernacular.

Additionally, the language in the various documents will not be uniform. Grant packages are assembled over time by multiple agency personnel, and the end result is a mish-mash of cut-and-pasted pieces of documents from different time periods and different agencies. In one

document the Mayor may be identified as the Mayor. In another, he may be the Responsible Party. In yet others, he is the CEO.

It is not enough to simply sign everything. Mistakes can – and have – been made in grant documents. The designation Responsible Party is a good one because the person signing the documents is accepting legal liability for the proper use and administration of the grant funds. If not carefully reviewed ahead of time, grant documents may be executed that contain errors that will be found years later during a government audit. Administrations and government priorities may change significantly during the interim, and it is possible that an error in the grant agreement could be used as the rationale for initiating a claw-back of government funds.

Read All Documents!

The most fundamental rule for administration of a grant is to carefully read all documents before executing them and accepting responsibility. Read the grant application to make sure it is accurate. Grant funds issued based on inaccurate applications may be subject to cancellation at a later date.

Suppose grant funds are made available to cities with populations of fewer than 10,000, and a city with a recorded U.S.

Census Bureau population of 15,000 submits an application. This is quite common because populations fluctuate, and the census is taken in 10-year intervals. If a large employment center closes or opens in a community, residents may move away to seek other work or move into the community for employment. A city may make an application based on perceived but undocumented eligibility.

When this happens, a grant may be awarded to an ineligible community or for an ineligible purpose, and it can be withdrawn when the government discovers the error. If an engineer has already been hired to oversee the project, or if a contract has already been let, then the city may be on the hook for expended funds.

NEPA

Special attention must be paid to the National Environmental Policy Act. NEPA ensures that the government is not spending public monies on projects that might cause deterioration of the environment. Before a grant is awarded, applicants must demonstrate that a project is exempt from NEPA requirements, categorically excluded from the regulations and not subject to partial environmental review, categorically excluded from the regulations but subject to partial

environmental review, requires an environmental assessment, or requires an environmental impact study.

Each of these classifications carries increasing documentation requirements. The highest level, an environmental impact study, may take 10 years or longer to complete. This is the level applied to projects such as new dams, power plants, airports, or highways.

The environmental assessment level requires the applicant to contact a number of different regulatory agencies to determine that the project will not harm endangered species, will not destroy cultural heritages, will not harm air or water quality, and to assess numerous other issues. This is the type of environmental review performed when new buildings are to be constructed or when new water or sewer systems are to be put in place.

The other levels of environmental review are far less burdensome, but all require careful attention. An inaccurate environmental review will cause the project to be cancelled when the error is discovered, and any expended grant funds will need to be repaid.

The process is further complicated by the fact that different government agencies use different forms and methods to conduct the environmental reviews. Most

agencies require the review to be completed before the grant is even awarded, but not all agencies follow this practice. The USDA, for example, contains the Rural Development agency, and that agency has been instrumental in the construction of the electrical power grid and water utilities in rural areas throughout the United States. USDA-RD requires completion of an environmental review before funding of a project will even be considered.

HUD, on the other hand, routinely awards grants and then requires an environmental review before construction can begin. FEMA and the Department of Homeland Security, which provide grants for many public safety and hazard mitigation projects, have their own grant procedures and requirements. The EPA, which provides grants to most state agencies that regulate air and water quality, also has a unique set of environmental review procedures.

URA

Sometimes a project requires the acquisition of real property. This can occur when an easement or right-of-way is required to lay a new water line. A parcel of land may need to be purchased to construct an elevated water storage tower or an electrical substation. Drainage improvements may need to be made to prevent flooding in a residential

area, or the construction of a school or hospital may require the purchase of land.

Because governments have the authority to acquire property through the process of condemnation and eminent domain, government grants have stringent safeguards in place to protect landowners and to ensure that fair market values are paid for all land acquired in the performance of a project that is funded with public monies. These safeguards implement the provisions of the Uniform Relocation Act.

Once again, the situation is complicated by the fact that the URA is implemented differently by different agencies. HUD has published a formal URA process for land acquisition on any HUD-funded project. It is a lengthy process, but it is easy to follow and ensures compliance as determined by HUD legal experts.

The Community Development Block Grant Program, usually referred to as CDBG, is a very popular grant program that is geared to the provision of services to low-income or moderate-income communities. The program is administered by HUD. One project type routinely funded by CDBG is the improvement of water or wastewater treatment systems. This same type of project is also funded by the USDA-RD. State agencies are hesitant to spend entire

annual allotments of CDBG monies on a single project, so they often co-fund this type of project with USDA-RD in order to distribute funds throughout a larger area of their state on multiple projects. The result can be a confusing set of documentation requirements.

HUD requires strict adherence to URA guidelines. USDA-RD simply requires that fair market value be paid for all real property acquisitions. It does not specify how this is to be documented. USDA requires an environmental review before funds are awarded, but HUD does not. Many applicants believe that this permits the use of funds from one agency on one aspect of the project and funds from another agency on a different aspect without adherence to all requirements on all aspects.

For example, a city with a jointly funded CDBG/USDA-RD project may use only USDA-RD funds to acquire the necessary easements or parcels of land and believe that the HUD URA documents are not required, since HUD money was not used for acquisition.

This is a very tricky issue. Since all grant documents are written differently, whether this is permitted or forbidden depends upon the specific language of the grant in question. This is a good example of why each document must be carefully reviewed prior to execution.

EEO/FH

Equal Employment Opportunity and Fair Housing are some of the most basic requirements of any grant. Grant administrators must document compliance with:

- the Public Health Service Act of 1912, as amended, relating to confidentiality of alcohol and drug abuse patient records
- the Civil Rights Act of 1964 relating to nondiscrimination on the basis of race, color, national origin or sex
- the Civil Rights Act of 1968, as amended, relating to nondiscrimination in the sale, rental or financing of housing
- the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 relating to nondiscrimination on the basis of alcohol abuse or alcoholism
- the Drug Abuse Office and Treatment Act of 1972 relating to nondiscrimination on the basis of drug abuse
- the Rehabilitation Act of 1973 relating to nondiscrimination on the basis of handicap
- the Age Discrimination Act of 1975 relating to nondiscrimination on the basis of age

Individual funding agencies have specific ways in which compliance must be documented. Some agencies require the city to pass a resolution at a city council meeting that formally embraces the requirements. Some agencies want to see demographics of elected officials and municipal employees. Others simply require the cities to display posters on public bulletin boards in city offices.

Grants may also come with specific requirements as to how goods and services are to be procured. Even if a specific method is not listed in the grant agreement, states and municipal governments have procedures that must be carefully followed.

Labor Standards

The government also wants to ensure that workers are paid a fair wage for projects funded with public monies. To document this, grant recipients must obtain Department of Labor Wage Decisions published for each job classification. These wage determinations are specific to counties, and they are designed to ensure that workers make at least as much as the average person in that same occupation in that area when working on a federally funded project.

Special Provisions

Many grants are awarded from special funding sources and carry special requirements. Grants funded by the American Recovery and Reinvestment Act of 2009 are a good example. These funds, which are often referred to as “stimulus grants,” were made to stimulate economic growth. The grants required that all project materials and equipment purchased with the funds be certified as made in America in order to verify that the manufacturing supported by the funds occurred in the United States.

ARRA grants also required special reporting. The government wanted to track whether or not the effort to stimulate the economy was working, so special reporting requirements were placed on these funds to track the number of hours worked as a result of the grants.

Profession Services

The administration of grant funds can be a daunting task for those who are unfamiliar with all of the requirements. If the grant is one that is awarded year after year, the grant administrator may be able to review documentation and audits from previous years and follow similar procedures. “This is the way it was done before” is never a sufficient reason to do something improperly, however, and administrators must always be sure the

path they are following is the correct one.

In many cases, the city is better served by hiring a professional grant administrator. Some regional planning and development organizations offer this service free of charge to members. Grants often include a line item for administration that allows a community to hire a professional grant administrator. All of these options should be carefully considered when preparing to administer a grant.

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