815 CMR 2.00: STATE GRANTS, FEDERAL GRANT AWARDS, FEDERAL SUBGRANTS AND SUBSIDIES

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2.01: Purpose and Application

(1) Purpose. 815 CMR 2.00 establishes rules and procedures to assist departments with the administration of Grants and Subsidies.

(2) Application. 815 CMR 2.00 applies to all State Departments that administer Grants and Subsidies, including agencies, subdivisions, offices, boards, commissions or institutions of the Executive Department, including the Institutions of Higher Education, the Judicial and Legislative Branches and the Constitutional Offices. 815 CMR 6.00: *Interdepartmental Fiscal Business* governs Interdepartmental business between two or more State departments. 801 CMR 21.00: *Procurement of Commodities or Services, Including Human and Social Services*, governs procurements and expenditures for commodities and services, including human and social services, including Department purchases of goods or services needed to carry out a project or program under a Federal Grant Award. The Office of the Comptroller will interpret 815 CMR 2.00 and take any actions necessary to carry out the purposes of 815 CMR 2.00, including issuing additional policies, procedures and forms for Department use.

2.02: Definitions

Allotment. That portion of an appropriation that may be spent by a Department for a specified period as determined by the governor and the secretary of administration and finance under M.G.L. c. 29, § 9B.

Cash Management Improvement Act (CMIA). The Cash Management Improvement Act of 1990 (CMIA) provides rules and procedures for the efficient transfer of federal financial assistance between the various federal agencies and the State pursuant to implementing regulations in 31 CFR Part 205. The State, through the Office of the Comptroller, annually enters into a Treasury State Agreement (TSA) with the U.S. Department of the Treasury to set forth terms and conditions for the State's implementation of CMIA. The comptroller shall prescribe the requirements under State finance law for State Departments to comply with the TSA and CMIA.

Cost Allocation Plan. A federally approved proposal for determining both direct and indirect costs applicable to Federal cost-based awards to governmental units.

Department. As defined by M.G.L. c. 29, § 1, a legal entity of State government established by the General Court as an agency, board, bureau, agency, office or division of the commonwealth with a specific mission, which may either report to cabinet-level units of government, known as executive offices or secretariats, or be independent divisions or departments. State Departments will process Grant payments through Mosaic.

Department Head. The administrative head of a State Department, agency, board, bureau, office or division of the commonwealth who has been authorized through legislation to obligate and expend funds, comply with legislative mandates and make any certifications or approvals required under 815 CMR 2.00 or other State or federal laws or regulations requiring an agency head certification or approval.

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2.02: continued

DUNS Number. A national Data Universal Numbering System used as a means of identifying business entities on a location specific-basis. The DUNS was incorporated into the Federal Acquisition Regulation (FAR) in April 1998 as the Federal Government's contractor identification code for all procurement-related activities. All State Departments are also required to have a DUNS number in order to apply for, receive, and report on a Federal Grant Award. Subrecipients of Federal Grant Awards are required to obtain a DUNS number which is recorded as part of the vendor code for the Subrecipient on Mosaic.

Executive Office for Administration and Finance (ANF). The Executive Office established by M.G.L. c. 7.

Federal Grant Application. A document distributed by a Federal Department or Federal Agency administering a Federal Grant Award program which is used to determine eligibility of a proposed State Department recipient of a Federal Grant Award.

Federal Grant Award. As defined in M.G.L. c. 29, § 1, a Federal Grant is any financial assistance available to a State Department from the United States government, either directly or through an intermediary, including a project, formula, or block grant, a subvention, a subsidy, an augmentation or a State plan but excluding federal reimbursements. The Federal Grant Award is a document distributed by a by a Federal Department or Federal Agency administering a Federal Grant program which is used to notify a State Department of the award of a Federal Grant. A copy of the Federal Grant Award must be provided to the Office of the Comptroller to establish the Federal Grant Award in Mosaic prior to activity under any Federal Subgrant.

Federal Grantee. A State Department that has applied for and received a Federal Grant Award. State Departments receiving Federal Grant Awards become a Grantor when disbursing Federal Grant Awards as Federal Subgrants to Grantees.

Federal Grantor. The Federal Department or Federal Agency administering a Federal Grant award or cooperative agreement with a State Department in accordance with 2 CFR Chapter I and Chapter II, Part 200.

Federal Reimbursement. Financial assistance provided under Titles XVIII or XIX of the Social Security Act or other reimbursements received for State entitlement expenditures and credited to the General Fund, or other federal financial assistance from the United States government for direct payments to individuals, or for other purposes as provided for in M.G.L. c. 90, §§ 2ZZZ and 34, c. 92 and c. 151A, § 48.

Federal Subgrant. A Grant of Federal Funds received by a State Department as a Federal Grantee, which are provided under contractual terms to a Grantee. Certain Grantees receiving Federal Grant Award funds will be considered Subrecipients and will be required to comply with additional federal requirements.

Grant. Discretionary and non-discretionary (earmarked) funds of State or Federal Grant Awards which are considered financial assistance provided under contractual terms between a Grantor State Department and a Grantee to assist the Grantee in the achievement or continuation of a specified public purpose to benefit the general public or a segment of the general public consistent with the Grantor Department's Legislative Authorization and the terms of the Grant funding. A Grant of a Federal Grant Award is also known as a Federal Subgrant.

Grant Application. A document distributed by a State Department which is used to determine eligibility of a proposed Grant recipient of discretionary funds.

2.02: continued

Grantee. A Public or non-Public Entity selected as a recipient of Grant. Grantees receiving Federal Grant Awards through a Federal Subgrant who are deemed Subrecipients for Federal Grant Award purposes will be required to comply with applicable federal requirements, including but not limited to Subrecipient audit requirements. Contractors that do not meet the definition of Subrecipients that are paid using Federal Grant funds to provide goods or services to support a Federal Grant program or project are not considered Grantees and are not covered under 815 CMR 2.00. Department purchases of goods or services needed to carry out a project or program under a Federal Grant Award are governed by 801 CMR 21.00: *Procurement of Commodities or Services*, including Human and Social Services or other applicable regulation for the provision of goods and services.

Grantor. The State Department administering a Grant or Subsidy in accordance with Legislative Authority or the terms of the Grant or Subsidy funding. Grantors include any Executive Office, Department, Agency, Office, Division, Board, Commission or Institution within the Executive Branch excluding the Legislative Branch, Judicial Branch, Constitutional Offices, Elected Offices, Public Institutions of Higher Education, the Military Division and Independent Public Authorities. A State Department that provides a Federal Grant Award through a Federal Subgrant under contract to a Subrecipient Grantee to carry out part of a Federal Grant Award may also be referred to as a "Federal Grantee" as well as a "pass-through entity", meaning that the federal requirements under the Federal Grant Award are passed through to the Subrecipient and both the State Department Grantor and the Subrecipient are responsible for compliance.

Incidental Grant. A one-time Grant with a total dollar value that does not exceed the amount established by the Office of the Comptroller.

Interdepartmental Service Agreement. 815 CMR 6.00: *Interdepartmental Fiscal Business* governs interdepartmental fiscal business including Interdepartmental Service Agreements (ISAs). Interdepartmental Service Agreements (ISAs) are non-chargeback business relationships between state departments that are evidenced by an Interdepartmental Service Agreement (ISA) Form.

Mosaic. The Commonwealth's enterprise statewide accounting and financial reporting system. All State Grants, Federal Grant Awards, Federal Subgrants and Subsidies administered by State Departments will be processed through Mosaic.

Legislative Authorization. State General and Special Laws including statutes and annual appropriation acts.

Office of the Comptroller (CTR). The Department established pursuant to M.G.L. c. 7A charged with prescribing the methods and procedures for compliance with State finance law including the disbursement of Grants and Subsidies.

Public Entity. A unit of State or local government including a county, municipality, local public authority, school district, special district, district commission, regional government, any agency or instrumentality of government, and State authorities as defined in M.G.L. c. 29, § 1. The Office of the Comptroller identifies Public Entities in the Mosaic vendor file (VEND) with a "G" in the classification field.

State. The Commonwealth of Massachusetts.

SEFA. The Schedule of Expenditure of Federal Awards (SEFA) financial report provided annually by the State through the Office of the Comptroller to report to the federal government summarized by CFDA number the federal grant awards received by the State and the amount expended each fiscal year.

Subrecipient. A Grantee that receives a Federal Subgrant from a Grantor (also known as a "pass-through entity") to carry out part of a Federal Grant Award. Grantees receiving Federal Grant Awards who are deemed "Subrecipients" for Federal Grant Award purposes will be required to comply with applicable federal requirements, including but not limited to Subrecipient audit requirements under the Code of Federal Regulations, including 2 CFR Chapter I and Chapter II, Part 200.

2.02: continued

Subsidy. Non-discretionary funds appropriated by the State Legislature to be made either as a direct payment, a transfer of a specified amount to a designated recipient entity, or are designated specifically as "Subsidies" or a "Subsidy program", and are not specified as a "Grant", "contract" or "for a program". Subsidies are considered non-discretionary (earmarked) and the State Department has no discretion in disbursement. Loan programs, formula grants, or other programs of financial assistance which provide discretion in disbursement with respect to recipients or amounts will not be considered Subsidies. Subsidies are exempt from competitive procurement, competitive grant application requirements and standard contract requirements. Subsidies are documented using a Subsidy Agreement as supporting backup for audit purposes.

Subsidy Agreement. A form prescribed by the Office of the Comptroller that is used by Departments as the supporting backup documentation for audit purposes when making Subsidy payments.

TSA- Treasury State Agreement (TSA). TSA outlines by CFDA the funding technique and the clearance pattern the State will use to draw down funds from the federal government. Generally, conformance with the TSA assures that the State does not owe the federal government, or is not due from the federal government, interest liability on its drawdowns. The State must enter into a TSA with the U.S. Department of the Treasury to set forth terms and conditions for implementing CMIA.

VCUST. The Vendor Table in the State accounting system Mosaic. All Grantees must be registered as vendors in VCUST in order to receive Grant or Subsidy payments. Subrecipients of Federal Grant Awards are required to provide a DUNS number to be recorded in VCUST under headquarters in order to be paid.

2.03: Subsidy Disbursements

(1) In order to make a payment as a Subsidy, a Department must have specific Legislative Authorization that mandates:

(a) a direct, non-discretionary (earmarked) "payment" or "transfer" of a specified amount of State Funds to a specifically named recipient entity; or

(b) directs payments to be made as "Subsidies" or as a "Subsidy program" to a specifically named group of recipients or class of recipients.

(2) A Subsidy shall not include a Legislatively Authorized amount of funds to be expended for or on behalf of a specified entity that is designated to be made as a "Grant", "contract" or "for a program". Legislative Authorization that designates a specified amount of funds, or an amount "not to exceed" a specified amount, to be expended for or on behalf of designated entity, but does not clearly specify that the amount is to be made as a direct "payment" or a "transfer" shall be interpreted to be either a "Grant" or a "contract" that has been exempted from competitive procurement requirements. These expenditures shall be made in accordance with relevant applicable general and special laws and regulations for a Grant or contract.

(3) The Department and Subsidy recipients must execute a Subsidy Agreement as prescribed by the Comptroller containing the amount of the Subsidy and the payment schedule for installments, consistent with cash flow and Allotment availability.

(4) A Subsidy Agreement reserves the State's right to require the Subsidy recipient to report on how the funds were expended consistent with the public purpose of the Subsidy Legislative Authorization for audit purposes.

2.04: Applying for and Receiving Federal Grant Awards

(1) Applying for Federal Grant Awards.

(a) As required by M.G.L. c. 29, § 6B, State Departments must provide notice of any application for Federal Grant Awards as prescribed by CTR, in consultation with ANF, to comply with quarterly reporting requirements to the house and senate ways and means committees on ways and means on the status of Federal Grant Awards applied for.

2.04: continued

(b) State Departments must provide any relevant information related to the proposed application, as prescribed by CTR, which may include, but is not limited to:

1. The State Department DUNS number under which the Department will be applying for the Federal Grant Award,
2. The Federal Grantor agency to which the Federal Grant Application is being made;
3. a reference to the federal statutory authority under which the Federal Grant Application for the Federal Grant Award is made;
4. a description of the substance of the Federal Grant Award sought;
5. a fiscal Statement of the Federal Grant Award proposed budget;
6. the number of personnel, if any, to be funded from the Federal Grant Award;
7. any matching in-kind or other monies required to be committed, and when these matching in-kind or other monies will need to be available or expended in order to receive the Federal Grant Awards;
8. the Federal Grant Award terms; and
9. the anticipated duration of the Federal Grant Award.

(2) Receipt of Federal Grant Awards.

(a) Upon receipt of the official notification of approval of a State plan or federal funds application, State Departments must provide notice as prescribed by CTR to comply with the quarterly reporting requirements to the house and senate ways and means committees on ways and means on the status of federal funds received.

(b) State Departments must provide to CTR a copy of the official notification and any other relevant information related to the receipt of the federal funds including the amount, duration, payments schedule and other attendant financial terms and conditions.

(c) ANF shall include all Federal Grant Awards received or anticipated by State Departments as part of the annual budget.

1. No State Department shall establish new or expand existing programs involving federal or other non-State monies beyond the scope of those already establish, recognized and approved by the General Court, until the program and the projected amount of actual availability is submitted to the budget director for recommendation to the general court.
2. No State Department may make expenditures from any federal grant award or cooperating agreement unless such expenditures are made under specific appropriations of the general court and allotment thereof, said allotment be made by the comptroller upon receipt of Federal Grant Awards in accordance with State finance law, the Cash Management Act (CMIA) per the terms of the Treasury State Agreement (TSA), federally approved cost allocation plans (indirect & central), or other applicable requirements.
3. The comptroller shall not allow expenditures for the payment of salaries to be made from any federal grant account for which the comptroller has not been authorized to charge the full amount of fringe benefits to the account.

(3) Exceptions. The following exceptions shall be exempted from provisions of 815 CMR 2.04(1) and (2)(c)1. and 2.:

(a) Federal Grant Awards coming to institutions of higher education, including research grants;

(b) Research grants to individuals, agencies or institutions not exceeding $50,000 in annual amount and not creating new, or expanding existing program or commitments of State resources;

(c) Any incidental Federal Grant Awards not exceeding $5,000 in annual amount:

(d) Federal Grant Awards made available to the State for costs and claims resulting from natural disasters, civil disobedience or other occurrences of sufficient severity to have occasion and declaration by the governor of a State of emergency.

(4) Interdepartmental Service Agreements. State Departments disbursing Federal Grant Award Funds through an ISA to another State Department are required to comply with 815 CMR 6.00: *Interdepartmental Fiscal Business* and policies and procedures issued by the Office of the Comptroller related to expenditures of federal funds, including personnel.

2.05: Grant Disbursements

Grants must comply with the following conditions:

(1) A State Department that has been awarded a Federal Grant Award should expend the funds within the time allotted in the Federal Grant Award language. Exceptions to spend before or beyond the dates specified within the federal grant award language should be approved and substantiated by the federal grantor of the federal grant award.

(2) Non-discretionary (earmarked) Grant Funds. Grants of non-discretionary funds (earmarked) shall be made to the recipients specifically identified in the Grantor Department's Legislative Authorization, trust language or a Federal Grant Award. In order to be considered non-discretionary, the authorization for the Grant award must specifically name the Grantee(s) by name, or designate a formula or disbursement process in which the Grantor Department has no discretion as to the amount or recipient of the Grant. If the Grantor Department has no discretion as to the Grantees, but has discretion as to the amounts that will be awarded to a Grantee based upon an application, eligibility, or need, the Grants will be considered "discretionary" and not earmarked.

(3) Discretionary Grant Funds. Grants of discretionary funds shall be disbursed through an open and public competitive process, as prescribed by the comptroller, and in accordance with the State Department's Legislative Authorization, trust language or Federal Grant Award language governing the type of Grant funds being disbursed. This process should include, but is not limited to the following:

(a) A Grant Application or other selection process for each Grant or Grant program that identifies the purpose, scope, and duration of a Grant or Grant program, the terms, conditions and requirements for accepting and using a Grant, the evaluation or eligibility criteria that will be used for Grantee selection, the available amounts of Grants that may be awarded, any documents or other information that a Grantee must provide to be considered eligible for selection for a Grant, or to determine the amounts of a Grant award.

(b) Public posting of the availability of a Grant or Grant Program on the State eProcurement system operated by the Operational Services Division, or as otherwise prescribed by the comptroller.

(c) Notice to all entities responding to the public posting of their selection or non-selection for a Grant, or the amounts of Grant awards;

(4) Incidental Grants, not to exceed an amount established by the Office of the Comptroller, may be awarded in writing, without the open and public competitive process outlined in 815 CMR 2.04(7) and the contractual requirements outlined in 815 CMR 2.05(1) through (4), provided that the Grants meet all other requirements of 815 CMR 2.00 and comply with policies issued for Grants by the comptroller.

(5) Federal Grants shall not be used to supplement the regular salary or compensation for any officer or employee of the Commonwealth for service performed during the officer or employee's regular working hours.

2.06: Contractual Requirements for Grants and Grant Payments

(1) The identification of a Grantee in a notice or a letter of a Grant award creates no contractual obligation for a department or the State. A Grantor Department can not issue Grant payments until the contractual documents outlined in 815 CMR 2.05(2) or (3) are properly executed and filed in accordance with policies and procedures issued by the Office of the Comptroller.

(2) Commonwealth Terms and Conditions Contract and Standard Contract Form. An authorized signatory of a Grantee must execute a Commonwealth Terms and Conditions Contract and a Standard Contract Form issued by the Office of the Comptroller for Grants awarded under 815 CMR 2.00. The Commonwealth Terms and Conditions Contract will be incorporated by reference into any Standard Contract Form executed by the Grantee and any department. The Standard Contract Form and attachments must identify the amount, duration and scope of the Grant, and applicable fiscal or programmatic reporting requirements for documenting Grant expenditures or performance.

2.06: continued

(a) Grantees may not be permitted to occupy or use land, buildings, equipment, or facilities of the Commonwealth or use the services of any officer or employee of the Commonwealth during regular business hours unless there is a written agreement approve by ANF between that Grantee that the Commonwealth will be reimbursed for such occupancy or use, subject to waiver upon good and sufficient reasons as recommended by the State Department Grantor, and the waiver is filed with the State Auditor.
(b) Grantees receiving Federal Grant Awards will be required to submit a Form W-9 with a DUNS number, or as otherwise prescribed by the Office of the Comptroller, to comply with Federal reporting requirements.

(3) Grant Payments and Compensation. A Grantee shall be compensated in accordance with the specific terms and conditions of a Grant identified in the Standard Contract Form, and in accordance with the Bill Payment Policy issued by the comptroller, including EFT payment. Unless otherwise provided by law, all Grant payments are subject to appropriation pursuant to M.G.L. c. 29, § 26, or the availability of sufficient non-appropriated funds for the purposes of the Grant, and shall be subject to intercept pursuant to M.G.L. c. 7A, § 3 and 815 CMR 9.00: *Debt Collection and Intercept*. A Department Grantor is under no legal obligation to compensate a Grantee, or to obtain additional funding, for any costs or other commitments which are outside of the scope of an executed Standard Contract Form.

2.07: Reporting Requirements for Grants and Subsidies

(1) Grantees are required to report to the Grantor Department on the use of Grant funds as prescribed in the Standard Contract Form, or as otherwise provided in a Grant Application or Grant terms. If a formula Grant, Subsidy or other disbursement is made to a recipient, that recipient shall be required to provide any information related to the use of the Grant or Subsidy Funds provided by the Department.

(b) State Departments must provide reports and any other information related to a Grantee's use of Federal Grant Awards as prescribed jointly by CTR and ANF to comply with the quarterly reporting requirements to the house and senate ways and means committees on ways and means on the status of federal funds expended. State departments must fulfill applicable federal grant award reporting requirements such as the SEFA reporting and as mandated by the Code of Federal Regulations, including 2 CFR Chapter I, Chapter II, Part 200.327-329, and State finance law; including CTR assigned reports and other applicable federal requirements.

2.08: Records Management

(1) Recipients of Grants and Subsidies. All recipients of Grants or Subsidies must maintain a Grant or Subsidy file with complete records of expenditures or how the funds were disbursed in accordance with the Grant or Subsidy. Grant files should include any Grant Applications, or other disbursement documents, contractual documents and reporting back to the Grantor. The Grantee shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of seven years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Grantee's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

(2) State Departments Grant and Subsidy Records shall be maintained in accordance with 815 CMR 10.00: *Records Management of Bills, Vouchers and Contracts*.

2.09: Severability

If any provision of 815 CMR 2.00 is found to be illegal, unenforceable or void, then departments and Grantees shall be relieved of all obligations under that provision only, and all other provisions shall remain in full force and effect.

REGULATORY AUTHORITY

815 CMR 2.00: M.G.L. c. 7A, §§ 7, 8, 9, 12 and 15; St. 1986, c. 206, § 17, and c. 29, § 6B.