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# **INTRODUCTION TO FEDERAL FINANCIAL ASSISTANCE**

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# FEDERAL FINANCIAL ASSISTANCE

## INTRODUCTION

This training will provide you with some of the key fundamental aspects of Federal financial assistance, including the laws, regulations, policy and guidance that supports its implementation. It will also cover some of the key differences between financial assistance and procurement, as well as the difference between discretionary and non-discretionary programs.

The training will introduce the concept of the four stages of the financial assistance lifecycle, which include: pre-award management, award management, post-award management, and closeout; and explore the different types of financial assistance instruments that are used to implement Federal programs.

You will also learn about the role in Federal financial assistance of the key recipient types who receive awards.



# FEDERAL FINANCIAL ASSISTANCE

## LAWS, REGULATIONS, AND GUIDANCE



**Statutes, Authorizations, and Appropriations** passed by Congress that prescribe how, when, and at what level of funding programs are implemented.



**Regulations and Guidance** issued by OMB and agencies that dictate how Federal financial assistance awards should be executed and implemented.



**Program Specific Requirements** including information in Notices of Funding Opportunities and awards that directly inform how awards are implemented and include specific conditions for the recipient to follow.

# FEDERAL FINANCIAL ASSISTANCE

## FEDERAL STATUTES

Federal financial assistance is authorized by statute with specific authority to transfer money, property in lieu of money, or other direct assistance to eligible recipients to support or stimulate a public purpose.

Federal financial assistance is governed by Federal statutes, which are laws enacted by Congress. Federal laws are bills that have passed both houses of Congress, been signed by the president, passed over the president's veto, or allowed to become law without the President's signature. Individual laws, also called acts, are arranged by subject in the United States Code.

Most laws passed by Congress are public laws, which affect society. Each new statute is assigned a number according to its order of enactment within a particular Congress (e.g., the 4th public law enacted in the 113th Congress was numbered as Pub. L. 113-4). Private laws are enacted for the benefit of a named individual or entity. In contrast, public laws are of general applicability and permanent and continuing in nature. Public laws form the basis of the United States Code (U.S.C.). In the U.S.C., statutes are grouped by subject into fifty titles, each consisting of chapters and sections.

[www.congress.gov](http://www.congress.gov) and [www.senate.gov](http://www.senate.gov) are good resources for additional information on how laws are enacted.

# FEDERAL FINANCIAL ASSISTANCE

## LAWS, REGULATIONS, AND GUIDANCE

With so many different statutes and regulations governing the use of Federal financial assistance, there can be confusion over what requirements take precedence. There is an order of precedence related to statutes, regulations, and other requirements which are enforceable to award recipients. If there is any inconsistency between any of the requirements, the following order of precedence should be followed:



Applicable laws and statutes of the United States including any specific legislative provisions mandated in the statutory authority for the award

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Code of Federal Regulations

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Office of Management and Budget (OMB) Guidance

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Agency Policies, Standard Terms and Conditions, Award Specific Terms and Conditions

# FEDERAL FINANCIAL ASSISTANCE

## KEY FEDERAL FINANCIAL ASSISTANCE LAWS

### THE FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1977

This Act defines the differences among grant agreements, cooperative agreements, and procurement contracts. It provides criteria to use to determine which of the three legal instruments – grant agreement, cooperative agreement, or contract – should be used. It also encourages the use of competition.



# FEDERAL FINANCIAL ASSISTANCE

## KEY FEDERAL FINANCIAL ASSISTANCE LAWS

### THE FEDERAL PROGRAM INFORMATION ACT OF 1977

This Act established the Catalog of Federal Domestic Assistance (CFDA) – which was changed in 2021 to Assistance Listings. Per 2 CFR 200.203, “the Federal Assistance Listings is the single, authoritative, governmentwide comprehensive source of Federal financial assistance program information produced by the executive branch of the Federal Government.”



# FEDERAL FINANCIAL ASSISTANCE

## KEY FEDERAL FINANCIAL ASSISTANCE LAWS

### THE PAPERWORK REDUCTION ACT OF 1995

The Paperwork Reduction Act (PRA) was designed to reduce the total amount of paperwork burden the Federal Government imposes on private businesses and citizens. It also established the Office of Information and Regulatory Affairs (OIRA) within OMB to oversee Federal agencies' collection of information from the public and to establish information policies. The Federal agency must receive approval from OMB before issuing a paper form, website, survey or electronic data submission requirement that will impose an information collection burden on ten or more persons.





# FEDERAL FINANCIAL ASSISTANCE

## KEY FEDERAL FINANCIAL ASSISTANCE LAWS

### THE SINGLE AUDIT ACT OF 1966

Amendments enacted to the Single Audit Act of 1984 provided updated audit requirements for organizations and individuals receiving Federal awards. The purpose of the law was to further streamline the auditing process so that award recipients are only required to undergo a single, annual audit rather than being subject to separate, multiple audits of specific programs. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year. The Federal Audit Clearinghouse must make available the reporting packages to the public, except for Indian tribes, and maintain a data base of completed audits, provide appropriate information to Federal agencies, and follow up with known auditees that have not submitted the required data collection forms and reporting packages.



# FEDERAL FINANCIAL ASSISTANCE

## KEY FEDERAL FINANCIAL ASSISTANCE LAWS

### THE FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1999

This law was passed by Congress to strive for improved coordination among various grant-making agencies, as well as to provide more consistency to application and reporting process for applicants of Federal awards. Governance structures such as the Grants Policy Committee (GPC), the Grants Executive Board (GEB), and then later the Council on Financial Assistance Reform (COFAR) were established temporarily to carry out the intent of the law, such as the issuance of the Uniform Guidance in 2014. Although the law expired in 2007, the law launched various financial assistance changes that remain in place today, including the requirement to use [grants.gov](https://www.grants.gov) to post grant funding opportunities.



# FEDERAL FINANCIAL ASSISTANCE

## KEY FEDERAL FINANCIAL ASSISTANCE LAWS

### FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) (2006)

The Federal Funding and Accountability and Transparency Act of 2006 (amended in 2008) and implemented in 2 CFR 170, required the full disclosure to the public of all entities or organizations receiving Federal funds beginning in fiscal year 2007. The website [USAspending.gov](http://USAspending.gov) launched in December 2007 and is operated by the Department of Treasury.



# FEDERAL FINANCIAL ASSISTANCE

## KEY FEDERAL FINANCIAL ASSISTANCE LAWS

### DIGITAL ACCOUNTABILITY AND TRANSPARENCY ACT (DATA) OF 2014

The DATA Act was passed as an amendment to FFATA. It requires the Department of the Treasury and OMB to improve and expand the data available on the publicly accessible website created under FFATA, [USASpending.gov](https://www.usaspending.gov). Under the DATA Act, reporting is required to provide the public with additional award data and information, according to a set of common data standards.



# FEDERAL FINANCIAL ASSISTANCE

## KEY FEDERAL FINANCIAL ASSISTANCE LAWS

### GRANT REPORTING EFFICIENCY AND AGREEMENTS TRANSPARENCY (GREAT) OF 2019

The GREAT Act aims to develop a Federal-wide set of common data standards and to streamline recipient reporting through a common website in order to reduce both recipient and government burden through the elimination of duplicative efforts. The GREAT Act requires OMB and “a standard setting agency,” now designated as HHS, to issue a comprehensive set of data standards for Federal grants, required agencies to implement those standards for all their recipient reporting, and required data collected to be publicly displayed.



# FEDERAL FINANCIAL ASSISTANCE

## AUTHORIZATION AND STATUTES

Federal grant programs are created by an authorizing statute.

The statutes may apply to the Federal agencies and/or to the grant recipients. Examples of statutes which apply to the Federal agencies include the Paperwork Reduction Act and the Federal Funding Accountability and Transparency Act.



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### AN AUTHORIZING STATUTE

*can establish, continue, or modify an agency, program, or activity for a fixed or indefinite period of time. It also may set forth the duties and functions of an agency or program, its organizational structure, and the responsibilities of agency or program officials.*

*The authorization of appropriations is intended to provide guidance regarding the appropriate amount of funds to carry out the authorized activities of an agency.*

*Congressional Research Service, Overview of the Authorization-Appropriations Process*

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# FEDERAL FINANCIAL ASSISTANCE

## AUTHORIZATION AND STATUTES



Under the Constitution, Congress has the authority to make laws that authorize programs as well as appropriate funds to Federal agencies to carry out those programs. Under our system of government, Congress has the final word on how much money can be spent by a Federal agency on a specific program



Congress may give the executive branch considerable discretion concerning how to implement the laws and how to obligate and expend funds appropriated, but it is ultimately up to Congress to determine how much the executive branch can spend



Even when there is authorizing legislation, Congress must first appropriate funds to provide the funding for the program





# FEDERAL FINANCIAL ASSISTANCE

## AUTHORIZATION AND STATUTES

Federal Agencies must provide references to the appropriate statutes in the Assistance Listing for each program they oversee and in the Notice of Funding Opportunity or solicitation for applicants, as required in 2 CFR 200.204.



Agencies can provide more information on these as well if applicants are interested. Congress also provides public access to this information online.

[WWW.CONGRESS.GOV](http://WWW.CONGRESS.GOV)





# FEDERAL FINANCIAL ASSISTANCE

## TYPES OF APPROPRIATION

### GENERAL APPROPRIATIONS

A general appropriation uses broader language that allows the funds to be obligated for several different purposes; for example, salaries and expenses of the Federal agency.



# FEDERAL FINANCIAL ASSISTANCE

## TYPES OF APPROPRIATION

### SPECIAL OR SPECIFIC APPROPRIATION

A specific appropriation uses more narrow language than a general appropriation to accomplish the specific project for which they were obligated. For example, funding provided in response to a nature disaster.

If an agency has a specific appropriation for a particular item and has a general appropriation broad enough to cover the same item, it does not have an option as to which it uses. It must use the specific appropriation.



# FEDERAL FINANCIAL ASSISTANCE

## TYPES OF APPROPRIATION

### SUPPLEMENTAL APPROPRIATION

In some cases, there may be an urgent need for further funding of a program or project that already received funding previously. Sometimes, additional restrictions on the way funding can be used may be part of a supplemental appropriation.



# FEDERAL FINANCIAL ASSISTANCE

## TYPES OF APPROPRIATION

### CONTINUING APPROPRIATION / CONTINUING RESOLUTION

Government Accountability Office (GAO) defines Continuing Resolutions as “temporary spending bills that allow federal government operations to continue when final appropriations have not been approved by Congress and the President.” For the most part, continuing appropriations are:

- Temporary and don't provide funding for an entire fiscal year
- Intended to keep federal programs functioning until Congress enacts regular appropriations



# FEDERAL FINANCIAL ASSISTANCE

## TYPES OF APPROPRIATION

### EARMARKS / LINE ITEM APPROPRIATIONS

Earmarks are funds provided by Congress for projects, programs, or grants where the purported Congressional direction circumvents otherwise applicable merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the executive branch to manage its statutory and constitutional responsibilities pertaining to the funds allocation process. For example, a specific infrastructure project for a jurisdiction.

The term “earmark” is used interchangeably with the term “line item.”



# FEDERAL FINANCIAL ASSISTANCE

## PURPOSE

As stated in Public Law 31 U.S.C. 1301(a), “appropriations may be used only for the purpose(s) for which they were made.”

This means that grant funds may be obligated and expended only for authorized grant purposes.



An “authorized grant purpose” is determined by examining the grant program statute, legislative history, and appropriation acts applicable to the program.



# FEDERAL FINANCIAL ASSISTANCE

## WITHIN THE TIME LIMIT

The period of availability of appropriated funds is the period provided by law in which the Federal agency must obligate the funds (e.g., generally the funds are obligated when the Federal agency and recipient sign the grant agreement). Placing time limits on the availability of funds ensures more Congressional control over the timely obligation of the funds by each agency.

Funds must be obligated by the Federal agency within their period of availability.



For example, a one-year appropriation that is available at the beginning of the fiscal year, must be obligated by the relevant Federal agency by the end of that same fiscal year. However, once funds are obligated through a financial assistance agreement, the recipient has an additional period to expend them before they expire (usually five years).

# FEDERAL FINANCIAL ASSISTANCE

## WITHIN THE AMOUNT

Congress determines how much the Federal agency can spend on a given program by stating the dollar amount in the appropriation act. For an appropriation to be valid, it must have a purpose, time limit, amount of the appropriation.

## ANTIDEFICIENCY ACT

The Antideficiency Act (31 U.S.C. 1341(a)) prohibits Federal agencies from obligating or expending funds in excess of the appropriated amounts.

The Antideficiency Act has been termed the “cornerstone of Congressional efforts to bind the Executive branch of government to the limits on expenditure of appropriated funds.” Its importance is underscored by both civil and criminal penalties for violation.





# FEDERAL FINANCIAL ASSISTANCE

## THE ANTIDEFICIENCY ACT

### THE ANTIDEFICIENCY ACT PROHIBITS:



Making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation in excess of the amount available in the appropriation or fund unless authorized by law



Accepting voluntary services for the United States or employing personal services in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property



Involving the Federal Government in any contract or other obligation for the payment of money for any purpose in advance of appropriations made for such purpose, unless the contract or obligation is authorized by law



Making obligations or expenditures in excess of an apportionment or reappportionment, or in excess of the amount permitted by agency regulations

Federal employees who violate the Antideficiency Act are subject to two types of sanctions: civil and criminal. Employees may be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office. Employees may also be subject to fines, imprisonment, or both.

# FEDERAL FINANCIAL ASSISTANCE

## REGULATIONS AND GUIDANCE

The Federal agency has the authority to implement statutes through regulations and other means. Typically authorizing statutes only provide the basics of the grant program and the Federal agency provides the details through regulations. A regulation has the force and effect of law.

The rulemaking process is prescribed by the Administrative Procedures Act, 5 U.S.C. 551-559. The terms “regulation” and “rule” are used interchangeably. A regulation is the Federal agency’s statement that implements, interprets, or prescribes law or policy. A regulation may also describe the organization, procedure, or practice requirements of the Federal agency.

The Federal agency publishes proposed regulations in the Federal Register for public review and comment.



**FEDERAL REGISTER**

The Daily Journal of the United States Government

# FEDERAL FINANCIAL ASSISTANCE

## FEDERAL AGENCY REGULATIONS

The comment period is generally 30 to 60 days. Any interested person or organization may submit written comments.

The Federal agency considers the written comments and carefully decides whether to revise its proposed regulation based on the comments. The preamble to the final rule gives the Federal agency's response to the comments and explains how the Federal agency resolved any significant problems raised by the comments in the final rule.

The final rule is published in the Federal Register, with an effective date, generally 30 days from the publication date. The Federal agency can amend its regulations through the same process.

The regulations are codified in the Code of Federal Regulations, which the [Government Printing Office](#) updates and publishes annually.



# FEDERAL FINANCIAL ASSISTANCE

## THE OFFICE OF MANAGEMENT AND BUDGET

The Office of Management and Budget (OMB) serves the President of the United States in overseeing the implementation of his or her vision across the Executive Branch. OMB's mission is to assist the President in meeting policy, budget, management, and regulatory objectives and to fulfill the agency's statutory responsibilities. One of the principal roles of OMB in financial assistance is through guidance published in the Code of Federal Regulations, as well as the issuance of Memoranda and other guidance.



# FEDERAL FINANCIAL ASSISTANCE

## THE OFFICE OF MANAGEMENT AND BUDGET

### OMB CARRIES OUT ITS MISSION THROUGH:



Budget development and execution



Management, including oversight of agency performance, Federal procurement, financial management, and Information Technology



Coordination and review of all significant Federal regulations from executive agencies, privacy policy, information policy, and review and assessment of information collection requests



Clearance and coordination of legislative and other materials, including agency testimony, legislative proposals, and other communications with Congress, and coordination of other Presidential actions



Clearance of Presidential Executive Orders and memoranda to agency heads prior to their issuance

# FEDERAL FINANCIAL ASSISTANCE

## OMB GUIDANCE – 2 CFR 200

The Office of Management and Budget (OMB) published the “Uniform Guidance” contained in 2 CFR 200 to promote more efficient, effective, and transparent Federal financial assistance management. 2 CFR 200 promotes a Federal effort to more effectively focus on improving performance and outcomes while ensuring the financial integrity of taxpayer dollars in partnership with non-Federal stakeholders. It provides a governmentwide framework for grants management that strengthen program outcomes through innovative and effective use of grantmaking models, performance metrics, and evaluation, while also reducing the administrative burden for non-Federal entities receiving Federal awards and reducing the risk of waste, fraud and abuse.



While various Federal agencies may have specific statutory requirements, 2 CFR 200 provides the one source of generally applicable requirements that cut across programs governmentwide and provide uniformity of requirements for recipients working with multiple Federal agencies.

2 CFR 200 was released on December 24, 2014, following an inter-agency initiative to combine into the Code of Federal Regulations various OMB Circulars (A-110, A-122, A-133 etc.) that addressed grants management. Updates to 2 CFR 200 were published on August 13, 2020.

# FEDERAL FINANCIAL ASSISTANCE

## OMB GUIDANCE – 2 CFR 200

2 CFR, Title 2 – Grants and Agreements contains Subtitle A, Chapters I and II is the Office of Management and Budget Guidance for Grants and Agreements that contains other key financial assistance related guidance, including:



*Part 1, Chapter II, Office of Management and Budget Guidance, contains Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.*



### **Part 25**

Universal Identifier and System for Award Management

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### **Part 170**

Reporting Subaward and Executive Compensation Information

# FEDERAL FINANCIAL ASSISTANCE

## OMB GUIDANCE – 2 CFR 25

2 CFR 25 addresses the requirements of non-Federal entities to register in the System for Award Management or [SAM.gov](https://sam.gov). This is the official government site to register and conduct business with the Federal government. Entities must register and obtain a Unique Entity Identifier (UEI).

### THE KEY SECTIONS OF 2 CFR 25 INCLUDE:



#### **Subpart A – General**

This includes purpose and exceptions. Non-Federal entities are required, with some limited exceptions, to obtain a UEI and register in [SAM.gov](https://sam.gov), before applying for a funding opportunity



#### **Subpart D – Definitions**



#### **Appendix A – Award Term**

This is a mandatory award term that must be included in all grant agreements



#### **Subpart B – Policy**

This includes requirements for Notices of Funding Opportunities and effect of noncompliance



#### **Subpart C – Recipient Requirements of Subrecipients**

Subrecipients must obtain a UEI, but do not need to register in [SAM.gov](https://sam.gov)



# FEDERAL FINANCIAL ASSISTANCE

## UNIQUE ENTITY IDENTIFIER

As required by 2 CFR Part 25, any entity wishing to do business with the Federal Government must register in [SAM.gov](https://sam.gov) and obtain a Unique Entity Identifier (UEI). This process includes a validation that the entity is a unique or separate legal entity associated with a separate physical address.

Formerly this UEI was known as the DUNS number. However, on April of 2022, the Federal government stopped using the DUNS number to uniquely identify entities. At that point, entities doing business with the Federal government started using a Unique Entity Identifier (UEI) created in [SAM.gov](https://sam.gov) and were no longer required to go to a third-party website to obtain their identifier. This transition allowed the government to streamline the entity identification and validation process, making it easier and less burdensome for entities to do business with the Federal government.



# FEDERAL FINANCIAL ASSISTANCE

## OMB GUIDANCE – 2 CFR 170

2 CFR 170 addresses the requirements of Federal and non-Federal entities to publicly report award and subaward information and executive compensation, consistent with Federal Funding Accountability and Transparency Act (FFATA).

### THE KEY SECTIONS OF 2 CFR 170 INCLUDE:



#### **Subpart A – General**

This includes purpose and exceptions. For example, 2 CFR 170 does not apply to individuals



#### **Subpart B – Policy**

Federal awarding agencies are required to publicly report Federal awards that equal or exceed the micro-purchase threshold, ensure that requirements are published in NOFOs, and monitor recipient reporting of sub-recipient information



#### **Subpart C – Definitions**



#### **Appendix A – Award Term**

This is a mandatory award term that must be included in all grant agreements

# FEDERAL FINANCIAL ASSISTANCE

## EXECUTIVE ORDERS

The United States President issues Executive Orders to manage the operations of the Executive branch of the Federal Government. An Executive Order is directed to one or more Federal agencies. Executive Orders do not apply to recipients.

If the Executive Order directs the Federal agency to impose requirements on recipients, the Federal agencies must do this through rulemaking or other means to make the provisions of Executive orders applicable to the grant program.



# FEDERAL FINANCIAL ASSISTANCE

## OMB MEMORANDA

The Office of Management and Budget (OMB) issues memoranda each year to provide guidance to advance administrative priorities of the President. These memoranda can be issued to provide additional guidance on Executive Orders. OMB Memoranda that address Federal financial assistance are binding on Federal agencies unless exceptions are granted by OMB.

### SOME EXAMPLES OF OMB MEMORANDA IMPACTING FEDERAL ASSISTANCE INCLUDE:



#### **M-21-20**

Promoting Public Trust in the Federal Government through Effective Implementation of the American Rescue Plan Act and Stewardship of the Taxpayer Resources



#### **M-22-02**

New Financial Assistance Transparency Reporting Requirements



Each OMB Memorandum has a specific number indicating first the year in which it was issued, followed by a number indicating the order of issuance.

# FEDERAL FINANCIAL ASSISTANCE

## OTHER OMB GUIDANCE AND SUPPORT

OMB also occasionally issues Controller Alerts, which do not constitute official guidance, but are designed to highlight emerging financial management issues that may require agency attention or action. These Alerts are intended to inform the Chief Financial Officer (CFO) community of key issues where the Office of Management and Budget (OMB) believes further action may be warranted. They do not prescribe specific tasks for agencies beyond consideration of appropriate steps to address the issue that is addressed in the Controller Alert. You can find Controller Alerts posted on the [\*\*CFO Council's website\*\*](#).

OMB also regularly hosts “Innovation Exchange” sessions to engage directly with members of both the agency and recipient community to discuss important issues and exchange best practices. Please join the [\*\*Grants Community of Practice\*\*](#) to receive information on upcoming Innovation Exchange sessions and updates on financial assistance related issues.




**Frequently Asked Questions** are also posted on the [\*\*CFO Council's website\*\*](#) to provide additional information to Federal and non-Federal entities on specific topics, such as revised guidance, new regulations, or OMB Memoranda.

# FEDERAL FINANCIAL ASSISTANCE

## ASSISTANCE LISTINGS

Assistance Listings play an important role in program design and are integral to all phases of the grants lifecycle.



Assistance listings are detailed public descriptions of Federal programs for grants, loans, scholarships, insurance, and other types of assistance. They provide a detailed picture of financial assistance that is intended to be updated and revised continuously. Until 2020, Assistance Listings were originally called “Catalog of Federal Domestic Assistance” or “CFDA”

The development of an Assistance Listing is a prerequisite to operating a financial assistance program by a Federal agency.



### EXPLORE ASSISTANCE LISTINGS

See the Federal Program Information Act of 1977 (PL 95-220; 31 USC 6104) and 2 CFR 200.203 for authoritative guidance.

# FEDERAL FINANCIAL ASSISTANCE

## NOTICE OF FUNDING OPPORTUNITY

Federal agencies issue specific guidance for individual programs in Notices of Funding Opportunities (NOFOs) that are published to communicate funding opportunities. For discretionary grants and cooperative agreements that are competed, as required in 2 CFR 200.204, the Federal awarding agency must announce specific funding opportunities by providing the following information:

- A.** Program Description
- B.** Federal Award Information
- C.** Eligibility Information
- D.** Application and Submission Information
- E.** Application Review Information
- F.** Federal Award Administration Information
- G.** Applicable Terms and Conditions

2 CFR 200: Appendix I contains the full scope of information that is required to be posted in NOFOs.

NOFOs communicate all program requirements, which the recipient must include in the funding proposal and then execute during program implementation. The NOFO requirements are then included as part of the conditions in the award and are binding on the recipient unless modifications are agreed to between the awarding agency and the non-Federal entity before the award is issued.

# FEDERAL FINANCIAL ASSISTANCE

## AGENCY POLICY AND GUIDANCE

The Federal agency may also provide written guidance for its programs.

### THE GUIDANCE EXPLAINS:



Agency-specific requirements



Best practices



Agency policies and procedures for the effective and proper implementation and oversight of financial assistance awards at the agency level

Guidance documents may provide examples of ways an agency grants official can exercise proper oversight over a financial assistance award or recipient and demonstrate how a recipient can comply with requirements or recommend practices for carrying out grant activities.

As stipulated in 2 CFR 200.211, Federal awarding agencies must incorporate in their general terms and conditions any requirements that are binding on the recipient.



# FEDERAL FINANCIAL ASSISTANCE

## TERMS AND CONDITIONS

The terms and conditions of the award that the Federal awarding agency, or pass-through entity, issues to implement the program provide the administrative and programmatic requirements to which the recipient must comply.

### TERMS AND CONDITIONS:

- Are based on the established policy of the Federal agency and (for awards made after December 26, 2014), the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. (2 CFR Part 200)
- Flow down to sub-recipients of Federal financial assistance awards, unless otherwise noted
- Contain the budget, spending limitations, and requirements for payments and reporting. They may also contain requirements for prior Federal agency approvals

Some agencies may also apply additional program-specific terms and conditions to awards, which may be referred to as “special terms and conditions,” as established in 2 CFR 200.208

# FEDERAL FINANCIAL ASSISTANCE

## FINANCIAL ASSISTANCE VS. PROCUREMENT

The Federal Grants and Cooperative Agreements Act distinguishes between assistance (grant agreements and cooperative agreements) and acquisition (procurement/contracts), based on the principal purpose of the legal relationship between the parties.



The Federal government uses grants to accomplish a public purpose, advance a national objective, address a public problem, or stimulate a particular activity desired by the awarding Agency



The Federal agency uses contracts to acquire property or services for its own direct benefit or use of the Federal government



For example, if the Federal agency wants to implement a program to provide job training for rural citizens, the agency will generally use a Federal assistance instrument, such as a grant or cooperative agreement. However, if the Federal agency wants to purchase vehicles for agency use, the agency will procure them directly through a contract. There can be scenarios when an argument can be made for using either instrument, in which case the awarding agency needs to make the determination as to which is more appropriate.

# FEDERAL FINANCIAL ASSISTANCE

## DISCRETIONARY VS. NON-DISCRETIONARY PROGRAMS

There are two major categories of Federal financial assistance programs: Discretionary and Non-Discretionary Programs:

### DISCRETIONARY PROGRAMS

Awards in which the Federal awarding agency, in keeping with specific statutory authority, exercises judgement ("discretion") in selection of the award recipient through a competitive process or based on merit of existing award recipients. Some discretionary awards to organizations may be awarded on a non-competitive basis, often based on congressional direction.

The Federal agency issues a notice of funding opportunity inviting applications, and entities that are eligible develop proposals stating how the applicant plans to:



Use the funds in response to programmatic goals, objectives, and other requirements outlined in the funding opportunity announcement



Allocate the funds on various program activities



Manage the award

# FEDERAL FINANCIAL ASSISTANCE

## DISCRETIONARY VS. NON-DISCRETIONARY PROGRAMS

### DISCRETIONARY PROGRAMS

Per 2 CFR 200.205, for discretionary Federal awards, unless prohibited by Federal statute, the Federal awarding agency must design and execute a merit review process for applications, with the objective of selecting recipients most likely to be successful in delivering results based on the program objectives.



# FEDERAL FINANCIAL ASSISTANCE

## NON-DISCRETIONARY PROGRAMS



### **Formula**

Amount awarded is based on statutory authority and statistical criteria for specific types of work and mission requirements. The Federal award ceiling amount and other thresholds or parameters are determined through application of a statutory or regulatory formula. Both discretionary and non-discretionary awards may involve formula-based funding to governmental entities



### **Mandatory**

Awarded to eligible applicants based on the conditions defined in the authorizing statute



### **Fixed**

A type of award under which the Federal awarding agency or pass-through entity provides a specific, pre-approved amount of funding without regard to actual costs incurred under the Federal award

*Source: Federal Integrated Business Framework: Standard Data Elements*

# FEDERAL FINANCIAL ASSISTANCE

## GRANTS LIFECYCLE

THERE ARE SEVERAL KEY STAGES OF THE GRANTS LIFECYCLE INCLUDING:



### **Pre-award Administration and Management**

Program design, solicitation, application, selection, due diligence



### **Award Management**

Budget and program negotiation, award execution



### **Post-award Management**

Program implementation, agency program, and financial monitoring



### **Closeout**

Final program and financial reporting

# FEDERAL FINANCIAL ASSISTANCE

## PRE-AWARD ADMINISTRATION AND MANAGEMENT

THE PRE-AWARD PHASE OF A PROJECT INVOLVES ALL ACTIVITIES THAT LEAD UP TO THE EXECUTION OF AN AWARD:

- Program design is critical to achieving results and is the first step in the grants lifecycle
- Agencies should design the program, including goals, objectives, and intended results, before developing project(s) under the program, per 2 CFR 200.202
- Sound program design should occur at both the program and project levels and takes place before NOFOs are written
- Program design is intended for both new programs/project and existing programs/projects



# FEDERAL FINANCIAL ASSISTANCE

## PRE-AWARD ADMINISTRATION AND MANAGEMENT

The Federal entity (agency) establishes an Assistance Listing (if it doesn't currently exist), which provides important information about the program. (2 CFR 200.203)



The Federal entity (agency) develops a solicitation that describes the project, the types of individuals or organizations that are eligible to apply, the amount of funding to be provided etc. (2 CFR 200.204)



The applicant submits a proposal in response to a solicitation



The agency reviews the proposal(s) for eligibility and a merit review panel reviews the proposal according to specific criteria (2 CFR 200.205)



A recipient is selected, and the Federal entity performs the necessary due diligence required to confirm the recipient is not excluded from receiving Federal funds and has the necessary controls in place to effectively manage the program (2 CFR 200.206)



# FEDERAL FINANCIAL ASSISTANCE

## AWARD MANAGEMENT

THE AWARD PHASE OF THE LIFECYCLE IS RELATIVELY SHORT IN DURATION, BUT INVOLVES THESE CRITICAL ASPECTS OF EXECUTING THE AGREEMENT:

- Obtaining any necessary internal agency approvals needed to execute the award
- Negotiating any budget and program modifications with the recipient prior to executing the award
- Drafting the award document, including award terms and conditions (2 CFR 200.211)
- Executing the award (Federal and non-Federal entity) and reporting the award on [USASpending.gov](https://www.usaspending.gov) (2 CFR 200.212)
- Obligating the award in financial systems
- Providing the recipient access to any agency-specific grants systems



# FEDERAL FINANCIAL ASSISTANCE

## POST-AWARD MANAGEMENT

THE POST-AWARD PHASE REPRESENTS THE CRITICAL PERIOD DURING WHICH THE FOLLOWING PROGRAM ACTIVITIES TAKE PLACE:



The recipient implements the program according to the award agreement



The recipient submits performance progress reports according to the terms of the award to inform the agency of program progress and lessons learned (2 CFR 200.329)



The recipient submits financial reports according to the terms of the award to inform the agency of the financial status of the award (2 CFR 200.328)



The agency provides funding, as required by the recipient, and monitors the recipient's progress in achieving project objectives (2 CFR 200.305 and 200.329)

# FEDERAL FINANCIAL ASSISTANCE

## CLOSEOUT

THE CLOSEOUT PHASE ENCOMPASSES SEVERAL CRITICAL COMPONENTS (2 CFR 200.344):



Recipient reconciles all outstanding financial and administrative issues with the award including issuing payments to sub-recipients or sub-contractors and property disposition, if applicable



Recipient submits final progress program and financial reports within 120 days of the end date of the program



The agency issues any required final payments (or receives payments back from the recipient) and formally closes out the award



# FEDERAL FINANCIAL ASSISTANCE

## FINANCIAL ASSISTANCE INSTRUMENTS

- **Grants**
- **Cooperative agreements**
- **Non-cash contributions or donations of property**
- **Direct appropriations**
- **Food Commodities**
- **Loans**
- **Loan Guarantees**
- **Interest subsidies**
- **Insurance**



# FEDERAL FINANCIAL ASSISTANCE

## GRANTS AND COOPERATIVE AGREEMENTS

The grant agreement or cooperative agreement is a legal instrument of financial assistance between a Federal awarding agency and the recipient that sets forth the information about the award and includes the terms and conditions of the award.

The principal purpose of a grant agreement or cooperative agreement is to carry out a public purpose authorized by a law of the United States (31 U.S.C. 6101(3)) and not to acquire property or services for the Federal awarding agency or recipient's direct benefit or use, which is accomplished through direct procurement (contract).

A cooperative agreement is distinguished from a grant in that a grant provides requirements for the recipient to implement the program largely independently from the Federal government; whereas a cooperative agreement provides for substantial involvement of the Federal awarding agency (or pass-through entity) in carrying out the activity contemplated by the Federal award.



# FEDERAL FINANCIAL ASSISTANCE

## GRANTS AND COOPERATIVE AGREEMENTS

The Federal Grant and Cooperative Agreement Act provides the following criteria when selecting the appropriate financial assistance instrument:

### GRANTS

“An executive agency shall use a **grant agreement** as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

The principal purpose of the relationship is to transfer a thing of value to the State or local government or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

Substantial involvement is not expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.” (PL 95-224)



# FEDERAL FINANCIAL ASSISTANCE

## GRANTS AND COOPERATIVE AGREEMENTS

### COOPERATIVE AGREEMENTS

"An executive agency shall use a **cooperative agreement** as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

The principal purpose of the relationship is to transfer a thing of value to the State or local government or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

Substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." (PL 95-224)



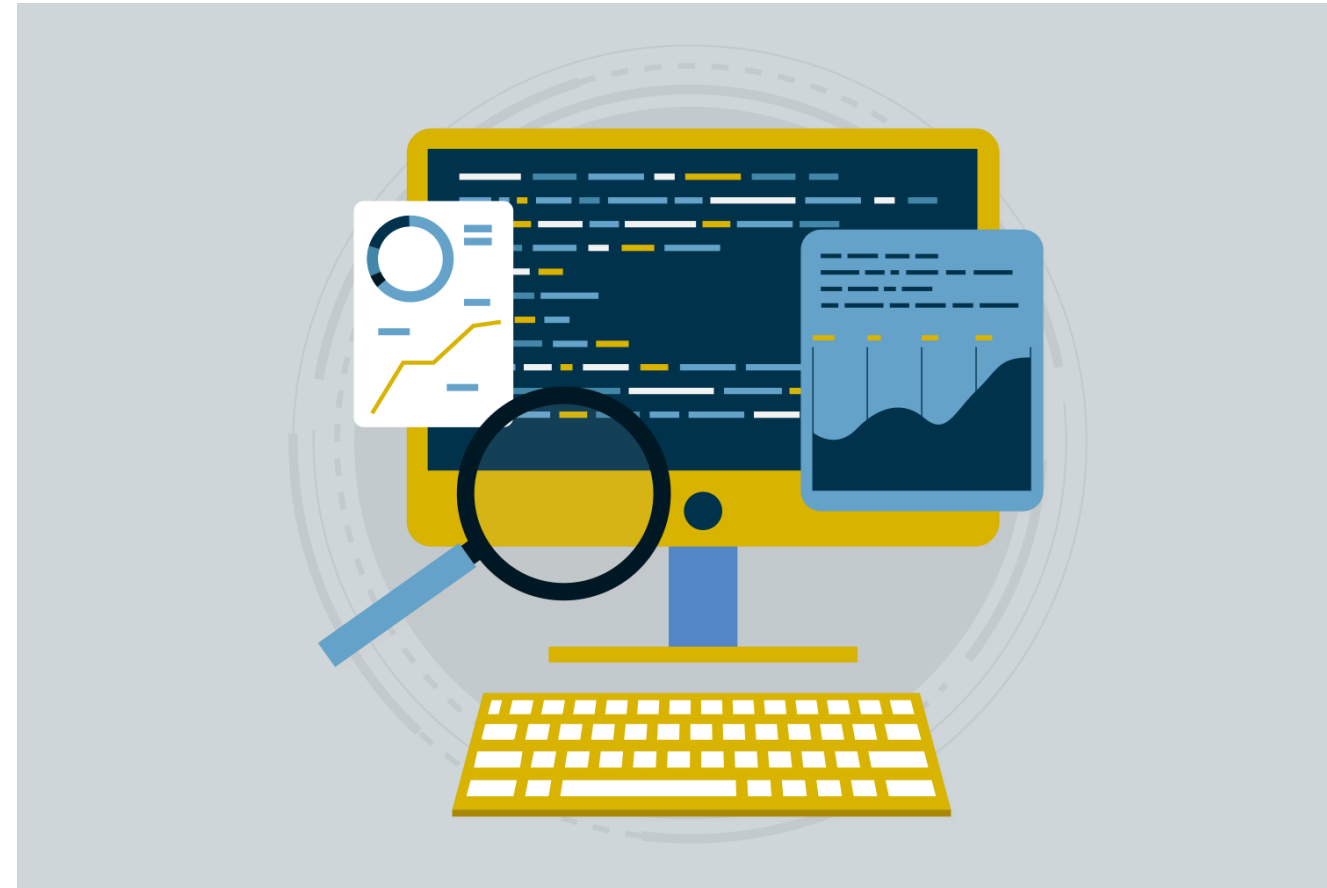
# FEDERAL FINANCIAL ASSISTANCE

## SUBSTANTIAL INVOLVEMENT

If the Federal agency staff is substantially involved during the performance of project activities (in addition to standard monitoring and technical assistance), then a cooperative agreement is the proper funding instrument.

If no substantial involvement is anticipated, a grant agreement is the proper instrument.

Substantial involvement is collaboration between the awarding agency and the recipient in the management and/or performance of a project. Typically, the awarding agency is providing programmatic support. Support may include technical expertise, access to specialized equipment, labor etc. Substantial involvement should not be used as a means of exercising control over the recipient.





# FEDERAL FINANCIAL ASSISTANCE

## FIXED AMOUNT AWARDS



At the end of the period of performance, if any funds remain and if the objectives of the award were met, any remaining funds can be retained by the recipient (though are not considered profit).



Fixed Amount Awards should not be amended to add funds to complete the originally stated objective.



Agencies should consider very carefully what types of programs are conducive to the use of Fixed Amount Awards as this mechanism is not necessarily applicable to all programs.



# FEDERAL FINANCIAL ASSISTANCE

## RECIPIENT TYPES



### **State Government**

Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.



### **Local Government**

Any unit of government within a state, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other agency or instrumentality of a multi-, regional, or intra-State or local government.



### **Indian Tribe**

Any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Chapter 33), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

# FEDERAL FINANCIAL ASSISTANCE

## RECIPIENT TYPES



### **Institute of Higher Education (IHE)**

2 CFR 200.1 does not define IHEs but refers the reader to [20 U.S.C. 1001](#) for a complete definition.



### **Nonprofit Organizations**

Means any organization, not including institutions of higher education, that is operated primarily for scientific, education, charitable or similar purposes in the public interest; and is not organized for profit, with net proceeds directed to maintain, improve, or expand the operations of the organizations.



# FEDERAL FINANCIAL ASSISTANCE

## KEY TAKEAWAYS



Learned about some of the key differences between financial assistance and procurement, as well as the difference between discretionary and non-discretionary programs.



Introduced the concept of the four stages of the Grants lifecycle, which include: pre-award management, award management, post-award management, and closeout.



Explored the different types of financial assistance instruments that are used to implement Federal programs.



Learned about the key types of recipients who receive financial assistance awards.