

Rhode Island Office of Management & Budget

1

SUB-RECIPIENT AND CONTRACTOR DETERMINATIONS

APRIL 28, 2016

Agenda

2

When is a Entity a Sub-Recipient and Not a Contractor?

Laurie Petrone, Office of Management and Budget

Schedule of Expenditures of Federal Awards

Jenny Findlay, Office of Accounts and Controls

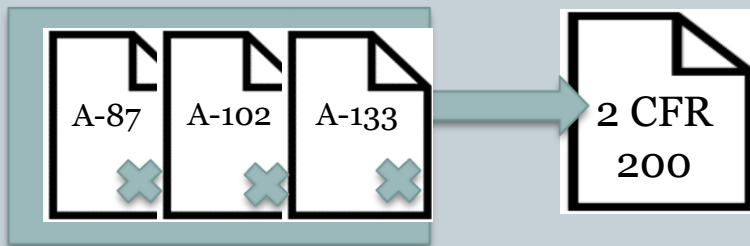
Purchasing Instruments – Changes Required for SFY 2017

Nancy McIntyre and Cheryl McGurn, Division of Purchases

Uniform Grant Guidance: A Primer

3

Replaces existing circulars:



Applies to: “Non-federal Entities”

- States
- Local Government
- Tribal Nations
- Non-Profits
- Institutions of Higher Education (IHE)

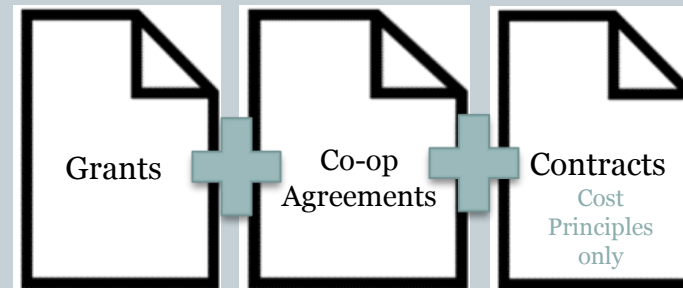


Effective Date:

December
2014

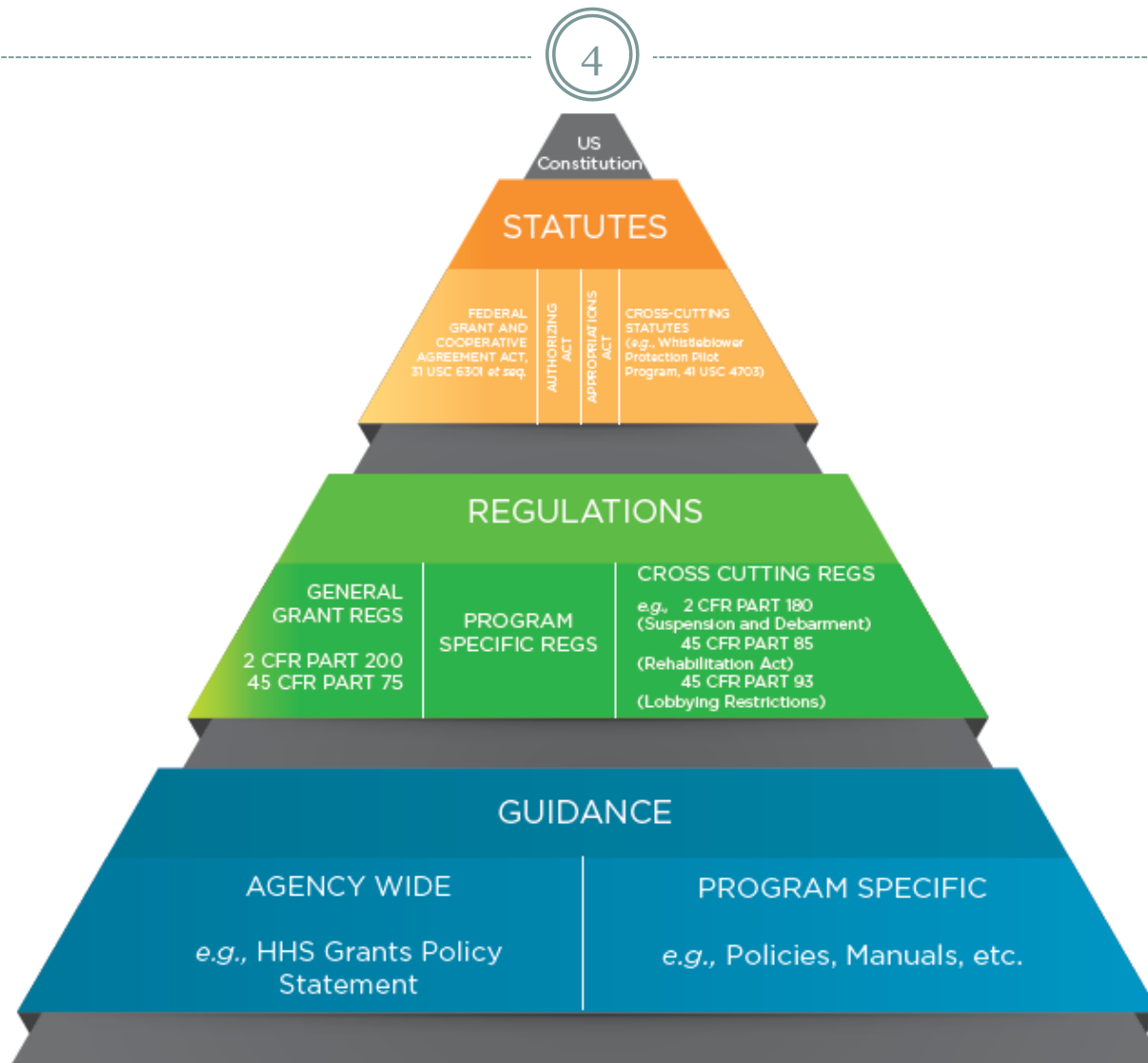
26

Guidance for Federal and Non-Federal Entities that applies to:



Federal contracts follow the FAR, plus UG for cost principles only

Federal Program Governance



Definitions – 2 CFR 200

5

Sub-recipient means a non-Federal entity that receives a sub-award from a pass-through entity to **carry out part of a federal program**; but does not include an individual that is a beneficiary of such program. A sub-recipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

2 CFR 200.93

Sub-award means an award provided by a pass-through entity to a sub-recipient for the sub-recipient **to carry out part of a Federal award** received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A sub-award may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

2 CFR 200.92

Definitions – 2 CFR 200

6

Contractor means an entity that receives a contract as defined in §200.22 Contract. (*Note: Replaces term vendor used in previous guidance*).

2 CFR 200.23

Contract means a legal instrument by which a non-Federal entity **purchases property or services** needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or sub-award.

2 CFR 200.22

Definitions – 2 CFR 200

7

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or sub-recipient.

2 CFR 200.69

A non-federal entity can be

- Recipient
- Sub-recipient
- Contractor

Pass-through entity means a non-Federal entity that provides a sub-award to a sub-recipient to carry out part of a Federal program.

2 CFR 200.74

Sub-Recipient / Contractor Determinations

8

- The pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of federal program funds casts the party receiving the funds in the role of a sub-recipient or a contractor.
- The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

2 CFR 200.330

Sub-Recipient Characteristics

9

Sub-Recipient: A sub-award is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the sub-recipient.

- Determines who is eligible to receive what Federal assistance;
- Has its performance measured in relation to whether objectives of a Federal program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

2 CFR 200.330(a)(1-5)

Contractor Characteristics

10

Contractor. A contract is for the purpose of obtaining goods and services for the non-federal entity's own use and creates a procurement relationship with the contractor.

- Provides the goods and services within normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of the Federal program; and
- Is not subject to compliance requirements

2 CFR 200.330(b)(1-5)

Judgement is Involved

11

- In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a sub-recipient or a contractor, the substance of the relationship is more important than the form of the agreement.
- All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a sub-award or a procurement contract.
- Look at the nature of the relationship. It does not matter what the agreement is called.

2 CFR 200.330(c)

85-90 percent of cases are black and white.

The rest are gray, and this is where judgement comes in!

Sub-Recipient / Contractor Determination Tool

12



Rhode Island Office of Management and Budget Sub-Recipient / Contractor Determination Tool

The Office of Management and Budget (2 CFR 200.330) requires federal award recipients to make case-by-case determinations as to whether each agreement entered into for the disbursement of federal program funds casts the entity receiving the funds in the role of a sub-recipient or a contractor based on the following definitions:

- A **Sub-Recipient** receives federal funds from a non-federal entity to **carry out part of a federal program**. The legal agreement between the two parties creates a federal assistance relationship commonly known as a **sub-award**.
- A **Contractor** is an entity (dealer, distributor, merchant, or other seller) who has a legal agreement with a non-federal entity to **provide goods and services** needed to carry out the program under a federal award.

1. Enter State Agency, Entity, and Federal Award Information*

State Agency:	<input type="text"/>
Receiving Entity Name:	<input type="text"/>
Name of Entity Agreement:	<input type="text"/>
Agreement Identification Number:	<input type="text"/>
Program CFDA Number:	<input type="text"/> - <input type="text"/>
Federal Award Identification Number:	<input type="text"/>

*If the agreement is funded with more than one federal award, use OMB Form 16-01A to list additional federal awards funding agreement.

2. Answer each question with "Yes" or "No" as it applies to the agreement that the agency is entering into the entity.

The questions below are designed to assist in determining the nature of the relationship with the receiving entity. Agencies should determine the federal funding agency has supplied additional guidance regarding these determinations. The substance of the relationship drives the determination, rather than the form of the agreement (e.g., contract, grant, etc.).

Yes	No	Characteristics Indicative of a SUB-RECIPIENT	Basis for Determination
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity have the authority to make decisions about the delivery of the program, in accordance with federal regulations?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity have the authority to determine who is eligible for the program?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity use the funds to carry out a public project and/or provide a public service?	
<input type="checkbox"/>	<input type="checkbox"/>	Did the state agency make an announcement that funding was available or that it was "seeking applications" for funding, even if funds were to be awarded on a competitive basis?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity be required, as a condition of receiving federal funds, to contribute match or in-kind funds to the project?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity be reimbursed for actual costs incurred for allowable activities outlined in the agreement and generally not earn a profit as a result of the agreement?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity be required to follow federal requirements specified in the federal award?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity have its performance measured against the goals and objectives of the federal program or programs as outlined in the Federal award letter?	

Reference: 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
OMB Form 16-01 Revised 4/15/16
Page 1 of 2



Rhode Island Office of Management and Budget Sub-Recipient / Contractor Determination Tool

Yes	No	Characteristics Indicative of a CONTRACTOR	Basis for Determination
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity provide goods or services that are ancillary to the operation of the federal program?	
<input type="checkbox"/>	<input type="checkbox"/>	Does the entity provide similar goods and services to many different purchasers within the normal business operations?	
<input type="checkbox"/>	<input type="checkbox"/>	Does the entity operating in a competitive environment, i.e., compete with other organizations to provide a similar good or service?	
<input type="checkbox"/>	<input type="checkbox"/>	Was the entity selected based on price alone subsequent to a request for quotes?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity need to be paid a set fee or fixed price above its cost (profit) for the goods and services outlined in the agreement?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity have its performance measured against whether it meets specific contract deliverables rather than the program outcomes?	
<input type="checkbox"/>	<input type="checkbox"/>	Will the entity assume all financial risk if they fail to deliver the agreed-upon goods and services?	

3. Make a Determination.

Review the "Yes/No" responses to the questions and related notes. One "Yes" or "No" answer in response to any single question does not necessarily make the entity a sub-recipient or a contractor. Make a final judgment after reviewing all responses. Based on the above analysis, the relationship with this organization has been determined to be:

Sub-Recipient Relationship
 Contractor Relationship

Summary of Basis for Determination

4. Complete Required Signatures and Dates.

Printed Name of Agency Representative Making Determination

Signature of Agency Representative Making Determination

Date of Determination

Signature of Chief Financial Officer of Designee

Date

Reference: 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
OMB Form 16-01 Revised 4/15/16
Page 2 of 2

Sub-Recipient / Contractor Determination Tool

13



Rhode Island Office of Management and Budget Sub-Recipient / Contractor Determination Tool Additional Federal Awards

Use this form in conjunction with OMB-16-1 Sub-Recipient / Contractor Determination Tool to report additional federal awards used to fund the referenced agreement.

1. Enter State Agency, Entity, and Additional Federal Award Information

State Agency:	<input type="text"/>
Receiving Entity Name:	<input type="text"/>
Name of Entity Agreement:	<input type="text"/>
Agreement Identification Number:	<input type="text"/>
Program CFDA Number:	<input type="text"/> - <input type="text"/>
Federal Award Identification Number:	<input type="text"/>
Program CFDA Number:	<input type="text"/> - <input type="text"/>
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Federal Award Identification Number:	<input type="text"/>
Program CFDA Number:	<input type="text"/> - <input type="text"/>
Federal Award Identification Number:	<input type="text"/>

2. Complete Required Signatures and Dates.

Printed Name of Agency Representative Making Determination

Signature of Agency Representative

Date Form Completed

Sub-Recipient / Contractor Determination Tool

14

Questions That May Reveal Characteristics Indicative of a Sub-Recipient:

- ✦ Will the entity have the authority to make decisions about the delivery of the program, in accordance with federal regulations?
- ✦ Will the entity have the authority to determine who is eligible for the program?
- ✦ Will the entity use the funds to carry out a public project and/or provide a public service?
- ✦ Did the state agency make an announcement that funding was available or that it was “seeking applications” for funding, even if funds were to be awarded on a competitive basis?

Sub-Recipient / Contractor Determination Tool

15

Questions That May Reveal Characteristics Indicative of a Sub-Recipient:

- ✦ Will the entity be required, as a condition of receiving federal funds, to contribute match or in-kind funds to the project?
- ✦ Will the entity be reimbursed for actual costs incurred for allowable activities outlined in the agreement and generally not earn a profit as a result of the agreement?
- ✦ Will the entity be required to follow federal requirements specified in the federal award?
- ✦ Will the entity have its performance measured against the goals and objectives of the federal program or program as outlined in the federal award letter?

Sub-Recipient / Contractor Determination Tool

16

Questions That May Reveal Characteristics Indicative of a Contractor:

- ✦ Will the entity provide goods or services that are ancillary to the operation of the federal program?
- ✦ Does the entity provide similar goods and services to many different purchasers within the normal business operations?
- ✦ Does the entity operate in a competitive environment, i.e., compete with other organizations to provide a similar good or service?
- ✦ Was the entity selected based on price alone subsequent to a request for quotes?

Sub-Recipient / Contractor Determination Tool

17

Questions That May Reveal Characteristics Indicative of a Contractor:

- ✦ Will the entity be paid a set fee or fixed price above its costs (profit) for the goods and services outlined in the agreement?
- ✦ Will the entity have its performance measured against whether it meets specific contract deliverables rather than the program outcomes?
- ✦ Will the entity assume all financial risk if they fail to deliver the agreed upon good and services?

Test Yourself . . . Sub-Award or Contract? #1

18

- Recruit, hire train, support, and evaluate consumers who must be current or recent consumers of Department of Health programs
- Gather systematic feedback as to how Maternal & Child Health programs are working at both the community and state level.
- Help families to identify and understand the eligibility criteria for various benefit/entitlement programs
- Assist families in accessing insurance or other financial assistance for health care
- Assist in data collection, surveys, assessment and reporting as required.
- Report quarterly on program services provided under the auspices of this task
- Recommend changes and/or modifications to programs, policies and procedures, and the service delivery system based on feedback
- Adhere to all the OMB Circular A-122, Cost Principles for Nonprofit Organizations, and especially Attachment B, Section 25 Lobbying

Test Yourself . . .Sub-Award or Contract? #2

19

- The overall goal of this agreement is to provide epidemiological and analytical support to programs for short and long-term projects.
- The entity will focus on activities related to epidemiology, program evaluation, community needs assessment, and other public health related data analyses via consultant services provided to department
- The number of projects and activities to be performed will be dependent on the needs of programs and available funding.
- The entity will use a Task Order method to supply the data, information, and analytical expertise required.
- Analyze the RI Behavioral Risk Factor Surveillance System (BRFSS) weighted data set to determine the relationship between social determinants of health and survey variables associated with health-related Quality of Life. In addition to the analyses, deliverables will include the production of two infographic fact sheets.
- Data collection and analysis have defined schedules for the production of reports dictated by existing requirements or mandated by legislative or funding sources.

Test Yourself . . .Sub-Award or Contract? #3

20

- Platform to Employment (P2E) will serve 175 individuals who are long-term unemployed. The program will:
 - Provide a five week job readiness component (boot camp);
 - Provide financial coaching;
 - Support the participant with behavioral health services;
 - Seek to place participants in an eight week paid internship in a company that can provide an occupation that closely matches the participant's skill set; and,
 - Provide post-graduation services in partnership with the Rhode Island Jobs Club who will offer on-going job club services.
- P2E and DLT will develop a letter to be sent to JD NEG eligible participants in the state. This letter will be on DLT letterhead and DLT will mail the letter. The letter will provide specific steps for unemployed individuals to complete P2E's on-line application.
- Project's Measurable Outputs and Outcomes
 - Input-Outreach to target population -long-term unemployed: 400
 - Input-Enrollments: 175 participants (Seven cohorts of 20-28)
 - Output-Participate psychological assessment: 170

If Sub-Award, Then Agency Must

21

- Identify as Sub-Award – Include specific award elements in agreement. OMB Form 15-01 (2 CFR 200.331)
- Terms and Conditions – Ensure that the federal award is used in accordance with federal statute, regulations, and federal award terms and conditions
- Indirect Cost Rate – Federally approved, state-negotiated, or de minimis rate
- Sub-recipient risk assessment
- Sub-recipient monitoring
 - Financial
 - Programmatic performance
- Single Audit – Management decision, if appropriate
- FFATA reporting

Resources

22

Presentation materials and reporting tools will be available for download early next week at: www.omb.ri.gov/grants

For more information, contact:

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Laurie.Petrone@omb.ri.gov

Agenda

23

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Laurie Petrone, Office of Management and Budget

Schedule of Expenditures of Federal Awards

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Purchasing Instruments – Changes Required for SFY 2017

Nancy McIntyre and Cheryl McGurn, Division of Purchases

Sub-award General Ledger Reporting

24

- Effective July 1, 2016, agencies will be required to use a new natural specifically for sub-awards. This will ensure correct reporting of federal awards passed through to sub-recipients, which is required under federal *Uniform Administrative Requirements, Cost Principles, and Audit Requirements*.
- The federal (source 02) amounts identified under this new natural will be reported on the Statement of Expenditures of Federal Awards (SEFA), part of the State's Single Audit report.

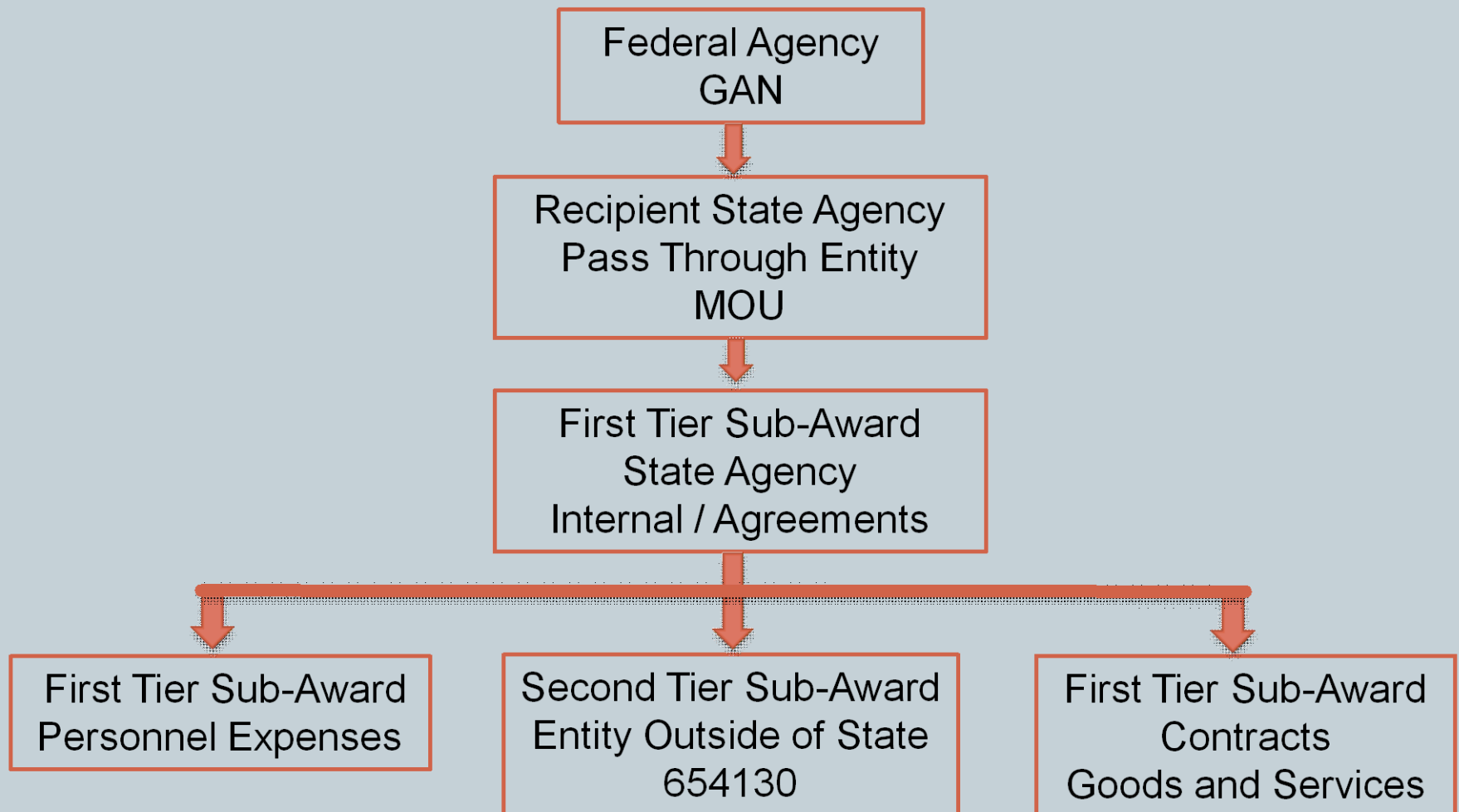
Sub-award General Ledger Reporting

25

- Natural **654130**, Payments of Sub-Awards: use beginning on July 1, 2016. This natural is exclusively for expenditures which are payments passed through to sub-recipients as sub-awards.
 - Use regardless of source of funds – general revenue, federal, restricted, etc.
- Natural 654120, Other Grants will be deactivated after SFY16.
- Any naturals currently in use for payments of sub-awards should be coded as 654130 beginning on 7/1/2016.

State Agency to State Agency Sub-Awards

34



Exception: Transfers to Component Units

27

- Agencies making payments of sub-awards to State Component Units will continue to use natural series 692110 through 692295, Transfers to CU-XXX.
- Transfers to Component Units must be disclosed in the notes to the Comprehensive Annual Financial Report (CAFR) separately, under Governmental Accounting Standards Board (GASB) standards.
- For the purposes of sub-award reporting, these transfers will be identified by alternate means by the Office of Accounts and Control in order to include in the SEFA sub-award report.

Transfers to Component Units

28

Component Unit	Natural	Natural Description
University of Rhode Island	692110	Transfer To CU-URI
Rhode Island College	692120	Transfer To CU-RIC
Community College of Rhode Island	692130	Transfer To CU-CCRI
Central Falls School District	692140	Transfer To CU-CFSD
The Metropolitan Regional Career and Technical Center	692145	Transfer to CU-Met Center
Rhode Island Commerce Corporation	692150	Transfer To CU-RICC
Rhode Island Convention Center Authority	692160	Transfer To CU:RICCA
Rhode Island Public Transit Authority	692180	Transfer To CU-RIPTA
Rhode Island Housing and Mortgage Finance Corporation	692220	Transfer To CU-RIHMFC
Quonset Development Corporation	692270	Transfer To CU-QDC
Rhode Island Resource Recovery Corporation	692280	Transfer To CU-RIRRC
Rhode Island Turnpike and Bridge Authority	692285	Transfer To CU-RITBA
Rhode Island Airport Corporation	692290	Transfer To CU-RIAC
I-195 Redevelopment District Commission	692295	Transfer To CU-I-195RDC

Transfers to Related Organizations

- “Related Organizations” are quasi-public agencies which do not meet the GASB criteria for inclusion in the CAFR as component units.
- Agencies making transfers (payments) of sub-awards to State Related Organizations will use natural 654130 as of 7/1/2016.
 - Rhode Island Infrastructure Bank (formerly Rhode Island Clean Water Finance Agency)
 - Rhode Island Health and Education Building Corporation
 - Narragansett Bay Commission
 - Rhode Island Student Loan Authority

SFY16 Year-End Accruals

30

- Agencies will use the sub-award expenditure naturals currently in use during SFY 2016, for accounts payable accruals at 6/30/2016.
- Automatic reversals of accounts payable accruals in SFY 2017 will be reclassified to the natural 654130, so that proper SEFA reporting can occur. Accounts and Controls will assist in identifying and reclassifying those accrual reversals.

Batch Payments Changes

31

- Agencies that use batch payment systems must change their data base for payments of sub-awards to natural 654130, effective 7/1/2016.

Office of Accounts and Control

32

For more information regarding the general ledger reporting of sub-awards in SFY17 and beyond, please contact:

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Agenda

33

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Purchasing Instruments – Changes Required for SFY 2017

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Purchasing Instruments

34

Two types of Purchase Orders:

- Purchase Agreements
- Standard Purchase Order
- Sole Source and Delegated/Grants are either Purchase Agreement or Standard Purchase Order

To reiterate, the current RIFANS natural account 654120 will be eliminated effective 6/30/16

- New RIFANS natural account 654130 must be used 7/1/16 and is specific to sub-awards to sub-recipients
- Use 654130 for payments for sub-awards to sub-recipients Fiscal Year SFY 17 releases

Required Agency Action Items


35

- Agencies are responsible to examine existing purchase agreements to determine sub-recipients based upon sub-recipient characteristics. A report of these releases against purchase agreements is forthcoming and will be distributed in the near future.
- A RIFANS report listing has been generated for SFY 16 agency standard purchase orders currently under natural account 654120 and will be provided to agencies today. Agencies are responsible to review this data to:
 - Determine sub-recipient purchase orders based upon sub-recipient characteristics
 - Refer to 3/18/16 Fiscal Year Transition Timetables and Deadlines Memo for action item timelines
 - Perform releases and purchase orders by required timeline
 - Perform any necessary action by required timeline for purchase orders:
 - ☑ that are finalized and in need of agency close out; or
 - ☑ determined Non-sub-recipients and in need of agency change to other natural account and perform change order

RIFANS SFY'17 Action Plan

36

If agency determines agreement is a sub-recipient based upon characteristics:

- At this time, RIFANS rollover is planned to be performed by DOA Purchases for the Purchase Orders changing to the **654130** account.
- Standard Purchase Orders scheduled to roll over will not be available until 8/1/16
-  If the rollover is unsuccessful the Agency is responsible to perform necessary resolve – Purchases will issue instruction based upon the RIFANS rollover results
- For Standard Purchase Orders **improperly** classified at this time as natural account # 654120 and subject to roll over – **Agencies must not allow roll over to the new account # 654130.** The agency must **process a change order to the appropriate natural account prior to 6/30/16.**

Helpful tool for requisitioning staff - New Purchases RIFANS Requisitioner 101 Training Manual will soon be stored in the Agency Info Center Training Folder

New Request For Proposal (RFPs)

37

Sub-Recipient/Sub-Award Agency Action

- ☑ Agencies must use the new account #654130 on the Requisition

Office of Purchases

38

For questions related to purchasing and roll-overs, please contact:

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Diane Tambashi

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