

Questions and Answers regarding the ARRA Terms and Conditions

April 22, 2009

1. Forms

1.1 CCR registration-

- a. Should the grantee agency register, or the jurisdiction? For example, should the City of Milwaukee or the Milwaukee Health Department be on the CCR? *[This is the Grantee's call, as long as it's consistent in using just one number for the grant. The Office of Healthy Homes and Lead Hazard Control (OHHLHC) suggests that the agency register, for the sake of specificity.]*
- b. Also, do we have a definition of "first tier" subrecipient that registers with the CCR? Is it any subrecipient receiving funds from the primary grantee? *[Yes.]*

1.2 What is the difference between the in-kind/match reporting on the SF 269 vs. the new SF-425? *[The SF-425 requires reporting of match/leveraging fulfillment.]*

1.3 a. Will the SF-425 and SF-PPR-Recovery forms be within QPRS, or RAMPS? *[The forms are not within QPRS; RAMPS is still being developed, so this cannot be answered at this point.]*

- b. Is the RAMP system the new HUD reporting system that all grantees will migrate to, or is it just for ARRA grants? *[RAMPS is just for the Recovery Act ("RA"). What other system may develop cannot be known yet; the Department has a multi-year grant systems integration project in works.]*

1.4 a. The following certifications/assurances were not forms that were completed as part of the application, but are referenced in the T&Cs: *[Three of the certifications are included in the General Section of the NOFA, and, thus, are incorporated into the grant agreement in accordance with Block 21 of the SF 424, indicating that the applicant made those certifications by signing the form.]*

- Certification Regarding Parties Excluded From Procurements *[Debarment, 73 FR 14885; Section III.C.2.j]*
 - Certification Prohibiting Excessive Force Against Non Violent Civil Rights Demonstrators *[See comment in item 1.4d, below.]*
 - Certification/Disclosure Regarding federal Debt *[73 FR 14885, section III.C.2.e]*
 - Certification Regarding a Drug-Free Workplace *[73 FR 14888, section III.C.4.p]*
- b. What do we mean by this section, if there are no forms to complete? *[The grantee made these certifications when applying.]*
 - c. Is the grantee making a certification that it is meeting the General Section requirements as part of signing the grant agreement? *[Yes, the General Section requirements are incorporated. For example, under the LHC NOFA (at 73 FR 27163), section III.C.1, Threshold Requirements, has applicants "see the General Section as well as threshold requirements listed in this subsection." The certifications are threshold requirements.]*
 - d. Also, I was unable to find information about force against civil rights demonstrators in the General Section. *[The answer to this is being developed; we will advise you shortly.]*

2. Subrecipients and vendors

- 2.1 a. Who is considered a subrecipient? *[One of the categories of entities that get money from a grantee for helping implement the grant. As stated in the circular section discussed in item 2.1.c, below, OMB has provided guidance on distinguishing among subrecipients and vendors, which is provided at the end of this set of questions and answers. The link to the circular is www.whitehouse.gov/omb/circulars/a133/a133.aspx; for clarity, HUD will add the link to the next edition of the terms and conditions.]*
- b. What about contracts issued to contractors, risk assessors, etc.- are they vendors? *[See the OMB guidance, copied below; these are vendors.]*
- c. We seem to be missing a citation: “Guidance on distinguishing between a subrecipient and a vendor is provided in § .210 of OMB Circular A-133.” *[No; the citation correct is as shown. OMB provided language for use by agencies; the intent was that, when agencies put the wording into their Title of the Code of Federal Regulations in their CFR Part, they use the same Section number. Because the Part number varies among agencies, OMB uses the underscore as a placeholder.]*
- 2.2 a. Need more guidance on subrecipient reporting. How will this reporting be different from what is currently required? *[It is the basically the same. See following answer.]*
- b. The T&Cs say that you can do consolidated report for subrecipients, isn’t that what they already do through QPRS- is that the “consolidated report”? Or will QPRS require you to break out subrecipients results by recipient? *[No. Grantees have to get the individual subrecipients’ information in order to consolidate it, for audits, etc.]*
- c. What level of reporting will be necessary for 2nd-tier subrecipients? *[None .]*
- d. Is there also a requirement to do subrecipient on-site monitoring? *[This is always an option, and should be done when a large fraction of the funding is passed through to subrecipients.]*

3. Other grants

- 3.1 a. Grantees would like guidance on which elements of the new T&Cs will be applied retroactively to past grantees. *[Formally, the T&Cs apply only to the Recovery Act grants, but some policy directions (e.g., greater transparency by implementing the Federal Financial Accountability and Transparency Act of 2006) will likely last.]*
- b. For example, will all OHHLHC grants switch to the new SF 425? Is the SF- 269 going away? *[The SF-269 will be going away, and there will be a public notification of when and how this will affect existing grantees.]*

- 3.2 Davis Bacon- if one project triggers D-B, do all additional funds on the project need to comply? For example, in WA state, when D-B is triggered for a rehab project that is also receiving LHC, the LHC also needs to comply. *[Yes; as HUD described in the FY 2008 NOFAs.]*
- 3.3 Does OHHLHC anticipate challenges in combining ARRA funds for LHC and NSP? Could use some additional guidance on this- should they treat the units as vacant if they are unable to put income restrictions on future buyers or tenants? *[No challenges, only opportunities! The units can be treated as vacant if they are vacant. If the work uses LHC funds, income restrictions on future tenants (not buyers) will have to be included in the property documents (e.g., subsequent deed, mortgage documents, etc.).]*

4. Funds

- 4.1 a. Regarding the last LOCCs drawdown: can you project a cost if bill is not yet received in time for the closeout report/final draw down? Grantee could pledge to adjust for the difference between estimated and actual, and return funds if necessary. *[For the Recovery Act grants, none of these projection considerations apply; the invoice has to be paid within the 36 month period, and, therefore, submitted earlier into LOCCS, and approved by the GTR (as submitted or as revised, if necessary) before the end of the 36th month.]*
- b. Is this the “advance payment” authorized in the T&Cs? *[Separately, the advance payment is intended for the startup phase of the grant.]*
- 4.2 If setting up a fund to pay invoices not yet received, need guidance on paying interest. *[See 24 CFR 84.22 or 85.21 (as applicable), Payment, on accounts for holding advances of Federal funds.]*
- 4.3 Regarding “Advance Payments” and authorization to spend up to 10% of grant for start up activities- can that include training? *[Yes; per 24 CFR 58.34(a)(9). Activities under the grant before the Release of Funds under environmental regulations (24 CFR part 58 or part 50) must not include any work to the units with a clearance, only administrative type costs.]*

5. Requirements

- 5.1 a. Confidentiality section- is this new to the ARRA awards, or to 2009 grants? And is this required for housing agencies too? *[This requirement will be applied to ARRA and subsequent grants. We are considering its applicability to existing grants.]*
- b. In general, housing agencies limit the amount of medical information they collect so they do not trigger HIPAA or other medical confidentiality provisions. If the information is aggregated, do they still need to keep everything locked up? *[The provision applies whether the grantee is a housing agency or not; “files on individual program beneficiaries served” must be “confidential.” The provision is not restricted to medical information.]*

OMB Circular A-133 wording on subrecipients and vendors, cited in Q&A 2.1.

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§ ____.210 Subrecipient and vendor determinations.

...

(b) Characteristics indicative of a Federal award received by a subrecipient are when the organization:

- (1) Determines who is eligible to receive what Federal financial assistance;
- (2) Has its performance measured against whether the objectives of the Federal program are met;
- (3) Has responsibility for programmatic decision making;
- (4) Has responsibility for adherence to applicable Federal program compliance requirements; and
- (5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

(c) **Payment for goods and services.** Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program.