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Grant Writers Urged To Consider Post-Award Issues

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As grant writers prepare applications under a notice of federal opportunity, they should fully determine whether the entity can appropriately manage the post-award responsibilities and costs under the award, a grants attorney recently told attendees at the Grant Professionals Association annual conference in Washington, D.C., stressing that federal grants are binding agreements on recipients and many costs require prior federal agency approval.

Scott Sheffler, partner at Feldesman Tucker Leifer and Fidell LLP, explained that there are numerous post-award considerations that grant writers should consider prior to an entity receiving a grant award, such as the scope of the project; the engagement of third parties, whether they be subrecipients or contractors; the federal interest in equipment and real property; the allowability of costs; and the ability to recover overhead (i.e., indirect) costs. “So often, a lot of our clients are dealing with things in post-award that are complicated because they didn’t plan for them or fully understand them during the pre-award phase,” he added. “Planning is critical because if you don’t know [your post-award responsibilities] when you apply, you may run into problems that you could have avoided.”

Sheffler said that recipients of federal grants are not simply getting money. Instead, he defined a federal grant agreement as one stating that “if a grant recipient engages in *certain* activities (i.e., scope of project) during a *certain* period of time (i.e., project/budget period), the U.S. government will reimburse the recipient for *certain* costs (i.e., necessary and reasonable direct costs and allowable overhead costs) incurred in engaging in that activity.” He added that if the recipient incurs costs outside the prescribed period of time or seeks reimbursement for charges that are not reasonable or are not documented, they will not be reimbursed as allowable costs. “When you are looking at making a proposal, you want to think about the purpose of the federal award, the time period in which the award will be carried out, and what activities you will be doing to carry out the purpose,” Scheffler explained. “You want to be mindful of each one of the ‘certains’” listed in this definition.

He urged grant writers to be truthful about the information they provide in the grant application related to the goals of the project, measurable outcomes, and the necessary materials and personnel, and reasonable related costs, to achieve those outcomes. They also should work with post-award staff to ensure the pre-award goals can be attained during the award. “Sometimes grant managers have nothing to do with the grant writing process,” he explained. “It’s important if you are in the pre-award office to have those that will be carrying out the project involved in the process at the pre-award phase.”

Sheffler urged grant writers to plan their scope of work around the statute authorizing the program, and aim to conduct specific work within the program’s mission. However, he did note that there are some limited flexibilities when preparing the project narrative and budget. “You can make minor changes in your scope as long as you are not doing something fundamentally different” than what you budgeted to do, he added.

Personnel Costs

Personnel costs are often the top area of disallowed costs, Sheffler said, recommending that grant managers consider the general standard for cost distribution at §200.405(d) in the uniform guidance, and the time and effort documentation provision at §200.430(i). “When you are the grant writer, you want to think about this when applying for federal awards,” he said. “You need to know what the time and effort system will look like, and work with project planners to see if you accurately reflected work performed in your budget.” Sheffler added that because personnel costs are generally the costliest budget item, “shortfalls can be painful.”

Sheffler also said that entities planning to work with partners should accurately determine early on whether the relationship is a “subrecipient” relationship, or a “contractor” relationship,” and make an affirmative decision about how to structure such relationships (see ¶315 in the *Federal Grants Management Handbook*). Essentially, under a subaward, the entity receiving passed through funds carries out a portion of the federal award and does not simply provide goods or services for the benefit of the pass-through entity, while a contractor provides goods or services for the nonfederal entity’s own use on the award. If a grant writer plans to work with a specific subrecipient, Sheffler said to provide this information in the grant proposal, particularly in budget funding, to ensure that the subrecipient is approved by the federal awarding agency.

Federal Interest

Sheffler then discussed federal property interest, adding that the federal government may retain ownership interest in the capital assets that grant recipients acquire or improve with federal funds (§200.329). He explained that if the project will require the acquisition of general or special purpose equipment or improvements to capital assets that “materially increase their value or useful life,” prior approval is required (§200.439), so the grant writer should clearly include these costs in the budget.

Along those lines, if an entity's project plans include participant support costs (i.e., direct costs for items such as stipends or subsistence allowances, travel allowances and registration fees paid to or on behalf of participants or trainees in connection with conferences or training projects) (§200.456), these also should be clearly stated in the budget and discussed in the proposal narrative, as these costs also require prior approval.

Pre-award, Travel Costs

Sheffler said that prior approval is required for pre-award costs (i.e., costs incurred prior to the effective date of the federal award directly pursuant to the negotiation of and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work) (§200.458). He warned that charging costs to the award prior to the effective date of the award can be risky because these costs often are not permitted.

Many grant recipients assume that they have to follow the federal travel regulations when seeking reimbursement for travel costs, Sheffler said, but this is not required. While travel costs are allowable, the allowability of these costs actually depend on whether the grant recipient has a travel policy (§200.473). Therefore, Sheffler recommended that if travel costs are expected, an organization during pre-award should consider its travel policy and, if it does not have one, determine whether it should establish one that would pass muster under the uniform guidance prior to submitting the proposal.