

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION FACT SHEET

State Digital Equity Capacity Grant Program

Subrecipients and Contractors

Recipients (States/Territories) may work with subrecipients and contractors (vendors) for assistance throughout the course of the awarded projects in alignment with Budget and Specific Project details, statutory and NOFO requirements. The roles of each entity in a Federal assistance award are as follows:

- A **subrecipient** is involved in the substantive activities of the awarded project to implement digital equity projects and accomplish program objectives. Terms and conditions from the grant award flow down to the subrecipient.
- A **contractor** provides goods and services to benefit the grant recipient. A contractor does not seek to accomplish a public benefit; rather, it pursues its own commercial objectives.

SUBRECIPIENT AND CONTRACTOR DETERMINATIONS (2 CFR 200.331)

Use the checklist below to help determine whether grant payments expected to be made to a project participant constitute a subaward or a payment for goods and services. Please also see the DE Capacity Grant Agreements Checklist.

SUBRECIPIENT

Characteristics that may indicate that an entity is a subrecipient include:

- ☐ Determines who is eligible to receive Federal financial assistance.
- ☐ Has its performance measured against whether the objectives of the Federal program are met.
- ☐ Has responsibility for programmatic decision making.
- ☐ Has responsibility for adherence to applicable Federal program compliance requirements.
- ☐ Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the recipient.

CONTRACTOR

Characteristics that may indicate an entity is a contractor include:

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

WHAT NEEDS TO BE PRESENT IN A SUBAWARD? (2 CFR 200.332)

Recipients ensure that every subaward is clearly identified to the subrecipient as a subaward (as opposed to a contract) and includes the following Federal award identification information at the time the subaward is made:

- Subrecipient name (which must match the name associated with its unique entity identifier)
- Subrecipient's unique entity identifier
- Federal Award Identification Number (FAIN)
- Federal Award Date of award to the recipient by the Federal agency
- Subaward Period of Performance Start and End Date
- Subaward Budget Period Start and End Date
- Amount of Federal Funds Obligated by this action by the recipient to the subrecipient
- Total Amount of Federal Funds Obligated to the subrecipient by the recipient including the current financial obligation
- Total Amount of the Federal Award committed to the subrecipient by the recipient
- Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)
- Name of Federal awarding agency, recipient, and contact information for awarding official of the recipient
- Assistance Listings number and Title: The recipient must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement
- Identification of whether the award is R&D
- Indirect cost rate for the Federal award (including if the de minimis rate is charged)

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION FACT SHEET

State Digital Equity Capacity Grant Program

Subrecipient Monitoring ([2 CFR § 200.332](#))

SUBRECIPIENT RISK ASSESSMENT

Recipients must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions. Recipients should consider the following:

- The subrecipient's prior experience with the same or similar subawards
- The results of previous audits, including whether the subrecipient receives a Single Audit in accordance with Subpart F, and the extent to which the same or similar subawards have been audited as a major program
- Whether the subrecipient has new personnel or new or substantially changed systems
- The extent and results of any Federal agency monitoring (e.g., if the subrecipient also receives Federal awards directly from the Federal agency).

If appropriate, recipients may also consider implementing specific conditions in a subaward (as described in [2 CFR § 200.208](#)) and notify the Federal agency of the specific conditions.

SUBRECIPIENT MONITORING

Recipients must monitor the activities of the subrecipient as necessary to ensure that the subrecipient complies with Federal statutes, regulations, and the terms and conditions of the subaward. In monitoring a subrecipient, a pass-through entity must:

- Review financial and performance reports
- Ensure that the subrecipient takes corrective action on all significant developments that negatively affect the subaward
- Issue a management decision for audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by [2 CFR § 200.521](#)
- Resolve audit findings specifically related to the subaward

Recipients may choose to take additional actions to ensure subrecipient compliance depending upon the recipient's assessment of risk posed by the subrecipient. The following monitoring tools may be useful for the Recipient to ensure proper accountability and compliance with program requirements and achievement of performance goals:

- Providing subrecipients with training and technical assistance on program-related matters.
- Performing site visits to review the subrecipient's program operations.
- Arranging for agreed-upon-procedures and engagements and establishing standard operating procedures for subrecipient activities.

SUBRECIPIENT AUDIT REQUIREMENTS

The Recipient is responsible for verifying that every subrecipient is audited as required by [Subpart F of 2 CFR Part 200](#) when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the Single Audit threshold of \$1,000,000.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION FACT SHEET

State Digital Equity Capacity Grant Program

Specific Award Conditions

WHAT ARE SACS?

Specific Award Conditions (SACs) are standardized terms of Federal awards supporting project execution, grant administration, and regulatory compliance. SACs are established by the Program and Grants Offices and must be followed by all recipients. While there are some general SACs applicable to all grant recipients, some recipients may have additional SACs imposed depending on administrative burdens and project complexity. Examples of SACs include, but are not limited to:

- Period of performance and funding limitations
- Department of Commerce Financial Assistance Standard Terms and Conditions
- Incorporation of the Notice of Funding Opportunity
- Reporting Requirements and Timeline
- Negotiate in Good Faith: Mandates that recipients must negotiate in good faith with all requesting parties (e.g., public, private, non-profit, etc.)
- Build America, Buy America Act (BABA) Provision or Domestic Preferences for Procurements: Recipients must, to the greatest practical extent, provide a preference for materials, goods, and services produced in the United States.
- Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms: Recipients must take affirmative steps to ensure that small and minority owned-businesses, women-owned businesses, and labor surplus area firms are used whenever possible.

DO ALL RECIPIENTS HAVE THE SAME SACS?

No, not all recipients will have the same SACs. Though most SACs will be consistent across a grant program, some will be specific to certain subsets of awards or to certain recipients. For example, all recipients will have to comply with SACs such as Negotiate in Good Faith and Buy American. The Program and Grants Offices determine recipient-specific SACs during the application review phase. These SACs will be communicated in the award document.

WHERE CAN RECIPIENTS FIND SACS THAT APPLY TO THEIR AWARD?

Recipients should consult their CD-450 to determine the full spectrum of SACs that apply to their project. If recipients have any questions about SACs, they should contact their FPO.

HOW DO RECIPIENTS REMAIN SAC COMPLIANT?

To remain compliant with SACs, recipients should:

- Read and understand the SACs associated with your award (read your CD-450)
- Ensure that your organization has adequate policies and procedures to verify and validate compliance. If not, establish procedures to monitor compliance with SACs.
- Always maintain records, written communications, and correspondence with the FPO and Grants Office.

The FPOs and Grants Specialists will continue to monitor programmatic and regulatory compliance. If recipients deviate from the SACs, the FPO and/or Grants Office may implement corrective actions to bring delinquent recipients into compliance.

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State Digital Equity Capacity Grant Program

Subawards

WHAT TYPES OF ORGANIZATIONS CAN RECEIVE A SUBAWARD?

Grantees can use State Digital Equity Capacity Grant Funds for three purposes: 1) assist in the implementation of the State Digital Equity Plan of the State; 2) pursue digital inclusion activities in the State consistent with the State Digital Equity Plan of the State; and 3) report to the State regarding the digital inclusion activities of the entity (Section 60304(e), Infrastructure Act).

Community Anchor Institutions	County and Municipal Governments
Local educational agencies	Indian Tribes, Alaska Native entities, or Native Hawaiian organizations
Nonprofit organizations	<p>Organizations that represent:</p> <ul style="list-style-type: none"> • Individuals with disabilities, including organizations that represent children with disabilities • Aging individuals • Individuals with language barriers, including: <ul style="list-style-type: none"> • Individuals who are English learners • Individuals who have low levels of literacy
Veterans	
Individuals in the State who are incarcerated in facilities other than Federal correctional facilities	
Civil rights organizations	
Entities that carry out workforce development programs	
Agencies of the State that are responsible for administering or supervising adult education and literacy activities in the State	Public housing authorities in the State
A partnership between any of the entities described above	

If the Administering Entity or Organization (AE/AO) for a State/Territory makes a subgrant described above, the AE/AO shall, with respect to the subgrant, provide to the State the assurances required under **Section 60304(e) of the Infrastructure Act**.