Contracts vs. Grants

July 2019 NOAA Grants Workshop

Presented by:
Contract vs. Grant
What is the Difference?

- **Federal Grant and Cooperative Agreement Act, 31 U.S.C. Section 6301 – 6308:** Establishes the legal instruments to use to reflect particular relationships between the United States Government and a State, local government, or other recipient, based on the principal purpose.

- **Procurement Contract:** Use when the principal purpose of the instrument is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government.

- **Grant:** Use when the principal purpose of the relationship is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and substantial involvement is not expected between the executive agency and the recipient carrying out the activity in the agreement.

- **Cooperative Agreement:** Use when the principal purpose of the relationship is the same as a grant, but substantial involvement is expected between the executive agency and the recipient carrying out the activity in the agreement.
The Differences...

<table>
<thead>
<tr>
<th>GRANT</th>
<th>CONTRACT</th>
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<tbody>
<tr>
<td>Respond to Notice of Funding Opportunity (NOFO) through Grants.gov</td>
<td>Respond to solicitation through FedBizOpps</td>
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<tr>
<td>Grantee ready access to funds when needed</td>
<td>Pay for delivery after receipt</td>
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<tr>
<td>Proposals evaluated based on NOFO</td>
<td>Price is considered</td>
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<td>Grantee can terminate</td>
<td>No contractor right to terminate</td>
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<tr>
<td>Generally no right to protest</td>
<td>Right to protest</td>
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## The Differences...

**Grant**
- Objective is a final progress report, final financial report, and completion of project
- 2 CFR Part 200 Uniform Guidance
- DOC Financial Assistance Standard Terms and Conditions
- Bureau Specific Administrative Standard Award Conditions

**Contract**
- Deliverable is a required product or service
- Federal Acquisition Regulations (FAR); Competition in Contracting Act (CICA)
- NOAA Acquisition Manual
- Commerce Acquisition Manual
The Similarities...

- Provide Federal funds as authorized by law
- Regulated by program or procurement rules or policies
- Competitively and Non-Competitively awarded
- Awarded subject to available appropriations
- Competitive awards are based on solicitation
- Awarded to responsible parties, judged best able to meet authorized purpose based on bid, a negotiation, or proposal that addresses a particular set of criteria.
<table>
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<th>Characteristics - Grants/Contracts</th>
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<tr>
<td><strong>Grant</strong></td>
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<tr>
<td>➢ Work funded by a grant benefits the public good</td>
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<td>➢ Requires specific description of costs</td>
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<td>➢ The nature of work is defined by statute</td>
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<td>➢ Contains language regarding the right to revoke an award or withhold funding</td>
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<td>➢ Scope of work defined by the recipient in grant application and implementation</td>
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<tr>
<td><strong>Contract</strong></td>
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<tr>
<td>➢ Work funded by a contract benefits the Government</td>
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<tr>
<td>➢ Financing may be on a cost reimbursement or fixed price basis</td>
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<td>➢ Contracts are used to obtain specific goods and services under specific conditions</td>
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<tr>
<td>➢ Government right and duty to inspect goods and services</td>
</tr>
<tr>
<td>➢ Scope of work defined by federal agency</td>
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Characteristics - Grants/Contracts

- Primarily competitive selection
- Programmatic and Financial Reports
  - During the life of the award
  - At the conclusion of the project
- Project results are released to the Public
- Award contains terms and conditions on the use of funds, Example: Budgetary Restrictions

- Strict adherence to CICA
- Specific deliverables, reports, or milestones

- Project results or product delivered to the Government
- Award subject to more restrictive conditions outlines in a contractual instrument
Cooperative Agreement vs Contract

- In general terms, “substantial involvement” refers to the degree to which the government is directly performing or implementing parts of the award program.
- In a grant, the federal government provides an oversight and monitoring role only.
- In a cooperative agreement, federal employees participate more closely in performing the program.

When you read “cooperative,” think “working closely.”
Substantial Involvement Factors Under a Cooperative Agreement

- Requirement that the recipient collaborate, train, or detail with NOAA
- Specify direction or redirection of scope of work based on interrelated projects
- NOAA requirement to approve sub-award provisions
- NOAA authority to halt an activity if performance specifications not met
- Use of government facilities or equipment
Examples of NOAA Cooperative Agreements

Snow water storage is a critical aspect of river forecasting and water management strategies across the northern tier and mountainous United States.

NOAA scientists will collaborate with grantee Principal Investigator and university students.

Monitor off-shore fisheries

NOAA scientists will collaborate with recipient, participate in data management decisions, manage the data collected, attend meetings to develop sampling procedures, assist with protocol design and planning of survey activities, participate in planned survey activities, monitor recipient's performance.
Fee, Profit, or Revenue?

Grant

● The non-Federal entity may not earn or keep any profit, unless expressly authorized by the terms and conditions or statutory authorization of the award.

● Any revenue generated resulting from award activities is considered program income

Contract

● Profit is allowable under a contract
Grant Program Income

Income earned by the non-Federal entity that is generated by a grant activity during the period of performance (2 CFR 200.307)

DOC/NOAA uses the additive method, unless otherwise specified

**Additive Method:** Program income **must be added to the Federal award** by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award.

**Deductive Method:** Program income must be deducted from total allowable costs to determine the net allowable costs. **Must be used to reduce the Federal award and non-Federal entity contributions proportionally.**
Quiz

1. What are some similarities between contracts and grants?
2. What are some differences between contracts and grants?
3. How can program income be used?
4. True or False: A characteristic of a grant is a government defined scope of work?
5. True or False: If the government is substantially involved in my grant, then it is a cooperative agreement.
6. True or False: Specific deliverables, reports or milestones are a characteristic of a contract?
7. True or False: The principle purpose of a contract is acquisition by purchase, lease or barter of property or services for the direct benefit or use of the Federal Government?
Questions?