

**Arkansas Department
of
Health and Human Services**

**SUB-GRANT
POLICY AND PROCEDURES**

**Office of Finance and Administration
Contract Support Section**

I. Policy

- A.** A sub-grant is an award of resource assistance to promote a program or goal of public benefit, as authorized by the applicable funding legislation. The nature of the sub-grant, the eligible recipients, the method of award, and the terms and conditions depend on the specifics of the statute that created the grant program (if publicly funded) and the implementing regulations.
- B.** In choosing whether to award funds by contract or sub-grant, states generally follow the selection logic established in the federal Grant and Cooperative Agreement Act of 1977, as amended, which indicates:
1. Use of a legal instrument of acquisition (**contract**) is appropriate when the principal purpose is to acquire property, products, or specific services for the direct use of the government in carrying out its primary functions;
 2. Use of a legal instrument of assistance (**sub-grant**) is appropriate when the principal purpose is more generalized public support, stimulation or capacity-building functions.
- If there is a question as to the most appropriate agreement format, the division should consult with Contract Support Section (CSS).**
- C.** In accordance with Arkansas statutory requirement (Act 1032 of 1999 and A.C.A. §19-4-2201 and §19-4-2202), sub-grants are subject to review by the legislature prior to implementation.

Legislators would like to provide meaningful oversight of the expenditure of public resources and they are interested in learning about service programs that might benefit their constituents. During the legislative committee sessions, representatives from the program divisions should be ready to answer all the logical questions that legislators might have about the specific sub-grants on that day's agenda, as well as more general questions concerning the entire program. Typical questions include:

- a. How and why were the sub-grant recipients selected?
- b. If there were a competitive selection process,
 - (1.) How many responses were received?
 - (2.) How did the other proposals or applications stack up?
 - (3.) Who was involved with the selection process?
- c. How much program discretion is left to the state and how many of the program parameters are dictated by the federal funding agency (in the case of federally funded programs)?
- d. How does the program division monitor performance?
- e. What are the results of previous programmatic monitoring for this sub-grantee and this program?
- f. Are there any special or extraordinary federal reporting requirements?
- g. What is the geographic distribution of sub-grantees in this program throughout the state?
- h. What is the current funding level, and what are the future plans for this program?

1. Non-discretionary sub-grants are exempted from prior legislative review.
Note: Non-discretionary sub-grants are defined as those for which the enabling legislation identifies the specific sub-grantee(s) or group(s) of sub-grantee(s) and Department of Health & Human Services (DHHS) has no discretion concerning selection of sub-grantee(s). Sub-grants are NOT considered non-discretionary just because the funding entity (typically the federal government) agreed to a selection made by DHHS.
2. Certain discretionary sub-grants are exempted from prior legislative review. Exempted discretionary sub-grants include:
 - a. Sub-grants for \$10,000.00 or less;
 - b. Sub-grants to governmental entities;
 - c. Sub-grants for disaster relief;
 - d. Sub-grants for scholarships to post-secondary students;
 - e. Sub-grants containing confidential information, the disclosure of which is determined by the agency to constitute a violation of other provisions of law regarding disclosure.

NOTE: Discretionary sub-grants are defined as those for which DHHS has discretion in the selection of grantee(s).

SPECIAL NOTE APPLICABLE TO SUB-GRANTS:

- **Specific selection procedures for sub-grants should conform to the parameters specified in the originating legislation and implementing program directives.**
- **If any discretionary selection authority is left to the DHHS granting division/office, the selection methodology should be open and competitive to the greatest extent practicable.**
- **In selection activities and documentation, the program division/office has an obligation to uphold public trust for managing public resources fairly and effectively.**

II. Sub-grant Requirements

- A.** Much of the administrative guidance that applies to Professional Consultant Service (PCS) contracts also applies to sub-grants. Examples include:
 1. Office of Chief Counsel (OCC) Audit Section must provide clearance concerning current audit status of proposed sub-grantees.
 2. Sub-grantees should be corporate or governmental entities and not individuals or sole proprietors. Any exceptions must be approved in writing by OCC.
 3. Prior to award, DHHS should insure that the intended sub-grantee is not debarred or excluded from participation in government programs.
 4. Any sub-grant with a Constitutional Officer or his/her spouse requires the sub-grantee to disclose, in accordance with Executive Order 98-04, and Act 34 of 1999. Prior approval of the Joint Budget Committee during legislative sessions or the Legislative Council between sessions AND the Governor is required.

5. Certification regarding lobbying is required for those sub-grantees receiving over \$100,000.00 in federal funds.
 6. ALL completed sub-grants and all supporting documentation of selection, award, and monitoring activities should be retained on file for a minimum of five years from the expiration date of the sub-grant (six years if Health Insurance Portability and Accountability Act (HIPPA) -related).
 7. Sub-grantees shall insure non-discrimination and equal opportunity by sub-grantees in compliance with all applicable federal laws, regulations, executive orders and civil rights rules and regulations.
 8. To be considered valid and binding, a stamped or automated signature by the parties agreeing to the sub-grant must be:
 - a. Unique
 - b. Capable of being verified, and
 - c. Under the sole control of the signatory
- B.** It is the responsibility of the applicable program division to comply with Act 1032 of 1999 by categorizing each sub-grant as:
1. Discretionary, and subject to legislative review,
 2. Discretionary, and exempt from legislative review, or
 3. Non-discretionary (and, therefore, not subject to legislative review).
- C.** Discretionary sub-grants subject to legislative review are due to CSS in final form two weeks prior to the meeting of the Review Committee for the desired cycle of review, depending upon intended implementation date. The Review Committee normally meets the first Wednesday of each month.
- D.** Sub-grants are normally limited to the biennium for which the appropriation is designated. If a sub-grant is to exceed the biennium, it must contain language concerning the appropriation.

E. Reimbursement Guidelines

The sub-grantee and division should agree upon the method of reimbursement before a sub-grant is developed. In no case shall payments exceed the maximum liability of the sub-grant. The following methods are acceptable for public or private sub-grantors.

1. Actual Cost Reimbursement

Actual cost reimbursement is based on a complete budget/cost allocation and a line-item justification.

2. Scheduled Reimbursement

Scheduled reimbursement is based on a schedule of costs or line-item budget that is on file with the division. The cost schedule is derived from recurrent preset expenses. Through the cost schedule, the sub-grantee assures that certain expenses will be incurred during specific periods of time. Reimbursement is based on the cost schedule or budget and payment corresponds to the actual incurred expenses for each specified period.

F. Sub-grant Format

1. A certain degree of latitude and discretion is involved in selecting the appropriate format for a sub-grant. Since each sub-grant program must conform to the parameters, constraints, and conditions of the founding legislation and implementing directives that created it, there is no single standardized form designated for use by state agencies. For all sub-grants that exceed one thousand dollars (\$1,000), there must be a notice of sub-grant award (NGA) to serve as a definitive source document to provide clear communication of sub-grant terms to the sub-grantee and to provide audit reference. In some cases, highly specialized sub-grant formats and related NGA's have been developed to carry out the sub-grant program and corresponding state plan for implementation. Examples include sub-grant programs in fulfillment of the Community Services Block Grant, welfare reform, childcare legislation, and benefit programs for the elderly. If the division decides to use their standard sub-grant format, that division will be responsible for filling out the **DHHS-9602 (Sub-grant Transmittal Sheet for Non-Standard Sub-grants)** form before submitting the sub-grant to the Records Management Unit (RMU).

2. In the absence of an existing sub-grant format tailored to the specific program requirements, the program division should use the form **DHHS-9600 (Sub-grant Agreement)** as a standardized agreement format. Creation and utilization of a new tailored sub-grant format (to be used in place of the **DHHS-9600**) should be approved by OCC. The **DHHS-9600** suffices as an NGA.

NOTE:

If a specialized format is used, it is the responsibility of the program division/office Director to insure that all required elements are covered. These include, at a minimum, assurances regarding

- **Compliance with federal non-discrimination legislation**
- **Administrative assurances and monitoring**
- **Programmatic assurances and monitoring**
- **Financial terms and conditions**

In addition, the division/office shall include the DHHS-9602 in the sub-grant packet to RMU.

- G. For sub-grants that total one thousand dollars (\$1,000) or less, the creation of an NGA is optional at the discretion of the program manager. A "stand alone" standard purchase order can be created, with notation of the purpose of the sub-grant award entered in the narrative text.

- H. All sub-grants with associated NGA's shall be entered into AASIS as outline agreements, against which corresponding purchase orders are to be created. This provides a mechanism for tying together all purchase orders for a specific sub-grant and providing an over-arching audit portal. The outline agreement number shall be used as the sub-grant number.

III. Development of Sub-grants

Since all sub-grants must conform to the unique parameters of their respective funding legislation and associated regulatory guidance, development of the sub-grant agreement is normally accomplished by assigned program staff. In special circumstances, CSS may develop sub-grants upon receipt of specific documented authorization to do so from the

DHHS program divisions requesting this technical assistance. Requests will be handled on a case-by-case basis.

A. The following procedures apply to development actions executed by CSS (for development actions executed by the division, proceed to **B.** below):

Contracting Automation Platform (CAP) is the electronic system through which sub-grants are authorized, developed, reviewed, approved, and signed.

1. Division shall submit authorizations to CSS in electronic format.
2. Required elements for the authorization from the program division include:
 - a. Completed **Data Input Form (DHHS-9191)** (except for those sub-grants paid through the voucher system)
 - b. Completed page 1 of the **Sub-grant Agreement form (DHHS-9600)**
 - c. Any legal attachments
 - d. Any other information necessary, including financial information
3. Upon receipt of the authorization, assigned CSS individual(s) shall review the authorization, consult with the sub-grantee, develop the sub-grant proposal, and review the completed proposal electronically for technical compliance and completeness. Division Director or designee shall review sub-grants and indicate approval of such electronically. The Administrative Compliance Officer (ACO) shall print the sub-grants for manual signature by the sub-grantees following electronic review and approval by division Director or designee.

B. Required elements/actions for the complete Sub-grant proposal include:

1. **Sub-grant Agreement Form (DHHS-9600)** or alternate NGA (If alternate NGA is used, the **DHHS-9602 (Sub-grant Transmittal Sheet for Non-Standard Sub-grants)** will need to be included in the sub-grant packet.)
2. **Attachments**
 - a. All attachments should be numbered in sequential and consistent form.
 - b. Each page of each attachment should be labeled at the top of the page with the following information:
 - (1.) Attachment number (in numerical, consistent, and sequential format)
 - (2.) Page number (starting with page #1 for each attachment)
 - (3.) Sub-grant number
 - (4.) Action (i.e., NEW for initial Sub-grants)
3. **Budget Information**
 - a. For sub-grants reimbursed on an **Actual Cost** basis
 - (1.) An itemized listing of allowable program expenses and justification are required elements. The total itemized listing should equal the total DHHS funding in the Sub-grant.
 - (2.) The itemized listing shall be made a legal attachment.
 - b. For sub-grants reimbursed on a **Scheduled Reimbursement** basis

- (1.) Scheduled reimbursement is based on a schedule of costs or a line-item budget that is on file with the program division.
- (2.) The schedule should clearly indicate that payments are based on actual expenditures incurred and no advance payments are allowed.
- (3.) The schedule should include the amount and dates of payments to be made during the sub-grant period. The first payment should not be earlier than three weeks after the effective date of the sub-grant.
- (4.) The schedule should address the requirements for invoicing, expenditure reporting, and payment adjustments, if applicable.
- (5.) The reimbursement schedule shall be made a legal attachment.

4. **Contract and Grant Disclosure and Certification Form, if applicable**

- a. Any sub-grant with a Constitutional Officer or his/her spouse requires the sub-grantee to disclose, in accordance with E.O. 98-04, and Act 34 of 1999. Prior approval of the Joint Budget Committee during legislative sessions or the Legislative Council between sessions AND the Governor is required.
- b. Disclosures requiring prior approval should be resolved prior to signature on the sub-grant.
- c. The **Contract and Grant Disclosure Form** shall not be made a legal attachment.

5. **Provider Audit Sign-Off Sheet (PASOS)**

- a. During development of every sub-grant, developer shall determine that an OCC-approved **PASOS** is on file.
- b. This approval should indicate the sub-grantee's audit status is "current".

6. **Data Input Form (DHHS-9191)**

- a. The **DHHS-9191** is not required for those sub-grants paid through the voucher system.
- b. The **DHHS-9191** shall not be made a legal attachment.

C. Other elements may be required to complete the sub-grant. These include, but are not limited to:

1. **Certification Regarding Lobbying**

- a. Certification is required for all sub-grantees that receive in excess of \$100,000.00 in federal funds **per Federal fund source per fiscal year**. This pertains to **all** federal funds received by the sub-grantee, not just the federal funds in this sub-grant.
- b. Certification should be indicated on **Form DHHS-9350, Certification Regarding Lobbying** unless provided elsewhere in the sub-grant.
- c. Certification requires an original signature and date by the sub-grantee.
- d. Certification shall be made a legal attachment to the sub-grant.

2. **Matching Terms**
 - a. Specification of matching terms is required when funds included in the sub-grant have a required match from state and/or local funds.
 - b. See **Terms and Conditions** in the Appendix for sample format for specifying matching terms.
 - c. Matching terms shall be made a legal attachment.
3. **HIPAA Business Associate Agreements (BAA's)**
 - a. BAA's, when required, are to be signed by the sub-grantee to demonstrate the sub-grantee's compliance with HIPAA and included as legal attachments to the sub-grant.
 - b. Sub-grants for DCFS, DDS, DMHS, DYS, DOH, DMS, OAS, OCC, and OST require BAA's IF the sub-grant deals with protected healthcare information.
 - c. Sub-grants for DCCECE, DSB, DOV, DCO, and DAAS do NOT require BAA's.

D. Signing and Processing of Sub-grants

1. The division shall secure electronic approval of the division Director or designee on the sub-grant proposal.
2. CSS ACO shall secure the signature of the sub-grantee on the sub-grant proposal.
3. CSS shall route the signed sub-grant to (RMU) for processing.

E. Legislative Review of Sub-grants

1. RMU shall distribute non-discretionary and exempt discretionary sub-grants. RMU shall hold those discretionary sub-grants for legislative review at the next regularly scheduled Review or PEER subcommittee meeting.
 - a. Review Subcommittee usually meets the first Wednesday of each month.
 - b. PEER Subcommittee usually meets the first Thursday of each month.
2. It is very important for the division to have knowledgeable representatives in attendance at the committee meeting to answer programmatic and budgetary questions about the specific sub-grants on the agenda as well as general questions concerning the entire program.
3. Upon completion of their review, the Review and PEER Subcommittees will send recommendations to the Legislative Council for consideration.
4. The Legislative Council, which usually meets the third Friday of each month, reviews the recommendations of the subcommittees and gives the final approval.

F. Distribution of Sub-grants

1. Upon approval of the discretionary sub-grant by legislative council, RMU shall post the sub-grant to the DHHS Contract Archival System (CAS).
2. RMU shall distribute a copy of the signed sub-grant to the sub-grantee.
3. RMU shall notify the division, the CSS Supervisor, and CMU that the sub-grant is available on CAS.
4. RMU shall maintain the original sub-grant on file in the Records Room. All requests for sub-grant information from the RMU Records Room should reference the sub-grant number.

G. Entry of Sub-grants into AASIS

In most cases, sub-grants must be reflected in AASIS by the creation of corresponding standard purchase orders from the outline agreement. Purchase order creation in AASIS can be accomplished by the division or by Contract Management Unit (CMU), at the discretion of the division.

1. For those purchase orders created by CMU:
 - a. CMU creates the purchase order in AASIS upon notification of sub-grant approval.
 - b. CMU sends the purchase order number to division (with copy to CSS Program Coordinator responsible for tracking all sub-grants) with request that the division approve the purchase order in AASIS.
 - c. Division approves the purchase order in AASIS and notifies CMU of such.
 - d. CMU sends a copy of the purchase order to the sub-grantee.
2. For those Purchase Order's created by the division, it is the responsibility of the division to assure technical congruency between the sub-grant and the purchase order and to send a copy of the purchase order to the sub-grantee.

IV. Amendments to Sub-grants

A. Timeframes

Sub-grant amendments should adhere to the same timeframes outlined for the development of new sub-grants.

B. Amendment Requirements

1. Amendments to sub-grants are required when any element on the DHHS-9600 (or approved alternative format) or any of the legal attachments is revised to the extent that it materially affects the sub-grantee or DHHS in any way. Amendments shall be mutually agreed upon by the sub-grantee and DHHS.
2. Minor revisions or administrative corrections that affect only the internal administration of a sub-grant do not require an amendment; these may be accomplished as "Change" actions.
3. The effective date of an amendment to extend an otherwise expiring sub-grant shall be no later than the expiration date of the expiring sub-grant.

4. In the absence of an existing sub-grant amendment format tailored to the specific program requirements, the program division/office should use the **DHHS-9601 (Sub-grant Amendment)** as a standardized agreement format. Creation and utilization of a new tailored sub-grant amendment format (to be used in lieu of the **DHHS-9601**) should be approved by OCC. If the division decides to use their standard sub-grant format, that division will be responsible for filling out the **DHHS-9602 (Sub-grant Transmittal Sheet for Non-Standard Sub-grants)** form before submitting the sub-grant to RMU.

C. Development of Amendment

1. Program division/office should initiate all sub-grant amendments, except for those necessitated for administrative purposes only or those for the Together We Can program.
2. For every amendment, the program division/office should submit an authorization to CSS to develop the amendment. (In those instances where the program division/office developed their own sub-grant, they shall also develop the amendments to that sub-grant.)
3. The authorization from that program division/office is required to include
 - a. **Data Input Form/Division Authorization (DHHS-9191)**, if required for the original grant and if there are changes made to any of the following sub-grant elements:
 - 1) Effective dates
 - 2) Coding
 - 3) Funding
 - 4) Rates
 - 5) Services
 - b. Revised or new attachments, if any
 - c. Brief memo authorizing the amendment and stating the changes made
4. Upon receipt of the authorization, assigned CSS individual(s) shall review the authorization, consult with the sub-grantee, develop the sub-grant amendment, and review the completed amendment electronically for technical compliance and completeness. Division Director or designee shall review the sub-grant amendment and indicate approval of such electronically. ACO shall print sub-grants for manual signature by the sub-grantee following electronic review and approval by division Director or designee.
5. The complete amendment is required to include the **Sub-grant Amendment (DHHS-9601)**. Other elements that may be required to complete the amendment include, but are not limited to, the following:
 - a. **Data Input Form/Division Authorization (DHHS-9191)** (except for those sub-grants paid through the voucher system.)
 - b. **PASOS**, if the time period covered by the previous PASOS has expired.

D. Signing and Processing of Amendments to Sub-grants

Same as for new sub-grant above.

E. Legislative Review of Amendments to Sub-grants

Same as for new sub-grant above.

F. Distribution of Amendments to Sub-grants

Same as for new sub-grant above.

V. Monitoring

Program division policy and procedures and requirements of the funding source determine monitoring requirements for sub-grants. At a minimum, there should be sufficient programmatic monitoring to insure that sub-grant assurances are being met and to evaluate the effectiveness of program expenditures.

VI. Sub-grant Reporting

A. State agencies are required to post state awarded sub-grant information on the Governor's Mapping Arkansas' Progress (M.A.P.) website. Divisions are to post ALL of their sub-grants; regardless of whether the funding source is 100% federal, 100% State General Revenue, or a combination thereof. Sub-grant administrators should go online at www.accessarkansas.org/governor/map/admin to request an account login and password. The Governor's online sub-grant benefit advisory site should be updated when additional time or money is added to an existing sub-grant or when a new sub-grant is awarded.

B. For departmental tracking, CSS Program Coordinator maintains a compilation of all DHHS sub-grant programs. Semi-annually, CSS Program Coordinator requests the divisions to update their listing of sub-grant programs on file with CSS.