

MARY JO GIOVACCHINI: Good afternoon everybody and welcome to today's webinar, "Subrecipient Policies and Procedures," hosted by the Bureau of Justice Assistance. This webinar is presented by Bureau of Justice Assistance State Policy Advisors of the National Sexual Assault Kit Initiative: Mila Hago and Lauren Troy. Ladies, take it away.

MILA HAGO: Thank you. And hello everyone, and thank you for finding the time to watch this webinar. We hope you find it helpful and engaging. The purpose of today's webinar is to provide grantees with the comprehensive understanding of the requirements of your federal awards, specifically around the topic of subrecipient management and policies and procedures outlined--as it is outlined in 2 C.F.R. 200. As mentioned, we are the State Policy Advisors on the SAKI program, AKA your Grant Managers, and throughout our management of the program, we noted that subrecipient oversight is an area where grantees seem to struggle with compliance. As part of managing the grant administrative aspect of the SAKI program, we conduct site visits and Enhanced Programmatic Desk Reviews known as EPDRs on the current SAKI grantees. So through these types of grant monitoring activities, we have found that grantees have consistent issues with fully understanding the responsibilities of managing subawards, and often do not have the sufficient subrecipient monitoring policy procedures in play.

LAUREN TROY: Right Mila. This is a common site visit or EPDR finding. So grantees should be aware that as recipients of federal funding, and those of whom that have subrecipients identified in their budget, they should have policies and procedures that address how they monitor the subrecipients, which includes all aspects of monitoring the financial, administrative, and programmatic elements of their subaward. So we hope this webinar provides you with the understanding of the responsibilities of the pass-through entity, as well as outlined elements that should be considered as part of your subrecipient policies and procedures at a minimum. So the following outlines the learning objectives of this webinar, and we plan to review the key roles and responsibilities of BJA, the pass-through entity, and the subrecipient.

MILA HAGO: Yup, we also plan to talk you through the pass-through entity responsibilities and elements of subrecipient policies and procedures through the lens of the pre-award, post-award, and closeout subaward cycle. We'll also provide you with links to important resources to help you with the development or improvement of your subrecipient policies and procedures.

LAUREN TROY: Yes. So we highly encourage all grantees to review these resources, as they're great jumping off points to get you started and/or help you enhance your current policies.

MILA HAGO: So as a premise to our discussion, I think it's important to understand the key roles of the entities involved in your federal award. The Bureau of Justice Assistance, or BJA, is the federal award-making agency. It's a component of the Office of Justice Programs within the U.S. Department of Justice. BJA supports programs and initiatives in the areas of law enforcement, justice information sharing, countering terrorism, and many more areas. So the National Sexual Assault Kit Initiative, or SAKI, is just one of these many programs under the BJA.

LAUREN TROY: And another key role is the pass-through entity. So this may be you. As defined by 2 C.F.R. 200, the pass-through entity is a nonfederal entity that provides a subaward to a subrecipient to carry out part of a federal program, and the subrecipient is a nonfederal entity that receives a subaward from a pass-through entity to carry out part of a federal program. So it's important for grantees to understand these roles as defined by 2 C.F.R. 200 so that you understand your responsibilities as applicable to ensure your agency is a good steward of federal funds.

MILA HAGO: Yeah. Exactly. So it's crucial that grant recipients understand the difference between a subaward and a procurement contract, which is what we will be discussing in this next section. And this is a critical distinction, as significantly different roles apply to subawards and procurement contracts. And to make this determination, it's important to know that the substance of the relationship should be given greater consideration than the form of agreement between the recipient and the outside entity, and we'll go over that in a little bit more detail.

LAUREN TROY: Additionally, we'll discuss what defines a subaward and procurement contract, how to make that determination between the two, and direct you to the OJP toolkit for additional resources on the subject.

MILA HAGO: So let's start off with defining a subaward. Here in this graphic. We start with BJA issuing a federal award to the recipient, which is defined as a nonfederal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term "recipient" does not include subrecipient. Also, just a quick note, when we reference the term "nonfederal entity," it is defined as a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient. The recipient may also be the pass-through entity, which means a nonfederal entity that provides a subaward through a subrecipient to carry out a part of the federal program.

LAUREN TROY: Right. So if you're a recipient of a federal award, and you are not issuing subawards or subcontracts, then you would not be a pass-through entity. So it's only when you're issuing a subaward or subcontract are you a pass-through entity.

MILA HAGO: So the pass-through entity issues a subaward, which is an award provided by the pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments through a contractor or payments through an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement including an agreement that the pass-through entity considers a contract. And so the subrecipient means a nonfederal entity that receives a subaward from a pass-through entity to carry out part of a federal program but does not include an individual that is a beneficiary of such program. A subrecipient may also be recipient of other federal awards directly from a federal awarding agency.

LAUREN TROY: Now let's switch gears and define a contract. So here in this graphic, we start with BJA issuing the federal award to the recipient. So the recipient issues a contract, which is defined as a legal instrument by which a nonfederal entity purchases property or services needed to carry out the project or program under a federal award. A "contractor" here is defined as an entity that receives a contract as defined by 2 C.F.R. 200.22. In the next slide, we'll discuss how to--how to determine whether or not an entity receiving federal funds is a recipient or a contractor. So we understand that the determination on whether an entity receiving federal funds is a subrecipient or contractor is not always straightforward, and it forces the recipient to examine the relationship between the action or agreement and the public purposes of the particular OJP award.

MILA HAGO: Yup, and it's important to remember that recipients of federal grants are responsible for making the determination if the pass-through funding is to be considered a subaward or a procurement contract. So regardless of the mechanism, for example, if you issue MOUs, if the work falls under the characteristics of a subaward, it is considered a subaward, and therefore it requires prime recipients' federal funds to have subrecipient policies that encompass pre-award, post-award, and closeout procedures.

LAUREN TROY: And here we break down some considerations to keep in mind as you make your determination. So the form--i.e., MOU, contract, et cetera--is less important to the examination of a relationship than its substance. So labeling an organization as a subrecipient or contractor does not dictate how DOJ will treat that relationship for federal grants administrative purposes.

MILA HAGO: Right. So just because you've called them a subrecipient or contractor does not mean it is the subrecipient or contract as defined by 2 C.F.R. 200. You would need to go back and examine the substance of work. And by substance, we mean the characteristics of the agreement and whether it casts the party receiving the funds in the role of a subrecipient or a contractor. So we covered a lot of content and definitions in this section. However, we wanted to direct you to the OJP toolkit. OJP has developed several resources to help our recipients determine if pass-through funding they're administering should be considered a subaward or procurement contract. There's checklists and additional resources to help you make your determination.

LAUREN TROY: Yes. So we highly recommend you use these tools, and take the time to review each link which is located on the RTI SAKI TTA website as well as the BJA website. So these resources provide in-depth information on this topic, and it'll save you countless of hours of research.

MILA HAGO: So now that we've clarified the difference between a subrecipient and a contractor and you have made your determination, we wanted to talk you through the expectations and responsibilities of the pass-through entity during the pre-award cycle.

LAUREN TROY: And just to clarify, this is from the lens that you have determined the relationship to be a subrecipient. So we'll walk you through some key areas of compliance, the process of making a subaward, and the pass-through entity responsibilities during the pre-award process. So you've made a determination that you're making a subaward with your federal grant. So now what? As a pass-through entity, you will want to ensure subrecipients use grant funds in accordance with all federal and program guidelines, and there are some key compliance requirements you must consider.

MILA HAGO: Yeah. And the most important area of compliance as a pass-through entity is you will want to ensure you have specific federal authorization prior to entering into any subaward under the award. Typically, subgrantees are authorized during the application process when they're included in the application budget and program narrative documents. However, grant recipients may also, as subgrantees during the period of performance through a change-of-scope GAM. Once you have that approval from your federal agency, you should ensure subawardee compliance with 2 C.F.R. part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

LAUREN TROY: And another area of compliance for the pass-through entity is ensuring reporting requirements are being met throughout the life cycle of the award. So that

includes ensuring the subrecipient is submitting all progress and financial reporting throughout the award and it's important to know as a pass-through entity, you are responsible for reporting subawards. So with an award amount over \$30,000, as required by the Federal Funding Accountability and Transparency Act, FFATA, this requires the pass-through entity to log into the SSRS.gov system to submit the report. And you should be aware that the SSRS.gov system is not a BJA system. So this is a separate government system that we do not maintain or control.

MILA HAGO: Yeah. And in addition to meeting the reporting requirements as the pass-through entity, you must ensure you collect any type of performance data from your subawardee. Also, another major responsibility for the pass-through entity is ensuring that you're monitoring all subawardees and taking the appropriate actions to get the subrecipient back on track if problems arise. Remember, it's your responsibility as a pass-through entity to manage and oversee all these aspects of the subrecipient.

LAUREN TROY: Next, we wanted to discuss some considerations you will want to think about as you make a subaward. So as a pass-through entity, you should've had--you should--you should have an established method for announcing the specific funding opportunities, eligibility requirement, and the allotted timeframe to apply. So this should be clear and documented. Additionally, you should also have a process for reviewing each subrecipient's eligibility for federal funding, including the criteria to be used to evaluate each application. As part of your subrecipient application review, you should ensure that subrecipients are not suspended or debarred by the federal government prior to making the award.

MILA HAGO: And when you make or issue your subaward, you should clearly identify the federal award information, compliance requirements, applicable terms and conditions, and any supplemental requirements you may impose as a pass-through entity in the subrecipient agreement. Additionally, as a pass-through entity, you should include specific award identification data elements such as subrecipient name and entity identifier, federal award identification number, and federal award date. They seem like straightforward data elements to include when you make a subaward, however, many pass-through entities fail to include this. So a full list of all elements that should be included in the subrecipient agreement can be found in the "DOJ Financial Guide" chapter 3.14.

LAUREN TROY: So as part of the pass-through entity responsibilities, it is highly recommended you perform a risk-assessment of applicants prior to awarding funds. So this allows you to evaluate the risk posed by applicants before they receive an award,

and it can help you determine whether additional terms and conditions should be imposed on the award as a result of their risk level.

MILA HAGO: Yeah. And to help you develop your risk assessment, you can consider elements such as their financial stability, history, performance, any audit findings they may have, or the quality of their application. And these are just some of the elements you may consider when assessing an applicant's risk. Of course, you will need to develop a type of scoring system or system of assessing a risk that has a clear resulting risk level.

LAUREN TROY: Right. The level of risk that is determined during the application process cannot only help you determine whether to impose additional terms and conditions on their award, but it can also help you determine the level of post-award monitoring required.

MILA HAGO: So in this next section, we'll discuss some key elements of the pass-through entity responsibilities in managing the post-award phase of the subrecipient cycle such as minimum post-award requirements including monitoring your subrecipient.

LAUREN TROY: And monitoring is a key requirement in responsibility of the pass-through entity. So we divided that particular section into elements of monitoring, what to consider when you monitor your subrecipient, and the high-level overview of what monitoring should look like.

MILA HAGO: There are a few requirements to keep in mind now that you have issued or made your subrecipient agreement. Here are a few you should consider.

LAUREN TROY: So when a pass-through entity makes an award to a subrecipient, the federal award information and applicable compliance requirements, including applicable special conditions, must be clearly identified in the subrecipient award agreement.

MILA HAGO: Also a pass-through entity should establish a subrecipient award file for each of the subawards funded with federal dollars, it is good practice to ensure you, as the pass-through entity, are maintaining good documentation throughout the life cycle of the subaward agreement. And that includes, but is not limited to, the subaward agreement itself; any correspondence with the subrecipient; invoices, payments, and receipts; and subrecipient progress and financial reports, to name just a few documents. Pass-through entities must ensure that subaward documents include the necessary information at the time of the subaward. If any of the data elements change during the

period of performance, the changes must be included in subsequent subaward modification.

LAUREN TROY: And another post-award requirement is pass-through entities must conduct monitoring of their subrecipients. So this is a topic we'll discuss in more detail in the next few slides.

MILA HAGO: Yeah. So as we mentioned in the previous slide, one of the most important responsibilities of the pass-through entity is monitoring of their subrecipients. In fact, it's not just a good idea to monitor subrecipients, it's a federal requirement.

LAUREN TROY: Right. So what does it mean exactly to monitor subrecipients and how does a pass-through agency get started? So, well, as we mentioned earlier, one of the most important things to consider when making your monitoring determinations is the risk of noncompliance with federal statutes, regulations, and terms and conditions of the subaward by any particular subrecipient. So completing a risk assessment not just prior to making a subaward, but also on a regular basis throughout the period of performance is a great tool to help pass-through entities make decisions on when and how to monitor their subrecipients.

MILA HAGO: Exactly. And there are several attributes to consider when performing a risk assessment. And program requirements should be included in the evaluation of the overall risk. To help pass-through entities think through what types of elements should be included in the risk assessment, OJP has put together a sample subrecipient monitoring risk assessment tool, which we linked to in the resources that we will share at the end of the presentation. So as I mentioned, performing an annual risk assessment of all your subrecipients is an invaluable tool in helping you develop a monitoring plan and determine which subrecipients should be monitored and with what method, onsite visits or an in-house review, for example.

LAUREN TROY: So once the annual monitoring plan is finalized, the pass-through entity should assess and finalize the monitoring objective. So when conducting a review of the subrecipient, you'll want to think about their work in a number of ways: programmatic, financial, and administrative. So, for example, programmatically, are they implementing the program in a way that was agreed upon in their subaward? Financially, do they have adequate internal controls in place to protect federal funds? Are their expenditures reasonable and allowable? And do they have adequate supporting documentation for their--for their expenditures? Administratively, do they have adequate policies and procedures in place? Are there actual or apparent conflicts of interest? And are they maintaining required records?

MILA HAGO: So now that we've talked a bit about the objectives of subrecipient monitoring, I think it's a good idea to take some time to discuss the mechanics of carrying out the monitoring.

LAUREN TROY: Absolutely. Regardless of whether the pass-through entity is conducting monitoring in person or remotely, it's a good idea to have a well-established and documented process in place that will guide your review starting from first notifying the subrecipient to document--to documenting and resolving any findings. So even before you notify the subrecipient of your intended review, it's a good idea to conduct a thorough review of all documents that you have on file for that particular subrecipient. So these may include things such as their application for funding, subrecipient award agreement, reports, and any supporting documentation for reimbursement to date.

MILA HAGO: Yeah, that makes perfect sense. Doing this review may inform the pass-through entity about any potential red flags or items that will require additional follow-up during the monitoring. So once the review is complete, you will want to notify the subrecipient of your monitoring and work with them to schedule an entrance conference, where the pass-through entity can provide an overview of the monitoring visit, any issues or questions that were flagged during the preliminary review, and discuss next steps after the monitoring visit is over. The bulk of the onsite monitoring will consist of collecting supporting documentation, data gathering, and analysis. From personal experience, I have found it very helpful to have a well-established and centralized checklist that is used throughout the monitoring to help me guide my review.

LAUREN TROY: Yes. That's very true. It's very helpful in ensuring that all necessary elements of the review are completed. So once the onsite review is over, it's a best practice to hold an exit conference and share any preliminary findings from your site visit with the subrecipient. Some of the findings might be minor and can be resolved fairly easily post-review, while other findings will take more time for the subrecipient to address. And some monitoring will result in no findings at all. But regardless of the outcome, it's crucial for the pass-through entity to document the review in some formal fashion. And follow up with the subrecipient notifying them of any outstanding issues, requesting a corrective action plan if necessary. Once the subrecipient addresses all the issues, a closure of the site visit can be documented and that's it, you're done.

MILA HAGO: I feel like we covered a lot in this section on post-award management and monitoring of subrecipients.

LAUREN TROY: Yeah, we sure did. Next up, let's talk about what the pass-through entity needs to do to close out their subawards. But before we move on, I think it's important that we reiterate one more time that it is the responsibility of the pass-through entity to manage the subrecipient relationship, help them stay on track with their program activities, and address any challenges that come up throughout the subaward project period.

MILA HAGO: Yes, absolutely. Ultimately, subrecipient work helps the pass-through entity achieve their goals and objectives under their federal awards. So it makes sense that they would want to ensure success in the work of the subrecipient. But let's say the subrecipient has reached the end of their project period, and they still have goals and objectives that have not yet been achieved. What are their options at this point?

LAUREN TROY: That's a great question. So as long as the pass-through entity still has time left in their period of performance, they may determine that an extension of the subrecipient project period is warranted. And they should follow internal processes for documenting that. Once the subrecipient has achieved all of their goals and objectives under the subaward, the pass-through entity must close out the subaward. So part of that closeout should be the requirement for subrecipients to submit their final progress and financial reports to the pass-through entities within a specified time after the end date of the subawards' period of performance. The key thing to remember here is that subrecipient closeout should be completed in time to meet the federal agency's closeout timeline. So the pass-through agency should absolutely take that into consideration.

MILA HAGO: Yeah, that makes sense. So we just covered a lot of really important material, but there's still a few more topics we wanted to touch upon before we wrap up.

LAUREN TROY: So in this next section, we wanted to touch upon the importance of having written and established policies and procedures, maintaining complete subrecipient files, and finally run through a few of the most common site visit and OIG findings we've encountered when it comes to subrecipient management.

MILA HAGO: So now that we've discussed a few important aspects of subrecipient management and monitoring, let's switch our focus to another key requirement for pass-through entities, which is subrecipient policies and procedures. A pass-through entity must have established policies and procedures on how subawards will be made and subrecipients managed.

LAUREN TROY: That's right. So policies and procedures must be in writing, and clearly describe the pass-through entity's responsibility for managing the subrecipient's

activities throughout the award life cycle. These policies should have specific sections around pre-award and post-award responsibilities.

MILA HAGO: Yeah. So what should be included in the pre-award section?

LAUREN TROY: Well, as we discussed earlier, it's important that there's an established process for making subawards for federal grant funds that ensures that subrecipients meet eligibility requirements. So that should definitely be included in the policies and procedures. Pass-through entities should also document the process to ensure that subrecipients are not suspended or debarred by the federal government.

MILA HAGO: Okay. That makes sense. So I think one of the more detailed aspects of making a subaward is ensuring that all data elements that should be included in subrecipient agreements are included, and that the applicable federal special conditions, federal award special conditions, pass through to the subrecipient award. So that should also be included in the policies and procedures as well. So let's talk about the post-award requirements that need to be included in the policies and procedures.

LAUREN TROY: Yes, so this section should include a process to identify the total funding amount provided to subrecipients from each federal program--a process to ensure that payments to subrecipients minimize the time lapsing between transfer of federal funds from the grantee to the subrecipient. Policies should also include a process to ensure subrecipient audits are complete, issue a management decision on audit findings within 6 months after receipt of the subrecipient's audit report, and to ensure that subrecipients take the proper and timely actions on audit findings.

MILA HAGO: And of course let's not forget about documenting the process for subrecipient monitoring.

LAUREN TROY: Yes.

MILA HAGO: So subrecipient monitoring, and management policy and procedures, should establish a clear process for subrecipient monitoring on a risk-based approach.

LAUREN TROY: So basically, everything that we discussed earlier in regards to monitoring subrecipients should be outlined in the policies and procedures?

MILA HAGO: Yes, exactly. So the policy should include a process for onsite monitoring of financial, administrative, and programmatic aspects of these subawards, as well as the process for documenting monitoring findings and procedures for follow-up on the

issues for resolution identified during the monitoring visit. Additionally, the policy should clearly outline the requirements of subrecipient progress and financial report review. So finally, it's also important that subrecipient management and monitoring policies and procedures include a section on closing out the subaward when all grant-related work has been completed.

LAUREN TROY: Right. This section will need to include policies on final progress and financial reports, and discuss the timeline for subaward closeout to allow sufficient time for the pass-through entity to complete the closeout of their federal award within the established timeline.

MILA HAGO: All right. So now that we discussed the requirements of subrecipient management and monitoring and the importance of having written and established policies and procedures that clearly explain all the rules, regulations, and requirements of making subawards with federal funds, I think we should touch on what should be maintained in a subrecipient file.

LAUREN TROY: Yes. Good idea. It's important to keep an individual subaward file for each of your subrecipients under a particular federal award for a number of reasons-- not least of all because it's a requirement. The subrecipient file should be comprehensive and updated on a regular basis as needed. The subrecipient grant file should include, but is not limited to, federal agency subaward authorization; pre-award documentation such as award announcements and decisionmaking matrix; the signed subaward agreement; pertinent correspondence between subrecipient and pass-through entity; progress and financial reports. Is there anything else that I'm leaving out, Mila?

MILA HAGO: Yes, it's also crucial that they--the file have all supporting financial documentation such as invoices, proof of payments, receipts, and other supporting documentation that the subrecipient submits to the pass-through agency for reimbursement purposes. And additionally, it's important that FFATA reports are included in the file as well. And lastly, if the subaward is in excess of \$100,000, the pass-through agency should be requesting the subrecipient to complete and submit the Lobbying Certification.

LAUREN TROY: Yes, so my biggest takeaway here is document, document, and document. If it isn't documented, it doesn't exist.

MILA HAGO: Yup, that makes perfect sense. So there are quite a bit of rules, regulations, and requirements that go into successfully managing subawards, and I'm

so glad that we're able to cover a lot of them today. With so much information associated with this, I'm sure there are common mistakes that pass-through entities make.

LAUREN TROY: Yes, absolutely. So as we monitor BJA grant recipients ourselves, often we see the same type of findings over and over. One of the most common findings is that pass-through entities do not have written and established policies and procedures, even if they are already conducting most of the required activities. So it's really important that pass-through entities take the time to develop these policies and ensure that their staff are aware and familiar with them. Another common mistake that we find is that pass-through entities don't conduct risk-based monitoring on subrecipients, which of course opens them up to liability and potential fraud, waste, and abuse of federal dollars in addition to being noncompliant with federal grant requirements.

MILA HAGO: Yeah, that makes sense, since the primary grant recipient is ultimately responsible for their federal award, even if some of the funding is being passed through in the form of a subaward. So we found that another common finding is that pass-through entities do not maintain complete subrecipient grant files. We just discussed the importance of that, so I won't go into too much more detail here. And finally, we have found that pass-through entities do not always require official and uniformed progress and financial reports in a consistent manner. You know, we understand that you may be in touch with your subrecipients on a regular basis and feel that you have a really good understanding of their work. But remember what we said earlier. If it's not documented, it doesn't exist. So and with that, we have pretty much covered all the topics that we wanted to cover today. But before we wrap up, we did want to share a few links that we had discussed earlier to the resources that we mentioned throughout the presentation. So on slide 9, when we were discussing the distinction between a subaward and a procurement contract, we mentioned that OJP had developed a toolkit for OJP grant recipients to use to help them make that important distinction. We strongly recommend that you check out the resources. And then at slide 15, we mentioned the "DOJ Financial Guide." This should be your primary go-to document when questions about federal grant management arise.

LAUREN TROY: And when it comes to subrecipient monitoring, OJP has put out several resources as well. Slide 16: We talked about the importance of risk-based monitoring, and we have created a sample tool that you may find useful. Slide 18: We talked about important aspects to consider when conducting monitoring. And here, you'll find a few helpful resources including a sample subrecipient monitoring checklist. We also mentioned that any subawards over \$100,000 require the completion of a

Disclosure of Lobbying Activities form. The link to which can be--can be found here as well.

MILA HAGO: And if you have some extra reading time, please don't forget to check out the "Uniform Guidance to C.F.R. Part 200." But if you don't, the summary of OJP's Part 200 Uniform Requirements will be helpful. Finally, this last resource here does a good job of providing a brief summary of the many topics that we discussed today.

LAUREN TROY: Well, I think it's time for us to wrap up today. We really hope you learned something new today and will be able to use some of the resources we shared with you.

MILA HAGO: Yes. And as always, please don't hesitate to reach out to us with any questions. We're more than happy to discuss any of the gray areas with you, and there's definitely some. So thanks everybody, and take care.