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Federal Grants to States and Local Governments Under Continuing Resolutions

Introduction

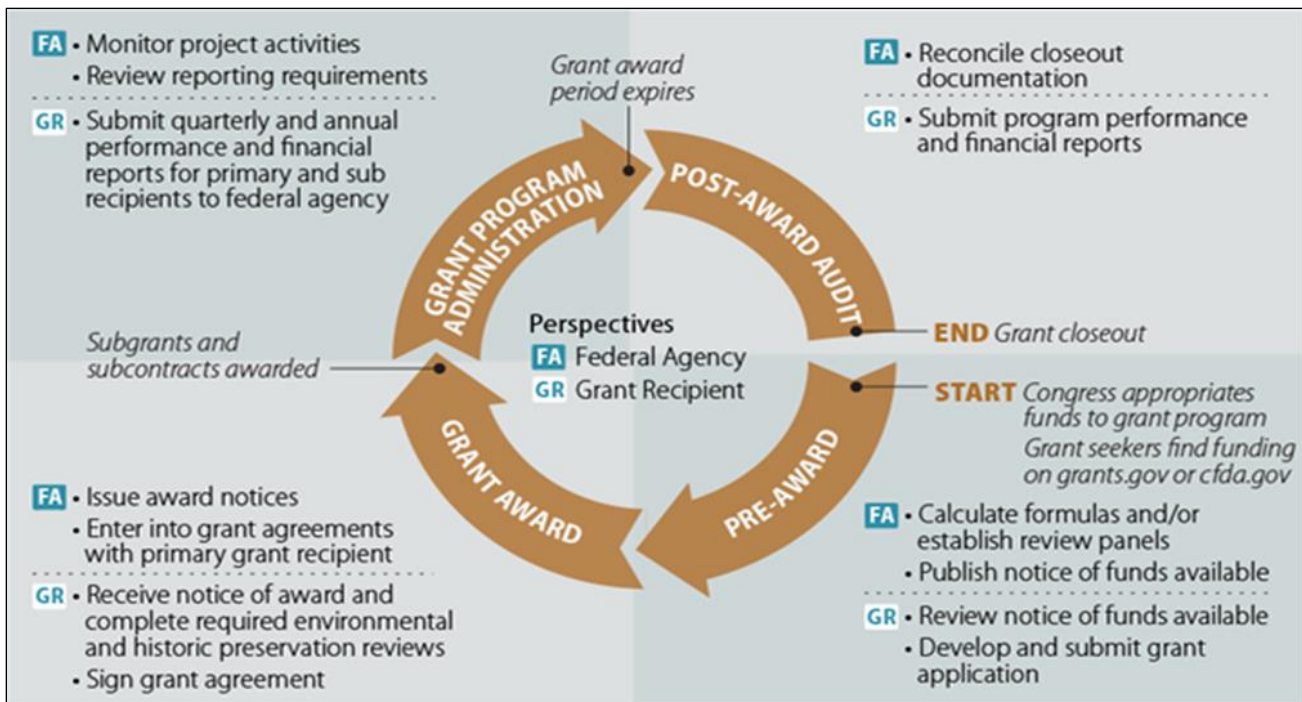
Congress uses an annual appropriations process to fund the routine activities of most federal agencies. This process anticipates the enactment of 12 regular appropriations bills before the beginning of the fiscal year. When this process is delayed beyond the start of the fiscal year, one or more continuing appropriations acts (commonly known as “continuing resolutions” or “CRs”) can be used to provide funding until action on regular appropriations is completed. Federal agencies operating under a CR may encounter difficulties with the budgetary execution of their programs. In particular, CRs can limit the ability of agencies to take actions that would obligate funds beyond the expiration of the CR. This can have an impact on the ability of federal agencies to review and process applications for federal grant programs, and on fiscal planning by state and local governments anticipating federal grant funding.

Grant Administration Issues Under CRs

Federal outlays for grants to states and local governments have grown from \$16.4 billion in 1940 to \$734.9 billion in 2020 in constant FY2012 dollars. There are currently approximately 2,073 federal assistance programs authorized by Congress. Federal assistance refers to the transfer of money, property, services, or other items of value for which

the principal purpose is to accomplish a purpose authorized by Congress. Federal assistance programs are also commonly referred to as “federal grant programs.”

There are four phases of a federal grant life cycle: pre-award, award, grant administration, and post-award (see figure below). Interim funding measures that do not provide a full year of funding for federal grant programs potentially affect each phase. Generally, the impact of the interim funding may be influenced by certain provisions contained within the CR that might provide specific direction to federal grant administering agencies regarding program funding. In the absence of provisions for specific grant programs, general grant administration practices may be delayed or otherwise affected when full-year funding is not provided. For example, federal agencies may delay calculating formula allocations for formula-based programs, or may postpone making decisions regarding which applications will be awarded funding in competitive grant programs. The grant administration practices affected by CRs may vary depending on the timing of the interim funding measure, with respect to the delays both at the beginning of the fiscal year due to the initial CR and at later phases of the grant life cycle for CRs (and any extensions) that have longer duration.



Grant Pre-award Phase

Federal grant program administration practices are typically structured to begin with the pre-award phase beginning at the onset of the federal fiscal year. During the pre-award phase of the federal grant life cycle, federal grant administering agencies must evaluate the level of appropriations provided for grant programs and apply funding allocation methodologies. Continuing resolutions create two significant challenges during this phase.

First, CRs prohibit an agency from taking most actions that would initiate new obligations or “new starts.” Grant awards for which the funding would be provided for the first time are typically viewed as a “new start” since there is no previous contractual relationship with the potential grant recipient. Such prohibition may also apply to multiyear grant awards, when the current fiscal year appropriations would fund the second or subsequent years of the grant award (most “multiyear” grant awards are structured as a series of single-year awards with separate grant agreements executed at the beginning of each fiscal year). As a result, CRs can delay grant funding for both new grant awards and existing federally funded grant projects.

Second, CRs do not determine the level of funding that will be ultimately available for a given program for the entire fiscal year, and this uncertainty delays the ability of the federal grant administering agency to establish funding allocations. In turn, this delay creates uncertainty for state and local governments with regard to availability of federal funding for grant awards and may create cascading effects on their budget processes. State governments are frequently the primary grant recipient for federal grant awards, but the majority of those funds are passed through to the sub-state level. This can be further complicated because the fiscal year for most states begins in July and so does not align with that of the federal government. This potential impact applies to both new awards and to existing awards with multiyear project timelines.

Grant Award Phase

During the award phase, federal grant administering agencies select grant recipients and develop and execute grant agreements awarding funding. The extent to which CRs affect the award phase may depend upon the duration of the award period of the grant program. If the level of full-year funding is not determined until later in the fiscal year, the grant award is typically delayed. While federal agencies can announce the prospective availability of funding (through a Notice of Funding Availability) and can accept applications, federal administering agencies generally do not execute new grant agreements until the full appropriation level for a grant program is known since the federal agency cannot obligate funding not yet appropriated by Congress. For grant programs that use formula allocations, the amount of individual grant awards cannot be determined until the full funding level is known; thus grant agreements cannot be executed until the award amounts can be calculated.

Although some grant programs may be able to make partial grant awards under CRs if Congress has provided authority for agencies to do so, uncertainty may remain for grant

recipients with respect to whether additional funding will be provided under subsequent funding measures. Such partial grant awards may not be adequate for all grant recipients. For example, if a recipient is provided only partial funding for a construction project at the beginning of the fiscal year, they may be hesitant to break ground and begin work without knowing whether or when the full amount of federal funding will be available. Such uncertainty may be less problematic for service-oriented grants since partial funding might allow a grant recipient to continue providing services with smaller grant awards until full funding can be provided. For partial grant awards to be made, however, federal agencies may have to execute several grant agreements for a single project rather than executing a single grant agreement at the beginning of the fiscal year for the entire grant award period, increasing administrative costs for both the federal agency and the grantees. As a result, agencies may simply delay making any grant awards until the full-year appropriation is available.

Grant Program Administration Phase and Post-award Audit Phase

Once a federal grant has been awarded, grant recipients can begin the programs or services for which federal funding was provided. Continuing resolutions may influence when grant awards are made and whether a single grant award or multiple grant awards are provided. This affects the oversight of federal grant programs, because this may cause the grant program administration activities and the post-award audit activities to overlap. When this happens, a federal agency may be unable to appropriately evaluate the risks of waste, fraud, and abuse for the program, and for a particular grant recipient, prior to making subsequent awards.

Additionally, when CRs affect the normal timing of grant awards, there is the potential for overlapping grant award periods for the same grant recipient. For example, each grant award typically includes a 12-month period for approved activities that commences at the time the grant agreement is executed. If funding to a grant recipient for a fiscal year is delayed until the middle of that fiscal year while funding for the next fiscal year becomes available without delay, the grant recipient could have overlapping grant award periods. This would create a period of several months where the grant recipient has two active grant awards under the same program at the same time. This could create oversight and accountability challenges as well as program evaluation challenges for the federal administering agency. Typically, grant management practices and achievement of grant program goals are assessed at the end of the grant’s performance period. In some cases, the federal agency might need to make the second grant award prior to evaluating the grantee for appropriate compliance with the previous award. Awarding funding without assessing the use of previous funding may increase the risk of waste, fraud, and abuse.

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