

BUREAU OF JUSTICE ASSISTANCE

7th Annual National SAKI Grantees Meeting

BJA Programs Office

Presented by

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BJA Programs Session – Track C

1. Grant Award Modifications (GAMs)

To understand when to submit a modification and which modification type is appropriate for your requested changes

2. Classification of: Sub-Awards vs Procurement Contracts

To understand how to determine whether the work proposed is a Sub-Award or Procurement Contract

3. Training Requests

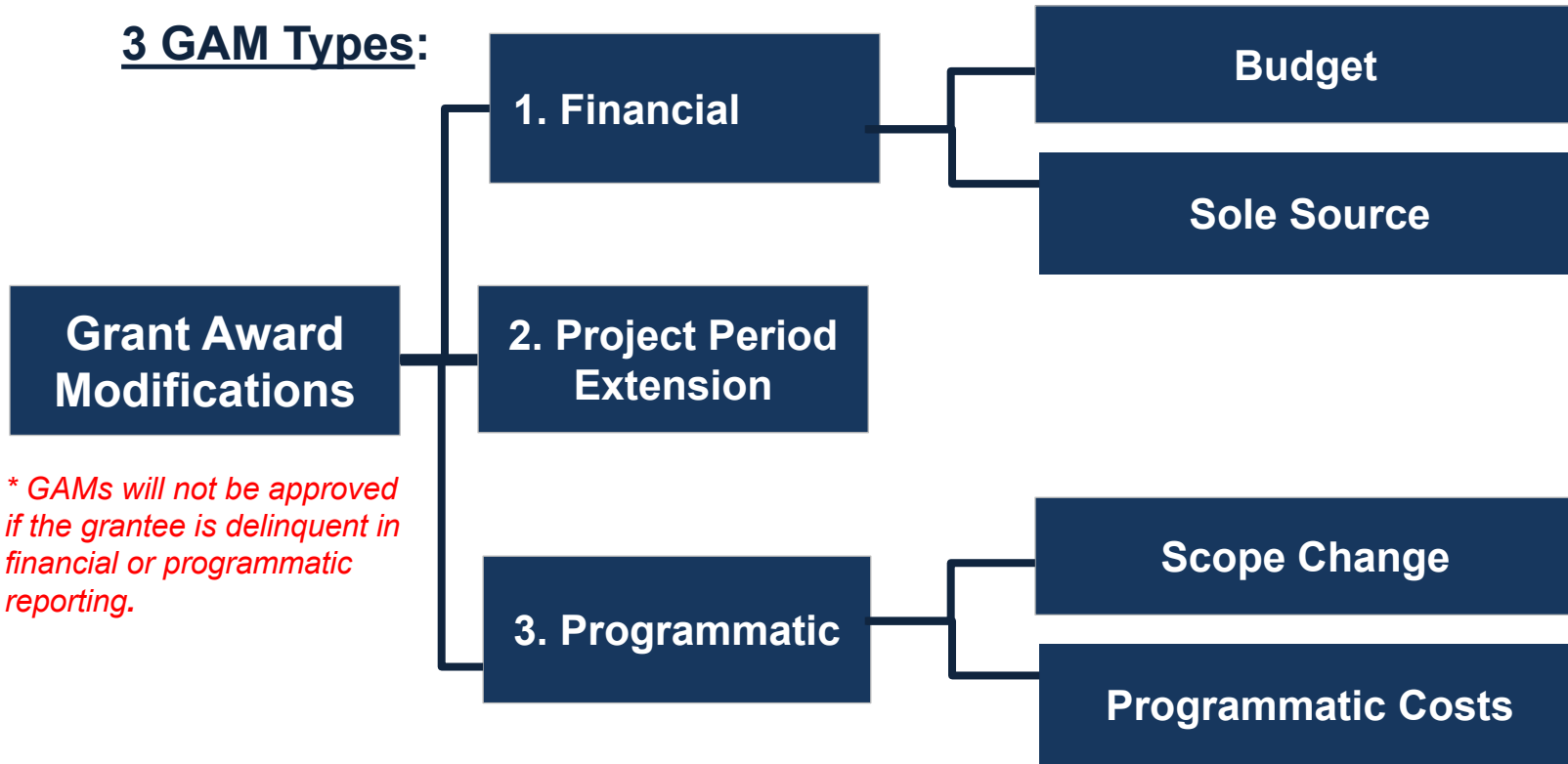
To understand the training request process and information required for BJA consideration

4. Questions

To address any questions from the field

Grant Award Modifications (GAMs)

3 GAM Types:



** GAMs will not be approved if the grantee is delinquent in financial or programmatic reporting.*

GAM Type 1: Financial – Budget Modification

Purpose	When to Submit	Criteria	Documents to Submit	Notes
<p>To modify an approved Budget: to reallocate funds among the budget categories; to modify current budget line items</p>	<p>Prior to implementing the proposed changes to the budget</p>	<ul style="list-style-type: none"> • The proposed cumulative change is greater than 10% of the total award amount. The 10% rule does not apply to an award of less than \$250,000 (increased from \$150,000). • The budget modification changes the scope of the project. Examples include altering the purpose of the project, authorizing use of a subcontractor or other organization that was not identified in the original approved budget, or contracting for or transferring of award-supported efforts. • A budget adjustment affects a cost category that was not included in the original budget. For example, if the direct cost category “Travel” did not exist in the original budget, the adjustment to transfer funds from Equipment to Travel requires a GAM. • When making any changes to the Indirect Costs 	<ol style="list-style-type: none"> 1. Letter of Request; 2. Revised Budget Worksheet 	<p>If your requested changes do not meet the criteria for a Budget Modification submission, your agency should still contact your Grant Manager to discuss the proposed changes.</p>

Please refer to <https://justicegrants.usdoj.gov/training-resources/justgrants-training/grants-management-lifecycle> for training videos and resource guides on how to initiate and submit a GAM.

GAM Type 1: Financial – Sole Source

Purpose	When to Submit	Criteria	Documents to Submit	Notes
<p>To request approval for sole source procurement exceeding the Simplified Acquisition Threshold of \$250,000</p>	<p>Prior to entering into a sole source agreement or contract in excess of the Simplified Acquisition Threshold with the vendor</p>	<ul style="list-style-type: none"> • The item or service is available only from a single source; • The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; • DOJ or the pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or • After solicitation of a number of sources, competition is determined to be inadequate. 	<ol style="list-style-type: none"> 1. Letter of Request [see Sole Source Justification Outline in the DOJ Financial Guide] 2. Supporting Documentation (reference DOJ Financial Guide for examples of supporting documentation) 	<ul style="list-style-type: none"> • Sole Source procurements that do not exceed the Simplified Acquisition Threshold of \$250,000 <i>do not</i> require BJA prior approval; however, your agency must ensure it meets the criteria for sole source and has the necessary supporting documentation on record • Allow for up to a month of review; your request may require additional changes/revisions

Please refer to <https://justicegrants.usdoj.gov/training-resources/justgrants-training/grants-management-lifecycle> for training videos and resource guides on how to initiate and submit a GAM.

GAM Type 2: Project Period Extension

Purpose	When to Submit	Criteria	Documents to Submit	Notes
<p>To extend the period of performance of your award</p>	<p>30 – 60 days before the project period end date*</p> <p>*Please contact your State Policy Advisor first to discuss if you meet the criteria for a submission</p>	<p>Grantee must provide a robust narrative justification establishing that the extension is for the benefit of the Federal government, and contains a plan and timeline for completion within the period of the no-cost extension;</p> <p>A no-cost extension may be made only for award recipients that have no significant performance or compliance issues</p>	<ol style="list-style-type: none"> 1. Letter of Request; 2. Revised Project Timeline 	<ul style="list-style-type: none"> • An extension request can be up to 12 months [not to exceed 12 months]; • a no-cost extension may be made only if the period of performance has not expired; • a no-cost extension may not be made merely for the benefit of the recipient or for the purpose of the enabling the recipient to use unobligated balances

Please refer to <https://justicegrants.usdoj.gov/training-resources/justgrants-training/grants-management-lifecycle> for training videos and resource guides on how to initiate and submit a GAM.

GAM Type 3: Programmatic – Scope Change

Purpose	When to Submit	Criteria	Documents to Submit	Notes
To request programmatic changes to the award	Prior to implementing the proposed changes	<ol style="list-style-type: none"> 1. Altering programmatic activities; 2. Changing the purpose of the project; 3. Changing the project site; 4. Experiencing or making changes to the organization or staff with primary responsibility for implementation of the award, contracting out, subawarding (if authorized by law), otherwise obtaining the services of a third party to perform activities which are central to the purpose of the award; 5. Adding new subrecipient(s) to the award 6. Changes in scope that affect the budget 	<ol style="list-style-type: none"> 1. Letter of Request; 2. Revised Program Narrative; 3. Revised Project Timeline 	<p><u>Pro Tip:</u> Highlight the changes to the Revised Program Narrative for ease of reference/review</p> <p><i>*A Budget Modification may be required for submission after a Change of Scope is approved, please contact your Grant Manager to discuss if appropriate</i></p>

Please refer to <https://justicegrants.usdoj.gov/training-resources/justgrants-training/grants-management-lifecycle> for training videos and resource guides on how to initiate and submit a GAM.

GAM Type 3: Programmatic – Costs

Purpose	When to Submit	Criteria	Documents to Submit	Notes
To request prior approval for certain costs	Prior to implementing the proposed changes	<ul style="list-style-type: none"> • Compensation for consultant services in excess of the grant-making component's maximum hourly or daily rate for an 8-hour day - currently \$650; • Personnel/staff changes • Proposed budget changes within a particular category 	<ol style="list-style-type: none"> 1. Letter of Request; 2. Revised Budget Worksheet; 3. Supporting Documentation (as requested; dependent on type of changes proposed) 	

Please refer to <https://justicegrants.usdoj.gov/training-resources/justgrants-training/grants-management-lifecycle> for training videos and resource guides on how to initiate and submit a GAM.

Sub-Award or Procurement Contract?

No one single factor alone will dictate one type of relationship over the other. In fact, an entity may possess characteristics from both sides making the determination process much more challenging.

The determination on whether an entity receiving federal funds is a subrecipient or contractor is not always straightforward.




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Defining a Subaward


BJA issues a Federal Award



§200.93 Subrecipient means a non-Federal 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 a recipient of other Federal awards directly from a Federal awarding agency.




§200.86 Recipient means a non-Federal 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 subrecipients.




§200.69 Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

§200.74 Pass-Through Entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.



§200.92 Subaward means an award provided by a 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 to a contractor or payments to 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.



What makes an agreement a “subaward”?



The answer lies in **the relationship** between—

- (1) what the outside entity will do under its agreement with the recipient, and
- (2) what the recipient has committed (to OJP) to do to further the **public purpose(s)** of the OJP award.


Procurement Contract

If an OJP recipient agrees to provide funds to an outside entity, and, in exchange, the outside entity will simply provide the recipient with goods or services **ancillary** to the award, **rather than** “carry out part of the OJP award,” OJP will consider the agreement a “procurement contract (or procurement transaction) under the OJP award,” not a “subaward.”


If an OJP recipient agrees to provide award funds to an outside entity (or another third party), so that the outside entity will **carry out part** of the OJP award or program, OJP will consider the agreement between the recipient and the outside entity a “subaward.”

Subaward

Examples of Subawards under SAKI




Funding a rape crisis center to provide services/advocacy



Funding a district attorney's office to prosecute cold cases resulting from testing of SAKs



Funding a research partner to conduct data analysis



Funding a law enforcement agency to conduct cold case investigations

Defining a Contract



§200.86 Recipient means a non-Federal 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 subrecipients.

§200.69 Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.



§200.23 Contractor means an entity that receives a contract as defined in §200.22 Contract.



§200.22 Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award.



What makes an agreement a “procurement contract”?

If the OJP recipient proposes to enter into an agreement to pay award funds to an outside entity, and the outside entity will **not** be carrying out all or part of a **public purpose** of the award, but instead will only be providing “ancillary” goods or services the recipient needs (frequently, to perform the recipient’s own work under the award), OJP will consider the agreement to be a “procurement contract under an award.”

Tip: If an OJP recipient is purchasing or leasing an item or service from an outside entity that makes the identical (or virtually identical) item widely available to others (e.g., to the mass market), absent unusual circumstances, OJP will consider the purchase or lease of the item by the recipient to be a “procurement contract under an award.”

Procurement Contract

Examples of Procurement Contracts under SAKI



Contracting with a commercial lab to test the SAKs

Contracting with an IT vendor to build out a SAK tracking system

Contracting with a staffing agency to help meet project staffing needs

Characteristics - Subrecipient vs. Contractor

Subrecipient	Contractor
Determines who is eligible to receive what Federal assistance under the program guidelines.	Provides the goods and services within normal business operations.
Has its performance measured in relation to whether objectives of a Federal program were met.	Provides similar goods or services to many different purchasers.
Has responsibility for programmatic decision making.	Normally operates in a competitive environment.
Is responsible for adherence to applicable program requirements specified in the federal award.	Provides goods or services that are ancillary to the operation of the Federal program.
In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.	Is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.

Responsibilities - Subrecipient Management

For a Pass-through Entity with subawards, key compliance requirements include the following:



- Having specific federal authorization prior to entering into any subaward under the award.
- Having written and established subrecipient management and monitoring policies and procedures



- Requiring subawardee compliance with 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.



- Requiring subrecipient progress and financial reporting.
- Reporting subawards (over \$30,000) as required by the Federal Funding Accountability and Transparency Act (FFATA).



- Collection of performance data from the subawardee
- Monitoring subawardees: take the appropriate actions to get the subrecipient back on track, if problems arise.

Responsibilities - Contract Management

For a Pass-through Entity with contracts, key compliance requirements include the following:



- Having written and established procurement policies and procedures
- Grantees should follow their local/state guidelines for procurement, unless they are less stringent than federal regulations. If so, federal regulations should be followed



- Ensure competition for all federal funds
- All procurement transactions **must** be conducted in a manner to provide to the maximum extent practical, open and free competition.



- Documentation: Contract files must establish an audit trail
- Pass through entity must executed a contract that includes certain federally mandated provisions
- Agency timeline is NOT a factor for non-compliance



- Non-competitive proposals that exceed the Simplified Acquisition Threshold of \$250,000 must be approved by BJA
- ALL sole source contracts must adhere to at least one of the allowable circumstances for sole source

Determination – Subaward vs Procurement Contract

2. There are **significant** differences between a subaward and a procurement contract, including how those entities are selected and monitored.



3. OJP has developed the following **guidance documents** to help clarify the differences between subawards and procurement contracts under an OJP award and outline the compliance and reporting requirements for each. This information can be accessed online at <https://ojp.gov/training/subawards-procurement.htm>.



1. **You (the grantee)** must determine if your passthrough funds are considered subawards or procurement contracts.

SAKI – Training Requests

Grantees may have allocated funds for training included in their **budget**.

However, **each** specific training requires prior BJA approval before funds can be expended

Training requests are considered and reviewed on a **case-by-case** basis.

Grantees must **email** their training requests to their grant manager prior to expending any funds.



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SAKI – Training Requests



Does the training relate to the SAKI core principals and the SAKI program's Goals & Objectives?

Your request should include the following information:

- Training location, dates, training topics/content; related links to the training and/other information pertaining to the training purpose and content.



Are costs allowable, allocable, and reasonable under SAKI?

Your request should include the following information:

- Total number of staff;
- Cost calculation for all associated training costs (transport, per diem, registration costs, etc)

BJA Policy Office
(Dr. Angela
Williamson & Carey
Hendricks) review

BJA Programs
Office (Mila and
Lauren) review

Training requests require prior BJA approval. They are reviewed on a case-by-case basis in conjunction with the Policy Office.

Additional Resources – GAMs

JustGrants Training: Grant Award Modifications

Link: <https://justicegrants.usdoj.gov/training/training-grant-award-modifications>

DOJ Financial Guide

Link: <https://www.ojp.gov/funding/financialguidedojo/overview>

Sole Source Justification Fact Sheet and Sole Source Review Checklist

Link: <https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/Sole-Source-FactSheet-C.pdf>

Additional Resources – Sub-Awards vs Procurement Contracts

Subawards under OJP Awards and Procurement Contracts under Awards: A Toolkit for OJP Recipients

Link: <https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/Subaward-Procure-Toolkit-D.pdf>

Checklist to Determine Subrecipient or Contractor Classification

Link: <https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/Subrecipient-Procure-cklist-B.pdf>

Sole Source Justification Fact Sheet and Sole Source Review Checklist

Link: <https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/Sole-Source-FactSheet-C.pdf>

Guide to Procurement Procedures for Recipient of DOJ Grants and Cooperative Agreements (Updated in 2016) Link:

https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/New_Procurement_Guide_508compliant.pdf

Additional Resources – Sub-Awards

Sample Subrecipient Monitoring Risk Assessment Tool

Link: https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/Sample_Subrecipient_Monitoring_Risk_Assessment_Tool.pdf

Subrecipient Financial Monitoring - Site Visit Review Items for Consideration

Link:

https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/Subrecipient_Monitoring_Site_Visit_Review_Items_for_Consideration.pdf

Sample Subrecipient Monitoring Checklist

Link:

https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/Sample_Subrecipient_Monitoring_Checklist.pdf

Subrecipient Policies and Procedures Webinar

Link: <https://bja.ojp.gov/media/video/41256>

Questions