



2010
Financial Assistance
Workshop
GMD Connected: The New Decade

Contract versus Grant
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Contract vs. Grant ***What is the Difference...***

Procurement Contract

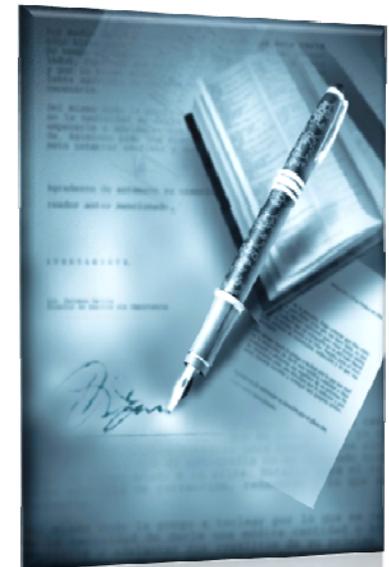
A legal instrument reflecting a relationship between the DOC and a business, organization, or individual whenever the principal purpose is the acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government.

Grant

A transfer of money, property, services or anything of value to a recipient in order to accomplish a public purpose of support or stimulation that is authorized by Federal Statute. No substantial involvement by the Federal Government. The recipient is expected to perform the project without substantial intervention in the management of the project by NOAA.

Cooperative Agreement

A transfer of money, property, services or anything of value to a recipient in order to accomplish a public purpose of support or stimulation that is authorized by Federal Statute. Substantial involvement is anticipated between DOC and the recipient during the performance of the contemplated activity.





What are the differences...

GRANT	CONTRACT
Advance payment allowed if appropriate	Pay for delivery after receipt
Technical/Program Competed	Price must be considered
Grantee can terminate	No Contractor Right to Terminate
Deliverable is a report or completion of project	Product or service required
OMB Circulars	FAR (Federal Acquisition Regulations)

The Federal Grant and Cooperative Agreement Act of 1977 (31 USC 6301-6308)



Contract vs. Grant

More in common today than in the past

Federal Contracts and Financial Assistance Awards are both:

- Authorized by law
- Regulated by program or procurement regulations
- Competitively and Non-Competitively awarded
- Awarded subject to available appropriations
- Based on solicitation
- Awarded to responsible parties, judged best able to meet government needed based on bid, a negotiation, or proposal that addresses a particular set of criteria
- Likely to have both a standard and special terms and conditions, with sanctions for non-compliance



Characteristics of Grants

- Recipient defined scope of work
- Programmatic and/or fiscal reports
 - Requirement
 - During the life of the award
 - At the end of the project
- Project results released to the Public
- Award contains terms on the use of funds
 - Example: Budgetary restrictions
- States programmatic objectives
- Requires specific description of costs
- The nature of work is defined by statute/authorization
- Contains language regarding the right to revoke an award or withhold funding.



Characteristics of Contracts

- Government defined scope of work
- Specific deliverables reports or milestones
- Project results released to the Government
- Award subject to more restrictive conditions outlines in a contractual instrument
- Financing may be on a cost reimbursement or fixed price basis
- Government participates in determining the work to be performed or the services to be provided
- Contracts are used to obtain specific goods and services under specific conditions. A contract is a legally binding agreement involving an offer and acceptance.



Imposing Policies and Guidance under a Grant...

By imposing policies and guidance under a grant/cooperative agreement which gives the recipient the impression or belief that the work will be for the government will change the relationship of the award to that of a contract. (i.e. use of specific equipment/software that the government uses even though other equipment/software is available that can do the job.)



Requiring Published Guidelines and Requirements in RFA's ...

By requiring published guidelines and requirements in RFA's which give the recipient the impression or belief that the work will be for the benefit of the government and the submitted application reflects that belief, then the relationship of the proposal is that of a contract.

For example:

- Operational use of research
- requiring the use of government facilities for evaluation as opposed to non-governmental facilities
- Requiring the data/research results be in a form that is immediately usable by the government.



Update

Fiscal year 2009 DoC FALD opined that since grant programs are authorized by federal statute, all funds expended, and all work conducted must be for the project which is authorized by the federal statute. A profit or fee under a grant is not a cost, but is an amount in excess of actual allowable direct and F & A costs. Therefore any expenditure such as a fee and/or profit which are not applied to the actual allowable direct and F&A cost are disallowable.



Quiz

Contract vs. Grant

What is one of the similarities between a contract and grant?

What is one of the differences between a contract and grant?

A characteristic of a grant is a government defined scope of work? **True or False**

By imposing policies and guidance under a grant/cooperative agreement, gives the impression that the work will be for the government and thusly changes the award to that of a contract? **True or False**

Specific deliverables, reports or milestones is a characteristic of a contract? **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? **True or False**



Questions

