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GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

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To: Cabinet Agencies
From: Kris Cox, Executive Director
Governor's Office of Management and Budget
Date: May 21, 2018
Subject: Guidance and Reporting Requirements for Pass-through Funding

Pass-through funding is "money appropriated by the legislature to a state agency that is intended to be passed through the state agency to one or more: local government entities; private organizations, including not-for-profit organizations; or persons in the form of a loan or grant" (63J-1-220(1)(b)(i)).

Over the last several years, the Governor's Office has become increasingly concerned about the proliferation of un-enacted legislative intent regarding appropriations allocated to state agencies and passed through to predetermined non-state entities. Legislators have indicated that they will review the process for appropriating pass-through funding during this year's interim session. Since this review will take several months to complete, we are providing guidance for disbursing pass-through funding provided during the 2018 General Session. The main intent of this guidance is to ensure that executive branch agencies focus on maximizing the impact of every taxpayer dollar expended.

Pass-through Expenditure Guidance

Notwithstanding any legislative intent to the contrary, state executive branch agencies are legally bound to follow state procurement laws. In some cases pass-through funding may be disbursed as grants, sponsorships, or contracts between procurement units, which are exempt from standard procurement rules. Even when pass-through expenditures fall within one of these categories; it is ultimately the executive branch that is accountable to taxpayers for the expenditure of taxpayer dollars. Therefore, the executive branch is obligated to carefully analyze every item of appropriation and thoughtfully determine how best to spend funds on behalf of the State of Utah. At the same time, we remain committed to implementing legislative intent as long as the intent remains clearly within constitutional and statutory parameters and authority. If you are aware of funding items adopted by the Executive Appropriations Committee but not enacted into law, you should consider them as you disburse pass-through funding. These adopted items are listed in the appropriations report prepared by the Legislative Fiscal Analyst, which is available at <https://le.utah.gov/interim/2018/pdf/00002208.pdf>.

If a legislator expresses a concern or if you have concerns with an item that was identified by the Legislature, please contact your GOMB budget analyst. Along those same lines, GOMB is reviewing all 2018 General Session pass-through items and will notify agencies of any specific concerns. Any GOMB concerns related to FY 2018 supplemental appropriations will be communicated shortly. Concerns related to FY 2019 appropriations will be communicated prior to the start of the fiscal year.

Focusing on Objectives and Outcomes

Various reporting requirements already exist for pass-through funding to ensure taxpayers understand and can evaluate what is being purchased. Before disbursing pass-through funding, state agencies are required to enter into a written agreement with the recipient that requires a written description and an itemized report detailing the expenditure of state money (63J-1-220(2)). Additionally, agencies are required to report pass-through expenditures to the Governor's Office of Management and Budget (GOMB) and the state auditor (when thresholds in 51-2a-201.5 are met). Since 2015, GOMB has requested pass-through funding reports in the fall so they can be included with the governor's budget recommendations. Reports to the state auditor are due after the end each fiscal year.

To better ensure the State of Utah is achieving the best outcomes from pass-through investments, written agreements between agencies and pass-through recipients shall include the following, where applicable.

- The pass-through recipient shall clearly identify what benefits the funding will provide for the citizens of Utah, including the objectives of the expenditures and a list of outcomes that demonstrate the accomplishment of those objectives.
- The expenditure reports shall identify the resources purchased by the recipient (personnel, travel, goods and services, capital infrastructure, etc.) and summarize what those resources were used to accomplish.
- If funding is provided for a building or other capital infrastructure, the recipient shall summarize the other funding sources being utilized to complete the project and how they plan on funding ongoing operation and maintenance costs.
- If funding is provided for a sponsorship, the agreement shall detail how the sponsorship will be promoted and any specific benefits that the sponsoring agency and the State of Utah will receive.

GOMB is currently working on an initiative with the Division of Purchasing and General Services to convert more contracts to outcome-based contracts. While that initiative focuses on contracts for procurement items, many of the same principals can be applied to grants, sponsorships, or contracts between procurement units. For additional information about outcome-based contracting, please contact Chris Hughes, Chief Procurement Officer, at (801) 538-3254. For additional information regarding GOMB's pass-through funding guidance and reporting requirements, please contact Nate Talley, Budget and Policy Manager, at (801) 538-1556 or Duncan Evans, Budget Manager, at (801) 538-1592.