

Post-Award: Grant Reporting & Oversight II

Module 7

Instructor notes:

Welcome to Module #7 which is the second of the two modules that pertain to the Post-Award - Grant Reporting and Oversight activities. This second module covers a wide range of oversight activities from making sure that you receive an annual single audit and oversee your sub-grantees to the basics of an FMCSA on-site monitoring to how to do amendments and possible enforcement actions to which you may be subject if you are not compliant with your grant agreement. This module also correlates to Chapter 6 of the grantee manual.

Slide 2 Objectives

By the end of this module, you should be able to:

- Explain the key elements of the following tasks in the post-award process
 - Annual Single Audits
 - Regular Communication
 - Sub-grantee Oversight and Reporting
 - FMCSA On-sight Monitoring
 - FMCSA Enforcement
 - Amendments

Instructor notes:

Following this module you should understand:

- Your obligations regarding annual single audits and sub-grantee oversight and reporting
- The general policy around the timing, process and format of on-site reviews;
- What are the different types of reviews and their basic elements;
- The relationship of quarterly reports, voucher reviews, audit reviews and other basic mandatory monitoring to on-site reviews.
- The general policy around Enforcement
- What are the different types of Amendments
- An overview of the Amendment template and how to use it

Slide 3 Annual Single Audits

Instructor notes:
(Transition Slide)

Slide 4 Grantee Annual Single Audit Requirements

- **Who:** Grantees that expend \$500,000 or more in federal awards annually
- **What:** Verify that your agency obtains and submits an annual single audit
 - Provide a copy to FMCSA, if requested
 - Develop a corrective action plan (CAP) as needed
 - Follow and complete CAP
- **When:** Due nine months following the Grantee FY. Management Decisions and final CAPS due six months later.

Instructor notes:

- As we discuss your requirements regarding annual single audits, let me just refer you to Section 6.3.6, page 50 of the grantee manual
- As the grantee, you are responsible for verifying that your state, locality or organization, obtains and submits to the federal government a single audit annually. This requirement is in the Terms and Conditions and is a requirement to which all federal grantees are subject if they expend \$500,000 or more federal dollars annually.
- Annual Single Audits are generally coordinated through the CFO and therefore that is the first place to start with the verification.
- Audits are generally done at the state or agency level, therefore it is unlikely in most cases that you will see findings for your specific Office or program, however, we will not only look for findings pertaining to our specific FMCSA grants, but for systemic issues as well, such as those pertaining to finance, procurement, etc.
- Your first responsibility is to confirm that your organization has submitted their annual audit, then it is to make sure that you are addressing any findings that arose from that audit.
- If there are any findings that are FMCSA specific it will require a corrective action plan to eliminate all deficiencies. We will then monitor the CAP to completion. However, depending upon the finding, we may also require a CAP for a higher agency finding, although that is rare.
- If any material weaknesses are identified in the audit, you are responsible for developing and executing a Corrective Action Plan to address these weaknesses.
- Many audit packages include a Corrective Action Plan at the time of submission, however if it does not, then FMCSA will develop one with you.
- It may also be useful to note that the Administrative Capability form that you submit each year with your applications also asks about the Annual Single Audit, confirming that it was done and whether or not there were any relevant findings. We cross check this with our own review of the annual audit, so it is useful to make sure that your monitoring of this audit

is up to date and therefore your certification on the Administrative Capability Form is accurate.

- For more information on the audit, be sure to reference your manual.

Slide 5 Audit Resolution – Corrective Action Plans (CAPs)

- At the request of FMCSA:
 - Should include milestones (dates), details, actions to address all deficiencies
 - May include the need for a follow-up review, training, a time-phased implementation plan, or more frequent reporting
 - May impact the NGA (Grant Agreement) with the need for special conditions
 - If not adhered to, may trigger Enforcement actions

Instructor notes:

- As I mentioned, if there is an FMCSA specific finding, then there must be a CAP to clear that finding. However, FMCSA can request a CAP for any finding in the audit if they consider it relevant to the administration of your FMCSA grant.
- If an FMCSA Grant Manager does request a CAP or if you are preparing one that is for an FMCSA specific finding the CAP should be sufficiently detailed with dates and actions so that we can monitor progress against them. That includes any policies or procedures that must be submitted by a specific date
- If the grantee is unwilling or unable to correct the deficiencies within a reasonable period of time, the Grant Manager may have to take more significant action, but we will discuss that further in the Enforcement section of this module.
- If at any time the FMCSA Grant Manager finds, through a review of reports, follow-up review, or other means that the grantee is not complying with the Corrective Action Plan, the Grant Manager may contact the FMCSA Program Manager, and Office of Chief Counsel to initiate safeguard procedures.

Slide 6 Regular Communication

Instructor Notes:
(Transition Slide)

Slide 7 Regular Communication

- FMCSA depends on regular communication with grantees
- Regular communication includes:
 - Periodic meetings/conference calls/calls/site visits
- Grantees are expected to notify FMCSA with any issues related to the grant or performance
- FMCSA Division Office is the first point of contact

Instructor notes:

- There isn't a specific section in your manual for regular communication, however it is referenced in Section 6.2, bottom of page 46 and it is a critical component of grant management.
- Regular communication with your FMCSA Grant Manager is the best way we have to keep up with your grant program progress, learn about any problems you may be having, uncover the best practices you have implemented and know when technical assistance and guidance may be needed.
- It is the best way you have to head off compliance issues before they become problems, learn about changes or improvements to the program, new or changed requirements or share your successes.
- Then if your Grant Manager can't address an issue, then you can move on to the SC SPM and then ultimately to HQ. We request that you recognize our chain of command, but also know that you have many places in which to seek advice and input.
- FMCSA has formulized our communication process to a greater extent and allow that focus to benefit all parties.

Slide 8 Grantee Oversight and Reporting Responsibilities of Sub-Grantees

Instructor notes:

- The content of this next section is new to some grantees as FMCSA has not focused on these requirements in the past.
- However, according to regulation and the Grant Award Terms and Conditions, FMCSA is not responsible for the compliance of your sub-grantee's. FMCSA holds the Grantee (you) responsible for the compliance of your sub-grantees, and in this next section and in Section 6.5 of the grantee manual we try to explain this requirement more fully.

Slide 9 Grantee Monitoring Obligations

Grantee is responsible for monitoring the sub-grantee

- Include terms and conditions with sub-grantee awards
- Assess the quality of sub-grantee performance
- Determine the level of sub-grantee administrative and financial compliance
- Address sub-grantee management deficiencies and develop corrective actions
- Document monitoring activity and results
- Report any sub-grantee problems to FMCSA

Instructor notes:

- For the most part sub-grantees are held to the same rules and regulations to which you are subject, therefore it is in your best interest to establish ways to assure their compliance and to monitor their compliance. Some of these include:
 - Using sub-grantee agreements or MOUs that have terms and conditions similar to those issued by FMCSA;
 - Having an administrative capability form similar to FMCSA's to help predict monitoring issues or weaknesses prior to the sub-grantee award; and,
 - Establishing and maintaining a monitoring plan and conducting and documenting monitoring activities.
- When we refer to administrative and financial compliance here, it pertains to both the elements in the FMCSA Terms and Conditions as well as adherence to the OMB Circulars and regulations to which your sub-grantees are held as well.
- Just remember, we are responsible for monitoring you and for making sure that you are monitoring your sub-grantees. Therefore we will look for a monitoring plan and/or documentation of your oversight and it will be a finding against you, if it is not there. You are responsible for essentially the same level of monitoring that FMCSA conducts on you, on your sub-grantees.
- In addition, to complying with your own grant management requirements, the direct monitoring of your sub-grantees also allows you to avoid audit hassles in the future and improves the grant performance overall.
- Just as with your own communication with us, it is important to report your sub-grantee problems to FMCSA since they impact the overall program and your performance. In many cases FMCSA may also be able to help you develop appropriate CAPs or come up with ideas on how to best deal with your sub-grantee and any performance concerns.

Slide 10 Sub-grantee Management & Oversight

Pre-Award

- If you (grantee) use a competitive process for sub-awards it should be full and open and use peer review panels
- Verify that your sub-grantees are not on the Excluded Parties List (debarred or suspended) or have outstanding federal debt
- Educate your sub-grantees on the Federal cost principles

Instructor notes:

- The prior slide outlined your obligations regarding monitoring of your sub-grantees or your post-award requirements.
- These next two slides highlight some ways in which you should work with your sub-grantees in pre-award and throughout the management of their award.
- This list is not comprehensive and is somewhat of a work in progress. We are still working on guidance and practices to assist you with this requirement and so there is more assistance to come.
- So for instance, if you are using a competitive process for making sub-awards, then it should be full and open, just as it is for you at the federal level. This means, your sub-grantees should submit an application, the applications should be reviewed by an impartial group and evaluated according to pre-established and published evaluation criteria and awarded based on merit.
- You are required to certify that your sub-grantees are not on the Excluded Parties List, so you need to build in a check as part of the award process to verify that they are not on this list.
- Given that your sub-grantees are held to the cost principles, just as you are, you may want to build in an opportunity to educate them regarding the cost principles so that they can be more successful at complying.

Slide 11 Sub-grantee Management & Oversight, Cont.

Require sub-grantees to maintain the same type of invoice documentation that is required of you from FMCSA

"Impose on ... sub-grantees all applicable foregoing "Payment by FMCSA" requirements of this Agreement."

Sub-grantees must adhere to the same record retention requirements as grantees

Instructor notes:

- To continue, given that you are responsible for your invoices to FMCSA and the accuracy of them, it is in your best interest to monitor their vouchers in a manner similar to how FMCSA will monitor you. Sampling their invoices to you, verifying that they are in adherence to the cost principles and that all costs are eligible according to the program. Check their back-up to make sure that it is all there, so that if FMCSA comes to audit your voucher, you can easily produce the back up.
- The FMCSA Terms and Conditions, Section 17(c) include this quote listed on the slide, which clearly that you must impose the same voucher requirements on your sub-grantees as FMCSA imposes on you.
- Likewise, sub-grantees are held to the same record retention requirements as you.

Slide 12 Sub-grantee Best Practices

- Require sub-grantees to sign a sub-grant agreement similar to the FMCSA grant agreement
- Perform pre-award due diligence of your sub-grantees
- Include as many aspects of the FMCSA process and requirements as possible
- Develop a monitoring plan
- Train your sub-grantees using these materials and manual

Instructor notes:

- As noted on the prior slides, all of these sub-grantee requirements do promote the use of sub-award terms and conditions that are the same or very similar to those used by FMCSA, although that is not a requirement it is a best practice.
- I won't walk through all of these bullets, as we have already touched upon most, if not, all of them, but you may want to use this as a helpful check list as you look at your current treatment of sub-grantees or develop new sub-grantee policies and procedures.
- Feel free to share these training materials with your sub-grantees or point them to FMCSA's public website.

Slide 13 FMCSA On-Site Monitoring

Instructor notes:

- Now that we have spent all of Module 6 and part of this module discussing your reporting requirements and your monitoring of your sub-grantees, lets touch upon how FMCSA performs on-site monitoring of you.
- As a point of reference, this section, correlates to Chapter 6, Section 6.4 of the grantee manual.

Slide 14 On-Site Monitoring Overview

- FMCSA develops an annual on-site monitoring plan based on:
 - Review of quarterly reports, vouchers, and regular communication
 - Prior grant performance issues/problems/audit findings
 - Observed need in general, and/or
 - Program requirements (CDL and MCSAP Reviews)
- Ensures grant activity aligns with NGA
- Each grantee will be reviewed at least every three years based on monitoring plan

Instructor notes:

- On-site monitoring is directly related to the basic mandatory reporting requirements/monitoring that we discussed in Module 6 and earlier in these slides – the submission and content of your quarterly reports, the contents of your vouchers, any findings from your annual single audit and the content of our regular communication and observations.
- On-site monitoring can also be a result of:
 - Routine/scheduled site visits or Program Reviews (as determined by grant program-specific regulations or requirements) or compliance reviews (Title VI, etc.);
 - A finding of discrimination;
 - For state or local grantees designated high risk pursuant to 49 CFR Section 18.12 or based upon the FMCSA Annual Risk Assessment or in the specific terms of the Grant Agreement; or even,
 - In response to a grantee request;
- Based on FMCSA policy, each grantee must be reviewed at least once every three years in some capacity. It may not be for every grant program, grant award or aspect of the grant – financial, administrative, and/or programmatic, but at the barest minimum FMCSA will be on site every three years regarding at least one grant program/award and for at least one aspect of grant management.
- It is likely, however, that most grantees will be monitored in some form and/or for some program annually or at least bi-annually.

Slide 15 On-Site Monitoring Objectives

- Evaluate grant administration
- Evaluate program performance
- Verify statutory, regulatory, administrative and financial compliance
- Determine compliance with program requirements and grant agreement
- Ascertain compliance with information technology and data quality standards
- Identify technical assistance needs
- Promote federal/state cooperation and facilitate ideas

Instructor notes:

- Our primary objectives to going on-site to monitor you is to evaluate both your performance and grant administration. What does that mean? We will look at:
 - Your overall financial management; internal controls; financial systems and record keeping; invoice back-up; expense reporting, and report timeliness
 - Your performance against the project plan and performance measures
 - Where you are against your milestones
 - The quality of performance – you are doing all of your inspections, but are they high quality and accurate inspections?
 - Whether you are adhering to the authorizing statute and regulations of the program?
- We will verify that you are in compliance with the statutory and regulatory requirements of the program and your grant agreement.
- On-site monitoring is also a great opportunity for FMCSA to provide technical assistance or guidance to grantees, and a good chance for grantees to ask questions and run ideas by FMCSA.
- It is also way for FMCSA to gather best practices and observe them first hand. We recognize that you all are a great source of ideas and we like to share those ideas across all of our grantees so that we can improve program performance nationally.

Slide 16 Types of FMCSA Reviews

- **Program Reviews:** Broad examination of a grantee's management of the grant program and funds - MCSAP and BEG.
- **Process Reviews:** A detailed examination of a limited area of the grant – Financial Management; Procurement; Compliance Reviews/CSA, etc
- **Title VI Reviews:** Reviews conducted by OCR to verify compliance with Title VI.
- **Ad Hoc Reviews:** Based upon need or assessments made using mandatory monitoring or complaints, as deemed appropriate.

Instructor notes:

- There are four general types of on-site reviews that FMCSA may perform. They include: Program Reviews, Process Reviews, Ad Hoc Reviews and Title VI reviews.
- A Program Review is a broad examination of a grantee's management of the grant funds as it pertains to a specific program and there are three primary components - regulatory, financial and safety and program performance. Then there is a 4th EEO/AAP component.
 - The MCSAP, BEG and CDL programs statutorily require Program Reviews, however FMCSA may perform a Program Review for any of its 10 grant programs.
 - This in depth type of review will not happen that often, as it is a very time consuming and costly form of monitoring for both you and FMCSA
- Process Reviews are a detailed examination of a limited area of the grant. They may include the examination of specific policies, procedures, practices, and/or controls of the area reviewed. A Process Review may cover varying time periods and cover one or more topical areas, such as financial management, safety performance measures, compliance reviews/CSA, interventions/investigations, New Entrant audits, etc.
 - A Process Review may be done through limited monitoring monthly, whenever we are on-site for a meeting or in one single visit.
 - We may also review more than one process in a given year depending upon need and other factors
- Ad Hoc Reviews really incorporate anytime of on-site monitoring that doesn't fall into the three other categories. Grant Managers may just take advantage of any time they are on-site as an opportunity to look at a process or to do Quarterly Report verification if the time and opportunity allows.
 - Ad Hoc Reviews can ultimately become part of a process review or just be their own separate form of monitoring, but any review of any kind will now be documented, so that it can be shared with you and put in your grant file.

- All entities that receive federal financial assistance indirectly or directly are subject to Title VI. Periodically grantees or sub-grantees may be subject to a Title VI review. There is further guidance in the grantee manual on Title VI reviews and FMCSA is in the process of developing a Title VI manual as well.

Slide 17 MCSAP & BEG Program Reviews

Review Component – MCSAP Review Objective

- Regulatory – Determine if State Laws, Regulations, Administrative Procedures, and Operational Practices are in compliance with: 1) STAA of 1982 as amended, 2) implementing regulations in 49 CFR 350, and 3) compatibility regulations in 49 CFR 355.
- Financial – Determine State compliance with FMCSA Grant Agreements, Federal regulations, and applicable OMB circulars, as amended, as well FMCSA policy
- Safety and Program Performance - Determine if the State program safety planning and operational activities are in compliance with: 49 CFR 350.

Instructor notes:

- This slide and the next are a good quick references regarding the basic components of a MCSAP and BEG Program Review or a CDL Program Review.
- I won't go into these in any detail, but just point them out as useful reference slides.

Slide 18 CDL Program Review (CCR)

Review Component – CDL Review Objective

- Regulatory – Determine if State Laws, Regulations, Administrative Procedures, and Operational Practices are in compliance with: 1) CMVSA of 1986 as amended, 2) 49 CFR 383, and 3) 49 CFR 384
- Programmatic/Operation – CDL Roles and Responsibilities Memo

FMCSA is in the process of refining the CDL Program Reviews

Instructor notes:

- FMCSA is in the process of further refining the CDL Program Reviews and additional information will be forthcoming once that process is complete.
- Your FMCSA Grant Manager and CDL Grant Program Manager and Program Technical Manager will provide additional information as able.

Slide 19 On-Site Monitoring Report Format

- **Introduction** – reason and type of review, date, time on-site, persons contacted and review team members
- **Scope** – brief description of elements reviewed; programs and period of time covered by review
- **Discussion** – background, source of what was reviewed, observed, sampled, basics of what was found and its impact on operations or the program
- **Findings and Recommendations** – summary of findings and proposed actions to remedy and possible timelines

Instructor notes:

- This slide is just a quick snap shot of what to expect in an on-site monitoring report from FMCSA
- On-Site Monitoring Reports (regardless of the type) will include, at a minimum, the following information in the format shown:
 - An Introduction
 - A Scope section which describes what program and area were reviewed (for instance, MCSAP Safety Inspections) and the time period covered (such as, January –December 2011)
 - The Discussion section delineates the specific elements examined, how and where and when they were examined and the results at a high level. (So for instance, we viewed 100 inspections as X, Y, Z sites, from 10am -2pm for 5 days running and we found that 10% of the inspections were non-compliant.)
 - Then finally it will contact a Findings and Recommendations/Resolutions section. This is where we describe in detail what we observed and our recommendations for resolving any issues found.
- Draft reports must be completed within 30 days of the visit and shared with the participants for technical corrections and to capture processes and workflows that may have been missed or inaccurate. This is not when we expect the grantee to respond to the findings and recommendations.
- Then final reports must be completed within 60 days following completion of the review.
- Once we have shared, the "final report", FMCSA will follow-up with you on the deficiencies and will report out on your progress every quarter.
- Quarterly status reporting will be required until all findings are resolved.

Slide 20 Grantee Tips for Site Visits

- **Flexible Scheduling** - Work closely with FMCSA to schedule visit and accommodate their requirements
- **Staff Preparation and Expertise** – Have the most knowledgeable staff available. Brief all staff regarding the visit
- **Grant Files** - Organized and available for review
- **Advance Materials** – provided in advance of visit and timely
- **Compliance Refresher** – revisit the NGA, Provisions and Assurances, key program and grant administration regulations and the certifications provided at application

Instructor notes:

- What will make an on-site monitoring review go well? Here are just a few tips and there is a reference table in this regard on Page 54 of the grantee manual.
- I won't go through all of these, but just note a few that are the most useful. Such as:
 - Making sure that all of your staff who may be involved in the site visit fully understands who is coming, for what purpose, the agenda and what the review team is there to see
- If you maintain good grant files from the outset, that should make the review much easier and will avoid and record keeping findings. However, when I refer to grant files I am referring to everything from safety logs to time sheets. Try to keep together as much as possible.
- Finally, a quick review of all the elements that guide the program and grant administration compliance will help you identify weaknesses prior to FMCSA's arrival. Proactivity is always a benefit.

Slide 21 Key Concepts

Effective monitoring = Continuous process improvements

- Monitoring plays a key role towards:
 - Accountability
 - Protects the federal investment
 - Assures compliance
 - Informs the need for technical assistance
 - Identifies need for grant amendments or other actions

Grantor-Grantee Communication is Critical!

Instructor notes:

- To recap. Just as with FMCSA's monitoring of its grantees, your monitoring of sub-grantees will help to:
 - Improve the overall management of projects and enhance overall performance
 - Ensure the terms and conditions and purpose of the awards are fulfilled
 - Assure grant activities are approved and consistent with federal law, standards and procedures
 - Protect the federal financial investment from fraud, waste, abuse or mismanagement
 - Hold everyone involved accountable for their service, performance, etc., and,
 - Ensure sub-grantees do not discriminate

Slide 22 Administrative Enforcement

Instructor notes:

- Enforcement is merely the term that we use to reference any action that FMCSA takes to ensure compliance with the NGA and the basic requirements of the grant and the grant program. So this can be anything from email and phone call reminders to submit your quarterly reports all the way up to suspension of a grant due to debarment or fraudulent activity. This is the very broadest definition of the term enforcement.
- We view ourselves as partners in the grant process and our ultimate goal is for the success of the grant and grant program overall.
- Based on that ultimate goal we view enforcement merely as a tool for increased compliance with the grant agreements and terms and conditions, etc, and we will always take incremental steps with lots of opportunity for correction along the way.
- As a point of reference, this section of the module correlates to Chapter 6, Section 6.6 of the grantee manual.

Slide 23 Enforcement and Compliance Actions

- Action is incremental and will depend on the non-conformance
 - Minor
 - Phone conversation, informal email
 - Formal written notification
 - Establish a corrective action and timeline
 - May withhold grant payments
 - More Serious – if no action is taken (**Official enforcement/ compliance actions only occur after other measures are tried**)
 - Formal written warning
 - Timeline, corrective action, measures FMCSA will take if problem continues
 - May suspend grant

Instructor notes:

- FMCSA grant enforcement is covered primarily in 49 CFR Part 18.43
- As we have noted throughout this module and the one prior, in general we require you to comply with your grant agreement and to submit quarterly reports, correctly and timely and to submit quarterly vouchers, and to meet your milestones and to close-out your grants properly.
- Therefore our enforcement actions will depend on the nature of the non-conformance
 - A minor non-conformance, such as a missed or late quarterly report or voucher will begin with a phone conversation and an informal email.
 - But, then after the 2nd or 3rd missed or very late quarterly report, we would probably move to a formal written notification (email or letter) in which we would identify the problem and establish a corrective action and timeline
 - If you never submit any quarterly reports or only invoice annually or ignore the former FMCSA requests and actions, then we would move to a formal written warning, etc.
 - Or if the infraction is more serious at the outset, such as potentially fraudulent behavior or severe mismanagement we may begin with a formal written warning at the outset.
- The point is that we are not here to slap the hands of our grantees, but we are here to be stewards of the federal funds and to make sure that everyone adheres to the requirements of the grant agreement and program.
- So we may withhold payments if the terms of the agreement aren't met and we will consider suspending grants if there is a chronic pattern of non-conformance. And performance on one grant will impact your

competitiveness for future awards.

- However, we hope we will never have to go to this level and in most cases we will take incremental steps and afford plenty of opportunity for correction and clarification.
- That said though, non-compliance, non-performance and misuse of funds will lead to serious consequences.
- Our ultimate goal is to have the best possible safety programs, while still meeting the federal requirements for grant management and being responsible stewards of these federal funds.

Slide 24 Enforcement and Compliance Actions

- New federal and FMCSA emphasis on grant fraud, waste, and abuse
- Section 15 of the FMCSA Terms and Conditions has new fraud reporting requirements
- FMCSA must follow statute relating to fraud and the use of false statements, and the associated penalties
- Obligation to report to the hotline: <http://www.oig.dot.gov/Hotline>

Instructor notes:

- Section 15 of the Terms and Conditions includes new reporting requirements regarding fraud, waste, and abuse, and as a result you are now obligated to contact the DOT or the Office of Inspector General (OIG) if you become aware of the existence (or apparent existence) of fraudulent activity, waste, or abuse
- You should also be aware that conversely we may pursue administrative, civil, or criminal action under a variety of statutes relating to fraud and making false statement or claims.
- Some examples of fraud, waste, and abuse that should be reported include, but are not limited to, embezzlement, misuse, or misappropriation of grant funds or property, and false statements, whether by organizations or individuals.
- Other examples include theft of grant funds for personal use; using funds for non-grant-related purposes; theft of Federally-owned property or property acquired or leased under a grant; and submission of false financial reports; just to name some.

Slide 25 Amendments

Instructor notes:

As our final section we will now turn to Amendments, which is covered in Chapter 6.7, of the grantee manual.

Slide 26 Amendments

- Amendment requests must be made in writing to the Grant Manager with the required information – the FMCSA Amendment Template is strongly recommended
- **MUST BE** approved **PRIOR** to the change in activity and the period of performance expiration date
 - Period of performance extension amendments should be submitted at least 3 months prior to expiration
- All Amendments on FY11 awards and beyond are issued through GrantSolutions

Instructor notes:

- Any requests for amendments to the existing grant agreement must come from the grantee and must be submitted in writing to your FMCSA Grant Manager. FMCSA will not amend agreements without a formal amendment.
- Of course you can discuss your amendment with your Grant Manager prior to submitting the official request and we recommend that you do so, but after that has been worked out, you will need to ultimately request it in writing.
- FMCSA has developed an Amendment Template which is found in Appendix H of the grantee manual. We recommend that you complete the template and submit it to FMCSA with any necessary back-up documentation.
- You are not required to use the template, however you will need to provide the same information as is contained in the template and use of it will definitely expedite the processing of your Amendment.
- **Any amendments for an extension to the period of performance should be submitted at a minimum 3 months in advance of the end of the period of performance to allow for enough time to extend prior to the grants expiration.**
- Although pre-FY11 amendments will be handled manually and not in GrantSolutions, they still follow the same approval process.

Slide 27 Amendments Continued

Amendments fall into five basic categories or combinations of categories:

- Changes in funding or budget (to include incremental funding)
- Changes in period of performance (limited)
- Modification of activities (scope issues)
- Changes to the NGA itself (changes in Lead Agency, Special Conditions, etc.)
- Close-out (to include Deobligation)

Instructor notes:

This information can be found in Table 5, on pages 59-60

- As noted here, amendments fall into five basic categories:
 - Changes in funding or budget (to include incremental funding)
 - Changes in the period of performance (limited only those programs that do not have a statutorily dictated period of performance)
 - Modification of activities (not to be confused with changes in scope)
 - Changes to the NGA itself (such as changes in Lead Agency, Special Conditions, etc.); and,
 - Close-out Amendments
- So some examples of actions that you may take, but will require an amendment are:
 - The purchase of a vehicle for \$26,000, but it was not in the original budget. As long as it is reasonable, allowable, and allocable, we are likely to approve an amendment to the budget.
 - Extensions to the period of performance aren't possible for programs that have a statutory expenditure deadline of two years, however for "no year money", FMCSA may amend the period of performance as long as there is a logical and justifiable rationale for doing so.
- Although most changes to the NGA require an amendment, they may not require submission of an amendment template. These can often be accomplished with just an email to the Grant Manager explaining the change.
- Likewise, close-out amendments are not generated by the grantee, but within FMCSA and do not require an amendment template completed by the grantee.

Slide 28 Amendment Package – Budget or Change in Activities Summary

- Statement of original grant purpose – budget and activities
- Summary of work performed to date and costs incurred – including completion dates and milestones
- Summary spreadsheet – original budget, changes, new budget (if applicable)
- Revised action plan with new milestones and dates

Instructor notes:

- We don't need to run through this slide in detail, this just lists the general information required in the case of a budget change or change in activities.
- If you use the Amendment Template this information is already requested in the template.
- This information is also listed on page 62 of the grantee manual.

Slide 29 Amendment Package – Budget Change

1. Budget Tracking							
<i>Grantees should include the major cost categories in this table as well as the line items from their current, approved budget</i>							
2.1 SF-424A Object Class Category	2.2 Original Amount Awarded	2.3 Current Amount Awarded ¹	2.4 Amount of Funds Expended	2.5 Unexpended Balance	2.6 Proposed Amount Removed ²	2.7 Proposed Amount Added ³	2.8 Revised Budget Requested
a. Personnel	\$65,000	\$65,000	\$10,000	\$55,000	(\$6,523)	0	\$58,477
b. Fringe Benefits	\$18,200	\$18,200	\$2,800	\$15,400	(\$1,826)	0	\$16,374
c. Travel	\$500	\$500	0	\$500	0	\$1,446	\$1,946
d. Equipment	0	0	0	0	0	0	0
e. Supplies	\$1,200	\$1,200	\$500	\$700	0	\$1,700	\$2,900
f. Contractual	\$1,000	\$1,000	0	\$1,000	0	\$5,900)	\$6,900
g. Construction	0	0	0	0	0	0	0
h. Other	0	0	0	0	0	0	0
i. Total Direct Charges (sum of a-h)	\$85,900	\$85,900	\$13,300	\$72,600	(\$8,349)	\$9,046	\$86,597
j. Indirect Charges	\$6,872	\$6,872	\$1,056	\$5,816	(\$697)	0	\$6,175
k. TOTALS (sum of i and j)	\$92,722	\$92,722	\$14,356	\$78,416	(\$9,046)	\$9,046	\$92,772
2. Percent Change in Budget – Grantees should complete this section if they are moving funds across cost categories							
Equation			Amount				
Proposed Change (÷) (sum from column 2.7)			\$9,046				
Current Amount Awarded (sum from column 2.3)			\$92,722				
Percent Change			%10				

Instructor notes:

- This is an example of what a budget change spreadsheet might look like for the amendment package, based upon the recommended Amendment template.
- If the budget change is 10% or more of the total current approved budget and within the amount awarded, and it does not represent a change in scope or an unallowable cost, then you don't need written approval. However we strenuously recommend that you notify your FMCSA Grant Manager of the change via email.
- If the budget change is over 10% of the total current approved budget and/or this change creates a cumulative change of over 10%, an amendment is required.
- It is important to understand that the change must be between SF-424 object class or budget categories, for example from Personnel to Equipment or from Supplies to Travel. Not within detailed budget line items, such as from Commissioned Inspectors to Non-commissioned

¹ The “Current Award Amount” should be the same as the “Original Award Amount” unless the budget has been previously modified by an amendment

² The “Proposed Amount Removed” should be the amount to be subtracted from the original Object Class Category

³ The amounts subtracted in the “Proposed Amount Removed” rows should be added to the new Object Class Category in the “Proposed Amount Added” column

Inspectors, all within the same major budget line item of Salaries.

- However, if the budget change, regardless of the size or whether it is within or across object class or budget categories triggers a change in scope, an amendment will be required. We will discuss scope change further on in this section.
- In either case, we recommend that you maintain budget files that show the original approved budget and any subsequent approved budget changes so that both you and your FMCSA Grant Manager can easily determine the history of any budget and whether or not you have hit the 10% mark. The Amendment Template budget sheet will facilitate this process if used, but again it is not a mandatory approach.

Slide 30 Amendment Package – No Cost Extension Summary

- Statement of original grant purpose – budget & activities
- Summary of work performed to date and costs incurred – including completion dates and milestones
- Explanation of delays
- Explanation of the obstacles and plan to address
- Summary spreadsheet – original budget vs. expenditure in object category
- Revised action plan with new milestones and dates

Instructor notes:

- Again we don't need to run through this slide in detail, this just lists the general information required in the case of a no-cost extension.
- If you use the Amendment Template this information is already requested in the template and this information is also listed on page 62 of the grantee manual.

Slide 31 Amendment Template

Section I: General Information

- Includes: grantee contact information; grant award details; grant financial details; current project description, purpose and objectives; and, project progress

Section II: Amendment Type

- Includes: type of amendment; high level description of modification; and, impact on original purpose of the grant

Instructor notes:

- In the next three slides we will orient you to the Amendment Template, so you may want to refer to it in Appendix H of your grantee manual as we go through it.
- Again the template is not a mandatory requirement, as long as you provide the same information, organized in a similar fashion and provided in writing. However, use of the template will expedite the approval process.
- This template or "any amendment package" will be an attachment to the formal amendment or new NGA which will issue to you and you will need to sign, just as you did the original NGA.
- Once we receive the template or your amendment request, it will be reviewed by your FMCSA Grant Manager, who will also add additional support documents.
- Then the Grant Manager will send it to the Service Center SPM for review and then ultimately to the respective FMCSA Program Manager, where it will be processed as an amendment and ultimately a new NGA issued.
- As you can see it is not an extremely speedy process and we do recommend that you allow at least 3 months or more for approval.
- The template has 4 primary sections.
- Section 1 which is just general grantee information and is which is standard across any amendment type.
- Section 2 which indicates the type of amendment being requested.

Slide 32 Amendment Template Continued

Section III: Justification of Amendment

- Subsection A: Extension Request
- Subsection B: Modification of Activities Request
- Subsection C: Budget Revision Request
- All Subsections Include:
 - Period of Performance Information/Description of Activities
 - Modified or Budget Revision (budget worksheet)
 - Justification for Extension Request or Justification for
 - Activities Modified or Budget Revision
 - Description of Potential Obstacles/Mitigation Strategies

Instructor notes:

- As you will see Section III closely correlates to the slides we just provided with the key elements required in various Amendment packages.
- It is important to recognize that if the subsections aren't filled out accurately and fully, then it will get turned back and you will have to begin again.
- It doesn't have to be a lengthy document, just answer the key questions directly, accurately and succinctly.
- The more accurate, concise and detailed you can make the request the faster and easier it will be processed. More is not better, but you do need to provide sufficient information to fully understand the request.

Slide 33 Amendment Template, Cont.

Section IV: Amendment Submission Approval

Supporting Documentation includes:

- Up to date project plan, milestones and final completion dates
- Budget tracking spreadsheet (if applicable)

Instructor notes:

- Section 4 is where the signatures are rendered, and this is really a section completed by FMCSA, but do be sure that you have signed the template.
- In terms of supporting documentation, this is dependent upon the type of amendment requested.
- For example, you don't have to redo the entire project plan, just the sections in which there is a change. Or, if easier, include the entire plan, just highlight the updated sections. This is at the discretion of your Grant Manager and work with them to see what they prefer.
- Once you have submitted the request, the FMCSA Grant Manager will add the following documents to the package as part of their review of the request.
 - Most recent quarterly reports
 - Copy of original grant agreement and all amendments
 - Copy of the original grant application
 - Copy of the award memorandum
 - Copy of a current Delphi Purchase Order (PO) status report

Slide 34 Amendments

Do

- Provide all information in amendment template
- Process amendments prior to expiration date (allowing sufficient time for the process)
- Process amendment according to FMCSA requirements

Don't

- Change scope after period of obligation
- Process an amendment following grant expiration date
- Approve budget change of more than 10% of the cumulative current approved budget, without an amendment

Instructor notes:

Alright, some of the key take aways for Amendments are:

- Submit your request in writing with sufficient justification for the request
- Any amendment should be started at least 90 days prior to need, just to allow for the time it takes to process. This is particularly for period of performance extensions, so that you make sure the grant doesn't inadvertently expire. **YOU ABSOLUTELY CAN NOT AMEND A GRANT ONCE IT HAS EXPIRED!!**
- FMCSA can not "roll over" unobligated funds on an expired grant agreement into the next agreement, the funds left on the table at expiration must be deobligated and go back to the Treasury.
- Amendments must follow the approval workflow in GrantSolutions in terms of the NGA, even if they are processed manually for pre-FY11 grants.
- You can not change the SCOPE of a grant after the period of obligation (and we will discuss this in the next few slides)
- You must have an amendment for any budget change of 10% or more, over the lifetime of the grant award. If you hit the 10% mark and an amendment is issued that creates a new approved budget and then you essentially start over again. Just a reminder that it is 10% of the total budget, not each budget category.

Slide 35 Change of Scope Definition

What it is

- A change to the purpose of the grant
- For example: Grant purpose is to provide training for inspectors. The requested change is to pay overtime for inspectors to increase the number of inspections.

Instructor notes:

- What do we mean by "Change of Scope"?
- When defining the scope, you first must identify the purpose of the grant.
- So for example, if the purpose of the grant is to provide training for inspectors, and the requested change is to pay overtime for inspectors to increase the number of inspections, then that is likely a change in scope because it changes the purpose of the grant.
- Some other examples include an attempted change from rural road enforcement to the purchase of office equipment.
- Or a change in the research objective of a research grant.
- Or in some cases the award of the grant to an alternative grantee.
- Almost every change to a grant award, whether it is a change in budget or period of performance or change in activities will be evaluated for a potential change in scope. And if a change of scope is suspected it will probably be forwarded to the FMCSA Office of Chief Counsel for further determination. We evaluate every potential scope change on a case by case basis and with serious consideration.

Slide 36 Change of Scope Definition, Cont.

What it isn't

- A change to activities within the grant, but not the purpose of grant
- For example: Grant purpose is to provide training for inspectors to increase their capacity. The requested change is to provide on-line training and webinars versus in-person training and the cost changes that go with that.

Instructor notes:

- When it isn't a change in scope?
- When the purpose remains the same, even though some of the costs or activities have changed.
- So in our example the purpose was to provide training to inspectors to increase their capacity. The original proposal was to provide in-person training, but it was subsequently determined that they could do so more effectively via on-line training and webinars and that had cost implications that needed to be reflected in the budget. That isn't a change in scope.
- Some additional examples include:
 - Enlargement in a group of inspections or staff trained or in the research sample was necessary to fulfill the purpose of the grant.
 - Adjustment to the grant costs was necessary because of differences between a provisional versus actual indirect cost rate.
 - Budget changes due to the use of contractors versus direct employees because of a hiring freeze or other hiring issues.

Slide 37 Change of Scope

- Scope may change when the grant is still within the period of obligation (for example, FY11 grants, may change the scope until September 30, 2011)
- **No changes in scope are allowed after the period of obligation = ADA violation**
- Can modify activities after the obligation period, but they must not alter the purpose of the original application and award
- Modification to activity or year of obligation scope change both must be approved by amendment

Instructor notes:

- You may be able to change scope in the year of obligation, so for instance, if you were awarded an FY12 grant in February 2012, you could request a scope change until September 30, 2012. However, FMCSA is in no way obligated to approve such a change even though you can request it.
- We will require Legal to consider all scope changes and often even changes to activities in case they represent changes in scope and ultimately Legal has the most final word on the subject.
- Requests for change in scope and even potential change in scope can take quite a bit of time, so allow over 90 days to process any request of this kind.
- That said, we do not ever support scope changes after the year of obligation; however we do support modifications of activities that are within the scope of the original award throughout the period of performance of any grant award.
- As we noted on the prior slides any modifications to activities after the obligation period must not alter the purpose and goal of the original application and award and must still be approved of by FMCSA prior to making any adjustment.
- Remember that you can't incur expenses until we have provided approval. There can be exceptions but on a very limited basis and only when thoroughly justified
- OK, lets look at some scenarios for various types amendments to see if you are comfortable with the requirements around different types of amendments.

Anti-Deficiency Act is when the government goes over appropriated funding limit for a program or grant. The ADA prohibits the federal government from entering into a contract that is not "fully funded" because doing so would obligate the government in the absence of an appropriation adequate to the needs of the contract.

Slide 38 Amendment Scenario 1

You are a MCSAP NE grantee who wants to make an additional \$20,000 budget change. The original grant budget was \$500,000. You have made prior budget adjustments across budget cost categories of \$10,000, \$25,000 and \$5,000 already. One of the elements of the original proposal was to provide on-line training. The budget change is to pay for in-person training.

How would you respond?

1. Do you need an amendment?
2. Based on the limited information provided, would FMCSA approve the request in an amendment or otherwise?

Instructor notes:

In Scenario #1 - You are a MCSAP NE grantee who wants to make an additional \$20,000 budget change. The original grant budget was \$500,000. You have made prior budget adjustments across budget cost categories of \$10,000, \$25,000 and \$5,000 already. One of the elements of the original proposal was to provide on-line training. The budget change is to pay for in-person training. So for question #1 Do you need an amendment?

- In order to answer question #1 you have to determine two additional facts:
 - Does the change in activity request change the scope?
 - No the purpose of the budget line item was to provide training, they are just moving from on-line training to in-person training, which is logically going to cost more.
 - And does the budget change exceed 10% overall or not.
 - It may, this final budget change = a 12% change to the budget – but depends on what major budget category the other changes were in? Meaning were they all changes within the same budget category or different ones. Don't count if in same budget category.
- Therefore based on these responses an amendment is needed for a Modification of Activities without New Funds, as well as Budget Revision

Question #2, based on the limited information provided, would FMCSA approve the request in an amendment or otherwise?

- The answer is that more information would need to be provided to justify this change, such as:
 - The budget spreadsheet,
 - A statement of the original purpose of the grant, e.g., the individual projects and budgets allocated for those projects;
 - A summary of the work performed thus far in the grant, including completion dates (if any) for specific projects or other milestone accomplishments and costs incurred;

- A revised action plan with new milestones and final completion dates; and
- A summary spreadsheet showing the changes from the original budget (to include the project and budget line items and their costs) and/or list of activities (essentially a simple chart showing the movement of funding from “x” to “y”, etc.) – showing the original categories and costs as compared to the new categories and costs.
- You would also need to know in what budget cost categories the funds were coming from and going to

Slide 39 Amendment Scenario 2

You are a BEG grantee from WA submitting an amendment request. Your grant period of performance began on 10/1/2009 . On October 10, 2011 you submit an amendment request and justification to extend the grant for another 6 months since you are behind on your project plan and have not expended all of your funds.

How would FMCSA respond?

1. Does this request meet the criteria for an amendment ?
2. Where would you find the answer in the Grantee Manual?

Instructor notes:

In Scenario #2 - You are a BEG grantee from WA submitting an amendment request. Your grant period of performance began on 10/1/2009 . On October 10, 2011 you submit an amendment request and justification to extend the grant for another 6 months since you are behind on your project plan and have not expended all of your funds.

- Does the request meet the criteria for an amendment?
 - No because the BEG program is a two year program and the grant expired on 9/30/2011 and you can't extend a program with a statutory limited period of performance nor can you extend a grant once it has expired.
- If this had been for the PRISM Program would your answer have been different?
 - Yes and no, if the PRISM grant had had a period for performance that ended on 10/1/2011, and the request for extension didn't occur until 10/10/2011, then again the request would be denied. The difference is that since the PRISM program does not have an expenditure term, the POP is determined by the project plan and the grantee and FMCSA, so with the right justification and sufficient time prior to the POP end date, they could have potentially extended the POP and continued to move forward.
- Where would you find the answer in the Grantee Manual?
 - In Section 6.7 of the manual.

Slide 40 Amendment Scenario 3

You're a MCSAP NE grantee from TX. The original grant budget was \$1,000,000. You have already made budget adjustments of \$25,000, \$20,000 and \$5,000. The original budget had \$250,000 in Enforcement labor hours. You plan to increase your Enforcement labor hours by an additional \$20,000. The funds to cover these will come from Supplies for Enforcement.

How would FMCSA respond?

1. Does this request meet the criteria for an amendment?
2. Where would you find the answer in the Grantee Manual?

Instructor notes:

Finally in Scenario #3 - You're a MCSAP NE grantee from TX. The original grant budget was \$1,000,000. You have already made budget adjustments of \$25,000, \$20,000 and \$5,000. The original budget had \$250,000 in Enforcement labor hours. You plan to increase your Enforcement labor hours by an additional \$20,000. The funds to cover these will come from Supplies for Enforcement.

1. Does this request meet the criteria for an amendment?

In order to answer this question the following needs to be determined:

- A. Does the change in activity requested change the scope?
 - o No the purpose of the budget line item was for Enforcement and you are just adding more money to Enforcement activities.
- B. Does the budget change exceed 10% overall ?
 - o It does not, this budget change represents a total of 7% overall, when added to the prior changes.

Based on these responses no amendment is needed because the budget change is less than 10%. A little more info might be useful to fully determine whether or not an amendment is needed.

- Is this \$20,000 still within the overall award amount or does it represent additional funds? If so, that will require an Amendment, if allowed at all.
 - If the \$20,000 is coming from Supplies, will that affect your ability to meet your performance milestones?
 - Did the original Enforcement budget have labor hours or is this a new category of cost?
 - Some of these answers might alter the determination of an Amendment or not, but at face value it would appear that an email, with a revised budget spreadsheet and limited explanation regarding the reason for this change and then approved by the Grant Manager should suffice.
2. Where would you find the answer in the Grantee Manual?
 - Page 62

Slide 41 Wrap-Up and Knowledge Check

Instructor notes:
(Transition slide)

42 Summary

Now that you have completed this module, you should be able to:

- Explain the key elements of the following tasks in the post-award process
- Annual Single Audits
- Regular Communication
- Sub-grantee Oversight and Reporting
- FMCSA On-sight Monitoring
- FMCSA Enforcement
- Amendments

Instructor notes:

Now that you have completed this section, you should understand:

- What you are required to do for annual single audits
- Your obligations regarding sub-grantee reporting, monitoring and assurances
- What to expect when FMCSA is on-site monitoring you
- FMCSA's general policy regarding enforcement
- The different kind of grant award amendments, how to submit them and how to understand the differences
- The policies regarding changes in scope and how to address them in the amendment process.

Slide 43 Check Your Knowledge

- Module 7 Knowledge Check
- Module 7 Knowledge Check Answers

Instructor notes:

(None)