Subrecipient Assessment and Monitoring - It Takes a Village!

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The substance of the relationship is more important than the form of the agreement

- Subrecipient versus Contractor (previously Vendor)
  - Pass through entities **must** make a case by case determination whether each agreement will constitute a subrecipient or a contractor role.
  - Federal agencies may supply and require specific support for determinations (see handout - *FDP Checklist to Determine Subrecipient or Contractor Classification*)
Why does it matter?

• A non-Federal entity provides a **subaward to a subrecipient** for the purpose of carrying out a portion of a Federal award and creates a Federal **assistance relationship** between the non-Federal entity and the subrecipient

• A non-Federal entity provides a **contract to a contractor** for the purpose of obtaining goods and services for the non-Federal entity’s own use and creates a **procurement relationship** between the non-Federal entity and the contractor

❖ **What the document is called does not matter; the relationship is the basis for determining which requirements are applicable**
What are the Characteristics of a Subrecipient?  
(2 CFR Part 200.330)

Subrecipient, versus Contractor relationships are very different

- Determine who is eligible to receive what Federal assistance
- Has performance measured in relation to whether objectives of a program were met
- Has responsibility for programmatic decision making
- Is responsible for adherence to program requirements (terms and conditions called out in the subaward)
- In accordance with the subaward carries out the program work for a public purpose
Characteristics of a Contractor (2 CFR Part 200.330)

• Contractors
  • Provide goods and services within normal business operations
  • Provide similar goods and services to many different purchasers
  • Normally operates in a competitive environment
  • Provide goods and services that are ancillary to the operation of the Federal program
  • Are not subject to compliance requirements of the Federal program as a result of the agreement
Subrecipient relationships require a risk assessment

• 200.331 (b) Evaluate each subrecipient’s risk of non-compliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring which may include consideration of such factors as:

  • Experience with the same or similar awards
  • Results of previous audits
  • Whether subrecipient has new personnel or new or substantially changed systems
  • Extent and result of federal awarding agency monitoring of the subrecipient
  • Pass-through are entities required to use Federal Audit Clearinghouse to verify audit reports (200.512)
What can we do to assess risk?

• At the proposal stage - Use Visual Compliance (or SAM.gov) to determine:
  • Is the subrecipient institution presently debarred or suspended?
  • In the subrecipient Institution’s PI presently debarred or suspended?
  • Does the subrecipient indicate or show as “delinquent federal debt”?

  ❖ If **yes** to any of the above, consider alternatives
What can we do to assess risk?

- Additional questions to consider at the proposal stage –
  
  - If the sponsor requires a conflict of interest policy, does the subrecipient have a compliant policy?
  - Does the subrecipient have an acceptable accounting system?
  - Does the subrecipient have an acceptable procurement system?
  - If required, has the subrecipient completed an audit under A-133 or Uniform Guidance for the most recent fiscal year?
  - Were the results of the most recent audit satisfactory? (you can find the most recent audit by checking the Federal Audit Clearinghouse)

  ❖ If no to any of the above, consider alternatives
What can we do to assess risk?

• More to consider at the proposal stage –
  
  • Does the project include work covered by ITAR or EAR?
  • Is there a potential or identified conflict of interest?
  • Is there cost-share required or included?
  • Is the subrecipient a foreign institution?

  ❖ If yes to any of the above, consider alternatives
What happens if we determine there is risk?

- Depending on the risk assessment, we may:
  - Provide subrecipients with training and technical assistance
  - Perform on-site reviews
  - Impose specific subaward conditions to mitigate risk
  - Require additional monitoring activities such as more frequent financial or performance reports or require supporting documentation with invoices
  - Arrange for agreed-upon-procedure engagements (requires prior approval, 200.425)
  - Consider taking enforcement action against noncompliant subrecipients
Two more changes to remember

• There are new restrictions on fixed amount subawards which increase the administrative burden and risk
  
  • Prior written agency approval is required to enter into a fixed price subaward as opposed to a cost reimbursement

  • The total value of a fixed price subaward may not exceed the Simplified Acquisition Threshold ($150,000)

    • Payments are based on meeting specific requirements of the Federal Award
    • Accountability is based on performance and results
    • Award amount is negotiated using cost principles as a guide
    • No governmental review of the actual costs incurred
    • Significant changes (i.e., principal investigator, project partner or scope) must receive prior awarding agency written approval
Subrecipient F&A recovery also changed

• Competitive proposals that include subaward(s)
  
  • If the Federal program has a published statutory F&A cap, that rate must be used by UNC-CH and all proposed subrecipients
  
  • For all other programs if the subrecipient has a negotiated F&A rate, it must be used
  
  • In absence of a Federally negotiated rate, a 10% “de minimis” rate must be used. Lower rates can’t be negotiated with subrecipients
Congratulations we have been awarded the prime agreement - and we have external partners involved!

What would you want to know about a potential business partner before sharing funding?
Continuing the Oversight: Post Award
OSR Responsibility

The potential subrecipient must complete and return the ‘Commitment Form’:

- General Information
- Indirect Cost and Fringe Rate Verifications
- Entity Business Status
- Cost Share Commitment
- Human, Animal, Conflict of Interest, Debarment/Suspension checks
- Fiscal Responsibilities and Audit Status
Continuing the Oversight: Post Award
OSR Responsibility

Given that the ‘Commitment Form’ is returned and responses are satisfactory to proceed, Award Management will craft the subaward documentation:

- Required to flow down prime sponsor terms/conditions
- Required to have a statement of work and compliant budget
- Inclusion of special terms/conditions given high risk factors
- Await formal execution (signature of subaward)
- Take actions in ConnectCarolina to establish and fund the subaward from the prime budget
Continuing the Oversight: Post Award Joint Responsibility with Department and OSR

**Department**
- Receipt, review, approval and submission of periodic invoices
- Technical and budget oversight – burn rates, in accordance with budget
- Cost share commitments – tracking and meeting
- Timely progress and financial reporting

**OSR**
- Award Management Workflow - reviews of periodic invoices
- Manage financial aspects at a high level – modifications, prior approvals, etc.
- Obtaining cost share documentation based on sponsor requests
- Report subrecipient costs as a part of the overall financial reporting/invoicing required
Continuing the Oversight: Audits
OSR Responsibility

Throughout the project lifecycle and annually, OSR performs reviews of subrecipient costing practices:

- Quarterly invoice reviews for payments from federal and indirect federal projects
- For-profit/foreign subrecipients are specifically identified for review
- Backup documentation is requested from the subrecipient
- Questioned costs are challenged and sometimes removed
- The subrecipient receives a conclusion letter indicating a completed review, findings and/or any recommendations for improvement
Continuing the Oversight: Audits
OSR Responsibility

Throughout the project lifecycle and annually, OSR performs reviews of subrecipient audit performance:

- Review and analysis of subrecipient annual Single Audit reports
- Follow-up on any deficiencies that have a direct negative financial impact on UNC-CH funding to the subrecipient
- Repeat findings require follow-up
- From these reviews (as well as a risk assessment), special terms and conditions may be included in the subrecipients award terms and conditions from UNC-CH
The development and implementation of a Subrecipient Database to assist in:

- Knowing the number and dollars associated with outgoing subawards
- Who are we doing business with?
- Logging Single Audit reports and performances
- Tracking subrecipient performance and detailing a risk assessment of each subaward entity
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