

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



Continuing the Oversight: Post Award

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



Coming:

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
- ✓ More

