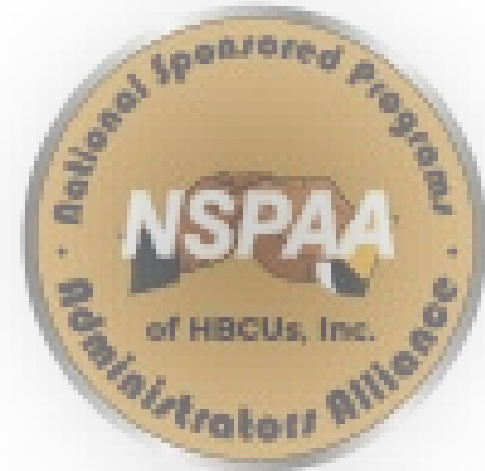# Subrecipient Issuance and Monitoring

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27TH ANNUAL NSPAA TECHNICAL ASSISTANCE WORKSHOP
Pursuing Excellence in Research and Education

Through Grants and Contracts

Subawards

Subawards are when funds will be supplied to a university or other entity as a result of an award or grant. In most instances when a proposal includes a subaward a separate budget should be submitted on sponsor forms for the subawardee and the subaward total is then listed as a lump sum (including Facilities and Administrative costs) on the contractual line in your institution's budget. Subawardees are entitled to request F&A costs up to the amount allowed by sponsor guidelines or their negotiated indirect cost rate agreement. (Only the first $25,000 of any one subaward should be included when using a Modified Total Direct Cost Base when calculating full indirect.)

Subaward, Consultant or Vendor?

- Subawardee – performs substantive amount of scope of work under grant or contract with responsibility for programmatic decision making and measurable performance requirements, must adhere to Federal compliance requirements if Federal award, retains IP if a university

- Consultant – only provides advice or direction, does not perform part of the scope of work, can not be an employee of the institution, no controls with regard to manner of performance, a work for hire with no rights to end product

- Vendor – An organization which provides goods or services to the public as part of its normal business operations within a competitive environment, not subject to same compliance requirements as subcontractor

What is required in Uniform Guidance 2 CFR 200?

Pass-through entities (PTE) of federal funds must ensure subrecipients

- meet audit requirements set forth in Subpart F: Audit Requirements
- use funds in accordance with applicable laws, regulations and terms of the award

PTE must verify that subrecipient

- properly meets the objectives of the subaward
- accounts for the sponsor's funds properly
- complies with administrative requirements and cost principles

Subaward Lifecycle: Pre-Award

▸ At a minimum you will need
- Budget and justification
- Scope of work
- Signed Letter of Commitment – Sponsor may require specific language

▸ Your Institution may require additional information
- Subagreement Intent Form
- Federal Demonstration Partnership Clearinghouse – don't have to be a member to review information or use their forms

▸ Listing subaward in the proposal is not binding

Subrecipient Commitment Form Data

- <u>Subrecipient Institutional information</u> – UEI, Place of Performance, Legal Entity, Programmatic and Administrative Contact Info
- <u>Program Specifics</u> – Budget, period of performance, F&A, reporting requirements, invoicing
- <u>Compliance Information</u> – Human Subjects, Animal Subjects, Export Controls
- <u>Financial Conflict of Interest (FCOI) Compliance Statement</u> – Applicable to PHS, NIH, NSF, DHHS, or any other program requiring federal financial disclosure (have one in place, will have one in place, will use Prime's)
- <u>Responsible Conduct of Research</u> – NSF or NIFA
- <u>Attachments</u> – Scope of work, Budget and Justifications, Compliance Approvals if applicable, F&A rate agreement, Audit link

Subaward Lifecycle: Prime Award Receipt

- Subawards are not issued until awards are received. This is generally true even if the prime institutions has pre-award spending mechanisms.
- Was the subaward included in the proposal and/or is the subaward included in the award? Does the PI still want to use a named subrecipient named?
  - If not, sponsor approval will be required prior to issuance of any subaward not specifically named in the proposal or made part of the award.
- Has institutional subrecipient commitment forms been prepared for each subrecipient?
- Is there an institutional process that must be initiated for a subaward to be issued after an award is made?

Subaward Lifecycle: Issuance Review

- ✓ Have the budget and scope of work been reviewed by the PI?
- ✓ If the prime award budget has been cut, has the subaward budget been adjusted?
  - ✓ If the budget or scope of work has changed since the proposal was submitted, has the revised budget/scope been agreed upon by the subrecipient PI and institution?
- ✓ Does the scope of work contain sufficient detail to ensure appropriate tracking of progress?
- ✓ Has the PI considered what progress reports would facilitate submission of reports to the sponsor?

Subaward Lifecycle: Issuance Review

- ✓ Does the requested period of performance match the prime award (i.e. not begin before or end after the award)?
- ✓ Are funds available to cover the subaward budget in the appropriate accounts/funds?
  - ✓ Is a rebudget within the project's account needed?
  - ✓ Does the sponsor allow the rebudget?
- ✓ Does the requested payment frequency coincide with how funding is received from the sponsor?
  - ✓ Does the subrecipient need upfront payments?

Subaward Lifecycle: Issuance Review

✓ Will the subrecipient conduct research using human subjects?

   ✓ If yes, a copy of the subrecipient's IRB approval must be obtained.

✓ Will the subrecipient conduct research using animals?

   ✓ If yes, a copy of the subrecipient's IACUC approval must be obtained.

   ✓ If subrecipient is foreign institution, has evidence of OLAW approval been received?

Subaward Lifecycle: Risk Assessment

- ✓ A risk assessment is a review of a subrecipient's internal controls and business practices to mitigate risk in carrying out the project objectives and expending federal funds.

- ✓ Risk assessment occurs at every stage of the subaward process
  - ✓ Proposal
  - ✓ Before subaward is issued
  - ✓ During the life of the sub
  - ✓ Closeout

Subaward Lifecycle: Risk Assessment

▸ What is their prior experience with performing the work?

▸ Were prior audits conducted? Did they have findings?

▸ Were prior audit findings resolved?

▸ Does the subrecipient have the capability to comply with Federal rules both programmatically and administratively?

▸ Does the Prime have a history with the sub? Were there prior monitoring problems?

▸ Does the award present a potential COI? Can it be managed?

▸ Is the Subrecipient presently suspended or disbarred?

Potential Indicators of High Risk

- Program complexity
- Large percentage of funds passed-through to subrecipient
- Total amount of the award
- New subrecipient
  - new to federal awards or
  - new as a subrecipient under your institution's awards
- History of subrecipient's noncompliance or other audit findings
- How do you determine high, medium or low risk?

Potential Strategies to Mitigate High Risk

- Discuss need for special monitoring with PI and request
  - Extra communication between PI and sub's PI
  - More frequent technical reporting
- Add more detailed or frequent invoicing requirements
- Tie receipt of technical progress reports to payments
- Require on-site monitoring (both technical and financial)
- Add more stringent termination language added for failure to comply with requirements
- Maintain a current listing of all subrecipients from which corrective action is expected and ensure follow-up occurs on a timely basis
  - Perform an annual review of each active subrecipient in the database
- Redo the risk assessment with each subaward modification

Challenges with conducting a risk assessment

- For profit companies
  - May not be willing to provide a copy of their indirect cost rate agreement or audit information
- Regional operations of a large entity
  - May not know if their parent organization have a COI policy, their UEI, or their AOR
- Foreign entities
  - Human or Animal Subject Compliance
  - Cultural Issues
  - Export or Import of ANY Kind
  - Additional requirements from sponsor
- Subrecipient who is unfamiliar with federal regulations
  - May not understand COI
  - May not have had an audit
  - Don't understand concept of indirect costs

Subaward Lifecycle: General Monitoring

- Is subrecipient's work progressing according to schedule?
- Are deliverables/reports being provided in a timely manner?
- Are compliance requirements up-to-date?
- Do invoices reflect allowable, allocable and reasonable costs?
- Do costs on invoice reasonable match the amount of completed work?
- Are funds being spent according to the budget and project timelines?
- Principal Investigator should ALWAYS be the person to approve subaward invoices.

Subaward Lifecycle: Standard Monitoring

‣ Confirm invoice submission is in accordance with requirements of subaward (i.e. quarterly)

‣ Confirm invoice includes certification statement

‣ Confirm invoice details time period which expenses were incurred

‣ Confirm invoice format includes current period costs, cumulative costs and cost share (if applicable)

‣ Confirm expenses have been distributed to major categories (not a one line invoice)

Subaward Lifecycle: Standard Monitoring

▸ Confirm cumulative expenditures do not exceed the total amount of the subaward

▸ Confirm expenses are reasonable, allocable, and allowable with respect to the award terms

▸ Confirm budget deviations are allowable and within the requirements of the subaward

▸ Confirm, if applicable, cost share commitments are met

▸ Confirm F&A costs have been calculated correctly

▸ Confirm with the Principal Investigator that the subrecipient's work is progressing in a satisfactory manner compared to costs incurred

Subaward Lifecycle: Additional Monitoring

- PI asks subrecipient to submit additional documentation in support of financial reports and/or invoices, such as:
  - Detail transaction reports
  - Copies of receipts
  - Copies of effort reports/time cards
  - Fringe benefit calculations and associated payroll records
- Review documentation and question any costs that are not substantiated or that do not appear to be reasonable, allowable or allocable to the project.
- Do the ledgers for cash disbursement match reported expenditures?
- Are actual expenditures in accordance with the budget and were the required prior approvals obtained?
- Were funds used only during the authorized period of availability?
- Are matching requirements met using only allowable funds and properly calculated and valued?

Subaward Lifecycle: Additional Monitoring

- Is program income correctly earned, recorded and used in accordance with the terms and conditions of the subaward?
- Is the underlying supporting documentation for any employee labor adequate?
- Is supporting documentation for unusual or large expenditures clear and reasonable?
- Is supporting documentation for cost transfers clear and reasonable?
- Are procedures in place to track and secure property and equipment?
- Are the allocations of indirect costs allowable and allocable to the project?

Subaward Lifecycle: Additional Monitoring

- Audit
  - Discretionary audits of subrecipients are an acceptable monitoring procedure under federal regulations, and all of the subrecipient agreements templates contain "right-to-audit" clauses.
  - Formal audits are usually performed if there are suspicions of fraudulent activities or lack of compliance. Audit is conducted with assistance of the campus auditor, or external audit firm.

Subaward Lifecycle: Invoicing

- ✓ The invoice is on the institution's letterhead.
- ✓ The correct subaward # or PO # is identified.
- ✓ A certification and signature is required.
- ✓ Period of performance must be accurate, within the grant period and not a duplicate of a previous invoice.
- ✓ Review the budget and verify items included within the invoice were included in the approved budget.
- ✓ All invoices must include indirect costs, unless no F&A were included in the budget.
- ✓ Double check the math on the invoice.
- ✓ Check to see if cost share requirements are being met, if applicable.

Subaward Lifecycle: Invoicing

- Is subrecipient's work progressing according to schedule?
- Are deliverables/reports being provided in a timely manner?
- Are compliance requirements up-to-date?
- Do invoices reflect allowable, allocable and reasonable costs?
- Do costs on invoice reasonable match the amount of completed work?
- Are funds being spent according to the budget and project timelines?

Subaward Lifecycle: Invoicing Issues

▸ Invoices are sent to incorrect address, either physical or email.

▸ Many PIs would like to delegate their approval authority

▸ Timing of invoicing can often be an issue

▸ Personal Issues can get involved

▸ Consistent submission of revised invoices

▸ Lack of departmental understanding of subaward policies

▸ Any non-compliance will subaward terms

Subaward Lifecycle: Closeout

- ✓ Technical Report submitted to the PI per the terms of the Subaward.
- ✓ Required Cost Share has been met and reported.
- ✓ Institutional End of Award Certification submitted
- ✓ Patents or inventions disclosures
- ✓ Equipment Inventory
- ✓ Required Documentation

Subaward Lifecycle: Closeout

▸ Verify fulfillment of any cost share requirements

▸ Verify receipt of invoiced marked "final"

▸ Verify clear understanding of records retention requirements

▸ Ensure subward's actual costs are accurately recorded in your institution's financial system

▸ Certification and signature

Subaward Lifecycle: Closeout

▸ Verify fulfillment of any cost share requirements

▸ Verify receipt of invoiced marked "final"

▸ Verify clear understanding of records retention requirements

▸ Ensure subward's actual costs are accurately recorded in your institution's financial system

▸ Certification and signature

NIH Changes

- NIH Updated Policy Guidance for Subaward/Consortium Written Agreements
- NOT-OD-23-133
- Effective October 1, 2023
- 2 CFR 200.332(a)(5) states that subaward agreements must include, "a requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part." In response to HHS Office of Inspector General and Government Accountability Office audits, NIH has determined that to assure that this requirement is met, NIH finds it necessary to impose a requirement that foreign subrecipients turn over all records to the primary recipient at an agreed upon frequency (e.g., once a quarter, once a month). Therefore, section 15.2 is updated as follows (changes are **bold** and *italicized*)

NIH Changes

15.2 ADMINISTRATIVE AND OTHER REQUIREMENTS

The following highlights several areas within the consortium relationship that the recipient needs to address with consortium organizations receiving subawards under a grant to ensure compliance with NIH requirements. The requirement for a written agreement addressing these and other areas is specified in this section. ***NIH will not support any agreement that does not meet the minimum requirements outlined in the written agreement section below (15.2.1). NIH reserves the right to request copies of the written agreement and relevant supporting documentation as needed, as part of its oversight responsibilities. Failure to provide requested documentation may lead to remedies for noncompliance and potential enforcement actions (see 8.5, Specific award conditions and remedies for noncompliance).***

NIH encourages recipients to ask potential subrecipients, at the application stage, to submit language in their letters of support indicating their awareness of these requirements and the subrecipient's willingness to abide by all requirements should an award be issued.

NIH Changes

15.2.1 Written Agreement

The recipient must enter into a formal written agreement, **signed, and agreed to by both parties,** with each consortium participant/**subrecipient** that addresses the negotiated arrangements for meeting the scientific, administrative, financial, and reporting requirements of the grant, including those necessary to ensure compliance with all applicable Federal regulations and policies and facilitate an efficient collaborative venture *If a subrecipient is unwilling to accept the requirements outlined in this section, by signing a written agreement, then an agreement cannot be issued*.

For foreign subrecipients, a provision requiring the foreign subrecipient to provide copies of all lab notebooks, all data, and all documentation that supports the research outcomes as described in the progress report. These supporting materials must be provided to prime recipient with each scientific update (no less than once every three months) in line with the timelines outlined in the agreement.

May all your proposals be funded!!