

SUBCONTRACT MONITORING



SUBCONTRACT DEFINITION

- **Uniform Guidance (UG) 200.330-332**
 - Subrecipient means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program
 - Does NOT include an individual that is a beneficiary of such a program
 - A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency
 - Guidance on distinguishing between a subrecipient and a vendor is provided in FI0230-Exhibit 01-Determination Guide(also provided as a handout)

Exhibit 01 - Determination Guide for Agreements with External Entities/Individuals



| Subrecipient (aka subaward/ subcontract) | Contractor/Vendor | External Consultant |
|--|--|---|
| <p>Below are a range of characteristics that may aid in distinguishing among the types of external entities/individuals that perform work for the University. The Defining Characteristic should be given the most weight in the decision-making process. The Other Characteristics can lend further support to the decision. Not all of the other characteristics will be present or identifiable in any given situation.</p> | | |
| DEFINING CHARACTERISTIC: | | |
| <p>An entity that has agreed to work in collaboration with the UT PI to perform a substantive portion of the programmatic effort on a sponsored project.</p> | <p>An individual or entity that supplies products or services to the University.</p> | <p>An individual or entity whose expertise is required to perform University project. Services are temporary and special or highly technical.</p> |
| OTHER CHARACTERISTICS: | | |
| <p>Has authority to make administrative and programmatic decisions and control the method and results of work</p> <p>Uses funds to carry out a program rather than provide a good or a service</p> <p>Has responsibility for a portion of the end results of the overall research/sponsored project effort</p> | <p>Does not make program decisions or take actions that impact a program's overall success or failure</p> <p>Is not responsible for results of the overall project</p> | <p>Does not develop the objectives of the project</p> <p>May provide recommendations, but is not responsible for designing, developing, or reporting results or progress of the overall project</p> |
| <p>Has performance measured against meeting the program objectives</p> | <p>Goods and services provided by the contractor/vendor are ancillary to the program</p> | <p>Is not responsible for the overall outcome of the project</p> <p>Is not essential to the shape, direction, and completion of the project</p> |
| <p>Has responsibility to meet all applicable sponsor requirements</p> | <p>Sponsor compliance regulations are not incorporated into agreement</p> | <p>Sponsor compliance regulations are not incorporated into agreement</p> |
| <p>The entity's PI works collaboratively with the UT PI at the entity's location</p> | <p>UT specifies the goods or services it requires in support of the project</p> | <p>UT defines scope of work; Consultant determines how to accomplish the service being provided</p> |



TERMINOLOGY

- These are sometimes used interchangeably:
 - Subcontracts
 - Subawards
 - Subgrants
 - Subrecipients
- Pass -through entity
 - A non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program (UG 200.330-332)
 - For example, UT receives \$100,000 from NSF and subcontracts a portion of the work to University of Georgia for \$25,000. UT is a pass-through entity.



COST ELEMENTS

- Subcontractor
 - Cost elements 481100 and 482100
 - Has a contract for services
 - Integral part of project providing collaborative effort
- BE SURE THAT YOU CHOOSE THE CORRECT COST ELEMENT WHEN PAYING INVOICES!

OTHER COST ELEMENTS



- Contractual services
 - Cost element 446000
 - Has a contract for services
 - Not a collaborative relationship
 - Provides services available in market
 - Such as testing samples, etc.
 - Legal & professional fees
 - Cost element 437500
 - Has a contract for services
 - All costs incurred for legal and professional services rendered under contract to the University. Examples: Lawyer's for handling specific cases, auditing services of outside Certified Public Accountants, contracted medical services, royalties, honorariums, etc.
- BE SURE THAT YOU CHOOSE THE CORRECT COST ELEMENT WHEN PAYING INVOICES!

SUBCONTRACTS MODIFIER

*(These rules apply to each subcontractor
for the life of the project)*

- Cost element 481100
 - Subcontracts up to \$25,000
 - Does incur F&A costs
- Cost element 482100
 - Subcontracts greater than \$25,000
 - Does NOT incur F&A costs for MTDC base (not Chatt & Martin)



EXAMPLE

- UT receives \$250,000 from NSF and issues the following subcontracts:
 - University of Georgia \$25,000
 - University of Memphis \$15,000
 - All payments would be in cost element 481100
- UT receives an award amendment from NSF for year 2 that increases the funding to \$500,000 and UT awards Georgia and Memphis an additional \$25,000 and \$15,000, respectively
 - At the end of the award period, charges would be as follows:
 - Cost element 481100 = \$50,000 (Georgia \$25k & Memphis \$25k)
 - Cost element 482100 = \$30,000 (Georgia \$25k & Memphis \$5k)
- Any additional award amendments with payments to these 2 subcontractors would be charges to cost element 482100



REGULATORY GUIDANCE

- OMB Circular A-133, Subpart D.400(d)
- UG 200.330-332 (New projects beg. Dec. 26, 2014)
- UT Fiscal Policy FI0230
- Sponsor regulations
 - Usually on their website in policy / procedure document



OMB CIRCULAR A-133

- Subpart D.400(d)
 - (d) Pass-through entity responsibilities. A pass-through entity shall perform the following for the Federal awards it makes:
 - (1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is R&D, and name of Federal agency. When some of this information is not available, the pass-through entity shall provide the best information available to describe the Federal award.
 - (2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.
 - **(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.**
 - (4) Ensure that subrecipients expending \$300,000 (*\$500,000 for fiscal years ending after December 31, 2003*) or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.
 - (5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.
 - (6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.
 - (7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

UG 200.330



- The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.
- (a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See § 200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:
 - (1) Determines who is eligible to receive what Federal assistance;
 - (2) Has its performance measured in relation to whether objectives of a Federal program were met;
 - (3) Has responsibility for programmatic decision making;
 - (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
 - (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.
- (b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See § 200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:
 - (1) Provides the goods and services within normal business operations;
 - (2) Provides similar goods or services to many different purchasers;
 - (3) Normally operates in a competitive environment;
 - (4) Provides goods or services that are ancillary to the operation of the Federal program; and
 - (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.
- (c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.



UT FISCAL POLICY

- Responsibility for compliance tasks
 - PI
 - Pre-award
 - Post-award
 - Campus / unit research office
 - Departmental accounting staff
 - Other campus / unit departments
 - Controller's Office



PI PRE-AWARD TASKS

- Review statement of work and budget
- Request subcontract be issued
- Prepare “Justification for non-competitive purchase and contract” form
- Utilize small & small disadvantaged business where possible
- Include proposed subcontract in UT’s proposal to sponsor



PI POST-AWARD TASKS

- Review subcontractor invoices
 - Compare invoice with technical work done
 - Monitor spending as compared to proposal budget
 - Disallow unallowable charges
 - Sign invoices as approval for payment
 - Withhold final payment until all obligations have been fulfilled, including all deliverables & technical reports

RESEARCH OFFICE TASKS



- Assist PI with pre-award tasks
- Ensure authority to issue subaward
- Complete a Risk Assessment Questionnaire for Subrecipient
- If Federal funds, ensure subrecipient has not been debarred
- Ensure that subcontract includes all Federal regs that flow-down
- Obtain Federal ID number
- Obtain subcontractor's OMB Circular A-133 audit report and Title VI survey
- Review subrecipient budget & statement of work for reasonableness
- Ensure that UT bidding rules are followed
- Include subrecipient financial terms that are compatible with prime sponsor's financial terms
- Decide & document if subrecipient is to be granted Expanded Authorities

| FDP Cost Reimbursement Research Subaward Agreement | | | |
|--|--|--|---|
| Pass-through Entity (PTE): The University of Tennessee | | Subrecipient: | |
| PTE Principal Investigator (PI): | | Subrecipient Principal Investigator (PI): | |
| PTE Federal Award No: | | FAIN: | Federal Awarding Agency: |
| Federal Award Issue Date: | Total Amount of Federal Award to PTE \$ | CFDA No: | CFDA Title: |
| Project Title: | | | |
| Subaward Period of Performance: | | Amount Funded This Action: | Subaward No. |
| Start: | End: | \$ | |
| Estimated Project Period (if incrementally funded): | | Incrementally Estimated Total: | Is this Award R & D |
| Start: | End: | \$ | <input type="checkbox"/> Yes or <input type="checkbox"/> No |
| Check all that apply <input type="checkbox"/> Reporting Requirements (Attachment 4) <input type="checkbox"/> Subject to FFATA (Attachment 3B) <input type="checkbox"/> Cost Sharing (Attachment 5) | | | |
| Terms and Conditions | | | |
| <p>1) PTE hereby awards a cost reimbursable subaward, as described above, to Subrecipient. The statement of work and budget for this subaward are (check one) <input type="checkbox"/> as specified in Subrecipient's proposal dated _____ or <input type="checkbox"/> as shown in Attachment 5. In its performance of subaward work, Subrecipient shall be an independent entity and not an employee or agent of PTE.</p> <p>2) PTE shall reimburse Subrecipient not more often than monthly for allowable costs. All invoices shall be submitted using Subrecipient's standard invoice, but at a minimum shall include current and cumulative costs (including cost sharing), subaward number, and certification, as required in 2 CFR 200.415 (a). <u>Invoices that do not reference PTE Subaward number shall be returned to Subrecipient.</u> Invoices and questions concerning invoice receipt or payments should be directed to the appropriate party's Financial Contact, as shown in Attachments 3A.</p> <p>3) A final statement of cumulative costs incurred, including cost sharing, marked "FINAL" must be submitted to PTE's Financial Contact, as shown in Attachments 3A, NOT LATER THAN 60 days after subaward end date. The final statement of costs shall constitute Subrecipient's final financial report.</p> <p>4) All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of an adverse audit finding against the Subrecipient. PTE reserves the right to reject an invoice, in accordance with 2 CFR 200.305.</p> <p>5) Matters concerning the technical performance of this subaward should be directed to the appropriate party's Principal Investigator as shown in Attachments 3A and 3B. Technical reports are required as shown above, "Reporting Requirements."</p> <p>6) Matters concerning the request or negotiation of any changes in the terms, conditions, or amounts cited in this subaward agreement, and any changes requiring prior approval, should be directed to the appropriate party's Authorized Official Contact, as shown in Attachments 3A and 3B. Any such changes made to this subaward agreement require the written approval of each party's Authorized Official, as shown in Attachments 3A and 3B.</p> <p>7) Substantive changes made to this subaward agreement require the written approval of each party's Authorized Official as shown in Attachments 3A and 3B. The PTE may issue non-substantive changes to the Period of Performance (check one) <input type="checkbox"/> Bilaterally, or <input type="checkbox"/> Unilaterally. Unilateral modifications shall be considered valid 14 days after receipt unless otherwise indicated by Subrecipient.</p> <p>8) Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowed by law.</p> <p>9) Either party may terminate this subaward with thirty days written notice to the appropriate party's Authorized Official Contact, as shown in Attachments 3A and 3B. PTE shall pay Subrecipient for termination costs as allowable under <u>Uniform Guidance, 2 CFR 200</u>, or 45 CFR Part 75 Appendix IX, "Principles for Determining Costs Applicable to Research & Development under Grants and Contracts with Hospitals, as applicable.</p> <p>10) No-cost extensions require the approval of the PTE. Any requests for a no-cost extension should be addressed to and received by the Authorized Official Contact, as shown in Attachments 3A, not less than 30 days prior to the desired effective date of the requested change.</p> <p>11) The Subaward is subject to the terms and conditions of the PTE Award and other special terms and conditions, as identified in Attachment 2.</p> <p>12) By signing this Research Subaward Agreement Subrecipient makes the certifications and assurances shown in Attachments 1 and 2.</p> <p>13) Research Terms & Conditions – RESERVED</p> | | | |
| By an Authorized Official of Pass-through Entity: | | By an Authorized Official of Subrecipient: | |
| Name: | Date: | Name: | Date: |
| Title: | | Title: | |



DEPT ACCTG STAFF TASKS

- Assist PI with tasks
- Ensure proper cost element coding on invoices
- Ensure that all Federal financial requirements in prime sponsor award (that flow down to subcontractors) are followed by subcontractors
 - See next slide

FLOW-DOWN RULES



- Departmental accounting staff should review subcontractor invoices for the following:
 - Invoice period falls within the subcontract dates
 - Cumulative invoice payments are less than or equal to the subcontract award amount
 - Invoice line items add up correctly to the total due
 - Verify F&A calculation and that F&A rate (and fringe benefit rate, if applicable) matches proposal
 - Disallow unallowable costs
 - Compare invoiced costs to proposal budget
 - Most Federal sponsors allow line-item rebudgeting of up to 10% of the award amount
 - Review costs to determine if they are correctly classified as direct vs F&A costs
 - Request additional information and backup documents from subcontractor as needed

INVOICE APPROVAL



- Subcontractor invoices should not be approved if technical performance is unsatisfactory
- Subcontractor invoices should not be paid if there are outstanding questions about costs
- Subcontractor invoices may be “short-paid” after subtracting unallowable costs
- UG 200.305 (b)(3) requires subrecipient invoices to be paid within 30 days.



OTHER CAMPUS TASKS

- Purchasing Dept maintains list of small & small disadvantaged businesses
- Purchasing Dept and campus / unit business office must review & approve “Justification for non-competitive purchases & contracts” form = \$5,000 or more



CONTROLLER'S OFFICE TASKS

- Obtain Title VI surveys and OMB Circular A-133 audit reports on an annual basis from subcontractors

QUESTIONS

