

Sub-recipient Policy

Purpose

This is to document the policy of the CSU Fullerton Auxiliary Services Corporation's Office of Sponsored Programs (OSP) governing the issuance of sub-awards, the review of single audit reports, any certification forms and, as necessary, the making of any subsequent management decisions related to the information disclosed during the certification. Additionally, this policy identifies roles and responsibilities for Principal Investigators, the Office of Grants and Contracts (OGC) and the Office of Sponsored Programs.

Definitions

Sub-award – an agreement (sub-grant or sub-contract) of financial support from a prime awardee to a qualified organization for the performance of a substantive portion of the program funded under the prime award.

Sub-recipient – the legal entity to which a sub-award is issued and which is accountable to the CSU Fullerton Auxiliary Services Corporation (CSUF ASC) for the use of the funds provided in carrying out a portion of the programmatic effort under a sponsored project. Also referred to as sub-awardee or subcontractor, a sub-recipient has responsibility for programmatic and/or administrative decision making and adherence to the applicable sponsor program compliance requirements. The term may include institutions of higher education, non-profit organizations, for-profit corporations, and foreign or international organizations at the discretion of the Federal awarding agency.

Contractor – an entity responsible for providing goods or services necessary to conduct the research or other programmatic effort and but not responsible for the results of the effort. Contractors provide similar goods or services to many different purchasers. A contractor is only required to meet the terms of the procurement instrument and is not subject to all of the compliance requirements of the Federal program.

Table 1 below may assist in determining if a sub-awardee is a sub-recipient or a contractor. There may be unusual circumstances or exceptions to the listed characteristics below. In making the determination of whether a sub-recipient or contractor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a sub-recipient or contractor.

| Sub-recipient | Contractor |
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| Sub-recipient services are uniquely designed in response to the proposed project, and these services are not provided commercially. | Contractor provides goods or services within normal business operations which are ancillary to the operation of the project. |
| Sub-recipient technical lead is usually a scientific collaborator or even a Co-PI on the project. | Contractor provides similar goods or services to many different purchasers in a competitive environment. |
| Sub-recipient generally retains rights to intellectual property. | Contractor retains no rights to intellectual property. |
| Sub-recipient results are likely to be published in the scientific literature and/or sub-recipient is likely to be a co-author on the publication. | |
| Sub-recipients are subject to compliance requirements of the federal project. | Contractor is not subject to compliance requirements of the federal project. |

Policy

This policy applies to all sub-awards or sub-contracts issued under sponsored projects awarded to CSUF ASC without regard to the primary source of funding.

The following are the objectives of implementing this policy:

- Manage or eliminate any conflict of interest that arises from a sub-award or sub-contract by CSUF ASC to an entity in which CSUF ASC, Principal Investigator, or key personnel have a financial interest.
- Advise sub-recipients of applicable laws, regulations, terms and conditions of the prime award or agreement, and flow-down requirements applicable to the sub-award or sub-contract.
- The routine receipt and review of technical performance reports.
- The routine review of expenses versus proposed budget.
- Ensure that the performance goals set forth in the scope of work are being met in a timely manner.
- The option to perform sub-recipient “audits,” if necessary and consideration of whether audit results necessitate adjustment of CSUF ASC records.
- The option to perform periodic on-site visits or regular contact, if necessary.

Federal Regulations

The Federal regulations that describe sub-recipient monitoring contain the following core elements of compliance:

- Providing sub-recipients with information regarding the prime award including sponsoring agency, Catalog of Federal Domestic Assistance number (CFDA) as applicable, title, award name and number, and award period of performance, as required by OMB Uniform Guidance.

- Advising sub-recipients of all applicable Federal laws and regulations, and all appropriate flow-down provisions from the prime agreement.
- Ensuring sub-recipient compliance with conflict of interest policies.
- Monitoring costs and activities of sub-recipients to ensure that expenditures charged to the sponsored project are allowable, allocable and reasonable, and reflected in the scope of work of the sub-award or sub-contract.
- Ensuring that cost-share commitments made by sub-recipients are documented and adhere to all relevant regulations.
- Conducting a risk assessment of all new and continuing sub-contracts or sub-awards to determine which sub-recipients require closer scrutiny. Subawards issued to other CSU campuses and auxiliaries do not require a risk assessment prior to subaward issuance if funding agency is a non-federal entity.
- Ensuring that sub-recipients expending \$750,000 or more in federal awards during the sub-recipient's fiscal year have met the OMB Uniform Guidance audit requirements for that fiscal year.
- Reviewing Single Audit reports filed by sub-recipients and ensuring that the sub-recipient takes appropriate and timely corrective action in response to audit findings.
- Consideration of sanctions on a sub-recipient in cases of continued inability or unwillingness to have required audits or to correct non-compliant actions.

Procedures

Pre-award Sub-recipient Review

Before including a sub-recipient in a proposal, the assigned OGC Grants and Contracts Coordinator will

- Determine whether a sub-award is allowable under the sponsored project.
- Evaluate whether the proposed entity is a sub-recipient or contractor (see Table 1).
For federal proposals
- Use the “System for Award Management” (SAM) to determine if the potential sub-recipient has been suspended or debarred from doing business with the federal government. If the potential sub-recipient is identified as a debarred entity, OGC Coordinator will alert the Principal Investigator of such finding. The CSUF ASC will not issue any sub-awards to debarred entities.
- If the proposed sub-recipient has not been debarred or suspended, the OGC Coordinator will secure a completed and signed “Subrecipient Commitment Form” (Attachment 1) or “Financial Status Questionnaire Form” (Attachment 2).
- Complete a cost price for subawards exceeding the Simplified Acquisition Threshold, which is currently \$150,000 (2 CFR 200.323).

Conflict of Interest (OGC)

For Proposals to NIH and other PHS agencies, sub-recipient must certify on the Subrecipient Commitment Form that they have a current conflict of interest policy in compliance with PHS regulations. If sub-recipient does not have its own policy they will be required to adhere to the CSUF policy as follows: all sub-recipient employees who share responsibility for the design, conduct or reporting of the research will be required to complete and sign the California State University, Fullerton

“Financial Conflict of Interest Form,” and complete the NIH Conflict of Interest Training. Prior to sub-award issuance, proof of training must be submitted to OGC. The NIH Training certificate will be filed and available on the Compliance Dropbox which is accessible to OGC, OSP and Office of Compliance coordinators.

Risk Assessment (OGC & OSP)

OGC: The assigned Grants and Contracts Coordinator will forward the completed Subrecipient Commitment Form and/or Financial Status Questionnaire to the OSP Compliance Officer prior to issuance of a new sub-award.

OSP: The OSP Compliance Officer will review the completed forms to identify high-risk sub-recipients. Based on such assessment, OSP may impose additional restrictions on the sub-recipient. Risk assessment includes review of financial statement, Single Audit Report, the size of the sub-award, proposed scope of work, cost-sharing requirements and previous history with the sub-recipient. Sub-awardees may be identified as low risk based solely on prior performance and single audit findings.

Subawards issued to other CSU campuses and auxiliaries do not require a risk assessment prior to subaward issuance if funding agency is a non-federal entity.

Negotiating and Executing Sub-recipient Relationships

If an award is received, the OGC Coordinator will review the proposal to see if there is any sub-recipient identified in the proposal. If a sub-recipient was identified at the proposal stage the OGC coordinator will

- Contact and secure from the Principal Investigator (PI) a completed and signed Subcontract Issuance Request form (Attachment 3) for each sub-recipient, to reconfirm the level of funding, scope of work and budget for each sub-recipient.
- Draft and issue sub-award agreement to each sub-recipient.
If an award is received and it is necessary to contract out part of the scope of work to a sub-recipient which was not identified at the proposal stage, the assigned OSP Administrator will
- Evaluate whether the entity providing such services is a sub-recipient or contractor (see Table 1).
- If entity is determined to be a sub-recipient, confirm that a sub-award is allowable under the sponsored program and secure prior approval from Sponsoring Agency, as required by the sponsor guidelines
- Use the “System for Award Management” (SAM) to determine if the potential sub-recipient has been suspended or debarred from doing business with the federal government. If the potential sub-recipient is identified as a debarred entity, OSP will alert the Principal Investigator of such finding. The CSUF ASC will not issue any sub-awards to debarred entities.
- Provide to OGC coordinator approval from Prime Sponsor to issue new sub-award.

Upon receipt of instruction from the OSP Administrator, the assigned OGC coordinator will

- Secure a completed and signed Subcontract Issuance Form from PI for the new sub-recipient
- Draft and issue a sub-award agreement to the sub-recipient

Standard Terms contained in Sub-recipient Agreements

Sub-recipient agreements generally will include the following:

- Current obligated amount, estimated total funding (if incrementally funded), name of Prime Sponsor, Prime Award number, project title, CFDA number (as applicable).
- Financial terms and conditions including but not limited to, type of award (fixed price or cost reimbursement), term and termination, billing requirements, and payment terms.
- Terms indicating that the sub-recipient's submission of an invoice constitutes certification that the items included on the invoice represent reasonable, allocable, and allowable costs associated with performing the project defined in the agreement.
- Certifications and assurances by sub-recipient to comply with mandatory flow-down and prime award provisions including federal, state and local laws and regulations, and applicable OMB circulars
- Technical and administrative points of contact
- Ownership of intellectual property and data provision
- Title to equipment provision
- Retention of records provision
- Certification and assurance to permit the representatives from prime sponsor and/or OSP or their auditors to have access to the records and financial statements as necessary to conduct a review, if deemed appropriate, and to cooperate with OSP in resolving problems.
- Required reports and deliverables
- Assurance of compliance with any required audits, including OMB Single Audit, and sub-recipient's agreement to report any problems or adverse findings to appropriate CSUF ASC contacts

Post-Award and Sub-recipient Monitoring

Monitoring of Ongoing Activities

The Principal Investigator and OSP have the responsibility, throughout the life of the award, to monitor the activities of sub-recipients in accordance with the governing agreement, to assure that awarded funds are used for authorized purposes in compliance with the provisions of the agreement, and to ensure that performance goals are met.

Ongoing Review

All sub-recipient's monthly financial reports are reviewed prior to payment of funding requests or report of information to sponsor. Assigned Sponsored Programs Administrator will review for the following:

- Certification by the PI that performance is on track with contracted service goals
- Accuracy and timeliness of reporting
- Excessive rate of expenditure of grant funds, total costs exceeding budget projections, program income not meeting budget
- Expenditure of grant funds at lower rate than budgeted
- On-track contribution of committed cost share

Desk Review

As part of the necessary risk mitigation strategies, the sub-award may include the requirement to submit additional documentation in support of financial reports and/or invoices, such as

- Detail transaction report
- Copies of receipts
- Copies of effort reports/time cards
- Fringe benefit calculations and associated payroll records

The OSP Compliance Officer will review the back-up documentation and question any cost that are not substantiated or that do not appear to be reasonable, allowable or allocable to the project.

Limited On-Site Monitoring

As part of the necessary risk mitigation strategies, the sub-award may include the requirement for limited on-site monitoring. The Compliance Officer will meet with the fiscal officer and/or the preparer of financial reports and supporting staff of the sub-recipient to review:

- New requirements or recurring compliance issues or problems brought to Analyst's attention by Program Memos or fiscal trainings.
- Program-specific controls and compliance
- Staff awareness of program requirements, particularly Single Audit requirements and financial reporting requirements. (It may be necessary to provide technical assistance to new staff).
- Any compliance concerns revealed by ongoing reviews of financial reports/invoices. (Explanation of indicators may be requested and/or corrective action required.)
- Assessment of sub-recipient's plan of corrective action for items identified as material weaknesses in internal control or material instances of non-compliance in the Single Audit report.

Full On-Site Monitoring

As part of the necessary risk mitigation strategies, the sub-award may include the requirement for full on-site monitoring. The Compliance Officer will meet on-site with the fiscal officer and/or preparer of financial reports and supporting staff of the sub-recipient to determine if

- Performance of contracted service goals is documented and on-track.
- Reports submitted include all activity for the reporting period and are supported by underlying performance records.
- Ledgers for cash disbursement match reported expenditures.
- Actual expenditures are in accordance with the budget and any required prior approvals obtained.
- Funds were used only during the authorized period of availability.
- Matching requirements are met using only allowable funds and properly calculated and valued.
- Program income is correctly earned, recorded and used in accordance with the terms and conditions of the sub-award.
- Underlying supporting documentation for any employee labor is adequate and in compliance with OMB circulars.
- Supporting documentation for unusual or large expenditures is clear and reasonable.
- Supporting documentation for cost transfers is clear and reasonable.
- Procedures are in place to track and secure property and equipment

- Allocation of indirect costs is allowable and allocable to the project.
- If corrective actions have been taken on findings in the last Single Audit report.

Compliance with OMB Uniform Guidance Audit Requirements

The Compliance Officer reviews the OMB Single Audit report for those sub-awardees subject to the Circular.

Closeout of Sub-recipient Awards

The assigned Sponsored Programs Administrator is responsible for the Sub-recipient award closeout. Sub-recipient award closeout requirements include:

- Receipt of final invoice
- Verification patent/invention documentation, equipment reports, etc.)
- Final verification that contracted goals have been met, all required deliverables have been submitted (e.g., technical/progress reports, etc.) as indicated by the PI's signature and date on the final invoice;
- Completion of any necessary final review of costs charged by the sub-recipient and final closeout of all commitments, accrued costs, or payables.

The requirements of the prime award will be considered during the closeout process. In general, a sub-award is closed when it has expired and/or when final technical deliverables are received and financial matters are concluded.

Sub-recipient Record Retention

Sub-recipient documentation will be retained with the information of the prime award for the same period of time and in a manner consistent with the Office of Sponsored Programs Record Retention Policy.

The requirements listed in this policy are not exhaustive of all compliance requirements. In addition to the elements noted above, there may be additional sponsor- or program-related requirements that mandate collecting and documenting other assurances (e.g., on lab animals, human subjects, biohazards, etc.) during the course of the project.

In the event that resources for monitoring are limited, all other factors of risk being equal, attention will be devoted to sub-recipients with the largest federal awards.