Subcontracting
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Recording date of this workshop is
October 29th, 2021
Some of the rules and procedures discussed
in this workshop are subject to change.
Please check university resources
before relying exclusively
on this recorded presentation.

Overview
• Proposal/Award Cycle
• Definitions
• Subcontracts vs Personal Services Agreements
• Changes from the “Uniform Guidance”
• Roles and Responsibilities
• Risk Assessment
• Sub-recipient Monitoring
• Examples of Audit Results
Proposal/ Award Cycle

Definitions

What is a subcontract?

- "...an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity."

What is a subrecipient?

- "...a non-Federal entity that receives a subcontract from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program."

Uniform Guidance 2 CFR 200

Subcontract/ Award vs. Personal Services Agreement – ORSO Guideline 22

<table>
<thead>
<tr>
<th>Subrecipient</th>
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<tbody>
<tr>
<td>- Carries out SOW/Co-PI</td>
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<tr>
<td>- Performance measured w/meeting objectives</td>
</tr>
<tr>
<td>- Authority for administrative decisions</td>
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<tr>
<td>- Responsible for program compliance</td>
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<tr>
<td>- F&amp;A for the 1st $ 30,000.</td>
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<tr>
<td>- Uniform Guidance/FAR</td>
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<table>
<thead>
<tr>
<th>Personal Services Agreement</th>
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<tr>
<td>- Provides a service available to many</td>
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<tr>
<td>- Operates in a competitive environment</td>
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<tr>
<td>- F&amp;A on total award</td>
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<tr>
<td>- Make sure to mentioned company/person is in the Grant to help with sole source documentations</td>
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When making your determination, the substance of the relationship is more important than the form of the agreement.

https://purchasing.wsu.edu/personal-services-contracts/
Changes Uniform Guidance Changes Effective November 12, 2020

- 2 CFR 200.309 budget period was updated to clarify that recipients are authorized to expend the current funds awarded, including any funds carried forward.
- 2 CFR 200.322 maximize use of goods, products, and materials produced in the United States
- 2 CFR 200.216 The purpose of this section is public safety and contracting with certain entities is prohibited
- 2 CFR 200.320 1) Internal (micro-purchase, small purchase), 2) formal (sealed bids, proposals), and 3) Non-Competitive (sole source).
- 2 CFR 200.332 This update clarifies that pass-through entities (PTE) are responsible for addressing only a subrecipient’s audit findings that are specifically related to their subaward.
- 2 CFR 200.414 section expands use of the de minimis rate to all non-federal agencies, with some exceptions.

Subcontract requirement

- Any FAR requirements in the Prime
- The only thing that is not required for Federal Awards but for Federal Contracts is FAR 52.223-99 ENSURING ADEQUATE COVID-19 SAFETY
- the Contractor shall comply with all guidance, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force....
- Notably, contractors (and subcontractors, as contractors must flow down this clause to subcontractors) must be aware of their obligation to monitor and implement new or amended Task Force Guidance during contract performance.

“I have been awarded, now what?” – Subagreement Initiation Process

1. Check ORSO’s approved subrecipient list
2. If subrecipient is on list, perform financial review: audits, financials, financial questionnaire etc.
3. Send completed forms to ORSO
   1. Sub initiation form
   2. Check Workday if the subrecipient is in Workday
      If not ORSO needs a W9/W8 the form cannot be older than 2018
   3. SOW
   4. Budget
   5. Budget justification
   6. F&A rate agreement if applicable
Subagreement Initiation Form

- Minimize back and forth questions
- Provide proper tools for accurate subaward writing
- WD update available soon
- Increase overall university compliance
- Fillable form with links
- Will be moving towards online submission form, i.e. the Change Request Form

Subaward Change Form

All fields must be filled or the form will be returned to you.
Responsibilities

1. Approves all expenditure requests
2. Reviews budget statements for consistency with proposal
3. Ensures that expenditures are Reasonable, Allowable, Consistent, Allocable
4. Certifies effort
5. Certifies cost sharing
6. Initiates & approves subcontract agreements
7. Verifies expenditure postings
8. Reviews invoices

Departmental Responsibilities

1. Approves all expenditure requests
2. Reviews budget statements for consistency with proposal
3. Ensures that expenditures are Reasonable, Allowable, Consistent, Allocable
4. Certifies effort
5. Certifies cost sharing
6. Initiates & approves subcontract agreements
7. Verifies expenditure postings
8. Reviews invoices

Departmental Responsibilities
Reviewing Invoices

Ensure that subcontract invoice includes:
- Contract #
- Invoice time frame and sequential
- Invoice total & cumulative totals are clear
- Expenses are w/in period of performance
- Correct Math
- Expenses itemized
- Certification
- Deliverables/reports have been met or submitted
**Subcontract Invoice**

- We need the following on the invoices in order to pay them in a timely manner. SPS only has 30 days to pay an outstanding invoice.

  - Period of performance
  - Invoice number (good to have for reference)
  - Reference the sub-contract
  - Current and Cumulative Expenses such as salaries etc. clearly marked
  - Contact information
  - Current address
  - Amount for period
  - Certification Statement
  - Sequential order of outstanding invoices
  - On foreign invoices SPS needs the wire information

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**Departmental Responsibilities (continued)**

9. Verifies appropriate signatory signs invoices & returns to SPS
10. Reviews technical reports
11. Requests additional documentation on questioned costs
12. Monitors subrecipient compliance w/regulations
13. Ensures subrecipient's equipment has proper controls
14. Routes property, invention, & cost share reports to SPS

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**ORSO Responsibilities**

1. Receive the subcontract initiation form and backup documents.
2. Enter new Supplier into Workday (need W9/W8)
3. Contact SPS to create new Supplier as a subrecipient
6. Check that subaward is within scope of work, within dates of the Prime Award and that funding allocation has been set aside.
7. If needed, do risk assessment for post-award monitoring.
SPS Responsibilities

After subcontract is signed and received at SPS:
1. Review subcontract and translate into computer systems.
2. Verify the rate agreement, Single Audit response, and completion of all documents.
4. Close out the subcontract according to the Award.
5. Annually review the subcontractor’s most current audit document.
7. Alert all parties if the audit review demonstrates a concern for WSU.

The Certification Statement

- According to the Uniform Guidance all new subcontract invoices need the following certification statement.

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

SPS is using Jira to keep track of subcontract invoices.

- Since Spring 2018, SPS is keeping track of subcontract invoices in “Jira”
- When SPS receives a subcontract invoice, SPS checks it for the major components, uploads it into Jira and sends it to the dept.
- The department verifies the expenses and approves the invoices.
- According to the UG the invoices need a specific certification statement.
Close Out Procedures

- Ensure all subcontractor’s invoices have been received/paid, including a final marked “final”.
- All progress reports/deliverables have been received.
- Ensure close out documents have been received.

Sub-recipient Monitoring

- Under §200.207 WSU can impose additional specific award conditions (for more details see UG §200.207)
  - For example:
    - Applicant has a history of failure to comply and fails to meet expected performance goals
  Conditions must be removed once the condition has been corrected.

Subcontract Monitoring

- §200.338 ‘Remedies for noncompliance’, allows WSU to take one or more of the following actions for subcontractors who are unwilling or unable to comply with the monitoring requirements:
  - For example:
    - Temporarily withhold cash payments pending correction.
    - Disallow all or part of the cost for action not in compliance.
    - Wholly or partly suspend or terminate the Federal award.
    - Initiate suspension or debarment proceedings.
Possible Indicators of High Risk

- A qualified audit report or failure to have a current audit report
- History of non-compliance or non-performance (failure to use funds for authorized purposes)
- New sub-recipient (or new to this type of project)
- Award size relative to sub-recipient’s sponsored research portfolio

Possible Mitigations to High Risk Assessment

- Special Monitoring Plan (PI/Dept./ORSO/SPS)
  - More frequent contact with sub-recipient or
  - More frequent technical reports
- Add more detailed or frequent invoicing requirement.
  - Backup documentation
- Tie receipt of technical progress reports to payments.
- Add more stringent language in subcontract to comply with award requirements.
- Performance of desk audit

Audit Results

June 2020 report
New Mexico Tech

- An auditee is to evaluate the subrecipient of federal pass-through funds and the risk of their non-compliance with federal statutes, regulation, and terms and conditions.
- The auditee is to establish a control system to ensure all subrecipient risk assessments performed are documents in accordance with federal regulations.
Audit Results

June 2020 report
University of Illinois
❖ The University did not comply with university policies and internal controls over procurement card transactions.
❖ 75 transactions totaling $477,735, including 15 transactions for unusual activity.
❖ University handles 4,220 active cards and expenditures totaling $53,650,621.
❖ Routine finding since their 2008 audit.

Audit Results

December 2020 report
Snohomish County Public Utility District
❖ Incorrectly charged equipment usage hours on FEMA, a federally funded award.
❖ Personnel timesheets are submitted to note how long the equipment is used, which is an allowable cost on the grant.
❖ The hours recorded did not match the hours reported on timesheets. Resulting in over and undercharging allowable costs on a cost reimbursable grant.

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