

**NOVA SOUTHEASTERN UNIVERSITY
OFFICE OF SPONSORED PROGRAMS
POLICIES AND PROCEDURES**

**AWARD MAINTENANCE
SUBCONTRACTS/SUBGRANTS
EFFECTIVE 12-01-08, REVISED 12-26-2014, 5/23/2017
POLICY #34
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PURPOSE:

To establish the policy and procedures when the university will engage a third party in performing a substantive programmatic role under a sponsored award to the university. This policy does not supersede the requirements established in the sponsored award document.

DEFINITIONS:

Fixed Amount Subaward: A type of subaward agreement under which a pass-through entity provides a specific level of support without regard to actual costs incurred under the award. Fixed amount subawards may be used if the scope is specific, and if adequate cost (in accordance with costs principles), historical or unit pricing data is available. Under a fixed amount subaward, payments are made based on meeting specific requirements and accountability is based primarily on performance and results. Payments may be made in partial or lump sum amounts based on milestones identified in the agreement, or on a unit price basis for a defined unit or units.

Prime Award: An award to an eligible recipient received directly from the awarding sponsor.

Pass-through entity: A recipient or subrecipient that provides a subaward to a third party to carry out a substantive programmatic role under a sponsored program. A pass-through entity may be a prime award recipient or a subrecipient.

Subaward: A third party agreement made under a prime award by the original prime award recipient to another eligible recipient, or by a subrecipient to a lower tier subrecipient. If the university issues an agreement to another entity (subrecipient) to carry out some of the activities within the scope of work, this is considered a subgrant, subaward, or subcontract as opposed to a vendor agreement. If the university awards a subaward, the subrecipient must agree to the applicable terms and conditions of the prime award. The federal government requires prime recipients to flow down the terms and conditions to lower tier recipients. Subrecipients are subject to audit under the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Subrecipient: A third party that receives a subaward from the university (or other pass-through entity) to carry out a part of a sponsored program. Characteristics of a subrecipient:

- Has its performance measured against whether the objectives of the sponsored program are met
- Has responsibility for programmatic decision making
- Has responsibility for adherence to applicable sponsored program compliance requirements
- Uses the sponsored funds to carry out a program or activity for a public purpose, as opposed to providing goods or services for the benefit of the prime award recipient

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Third Party: Any organization legally distinct from the university (whether affiliated or not with the university) or any individual not employed by the university other than a consultant or volunteer acting directly under the university's direction and control.

Vendor: For the purposes of this policy, a vendor is an entity that provides goods or services to the university or subrecipient under a prime award that are needed to carry out a sponsored project or program. For the purposes of this policy, "vendor" is synonymous with "contractor". Characteristics of a vendor:

- Provides the goods and services within normal business operations
- Provides similar goods or services to many different purchasers
- Operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the federal program

Vendor Agreement/Purchase Order: A contract for goods or services under a prime award which does not involve the substantive programmatic activities described in the prime recipient's proposal or scope of work. If the university is acquiring supplies or equipment needed to perform the sponsored project, the entity providing the goods or services is not carrying out substantive programmatic activities under the prime award and is classified as a vendor. Therefore the terms and conditions of the prime award do not flow down.

POLICY:

The university will make case-by-case determinations whether agreements issued for the disbursement of sponsored funding cast the third party receiving the funds in the role of a subrecipient or a vendor. The determination will dictate whether a subaward or vendor agreement/purchase order will be issued.

All subawards under sponsored programs must be issued through the Office of Sponsored Programs to (1) ensure that the subrecipient's risk of noncompliance is evaluated so that the appropriate form of agreement is used and subrecipient monitoring activities are identified; (2) that sufficient rights and controls are retained to enable the university to fulfill its responsibilities to the sponsor under the prime award and (3) that applicable terms and conditions of the sponsor are passed down to the subrecipient. Subrecipients are subject to audit and are required to submit to the university an audit report under the *OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* if more than \$750,000 per year is expended by the subrecipient under federal awards (grants, cooperative agreements, and procurement contracts).

Vendor agreements/purchase orders for goods or services under a sponsored award will be issued in accordance with university procurement policies and procedures to ensure that each agreement/purchase order includes appropriate terms and conditions, and that each agreement/purchase order is awarded on a competitive basis to the maximum extent practicable while remaining consistent with the objectives and requirements of the prime award.

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REFERENCES:

- OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, <https://federalregister.gov/a/2013-30465>
- OMB Federal Awarding Agency Regulatory Implementation of Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, <https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-and-budgets-uniform>
- NIH Grants Policy Statement, <http://grants.nih.gov/grants/policy/policy.htm#gps>
- NSF Proposal and Award Policies and Procedures Guide, <http://www.nsf.gov/bfa/dias/policy/>
- HHS Grants Policy Statement, <http://www.hhs.gov/grants/grants/policies-regulations/index.html>
- Federal Acquisition Regulations (FAR), Title 48 C.F.R.

PROCEDURES:

1. Prior to proposal submission, the Principal Investigator/Project Director (PI/PD) will identify third parties that will perform substantive work and/or provide goods or services as necessary for performance of the sponsored project.
2. The Office of Sponsored Programs (OSP) will assist the PI/PD in making the determination whether the relationship of any third party will be that of a subrecipient or a vendor.
3. For proposed vendor arrangements under sponsored projects, the PI/PD will consult with the Office of Procurement Management (OPM) for guidance regarding methods of procurement and pricing information during the development of the proposal budget. Upon award, the PI/PD will follow university procurement policies and work with the OPM for procurement of goods and services to be acquired via a vendor agreement or purchase order. The PI/PD is responsible for verifying receipt of good and services under vendor agreements/purchase orders so that invoices can be processed for payment.
4. When proposed subawards are anticipated and specified in the PI/PD's proposal, the OSP will obtain a Statement of Intent from the subrecipient.
5. If a subaward was not anticipated and disclosed in the proposal, yet the PI/PD determines a subaward is necessary after an award has been issued to the university, the PI/PD must notify the OSP immediately so that prior written approval from the sponsor may be obtained, as applicable, prior to issuing a subaward.

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6. The OSP and Contract and Grant Accounting Department (CGA) will work with the PI/PD to assess subrecipient risk prior to issuance of a subaward. Assessment of risk will consider factors such as financial stability, experience with federal awards, quality of management systems and internal controls, and prior audit results. The OSP will also verify the subrecipient is not suspended or debarred from participation in federal programs. The OSP and CGA will assist the PI/PD in determining what type of agreement should be issued (i.e., cost reimbursement or fixed amount subaward) and/or what type of monitoring is warranted.

7. The OSP will develop the subaward, in consultation with the PI/PD and with the Assistant Vice President of Research and Technology Transfer, Office of Risk Management, or other university offices, as necessary, and will flow-down applicable prime award terms and conditions. Each subaward must include the following:
 - information about the prime award (i.e., award number, CFDA/CSFA number, whether the award is for research & development, F&A (indirect) cost rate, etc.) as applicable
 - the subrecipient's legal name and DUNS number
 - the subaward period of performance
 - the amount of funds to be obligated to the subrecipient by the award action,
 - the names and contact information of the PI/PD and authorizing official of the subrecipient and university
 - the scope of work to be performed and schedule of deliverables to be provided;
 - identification of the type of subaward to be used (i.e., cost reimbursable or fixed amount award);
 - the subrecipient's budget or payment schedule, as appropriate to the type of agreement
 - the methodology of the PI/PD to monitor the subrecipient's performance, i.e., required performance reports;
 - a clause passing down prime award requirements;
 - a clause for changes which require written prior approval;
 - a clause addressing the process for amending the agreement;
 - a termination clause;
 - a liability/indemnification clause;
 - an insurance clause (not applicable when the Federal Demonstration Partnership subaward template is used);
 - a clause related to access to subrecipient's records and audit requirements; and
 - other information as required by the sponsor and/or the university.

8. Prior to issuance of the subaward and any subsequent modifications (i.e., authorization of additional budget periods, change to scope of work, etc.) by the OSP to the subrecipient, the PI/PD will approve the scope of work, budget/payment schedule, and period of performance.

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9. All subawards and any subsequent modifications, as applicable, will be negotiated through the OSP, in consultation with the PI/PD, the Assistant Vice President for Research and Technology Transfer and other university offices as appropriate, and executed by the Director of OSP or Vice President for Research and Technology Transfer.
10. The OSP is responsible for obtaining evidence of subrecipient's insurance coverages as applicable, and providing to the Office of Risk Management.
11. The PI/PD is responsible for monitoring the programmatic activities of the subrecipient; determining that appropriate progress has been made; and receiving, reviewing and retaining for the required retention period any required programmatic reports.
12. The PI/PD is responsible for reviewing, verifying and approving subrecipient invoices prior to submitting to the OSP for approval and processing.
13. If a dispute or issue concerning a subaward arises, the PI/PD will immediately notify his/her Dean, and also the OSP. The OSP will consult with legal counsel (Assistant Vice President of Research and Technology Transfer) and other university officials as appropriate to facilitate resolution.
14. As part of the initial risk assessment and throughout the period of performance of the subaward, the OSP will request audit reports from subrecipients in accordance with the OMB *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
15. As part of the initial risk assessment and throughout the period of performance of the subaward, the OSP and CGA will collaboratively review any deficiencies pertaining to the sponsored award that are identified through audits or other means, and issue a corrective action or management decision.
16. The PI/PD is responsible for receiving, reviewing and retaining for the required retention period any required final reports or other closeout documentation applicable to the subaward.