



Research Administration Forum

Contracts

Learning Objectives

- To understand the changes from the new Uniform Guide.
- To understand what services are provided by Research Support Services in the area of contracts.
- To understand the difference between a subrecipient and a contractor.
- To understand the process for issuing either a subaward or a contract.

Research Support Services

- Sponsored Program Agreements/Contracts (incoming)
 - For contracts where the University will be the recipient of the funds, initiate the agreement by submitting:
 - an intent to submit to researchsupportservices@memphis.edu
 - Internal budget
 - Proposal summary form
 - Scope of work
 - Basically, the same process as initiating a grant proposal.
- Subawards (outgoing)
 - For contracts where the University is the prime awardee and will be issuing a subaward to a third party entity.

Uniform Guide

- The new Uniform Guide has replaced the term vendor with contractor to remove ambiguity between the different OMB Circulars.
- §200.22 Contract
- §200.92 Subaward
- §200.330 Subrecipient and contractor determinations

Consistency

The University has adopted this guidance to determine the status of a subrecipient versus a contractor for all sponsored projects, no matter the funding type (federal, state, or industry funding).

Subrecipients

A subaward is for the purpose of carrying out a portion of an award in which the prime recipient creates a relationship with the subrecipient.

Subrecipient Characteristics

- Under UG §200.330, Subrecipient and contractor determinations, an organization is considered to be a subrecipient of an award when the prime recipient:
 - determines who is eligible to receive what Federal financial assistance;
 - has its performance measured against whether the objectives of the program are met;
 - has responsibility for programmatic decision making;
 - has responsibility for adherence to applicable program compliance requirements; and
 - uses the funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

Other Subrecipient Characteristics

- The organization is contributing to the scholarly/scientific conduct of the project as described in the statement of work for the organization (programmatic involvement);
- The conduct of the organization's portion of the project requires use of the discretion and unique expertise of the organization.
- The subrecipient's principal investigator may be a co-author on publications or may seek patent protections for inventions.
- Title to intellectual property created by subrecipient is normally retained by the subrecipient.

Contractors

A contract is for the purpose of obtaining goods and services for the entity's own use and creates a procurement relationship with the contractor.

Contractor Characteristics

- Under UG §200.330, Subrecipient and contractor determinations, an organization is considered to be a contractor of an award when the entity receiving the funds:
 - provides goods and services within normal business operations;
 - provides similar goods and services to many different purchasers;
 - normally operates in a competitive environment;
 - provides goods and services that are ancillary (contribute) to the operation of the program; and
 - is not subject to compliance requirements of the program.

Consultant

- A 'consultant' is an expert advisor who is paid for his/her time at a fixed rate of compensation (hourly or daily and includes travel, out-of-pocket expenses, and overhead) specified in the consultant agreement.
- A consultant may be an individual or a company.
- A consultant must use their own equipment and materials.
- Individuals who work full time and consult on the side may not use the equipment or facilities at their full time employer for consulting purposes.

Uniform Guide §200.330

- UG §200.330, Subrecipient and contractor determinations, states that there may be unusual circumstances or exceptions to the listed characteristics.
- In making the determination of whether a subrecipient 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 subrecipient or contractor.

The Subaward Process

Step I: Initiate the Subaward Process

- The Office of Research Support Services (RSS) receives an award notice from the sponsor.
- RSS will initiate the subaward agreement with the identified subrecipient, based upon:
 - Approval of Subaward by the Prime Sponsor
 - Detailed Budget
 - Budget Justification
 - Statement of Work
 - Subaward Principal Investigator (PI) Identification
 - Subaward Contact Information

The Subaward Process

Step 2: Draft of the Subaward Agreement

- RSS will draft the subaward agreement to incorporate/address:
 - Required terms and conditions of:
 - The State of Tennessee
 - The prime
 - Subrecipient's statement of work, budget and budget justification
 - Required certifications and representations
 - Intellectual Property ownership

The Subaward Process

Step 3: Negotiation of Terms and Conditions of the Subaward Agreement

- Upon completion of the initial draft, RSS will submit the subaward agreement to the subrecipient.
- Subrecipient will review subaward agreement.
- Negotiation between subrecipient and RSS will occur, until all terms and conditions of the agreement are acceptable by both parties.

The Subaward Process

Step 4: Execution of the Subaward

- Upon acceptance and completion of the final draft, the subaward document is signed by the authorized representatives of:
 - The University
 - The Subrecipient
- When both parties have signed the agreement, it is considered fully executed and legally binding.

The Subaward Process

Step 5: Procurement of Subaward

- Upon execution of the agreement:
 - RSS notifies applicable PI and department that subaward agreement has been executed.
 - RSS requests applicable PI and department to:
 - Initiate a requisition in TigerBuy
 - Complete and submit to Procurement and copy to RSS the following forms:
 1. Executed Agreement
 2. Sole Source Justification Form
 3. Contract Routing Form
 - The Procurement Office issues the Purchase Order (PO)
 - Notify RSS of issued PO number

The Subaward Process

Step 6: Subaward Invoicing Process

- Invoices received from the subrecipient are reviewed, approved and submitted for payment by the PI.

Step 7: Subaward PO Closeout

- Procurement Office institutes Subaward PO Closeout based on expiration of PO project period.

Contract Procurement Process

This includes agreements for personal, professional, and consultant services .

The contract procurement process follows the University contract services process found at:

<http://bf.memphis.edu/procurement/contractservices.php>

Dual Service Agreements

- Faculty or staff receiving compensation from another state agency or TBR for work performed outside normal duties (extra compensation) must have a dual service agreement with the procuring entity.
- This is not applicable to work performed within normal duties (buy-out of effort); in which case, a services or consulting agreement is executed.
- It is the responsibility of the Faculty or Staff performing work on a dual service to secure approval from their department Chair prior to accepting the assignment.
- Effective immediately, RSS will require a proposal summary form (PSF), signed by the Chair and Dean for all dual service agreements.

Questions?

