

## Subrecipient Monitoring

### Summary

The Sponsored Projects Office (SPO) at Western Oregon University (WOU) has an internal policy on monitoring its sub-recipients/sub-awardees on federal sponsored projects. When a portion of the scope of work on a federal project is awarded to another entity through a sub-award agreement, WOU is responsible for the performance and operations of that entity under the federal agreement. Therefore, the following is SPO's procedure to appropriately assess risk and monitor (Reference CFR200.521©) its federal award sub-recipients.

### Definitions

#### *Sub-Awardee/Sub-Recipient*

A sub-awardee/sub-recipient is an organization awarded a portion of a federal award with an assignment of part of the scope of work responsibilities and subject to the award terms and conditions.

#### *Pass-Through Entity*

A pass-through entity is any entity that receives federal funds and awards a portion of the funds to another entity by assigning the sub-awardee a portion of the scope of work and responsibilities of the project/program.

#### *Sub-Award*

A sub-award is an award mechanism that assigns partial responsibility for the scope of work of a federal sponsored award (to the sub-awardee).

#### *Sub-Contract*

A sub-contract is a contract awarded to another institution by a pass-through entity for acquiring goods or services.

#### *Personal Services Contract*

A personal services contract can come in a variety of forms, but all must include a performance of action instead of a supply of goods.

#### *Sub-Recipient Monitoring*

Sub-recipient monitoring is procedures performed to assess risk and ensure compliance of a sub-recipient of federal funds with award requirements.

#### *Sub-Recipient Risk Assessment*

Sub-recipient risk assessment is when a pass-through entity of a federal award assesses the risk of an entity with which they plan to enter into a sub-award agreement.

## **Roles and Responsibilities**

The SPO has the responsibility and oversight to establish sponsored project policies and procedures on behalf of WOU and seeks to clarify the requirements necessary to monitor sub-awardees on federally funded sponsored projects. It is the responsibility of the SPO to assess the risk of WOU's proposed federal sub-recipients and establish procedures to monitor them as needed.

### **Pre-Award**

When Pre-Award receives notice of a proposal for a sponsor award that includes one or more proposed subcontractor(s), the PI should begin requesting the Subcontractor Commitment Form from each purposed subaward. The PI must ensure that any export control or sponsor-pre-approval requirements related to the subcontract have been complied with before requesting that SPO prepare the subcontract.

SPO Pre-Award will conduct a fiscal risk analysis of the proposed subcontractor using the Subcontractor Commitment Form provided by the PI at the time the proposal is submitted, and additional information related to the subcontractor. The risk analysis is done to determine if the subcontractor's fiscal soundness warrants the issuance of a subcontract. If additional information is needed, SPO will contact the PI.

If SPO's risk analysis results in a determination that a subcontract cannot be issued to the proposed subcontractor, the PI will be informed and the PI must select an alternate subcontractor. SPO will also contact the sponsor, as needed, to request approval of the alternate subcontractor.

If SPO determines that the risk analysis allows for the issuance of a subcontract, Pre-Award, in consultation with the PI, will prepare and execute on behalf of the University the subcontract and any modifications to the subcontract which are required for the efficient and proper performance of the sponsored project. All negotiations on the subcontract or any modification must be done before the proposal is submitted to the funder. Pre-Award will confer with the PI, as needed. If SPO determines that special fiscal conditions are required to be placed on the subcontractor, such conditions will be included in the subcontract and/or the modification.

If the proposal is funded, the subcontract and all modifications are prepared by the SPO Pre-Award personnel in accordance with the sponsor requirements and federal regulations and are sent over to WOU General Counsel Office for an authorized signature. Subcontracts and modifications may not be signed by the Principal Investigator or other project staff.

### **Preparing a subcontract**

SPO uses a standard subcontract form which will be tailored to incorporate applicable sponsor regulations as well as those required by federal, state, or local authorities. In order for SPO to prepare a subcontract (or a modification), the PI must complete the Subcontract/Amendment Request form, providing the following information to SPO:

1. If there is any potential conflict of interest with the subcontractor, then the PI must advise SPO of the details of the same BEFORE the Subcontract agreement is prepared or signed. The SPO Conflict of Interest in Research Policy must be followed prior to preparation of the subcontract.

The subcontract will also require, among other things, a certification from the subcontractor that there is no conflict of interest;

2. Advise if the sponsor award has any pre-approval requirement for subcontractors or any export control requirements;
3. The WOU proposal number for the project;
4. The name of the subcontractor;
5. The statement of work for the subcontractor in sufficient detail so that the work that the subcontractor is to perform for payment is clear. Detail any deliverables needed, reports required, data sets to be provided and the dates for the same. The scope of work for the project may be attached only if it clearly delineates the subcontractor's particular work.
6. Manner in which the subcontractor is to be paid – per a budget or a deliverable schedule? If per a deliverable schedule, provide the schedule. (Note that a subcontractors generally may not be paid in advance of work, but may only be reimbursed for work performed); Please note that additional sponsor approvals may be required for fixed price subcontracts on federally funded awards.
7. The period of performance for the subcontract. The subcontract period of performance cannot begin before, or extend beyond, the respective start and end dates of the prime award's period of performance. Additionally, the start date of the subcontract's period of performance cannot begin before the date that the subcontract is executed by WOU. Upon receipt of the prime award, PIs should promptly provide to SPO the information required for the subcontract preparation so that the subcontracts may be promptly prepared;
8. The name, address, telephone, fax and email address for the subcontractor's (a) PI and (b) Contract administrator;
9. The name and address of the person to whom SPO should send the subcontract for signing (if different than the contract person noted above);

### **Bids and Bid Exemption**

If the subcontract is for more than \$50,000 and is with an entity other than a governmental agency or a university, the services must be bid pursuant to the WOU Purchasing provisions. In rare instances, such services may qualify for a bid exemption. The exemption must be justified by the PI in writing which must be forwarded to SPO for processing. The bid exemption must be approved, or the bid process completed, as appropriate, before the subcontract maybe executed and work begun by the subcontractor.

The PI should check the Project budget to ensure that there is enough budgeted in the "subcontract" category to cover the costs of the subcontract. If not, the PI must request a budget modification to move sufficient funds into the subcontract category.

SPO Pre-Award personnel will check applicable export control lists to ensure that the subcontractor is not listed as an embargoed or denied country/entity.

After preparing the subcontract (or modification), SPO will transmit it to the Principal Investigator for review and approval. Once the PI approves the subcontract (or modification), SPO will forward it to WOU General Counsel's Office for review. Once WOU General Counsel's Office reviews and signs, SPO will forward the partially executed subcontract to the subcontractor for review and signature. If any negotiation is required on the subcontract terms, SPO will undertake such negotiations in concert with the PI and WOU General Counsel's Office. Upon execution of the final subcontract or modification by the subcontractor and WOU respective authorized officials, SPO keeps a copy of the fully executed agreement in its files, returns one fully executed original to the subcontractor, and sends a copy of the fully executed agreement to the PI.

#### **Review and Processing of Subcontract Invoices:**

Subcontractors should forward all invoices to the PI for approval of the invoice for payment if the Subcontractor has performed as required in the Subcontract. In such instances, the PI receives the invoice, confirms that it may be paid, and then sends on to SPO Post-Award team to review and send back for the department to pay. Approval of the final Subcontractor invoice for payment by the PI certifies to the University that the Subcontractor has performed the work required by the agreement satisfactorily and may therefore be paid in full pursuant to the Subcontract amount and payment schedule.

If the Subcontractor has NOT performed the work as detailed by the Subcontract, the PI should NOT approve the invoice for payment and should instead contact SPO Post-Award so that appropriate steps may be taken by SPO, in conjunction with the General Counsel's Office, relating to demanding the Subcontractor's compliance or termination of the Subcontract, as necessary.

The invoice review/payment procedures set forth in this subsection may be modified if, in the discretion of Post-Award, an alternate process is required for the particular project involved. For example, when a project involves work performed outside the US and involves a greater degree of invoice back-up documentation review, a different invoice payment process may be approved.

The subcontracts prepared by SPO include provisions required by the funder allowing WOU or the sponsor to perform audits, if necessary. The subcontracts also contain requirements that subcontractors must follow regarding providing audit reports and related documentation to WOU in compliance with Federal law and/or State law, as applicable.

On an annual basis, SPO Post Award will review all outstanding subcontracts and will obtain the subcontractors' audits, either directly from the subcontractor or from website resources where the subcontractors have posted their audits.

Post Award will review and save all audit reports, and any concerns will be sent on to the WOU General Council Office. General Council will complete an evaluation and provide a conclusion of their evaluation determining any action to be taken by WOU. If significant findings relate to a WOU subcontract, the subcontractor must comply with the requirements of the subcontract and the Uniform Guidance, as applicable, including but not limited to, providing a plan of

corrective action and/or returning unallowable subcontract funds. This review will also effect the risk analysis for future subcontract agreements to that subcontractor.

### **Questions**

Contact the WOU SPO: [sponsoredprojects@wou.edu](mailto:sponsoredprojects@wou.edu), 503 838 8474.

### **References**

Uniform Guidance 2 CFR § 200.331 - Requirements for pass-through entities

Uniform Guidance 2 CFR § 200.521 - Management decision