

Subrecipient Monitoring

POLICY STATEMENT

In order to perform certain tasks within the statement of work for sponsored projects, the University will collaborate with those having special expertise or capabilities in these areas. These collaborations are structured as legally binding subawards which require certain University actions common to the research community. The subrecipient may be another educational institution, an independent laboratory, a foundation, a for-profit corporation, a non-profit corporation or other organization, and may be a domestic or foreign entity. (Generally, the University does not issue subawards to individuals.)

In some cases, it may be difficult to distinguish between a Subrecipient and a Contractor Agreement. In determining whether an agreement between a pass-through entity and another non-Federal entity is a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. The determination as to categorization of a research collaborator where such categorization may not be clear is made through discussions between ND Research Administration (“NDRA”), Research and Sponsored Programs Accounting (“RSPA”) and, as necessary, the Principal Investigator (“PI”). The chart below provides guidance for proper classification of such agreements:

Subrecipient	Contractor
Subrecipient services are uniquely designed in response to each project, and not provided commercially	Contractor provides the goods or services commercially within normal business operations
Subrecipient technical lead is usually a scientific collaborator, or even a co-Principal Investigator (“PI”) on an ND project	Contractor operates in a competitive environment
Subrecipient retains rights to intellectual property	There is no potential for patentable or copyrightable technology to be created through the project from activities of the entity
Subrecipient participates in development and execution of Statement of Work	Contractor provides the goods or services ancillary to the operation of the program
Subrecipient results are likely to be published in the scientific literature and/or subrecipient is likely to be a co-author on an ND publication	Provides similar goods or services to many different purchasers

Has authority to make administrative and programmatic decisions and to control the method and results of work	Does not make programmatic decisions or take actions that impact a program's overall success or failure
Uses sponsor funds to carry out a program rather than provide a good or a service	There is no scope of work
Has responsibility for the end results of the research effort	Is not responsible for research results
Has performance measured and responsibility to adhere to all applicable sponsor and Federal guidelines	Is not subject to sponsor compliance regulations

A subaward will not be issued, nor payments to a subrecipient authorized, prior to the University's receipt and acceptance of a funding commitment from the prime sponsor. A PI or designee may not authorize a subrecipient to begin working without a fully executed subaward agreement from ND Research. Proposed subrecipients who commence work without a fully signed subaward agreement from ND Research do so at their own risk and have no assurance of payment from the University. In the event a subaward is subsequently issued to a subrecipient, a subrecipient may claim costs properly incurred under its own risk, provided that the costs are otherwise allowable and incurred during the effective period of the subaward. In such cases, the subrecipient must furnish evidence to the University that all required compliance approvals were in place at the time the costs were incurred.

The University generally issues subawards on a cost-reimbursement basis. The award issued to the subrecipient is dependent upon the terms of the prime award and the risk analysis results compiled by ND Research and RSPA. Per [2 CFR 200.333](#), with prior written approval from the Federal awarding agency, fixed amount awards up to the Simplified Acquisition Threshold may be issued provided that the subawards meet the requirements for fixed amount awards in 2 CFR 200.201.

The University is required to assess the risk that a subrecipient will fail to comply with the requirements of the subaward or with the requirements indicated in 2 CFR 200.332 (a). The initial assessment for new subrecipients is initiated by ND Research at the pre-award stage with the requirement that the subrecipient completes a Subrecipient Commitment Form. ND Research consults with RSPA during the subaward issuance process and the subaward is monitored by ND Research and RSPA throughout its duration. The criteria used in analyzing and monitoring risk include, but are not limited to:

1. Subaward total value.
2. Subaward budget size relative to total budget size.
3. Prior experience with subrecipient.
4. Performance of an audit in accordance with 2 CFR 200 Subpart F
5. Prior findings from audits performed in accordance with 2 CFR 200 Subpart F.
6. Location / Economic environment (developed / undeveloped economy).
7. Status as a Federal Demonstration Partnership ("FDP") School.
8. Entity Type (commercial; higher ed.).
9. Yearly expenditures with subrecipient.

Federal regulations which encompass subrecipient monitoring are summarized in 2 CFR 200.300-346 The Uniform Guidance, Appendix XI - Compliance Supplement, also discusses controls designed to ensure compliance with subrecipient monitoring requirements:

1. Modification of terms and conditions of subaward template based upon risk assessment.
2. Advising subrecipients of all applicable federal laws and regulations, and all appropriate flow-down provisions from the prime agreement.
3. Routine receipt and review of Technical Performance Reports.
4. Routine review of Expenses-to-Budget.
5. Periodic performance of on-site visits, or regular contact, if necessary.
6. Option to perform "audits" if necessary.
7. Review of audit reports performed in accordance with 2 CFR 200 Subpart F and filed by subrecipients, as well as, investigation of any audit findings.
8. Review of corrective actions cited by subrecipients in response to their audit findings.
9. Consideration of sanctions on subrecipients in cases of continued inability or unwillingness to have required audits or to correct non-compliant actions.

If it is determined that a subrecipient is high risk, the University will require heightened monitoring activities, such as the aforementioned on-site visits or “audits.” In instances where procedures such as site visits are impracticable, other means of gaining assurance as to the effectiveness of a subrecipient’s control environment and validity of costs charged against the contract will be employed.

The University’s subrecipient monitoring program assigns responsibility for these tasks to the following members of the University community:

1. ND Research
 - a. Ensures eligibility of subrecipient with regard to eligibility to receive Federal assistance in accordance with 2 CFR 200.332. Eligibility will be at the pre-award stage by verification of a Federal Demonstration Partnership (FDP) member's self-certification in their entity profile on the FDP website. For non-FDP subrecipients, the subrecipient certifies its eligibility through the completion of a subrecipient commitment form. At the award stage, both FDP and non-FDP subaward templates require the subrecipient to certify its eligibility through its execution of the agreement.
 - b. Notifies RSPA of potential subaward in order to initiate risk assessment.
 - c. Modifies terms and conditions of subaward template based on risk assessment conducted by RSPA.
 - d. Ensures agreements executed with subrecipients contain appropriate language referencing Federal monitoring requirements.
 - e. Verify subrecipient’s indirect cost rate being applied is either an approved federally recognized indirect cost rate or the de minimis indirect cost rate.
 - f. Processes amendments to subaward, when applicable.
2. Principal Investigator (“PI”)
 - a. Determines the need for subcontracting and identifies subcontractor if applicable.
 - b. Discloses any potential conflicts of interest with subrecipient.
 - c. Maintains close communication with subrecipients to perform monitoring activities.
 - d. Reviews technical reports on a timely basis. Any unusual or unforeseen items should be investigated, and documentation must be retained by the PI.
 - e. Reviews invoices to ensure they meet budgetary and compliance restrictions. Any steps necessary to ensure expense validity should be taken, including contacting the

subrecipient if necessary. Costs claimed on an invoice should be consistent with progress on the project.

- f. Notifies ND Research of any changes necessary to amend subaward (e.g., scope of work, budget, period of performance, funding level, etc.).

3. RSPA

- a. Conducts initial risk assessment prior to issuance of subaward and assigns an appropriate risk factor. For subawards with existing institutions, assuming activity is managed by the subrecipient in the same control environment, a review performed within the last 12 months will suffice. The assessment will include a thorough review of relevant financial information, audit findings, control attestations, etc.
- b. Requests, when necessary, additional documentation to ensure allowability of costs. Documentation may include, but is not limited to:
 - i. Payroll records.
 - ii. Copies of paid invoices.
 - iii. Descriptions of services performed.
 - iv. Travel documentation.
- c. Maintains documentation for monitoring efforts.
- d. Compiles a list of subrecipients and use the Federal Audit Clearinghouse in order to obtain and review annual audit reports performed in accordance with 2 CFR 200, Subpart F
 - i. Review shall include identification of any deficiencies or compliance issues. In the event of audit findings which relate to funding provided by the University under any subawards, RSPA will review the Corrective Action Plan. Follow-up may include:
 - o Review of audit reports and responses.
 - o Direct interview with the subrecipient.
 - ii. Recommend modification to subrecipient contracts based upon significance of findings.
 - iii. Review annually with ND Research the comprehensive risk assessment to ensure most recent audit reports and transaction experiences are factored into current assessments.