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Office of Sponsored Programs (“OSP”)

Federal Subrecipient Agreement Procedures

Purpose

To establish guidelines for the issuance, control and administration of subrecipient agreements required under sponsored research grants and contracts at Carnegie Mellon University.

Applicability

These procedures apply to all sponsored research projects supported by federal organizations and agencies that require a subrecipient agreement to another entity to accomplish project goals. They have been updated to align with the Uniform Guidance (the “UG”) (dated December 26, 2014), including use of those definitions applicable to the procedural subject matter as it appears here.

Definitions

As defined in the Uniform Guidance, “Subaward” shall mean 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. A subaward may be provided through any form of legal agreement, including subcontracts, subgrants or cooperative agreements, to participating organizations for the procurement of research collaboration and/or technical services under sponsored research projects, including the FDP subawards. It does not apply to the procurement of supplies and research equipment that is subject to the university purchasing policy and procedures.
ADDITIONAL as needed

Proposals: Submission Requirements

When proposals for subrecipient agreements for scientific collaboration and/or technical services are submitted, they must include the following:

1. A detailed description of the research and/or technical services (Statement of Work) to be provided.
2. A detailed cost estimate budget of the subrecipient agreement from the subrecipient organization.
3. A statement of the current indirect cost rate agreement to be provided by the subrecipient.
4. Any cost share or match requirements that must be met.

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5. Any and all applicable paperwork required under the Uniform Guidance, Subpart C, Pre-Federal Award Requirements as may be determined by the Office of Sponsored Programs (OSP) at the time of proposal in order to meet the requirements for a specific funding opportunity.
6. In the event that the proposed subrecipient agreement is: 1) a sole source; 2) in excess of \$2,500; and 3) to a non-governmental entity, the principal investigator must complete the Source and Price Justification Form (Attachment A) and submit it to the OSP for review.
7. Declaration and submission of all pertinent paperwork:
 - a. Inclusion of Human or Animal Subjects in Project
 - b. Inclusion of Foreign Nationals in Project
 - c. Inclusion of Background Intellectual Property
 - d. Inclusion of statement of potential Conflict of Interest
 - e. Data Rights Assertion – if applicable
 - f. Data Rights Management, Sharing plan or IP Plan – if applicable
- 8 Subrecipient Request Form (Attachment B).
9. Letter of Intent signed by an authorized official of the subrecipient entity.
10. A copy of the applicable solicitation

Subawardees are selected at the proposal stage by those departmental and school level offices at Carnegie Mellon tasked with proposal preparation. Recognizing the de-centralized nature of the institution and OSP's role, OSP receives the paperwork for its subawards in the event of resultant award. Questions regarding these submission requirements and/or the declarations should be directed to the Office of Sponsored Programs, (OSP) or the Office of Research Integrity and Compliance as appropriate.

Consistency with Prime Agreement

Subrecipient agreements must be consistent with the applicable terms and requirements of the prime award to Carnegie Mellon. As a general rule, a subcontract will be issued under a prime contract and a subgrant will be issued under a prime grant or cooperative agreement.

Subcontracts issued under Federal prime contracts must comply with FAR Part 44 Subcontracting Policies and Procedures and the applicable section of the FAR Clause 52.244 of the Federal Acquisition Regulations. Additionally, all applicable terms, conditions and FAR provisions of the prime contract to Carnegie Mellon must be included in any resultant subcontract.

Subgrants issued under Federal grants or cooperative agreements are subject to the Uniform Guidance and must specifically meet the provisions of Subpart D sections on competition (more

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specifically section §200.319) and contract provisions of Subpart B –D, Appendix II to Part 200 and any and all other applicable sections of the Uniform Guidance.

Subrecipient Agreement Procedures

If the proposal is funded:

1. Determination of Role and Award type. An analysis will be performed to determine whether the organization to receive the federal funds under the project should be classified as subrecipient or contractor, using project details and the UG as needed.

If it is determined that the project is intended to generate a subrecipient agreement, a decision as to appropriate instrument for the award must be made: grant agreement, cooperative agreement or contract. Fixed price awards: these awards are permitted with prior written approval from the agency, as long as they do not exceed the then current Simplified Acquisition Threshold.

2. If the proposal is funded and the proposed subrecipient agreement approved by the sponsoring agency, the Office of Sponsored Programs will do a review to determine the appropriate document format in accordance with the sponsor requirements.

3. As a general rule the subrecipient, prior to full execution of the subrecipient agreement, should submit any sponsor forms, and the representations or certifications required to be completed.

For all subrecipient agreements issued under a government contract:

That are over \$2,000

- As required by program legislation for all construction contract, adhere to the Davis-Bacon Act as amended (40 U.S.C 3141-3144 and 3146-3148) and Appendix II to Part 200 of the Uniform Guidance.

That are over \$100,000

- Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708 as supplemented by Department of Labor regulations 29 CFR Part 5) and in accordance with Appendix II to Part 200 of the Uniform Guidance.
- Byrd Anti-Lobbying Amendment (31 U.S. C. 1352) in accordance with Appendix II to Part 200 of the Uniform Guidance.

That are over \$150,000

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- Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, in accordance with FAR 52.203-11.
- Obtain a Clean Air and Water Certification, in accordance with FAR 52.223 and Appendix II to Part 200 of the Uniform Guidance.

That are over \$650,000

- Obtain a Small Business Subcontracting Plan (identifying Small, Small Disadvantaged, Women-Owned, HUBZone and Veteran-Owned business participants), in accordance with FAR 52.219-9.

That are over \$700,000

- Obtain Certificate of Current Cost or Pricing Data, in accordance with FAR 52.215-12 or 52.215-13, as applicable.

For all subrecipient agreements issued under a government contract:

- Obtain a Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters in accordance with FAR 52.209-5 and Appendix II to Part 200 of the Uniform Guidance.
- Rights to Inventions Made under a Contract in accordance with 37 CFR 401 and Appendix II to Part 200 of the Uniform Guidance.
- Equal Employment Opportunity in accordance with 41 CFR Part 60 and Appendix II to Part 200 of the Uniform Guidance.

For all subrecipient agreements issued under a government grant or cooperative agreement

That are over \$100,000

- Obtain a Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters in accordance with FAR 52.209-5 and Appendix II to Part 200 of the Uniform Guidance.
- Obtain a Clean Air and Water Certification, in accordance with Appendix II of Part 200 of the Uniform Guidance.
- Obtain a Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, in accordance with FAR 52.203-11 and Appendix A of OMB Circular A-110.

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4. In accordance with the provisions of Uniform Guidance Subpart F Audit Requirements, the university will request a copy of the subrecipient's most recent indirect cost and fringe benefit rate negotiation agreement, if available, their taxpayer's identification number (Form W-9) and a copy of the subrecipient's most recent audit report. A financial statement report is not sufficient.

5. In addition to the above, a Subaward Request Form (see Attachment B) must be filled out by the cognizant departmental or school staff in conjunction with their principal investigator. Once this form and all of the above informational materials have been received by OSP, an agreement will be drafted and forwarded to the subrecipient for review and execution

Indirect Cost Rates

In the event a subrecipient does not have a federally negotiated indirect cost rate agreement at the time of award, the Office of Sponsored Programs will offer the subrecipient a 10% de minimus rate based upon modified total direct costs under the award. Once a rate has been agreed to, any future federally funded subawards issued by Carnegie Mellon to subrecipient shall use such agreed upon rate until such time as subrecipient elects to negotiate and finalizes a rate with the federal government.

Subrecipient Risk Assessment

Carnegie Mellon is required to determine the risk presented by its activities with subrecipients. The factors to consider when assessing the risk are set forth in the Uniform Guidance. As described in the Uniform Guidance, this is an information gathering task to determine minimum qualification standards as described in UG §200.205 that are expected to include a review of OMB-designated repositories to address eligibility qualifications or financial integrity/stability (through SAM or the Federal Awardee Performance and Integrity Information System (FAPIS)) as well as suspension and debarment requirements (at 2 CFR Part 180), any additional representations and certifications as required, quality of management systems, ability to meet management standards, history of performance, previous experience with organization; audit reports and findings and an assessment of the subrecipient's ability to effectively implement statutory, regulatory or other applicable requirements as applicable under the specific awards.

Certain responsibilities for these risk assessment tasks are assumed by the Office of Sponsored Programs in conjunction with the principal investigators with input and support provided by the departmental administrators and the Sponsored Program Accounting Office and Cost Analysis.

Subrecipient Performance and Financial Monitoring and Reporting

Carnegie Mellon is responsible for oversight of the operations of the federal awards and its subsequent activities. Carnegie Mellon must monitor these activities to insure all requirements and performance expectations are met. Monitoring activities are applicable to each program, function or activity as awarded.

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Certain responsibilities for these monitoring tasks are assumed by the Sponsored Program Accounting Office in conjunction with the principal investigators with input and support from the departmental administrators.

Competitive Subrecipient Selection Process

Guiding factors for the selection process are based upon and include:

- Price,
- Past or prior experience in same or similar circumstances
- Review of programmatic and performance records
- Verification of prior audits and assessment of any deficiencies
- Results of monitoring by federal agencies
- Reputation for high quality and timely work.

In any event, the competitive basis utilized should be chosen for its value to Carnegie Mellon in accomplishing the objectives and meeting the requirements of the prime award. A record of negotiations, inquiries, factors in decisions, etc., must be maintained for audit purposes.

Small Business Program Requirements

1. It is the responsibility of the Principal Investigator and Procurement to process the appropriate paperwork for the Small Business Program Plan, including insuring that any resultant subcontract includes provision for the approval of the plan and incorporates the plan as an attachment to the subcontract. The Small Business Program Plan should be coordinated with OSP and the Sponsored Program Accounting Office to insure that all subrecipients submit a Small Business Program Plan that is in compliance with all applicable provisions of the Federal Acquisitions Regulations as they pertain to small disadvantaged, women-owned, HUBZone, service disabled veteran-owned and veteran-owned business utilization and reporting requirements.

2. The Sponsored Programs Accounting Office (SPA) is responsible for the administration of the Small Business Program, including all compliance provisions and timely submission of the SF 294 and 295 reporting requirements.

Payment Processes

To insure control of the funds to be allocated to the subrecipient, a separate University Purchase Order for the amount of the subrecipient agreement will be issued. As billings for reimbursement are received from the subrecipient, the Sponsored Projects Accounting Office (SPA) will forward the billing to the Principal Investigator for approval prior to payment. No payments under a subrecipient agreement will be made by SPA without the approval of the Principal Investigator or their delegated representative. The Principal Investigator is responsible for technical and fiscal monitoring and control of the subrecipient agreement.

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Early Termination by the Federal Government

1. In the event a principal investigator receives notification that the prime award to Carnegie Mellon is terminated for convenience or cause by the Prime Sponsor, the appropriate university offices should be notified (both OSP and SPA). If the offices identified above receive the notification directly from the government, they should immediately notify any subrecipients, the departmental business manager and the principal investigator.
2. Any subrecipient agreements under the prime award should be terminated in accordance with the terms and conditions of the applicable award. The subrecipient will then provide Carnegie Mellon all reports and closeout documents that would otherwise be required if the subrecipient agreement had not been early terminated.. The principal investigator at Carnegie Mellon will ascertain if the scope of work has been satisfactorily completed. The subrecipient will be reimbursed for their allowable costs and non-cancelable commitments up to the date of termination. Any payment of final invoice is contingent upon satisfactory completion of scope of work.

Financial Record Retention and Audit Requirements

1. Each subrecipient agreement shall contain Carnegie Mellon's standard audit provisions requiring the subrecipient to maintain books, records, documents, and other evidence pertaining to the costs and expenses of the subrecipient agreement and subrecipient shall agree to make such records available at all reasonable times to an authorized representative of Carnegie Mellon or the sponsor.
2. If the subrecipient is a state, local government, or non-profit organization, the subrecipient agreement shall contain provisions incorporating the appropriate requirements of Uniform Guidance as applicable. Additionally during the performance period of the subrecipient agreement, it is the responsibility of the Sponsored Projects Accounting Office to obtain an annual audit report or report notification from each subrecipient that is subject to the provisions of the Uniform Guidance.
3. As deemed appropriate by the Sponsored Projects Accounting Office, annual desk audits may be conducted in accordance with the requirements of the Uniform Guidance for a particular subrecipient award.

Close-out

1. Upon completion of the project and prior to final payment, the responsible SPA staff will verify that the final technical report or research results is deemed acceptable to the Carnegie Mellon principal investigator. The principal investigator will verify acceptance of the final technical report or research results as well as sign off on the processing of the final invoice that is received.

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In accordance with the terms of the applicable subaward agreement (and governed by the prime award and in accordance with the Uniform Guidance) the responsible SPA staff will request and obtain the following documents from the subrecipient, as may be required under the prime award,:

- a. Subrecipient's signed Release Form.
- b. Subrecipient's Assignment of Refunds, Rebates, Credits, and Other Amounts.
- c. Inventory of Property acquired under this award.
- d. Report of Inventions and Subcontracts.
- e. Final Technical Report or Research Results.
- f. Final Report of Expenditures/Invoice

(Items a.-f. may be required under government contracts. Items c.-f. may be required under government grants or cooperative agreements.)

2. Prior to final payment, the responsible SPA staff may conduct a desk audit of the subrecipient's financial cost for the project. If there appears to be a questionable cost and/or unusual circumstances, the Sponsored Projects Accounting Office will request an explanation from the subrecipient. If no resolution is found to the university's concerns, the Sponsored Projects Accounting Office will request audit assistance from the cognizant audit agency through the appropriate contract administrative office.

3. For all for-profit subrecipient agreements under a federal contract, the Sponsored Projects Accounting Office will request audit assistance from the contracting officer of the cognizant audit agency in accordance with a directive from our DCAA office.