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## Title 2 – Federal Financial Assistance

### Subtitle A – Office of Management and Budget Guidance for Federal Financial Assistance

#### Chapter II – Office of Management and Budget Guidance

#### Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

#### Subpart D – Post Federal Award Requirements

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#### Subrecipient Monitoring and Management

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#### SUBRECIPIENT MONITORING AND MANAGEMENT

#### § 200.331 Subrecipient and contractor determinations.

An entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor. The pass-through entity is responsible for making case-by-case determinations to determine whether the entity receiving Federal funds is a subrecipient or a contractor. The Federal agency may require the pass-through entity to comply with additional guidance to make these determinations, provided such guidance does not conflict with this section. The Federal agency does not have a direct legal relationship with subrecipients or contractors of any tier; however, the Federal agency is responsible for monitoring the pass-through entity's oversight of first-tier subrecipients. All of the characteristics listed below may not be present in all cases, and some characteristics from both categories may be present at the same time. No single factor or any combination of factors is necessarily determinative. The pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract. In making this determination, the substance of the relationship is more important than the form of the agreement.

(a) **Subrecipients.** A subaward is for the purpose of carrying out a portion of the Federal award and creates a Federal financial assistance relationship with a subrecipient. See the definition of *Subaward* in § 200.1. Characteristics that support the classification of the entity as a subrecipient include, but are not limited to, when the entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether the objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision-making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and

(5) Implements a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) **Contractors.** A contract is for the purpose of obtaining goods and services for the recipient's or subrecipient's use and creates a procurement relationship with a contractor. See the definition of *contract* in § 200.1. Characteristics that support a procurement relationship between the recipient or subrecipient and a contractor include, but are not limited to, when the contractor:

(1) Provides the goods and services within normal business operations;

(2) Provides similar goods or services to many different purchasers;

(3) Normally operates in a competitive environment;

(4) Provides goods or services that are ancillary to the implementation of a Federal program; and

(5) Is not subject to compliance requirements of a Federal program as a result of the agreement. However, similar requirements may apply for other reasons.

### § 200.332 Requirements for pass-through entities.

A pass-through entity must:

(a) Verify that the subrecipient is not excluded or disqualified in accordance with § 180.300. Verification methods are provided in § 180.300, which include confirming in *SAM.gov* that a potential subrecipient is not suspended, debarred, or otherwise excluded from receiving Federal funds.

(b) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the information provided below. A pass-through entity must provide the best available information when some of the information below is unavailable. A pass-through entity must provide the unavailable information when it is obtained. Required information includes:

(1) Federal award identification.

(i) Subrecipient's name (must match the name associated with its unique entity identifier);

(ii) Subrecipient's unique entity identifier;

(iii) Federal Award Identification Number (FAIN);

(iv) Federal Award Date;

(v) Subaward Period of Performance Start and End Date;

(vi) Subaward Budget Period Start and End Date;

(vii) Amount of Federal Funds Obligated in the subaward;

(viii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity, including the current financial obligation;

(ix) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;

(x) Federal award project description, as required by the Federal Funding Accountability and Transparency Act (FFATA);

- (xi) Name of the Federal agency, pass-through entity, and contact information for awarding official of the pass-through entity;
  - (xii) Assistance Listings title and number; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at the time of disbursement;
  - (xiii) Identification of whether the Federal award is for research and development; and
  - (xiv) Indirect cost rate for the Federal award (including if the de minimis rate is used in accordance with § 200.414).
- (2) All requirements of the subaward, including requirements imposed by Federal statutes, regulations, and the terms and conditions of the Federal award;
- (3) Any additional requirements that the pass-through entity imposes on the subrecipient for the pass-through entity to meet its responsibilities under the Federal award. This includes information and certifications (see § 200.415) required for submitting financial and performance reports that the pass-through entity must provide to the Federal agency;
- (4) Indirect cost rate:
- (i) An approved indirect cost rate negotiated between the subrecipient and the Federal Government. If no approved rate exists, a pass-through entity must determine the appropriate rate in collaboration with the subrecipient. The indirect cost rate may be either:
    - (A) An indirect cost rate negotiated between the pass-through entity and the subrecipient. These rates may be based on a prior negotiated rate between a different pass-through entity and the subrecipient, in which case the pass-through entity is not required to collect information justifying the rate but may elect to do so; or
    - (B) The de minimis indirect cost rate.
  - (ii) The pass-through entity must not require the use of the de minimis indirect cost rate if the subrecipient has an approved indirect cost rate negotiated with the Federal Government. Subrecipients may elect to use the cost allocation method to account for indirect costs in accordance with § 200.405(d).
- (5) A requirement that the subrecipient permit the pass-through entity and auditors to access the subrecipient's records and financial statements for the pass-through entity to fulfill its monitoring requirements; and
- (6) Appropriate terms and conditions concerning the closeout of the subaward.
- (c) Evaluate each subrecipient's fraud risk and risk of noncompliance with a subaward to determine the appropriate subrecipient monitoring described in paragraph (f) of this section. When evaluating a subrecipient's risk, a pass-through entity should consider the following:
- (1) The subrecipient's prior experience with the same or similar subawards;
  - (2) The results of previous audits. This includes considering whether or not the subrecipient receives a Single Audit in accordance with subpart F and the extent to which the same or similar subawards have been audited as a major program;
  - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and

- (4) The extent and results of any Federal agency monitoring (for example, if the subrecipient also receives Federal awards directly from the Federal agency).
- (d) If appropriate, consider implementing specific conditions in a subaward as described in § 200.208 and notify the Federal agency of the specific conditions.
- (e) Monitor the activities of a subrecipient as necessary to ensure that the subrecipient complies with Federal statutes, regulations, and the terms and conditions of the subaward. The pass-through entity is responsible for monitoring the overall performance of a subrecipient to ensure that the goals and objectives of the subaward are achieved. In monitoring a subrecipient, a pass-through entity must:
  - (1) Review financial and performance reports.
  - (2) Ensure that the subrecipient takes corrective action on all significant developments that negatively affect the subaward. Significant developments include Single Audit findings related to the subaward, other audit findings, site visits, and written notifications from a subrecipient of adverse conditions which will impact their ability to meet the milestones or the objectives of a subaward. When significant developments negatively impact the subaward, a subrecipient must provide the pass-through entity with information on their plan for corrective action and any assistance needed to resolve the situation.
  - (3) Issue a management decision for audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by § 200.521.
  - (4) Resolve audit findings specifically related to the subaward. However, the pass-through entity is not responsible for resolving cross-cutting audit findings that apply to the subaward and other Federal awards or subawards. If a subrecipient has a current Single Audit report and has not been excluded from receiving Federal funding (meaning, has not been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant agency for audit or oversight agency for audit to perform audit follow-up and make management decisions related to cross-cutting audit findings in accordance with section § 200.513(a)(4)(viii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.
- (f) Depending upon the pass-through entity's assessment of the risk posed by the subrecipient (as described in paragraph (c) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
  - (1) Providing subrecipients with training and technical assistance on program-related matters;
  - (2) Performing site visits to review the subrecipient's program operations; and
  - (3) Arranging for agreed-upon-procedures engagements as described in § 200.425.
- (g) Verify that a subrecipient is audited as required by subpart F of this part.
- (h) Consider whether the results of a subrecipient's audit, site visits, or other monitoring necessitate adjustments to the pass-through entity's records.
- (i) Consider taking enforcement action against noncompliant subrecipients as described in § 200.339 and in program regulations.

**§ 200.333 Fixed amount subawards.**

With prior written approval from the Federal agency, the recipient may provide subawards based on fixed amounts up to \$500,000. Fixed amount subawards must meet the requirements of § 200.201.