



Angelo State University Operating Policy and Procedure

OP 56.04: Preparing and Monitoring Subaward Agreements

DATE: March 30, 2012

PURPOSE: This Operating Policy/Procedure (OP) describes the requirements related to sponsored projects subawards, in accordance with the requirements set forth in Title 2, *Code of Federal Regulations* (CFR), Part 215 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” and Office of Management and Budget Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.”

REVIEW: This OP will be reviewed in March of every odd-numbered year. The dean of the College of Graduate Studies will coordinate revisions with the Office of Sponsored Projects. Recommended revisions will be forwarded through the vice presidents to the president by June 1.

POLICY/PROCEDURE

1. Applicability

This OP applies to all subawards funded directly or indirectly from federal funds or those used as cost sharing or matching for federally funded programs. This OP applies to subawards with state and local governments, institutions of higher education and non-profit organizations. This OP does not apply to vendor agreements, agreements with for-profit entities, or works for hire.

2. Definitions

- a. *Award* means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by the federal government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and contracts that are required to be entered into and administered under procurement laws and regulations.
- b. *Vendor* means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal program. These goods or services may be for an organization’s own use or for the use of beneficiaries of the federal program. Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

- (1) Provides the goods and services within normal business operations;
 - (2) Provides similar goods or services to many different purchasers;
 - (3) Operates in a competitive environment;
 - (4) Provides goods or services that are ancillary to the operation of the federal program;
and
 - (5) Is not subject to compliance requirements of the federal program.
- c. *Subaward* means an award of financial assistance in the form of money or property in lieu of money, made under an award by a recipient to an eligible subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of “award” in paragraph a. of this section.
- d. *Subrecipient* means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency. Characteristics indicative of a federal award received by a subrecipient are when the organization:
- (1) Determines who is eligible to receive federal financial assistance and the type of assistance to be received;
 - (2) Has its performance measured to determine whether the objectives of the federal program are met;
 - (3) Has responsibility for programmatic decision-making;
 - (4) Has responsibility for adherence to applicable federal program compliance requirements; and
 - (5) Uses the federal funds to carry out a program of the organization (as compared to providing goods or services for a program of the pass-through entity).

3. Agreement (Contract) Requirements

- a. Agreements (contracts) with subrecipients (subcontractors) will be drafted according to a template approved by the Texas Tech University System’s legal counsel.
- b. Agreements with subrecipients that meet the applicability tests outlined in section 1 will include the information contained in sections 4.a. and 4.b.
- c. In addition, agreements with subrecipients that meet the applicability tests outlined in section 1 will contain the following clauses:

(1) Allowability of Costs

- (a) Bills submitted to ASU for payment will contain the following certification: “I certify to the best of my knowledge and belief that the data above are correct and that all outlays were made in accordance with the contract terms and conditions, and that payment is due and has not been previously requested.”
- (b) In the event that any payments to the subrecipient under this contract are subsequently disallowed by ASU or the prime contractor as items of costs of this contract, the subrecipient shall repay ASU, on demand, the amount of any such subsequent payments to be made to the subrecipient hereunder, without prejudice, however, to the subrecipient’s right thereafter to establish the allowability of any such item of cost under this contract.

(2) Institutional Information

Subrecipient shall submit to ASU the following information in compliance with the Federal Funding Accountability and Transparency Act (FFATA) of 2006:

- (a) Legal name
- (b) Descriptive title of subaward project
- (c) North American Industry Classification System (NAICS) Code (for federal contracts only)
- (d) Full address of the legal entity, including the congressional district
- (e) Full address of the primary place of performance, including the congressional district
- (f) Data Universal Numbering System (DUNS) number
- (g) Tax identification number
- (h) Total compensation and names of top five executives, unless exempt from reporting such information according to FFATA requirements

(3) Retention Requirements for Records

Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of at least three years from the date of the final payment on the subcontract. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action is taken.

(4) Access Requirements for Records

ASU and its representatives, the federal awarding agency, the inspector general, comptroller general of the United States, or any of their duly authorized

representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(5) Audits

(a) Subrecipients receiving subawards totaling \$10,000 or more shall submit to ASU one copy of the A-133 reporting package described below when the schedule of findings and questioned costs disclose audit findings relating to subcontracts with ASU provided, or when the summary schedule of prior audit findings reported the status of any audit findings relating to subcontracts with ASU. The reporting Package shall include the:

- 1) Financial Statements and schedule of expenditures of federal awards;
- 2) Summary schedule of prior audit findings;
- 3) Auditor's report(s); and
- 4) Corrective action plan.

(b) Or, the subrecipient shall provide written notification to ASU that: "An audit of the subrecipient was conducted in accordance with OMB Circular A-133 (including the period covered by the audit and the name, amount, and number of the subcontract(s) provided by ASU); the schedule of findings and questioned costs disclosed no audit findings specifically related to the subcontract that ASU provided; and the summary schedule of prior audit findings did not report on the status of any audit findings relating to the subcontract that ASU provided."

(c) The audit information required by (a) or (b) of this section shall be submitted within the earlier of 30 days after receipt of the auditor's report(s) by the subrecipient, or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. In the event that the submissions cannot be made within nine months following close of a budget period, the subrecipient must notify ASU in writing of the anticipated date of submission. All submissions required under this article shall be submitted to the following address:

Angelo State University
Office of Sponsored Projects
ASU Station #10889
San Angelo, Texas 76909

(6) Conflict of Interest

Subrecipients will provide evidence that they have a Conflict of Interest policy and procedure that is in compliance with federal regulations. Should any conflicts of

interest exist, subrecipients will certify that such conflicts have been reduced, eliminated, or managed.

4. Responsibilities of ASU's Office of Sponsored Projects and Controller's Office

- a. Identify federal awards made by informing each subrecipient of CFDA (Catalog of Federal Domestic Assistance) title and number, award name and number, award year, if the award is classified as research & development (R&D), and name of federal agency. When some of this information is not available, ASU shall provide the best information available to describe the federal award.
- b. Advise subrecipients of requirements imposed on them by federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.
- c. Monitor the activities of subrecipients as necessary to ensure:
 - (1) Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements.
 - (2) Performance goals are achieved.
- d. Ensure that subrecipients expending \$500,000 or more in federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.
- e. Review management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.
- f. Consider whether subrecipient audits necessitate adjustment of ASU's own records.
- g. Require each subrecipient to permit ASU and auditors to have access to the records and financial statements as necessary for ASU to comply with this part.
- h. Report subawards greater than or equal to \$25,000 in the FFATA Subaward Reporting System (FSRS) by the end of the month following the month in which the subaward was made.