



Angelo State University
Operating Policy and Procedure

OP 56.04: Preparing and Monitoring Subaward Agreements

DATE: December 21, 2016

PURPOSE: This Operating Policy/Procedure (OP) describes the requirements related to sponsored project subawards, in accordance with the requirements set forth in Title 2, *Code of Federal Regulations* (CFR), Part 200 “Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards.”

REVIEW: This OP will be reviewed in May every three years, or as needed. The Dean of the College of Graduate Studies and Research will coordinate revisions with the Director of Sponsored Projects. Recommended revisions will be forwarded through the provost and vice president for academic affairs 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. *Contract* means a legal instrument by which a non-federal entity purchases property or services needed to carry out a project or program under an award. The term as used in this document does not include a legal instrument, even if the non-federal entity considers it a contract, when the substance of the transaction meets the definition of an award or subaward as defined herein.
- c. *Contractor* means an entity that receives a contract. Characteristics indicative of a payment for goods and services received by a contractor 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) Normally 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 as a result of the agreement, though similar requirements may apply for other reasons.
- d. *Pass-through entity* means a non-federal entity (e.g. Angelo State University) that provides a subaward to a subrecipient to carry out part of a federal program.
- e. *Subaward* means an award of financial assistance in the form of money or property in lieu of money, made under an award by a pass-through entity 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 payments to a contractor or an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
- f. *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 assistance and the type of assistance to be received;
 - (2) Has its performance measured to determine 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) In accordance with its agreement, uses the federal funds to carry out 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.

3. Agreement Requirements

- a. Agreements with subrecipients 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: “By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal Award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.”
- (b) “In the event that any payments to the subrecipient under this subaward are subsequently disallowed by ASU or the prime recipient as items of costs of this subaward, 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 subaward.”

(2) Institutional Information

Subrecipient shall submit to ASU the following information in compliance with 2 CFR 200 and the Federal Funding Accountability and Transparency Act (FFATA) of 2006:

- (a) Full legal name, which must match its registered name in DUNS;
- (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; and
- (i) For awards in which reimbursement of indirect costs is allowable, a copy of the approved federally recognized indirect cost rate agreement, or, if no such rate

exists, documentation of acceptance of the *de minimis* indirect cost rate as defined in 2 CFR 200.

(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 subaward. 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

In accordance with 2 CFR 501ff, 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 federal compliance audit reporting package described below when the schedule of findings and questioned costs disclose audit findings relating to subawards that ASU provided, or when the summary schedule of prior audit findings reported the status of any audit findings relating to subawards 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 federal compliance requirements (including the period covered by the audit and the name, amount, and number of the subaward(s) provided by ASU); the schedule of findings and questioned costs disclosed no audit findings specifically related to the subaward that ASU provided; and the summary schedule of prior audit findings did not report on the status of any audit findings relating to the subaward 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 or, in the absence of having their own Conflict of Interest policy, certify they will follow ASU's policy. 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 the CFDA (Catalog of Federal Domestic Assistance) title and number, award name and Federal Award Identification Number (FAIN), federal award date, subaward period of performance, amount of federal funds obligated by each action, total federal funds obligated to the subrecipient, total amount of the federal award, federal award project description, whether the award is classified as research & development (R&D), name of federal agency, and contact information for ASU's awarding official. When some of this information is not available, ASU shall provide the best information available to describe the federal award and subaward.
- b. Inform subrecipients of the following:
 - (1) Requirements imposed on them by the pass-through entity so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the federal award.
 - (2) Additional requirements imposed on them by ASU to meet its own responsibility to the federal awarding agency, including identification of any required financial and performance reports;
 - (3) A requirement that the subrecipient permit ASU and its auditors to have access to the subrecipient's records and financial statements in compliance with Section 3.c.(3) of this OP; and
 - (4) Appropriate terms and conditions concerning closeout of the award.

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- c. Establish written procedures for pre- and post-award monitoring of 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 \$750,000 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. 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.