**POLICY DETAILS:** SUBAWARD Management POLICY

**OWNER:** UD Research Office

**RESPONSIBLE OFFICE:** UD Research Office

**ORIGINATION DATE:** Issued February 7, 2020

**subaward Management Policy**

**I. SCOPE OF POLICY**

This policy sets forth requirements for issuance and administration of outgoing subawards and applies to all departments, faculty, and staff involved in externally sponsored research at the University of Delaware (UD).

**II. DEFINITIONS**

1. **Sponsor** or **Sponsoring Agency** or **Prime Sponsor** – An external entity responsible for providing project funding to UD under a formal award agreement. Also known as Prime Sponsor.
2. **Sponsored Award** or **Prime Award** – A formal award agreement issuing funding from an external sponsoring agency to UD to achieve specified project goals. Also known as Prime Sponsored Award.
3. **Pass Through Funds** – Funds originally issued to UD which are subsequently transferred to a subrecipient to implement sponsored award activities.
4. **Subrecipient** – An external entity that receives pass-through funds via a subaward from UD to implement a specified portion of sponsored award activities. Also known as subawardee, subgrantee, or subcontractee.
5. **Contractor –** An external entity that receives funding from UD via a procurement contract to provide goods or services related to the sponsored award. Examples of external contractors include a Consultant, Vendor, or Service Provider relationship.
6. **Subaward –** A formal award agreement issuing pass through funds from UD to a subrecipient to implement a specified portion of sponsored award activities. Also known as a subagreement, subgrant, or subcontract.
7. **Procurement Contract** – A formal contract agreement issued from UD to a contractor to provide specified goods or services under the prime sponsored award.
8. **Single Audit** – A compliance and financial audit required of any institution receiving over $750,000 in federal funds to assure effective management and use of funds. Also known as the “A-133” audit.
9. **Authorized Institutional Official** – An individual officially designated with institutional authority to legally bind UD in grants administration matters.
10. **Federal Funding Accounting and Transparency Act (FFATA)** – A 2006 act of Congress that requires information on federal awards to be made available to the public via [www.USASpending.gov](http://www.USASpending.gov).

**III. POLICY STATEMENT**

The objective of this policy is to provide guidance to Principal Investigators (PIs), Department/College Administrators, Research Office Administrators, and other responsible UD parties for issuing and administering outgoing subawards.

Key administrative activities related to subaward management include:

* Accurate determination of external collaborators as subrecipients or contractors.
* Inclusion of subawards during UD proposal submissions.
* Assessment of subrecipient risk level prior to subaward issuance or modification.
* Incorporation of applicable monitoring requirements into subaward terms and conditions based on risk level.
* Issuance or modification of subaward agreements in coordination with subrecipients.
* Monitoring of programmatic and financial activities associated with the subaward.
* Termination of a subaward via normal closeout activities or extenuating circumstances.

**III. POLICY STANDARDS AND PROCEDURES**

1. **General Considerations**
   1. UD may issue an outgoing subaward to a subrecipient to conduct a specified portion of the work performed under a sponsored award. As the prime recipient of the sponsored award, UD is obligated to undertake certain stewardship activities to ensure the subrecipient:
      1. Possesses adequate technical expertise and potential ability to successfully perform their scope of work in alignment with the prime sponsored award objectives.
      2. Proposes an appropriate budget for their applicable scope of work.
      3. Manages funds and meets performance goals stipulated by the prime sponsored award.
      4. Complies with governing laws, regulations, and special terms and conditions associated with the prime award; this includes compliance with federal regulations set forth per Uniform Guidance including 2 CFR 200.330 as applicable for federal and federal flow-through awards.
   2. UD PIs are responsible for initiating the request for UD engagement with a subrecipient. This request typically occurs during proposal submission, but may also occur during the course of the award:
      1. Upon funding of a proposal, the prime sponsored award issued to UD typically includes specific authorization and an explicit budget for any proposed subawards.
      2. Occasionally, the need for a subaward develops after a sponsored award has already been issued to UD. These instances may require UD to obtain prior written approval from the sponsor to issue a subaward; please confirm prior approval requirements with the Research Office.
2. **Subrecipient v. Contractor Determination**
   1. The appropriate classification of a subaward or other procurement action at the time a sponsored award is proposed and funded is essential for ensuring:
      1. Proper budgeting and accounting for related costs.
      2. Adherence to applicable compliance requirements for subrecipients versus contractors.
   2. UD utilizes a standard “Provider Category Determination Worksheet” (PCDW) to correctly classify UD’s substantive relationship with an external collaborator as that of a subrecipient or contractor.
   3. Key considerations utilized for subrecipient versus contractor determination are outlined below:

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| **Subrecipient Characteristics:** | **Contractor Characteristics:** |
| * Performs substantive programmatic work related to the sponsored award * Bears responsibility for programmatic decision making * Is accountable for measurable performance requirements * Must adhere to compliance requirements specified by the sponsored award | * Provides goods or services which are ancillary to the sponsored award operations * Normally operates in a competitive environment * Provides similar goods or services to many different purchasers * Is not subject to compliance requirements of the sponsored award |
| **Use of Judgement:** All characteristics listed above may not be present in all cases. UD will use its judgment in correctly classifying the relationship between UD and an external entity. | |

* 1. In determining whether an agreement between UD and an external entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. As such, UD must use judgment in classifying each agreement as a subaward or a procurement contract, as certain characteristics outlined above may not be present in all cases.

1. **Subaward Issuance and Modifications**
   1. The Research Office prepares, issues and administers subawards jointly with the UD PI and his/her unit administration to ensure subrecipient compliance with the prime sponsored award.
   2. Subawards may only be issued, modified and executed on behalf of the University by an authorized institutional official with delegated signature authority.
      1. A UD PI or other unauthorized individual may not approve a subrecipient to begin working without a fully-executed subaward from UD. Subrecipients that prematurely commence work do so at their own risk, and have no assurance of payment from UD.
      2. UD is a member of the Federal Demonstration Partnership (FDP) and requires utilization of standard FDP templates to expedite subaward execution when possible.
      3. Subaward modifications are executed by UD in accordance with any modifications to the prime sponsored award (e.g. incremental funding or renewal), or as a result of actions required due to subrecipient monitoring (e.g. changes to a subaward’s terms and conditions). Subaward modifications are normally issued annually to coincide with routine monitoring activities.
   3. Components below must be completed prior to UD issuance or modification of a subaward:
      1. Establishment of the prime sponsored award in UD’s financial system.
      2. Establishment of the subaward purchase order requisition or amendment.
      3. Confirmation that subrecipients receiving federal or federal flow through funds have a DUNS# and an active SAM registration.
      4. Completion of subrecipient risk assessment or monitoring activities per subsequent sections of this policy. UD reserves the right not to enter into a subaward or terminate an existing relationship wherein the risk of engagement is deemed too high or excessive.
   4. Key items outlined in the subaward agreement issued by UD should include:
      1. **Payment Terms**
         1. Subawards are typically issued on a cost-reimbursement basis by UD.
         2. UD will issue a fixed price subaward with a predetermined payment schedule under limited circumstances. Fixed price awards typically:
            1. Require prior written approval (or waiver thereof) by the sponsor.
            2. Require a specific project scope in alignment with prime sponsored award objectives, wherein subrecipient accountability is based on performance and results.
            3. May not exceed $150,000 funds wherein:

The fixed funding amount is based on adequate cost, historical, or unit pricing data used to reasonably estimate actual costs.

Payments are based on meeting requirements of the sponsored award.

Mandatory cost sharing or match is not required by the sponsored award.

The subrecipient will realize no increment above actual costs.

* + - * 1. Must specify and utilize one of the following payment methods:

Payments made for a set of specific milestones agreed upon prior to work performed and set forth in the prime sponsored award.

Payments made on a per-unit basis at defined prices agreed upon prior to work performed and set forth in the prime sponsored award.

Lump sum payment made at time of award completion.

* + 1. **Authorized Funding Amount and Period of Performance**
       1. Subawards will be issued and modified in alignment with their allotted budget amount and timeline authorized per UD’s prime sponsored award.
       2. Subawards are normally issued annually to coincide with routine monitoring activities. Only in unique situations will a subaward be issued in increments greater than one year.
    2. **Facilities and Administrative Costs (F&A)**
       1. UD personnel may not require/suggest subrecipients forego their entitled F&A.
       2. UD will issue a subaward using the subrecipient’s federally negotiated F&A rate except under circumstances specified below:
          1. UD and subrecipients are required to limit total F&A to a cap specified per written sponsor policy or the funding opportunity.
          2. If the subrecipient does not have a federally negotiated F&A rate, a de miniumus 10% F&A rate will be used on the subaward’s Modified Total Direct Costs (MTDC) per Uniform Guidance 2 CFR 200.414. Subrecipients which have had a federally negotiated F&A rate in the past are not eligible for the de minimus 10% F&A rate.

1. **Subrecipient Risk Assessment and Monitoring**
   1. It is UD’s policy to complete a risk assessment prior to issuing a subaward/amendment, no less than annually. This ensures that the most appropriate subrecipient monitoring plan is:
      1. Developed based on a standardized process,
      2. Communicated to the subrecipient, and
      3. Documented in the terms of the subaward.
   2. UD’s risk assessment categorizes a subrecipient as “Low”, “Moderate” or “High” risk based on a predetermined set of risk factors. Typical implications for subrecipient monitoring based on their assigned risk level are outlined below:

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| **Risk Level** | **Subrecipient Monitoring Guidelines** |
| **Low Risk** | Check all subrecipient invoices to confirm they:   * Adhere to the required format as specified in the subaward agreement which requires inclusion of the following:   + UD Purchase Order Number   + UD Award Number   + Invoice line items per the approved subaward budget   + Current and Cumulative Totals by budget category (including Cost Share)   + A signed certification statement as to the accuracy and appropriateness of the charges from an authorized Subrecipient Institutional Official * Are within the allowable subaward project period start and end dates * Contain F&A charges calculated in accordance with the subrecipient’s federally negotiated F&A rate agreement * Contain billed amounts which appear reasonable based on technical progress towards project goals * Do not contain any unallowable charges such as alcohol, meals, postage, office supplies or other unallowable items except where specifically authorized as per the subaward agreement * For Final Invoices, invoices are clearly marked “FINAL” and accompanied by the Subaward Closeout Form.   Note: A subrecipient invoice will not be approved for payment until all errors, discrepancies, or questionable items have been adequately and fully resolved. |
| **Moderate Risk** | Incorporate additional requirements dependent on UD management decision:   * Required copies of supporting/backup documentation for subaward invoice charges such as:   + Payroll records to support invoice personnel charges   + Copies of receipts for specific charges (travel, supplies, equipment, etc.)   + Copies of consultant hourly rates and time charged   + Transactional detail from the subrecipient’s accounting system of record * More frequent submission of subrecipient invoices and technical reports * Requirement to align subrecipient invoice payments to technical progress |
| **High Risk** | Incorporate additional requirements dependent on UD management decision:   * Mandated regularly scheduled conference calls with the UD PI and subrecipient institutional representative * Financial Desk Audits * Site visits, both technical and financial |
| **Incremental Monitoring:** Subrecipient monitoring activities increase in proportion to their assigned risk level. Exact monitoring requirements will be incorporated into each subaward. | |

* 1. It is UD’s responsibility to ensure that all agreed-upon monitoring activities occur and that the results of the risk assessment are updated accordingly.
     1. UD may adjust a subrecipient’s assigned risk level and applicable monitoring activities throughout the course of a sponsored award.
        1. The PI is responsible for monitoring the technical progress of the subrecipient to ensure their performance is aligned with objectives outlined in the subaward and the prime sponsored award, including:
           1. Advancing toward the completion of programmatic goals.
           2. Submitting accurate and timely invoices and technical reports as required.
     2. One or more of the following actions may be taken by UD for subrecipients deemed noncompliant as a result of subaward monitoring activities:
        1. Temporarily withholding cash payments pending correction of the deficiency,
        2. Denying both use of funds and any applicable matching credit for all or part of the cost of the activity or action,
        3. Wholly or partly suspending or terminating the subaward, and/or
        4. Taking other remedies that may be legally available.
        5. Note: In most cases, noncompliance must be documented to support above actions.

1. **Subaward Closeout and Termination**
   1. Normal closeout and termination of a subaward occurs upon expiration of the subaward period of performance. Action should be taken to complete key activities in a timely manner, including:
      1. Confirmation by the UD PI that all subaward deliverables have been met.
      2. UD receipt of a final subaward invoice and associated closeout documents:
         1. The final subaward invoice must be clearly marked “FINAL” with certification statements signed by the Subrecipient Institutional Official.
         2. UD requires the subrecipient’s final invoice be accompanied by a completed “Subaward Closeout Form” signed by the Subrecipient Institutional Official and the Subrecipient PI prior to releasing payment. This form contains:
            1. Confirmation that the subrecipient sent a final invoice to UD.
            2. Confirmation of the final subaward expenditures.
            3. Amount of required cost share.
            4. Completion of all final technical/patent/equipment reports and deliverables.
         3. UD typically incorporates a 60-day grace period from the subaward end date for the receipt of the subrecipient’s final invoice.
         4. If UD does not obtain the subrecipient’s final invoice in a timely manner, UD reserves the right to treat the last invoice received from the subrecipient as the final invoice.
      3. Closeout of the subaward purchase order via a [Purchase Order Amendment Webform](https://udapps.nss.udel.edu/webforms/embtform?wf_id=404&wf_ty=blank) after the final subaward invoice is paid.
   2. Early closeout and termination of a subaward occurs when the subaward is terminated prior to the original subaward end date specified in the subaward agreement.
      1. An agreement may need to be terminated early at the request of the sponsor, UD, or by mutual agreement between UD and the subrecipient.
         1. The UD PI may consider termination due to factors related to suboptimal subrecipient performance towards project milestones, services, or objectives specified in the subaward agreement. Any UD PI contemplating early termination of a subaward should immediately contact the Subaward Team within Research Office for appropriate action.
      2. Sponsor regulations and subaward specific terms and conditions detail the steps needed to process an early termination of a fully-executed subaward agreement.
         1. UD typically incorporates a clause into the subaward agreement outlining UD’s right to terminate a subaward within 30-days of official written notice to the subrecipient.
            1. A “Stop Work Order” is a formal notification to the subrecipient to discontinue all work on a subaward. UD will issue a “Stop Work Order” to a subrecipient in the rare instance when all other remediation means have been unsuccessful.
         2. The Research Office will work with the PI and their unit administration to ensure all required termination actions and documentation is completed.
2. **Roles and Responsibilities**
   1. Successful administration of subawards relies heavily on the involvement and coordination of multiple parties across campus including the UD PI, unit administration, the Research Office, and others. The table below provides an overview of applicable roles and responsibilities for subawards:

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| **Subaward Management**  **Policy and Procedures** | **Responsible Party**  P = Primary, S = Secondary, O = Oversight, I = Input | | | | |
| **Unit Administration** | | **Research Office** | | |
| **Action** | Principal Investigator | Department/ College Administrator | Contract & Grants Specialist | Subaward Team | Post-Award Team |
| Proposed Subawards |  |  |  |  |  |
| Identifies the need for an external entity’s participation for a sponsored award | P | S | O | I |  |
| Establishes and maintains primary communication with the subrecipient | P | S |  |  |  |
| Collects all required subaward documentation from the subrecipient (SOW, budget, budget justification, compliance info, etc.) | P | S | O |  |  |
| Completes the Provider Category Determination Worksheet to categorize the external entity as a subrecipient or contractor | P |  | O | I |  |
| Confirms alignment of the subrecipient’s scope of work with prime award objectives | P | S | O |  |  |
| Verifies appropriateness and accuracy of the budget proposed by the subrecipient | P | S | O |  |  |
| Verifies Conflict of Interest status between the subrecipient and UD key personnel | P | S | O |  |  |
| Reviews and submits subawards for proposals and prior approvals to the sponsor | S | S | P |  |  |
| Subaward Issuance and Modifications | | | | | |
| Ensures Research Office receipt of all required information for subaward issuance/modification | S | P | O | I |  |
| Prepares, negotiates, and executes new subawards and modifications | I | I | I | P |  |
| Makes a final determination for UD’s substantive relationship with the external entity as that of a subrecipient or contractor |  |  |  | P |  |
| Reviews appropriateness of the subaward budget including the applicable F&A rate | I | S | P |  |  |
| Determines the appropriate type of subaward agreement in coordination with Procurement | I | I | S | P |  |
| Initiates the Subaward Purchase Order (PO) requisition/amendment via webforms |  | P | I | O |  |
| Reviews and approves the Subaward Purchase Order (PO) requisition/amendment via webforms |  | P | S | O |  |
| Drafts terms and conditions of the subaward per assessed subrecipient risk level | I |  | S | P |  |
| Reviews and accepts subaward terms and conditions | P |  | S |  |  |
| Negotiates terms and conditions of the subaward agreement with the subrecipient | I |  | I | P |  |
| Ensures issuance and receipt of fully-executed subawards and modifications |  |  |  | P |  |
| Distributes fully-executed documents to PIs and their unit administrators |  |  |  | P |  |
| Subrecipient Risk Assessment and Monitoring | | | | | |
| Assigns a risk level to the subrecipient via the subrecipient risk assessment tool |  |  |  | P |  |
| Notifies PIs and unit administrators of subaward monitoring requirements based upon assessed subrecipient risk level |  |  |  | P |  |
| Conducts annual review of subrecipient audits to determine impact to their assigned risk level and monitoring requirements |  |  |  | P |  |
| Receives subaward invoices for payment and submits them for payment via webforms | S | S |  | P |  |
| Reviews subaward invoices for accuracy and completeness including any required backup | S | S |  | P |  |
| Requests the subrecipient make corrections to subaward invoices prior to payment |  | S |  | P |  |
| Reviews and approves subaward invoices for payment in coordination with Procurement |  | S |  | P |  |
| Maintains regular communication with the subrecipient institution | P | S |  | O |  |
| Monitors satisfactory subrecipient performance in accordance with subaward and prime sponsored award objectives | P |  |  | O |  |
| Notifies the Research Office immediately of concerns regarding subrecipient performance | P | S |  |  |  |
| Reviews and submits A-133/UG Subpart F certifications |  |  |  | P |  |
| Files all required subaward FFATA reports |  |  |  | P |  |
| Subaward Closeout and Termination | | | | | |
| Notifies the Research Office immediately of any potential need for early termination | P | S |  |  |  |
| Collects the subaward closeout form from the subrecipient alongside the final invoice |  |  |  | P |  |
| Confirms satisfactory completion of all subaward deliverables by the subrecipient | P |  |  | I | O |
| Confirms completion of all required  technical reports | P |  |  | I | O |
| Confirms completion of all other required  reports (invention, property, etc.) | P |  |  | I | O |
| Requests the Subaward Purchase Order (PO) be closed via amendment webform for subawards with remaining balances |  | P |  |  | O |
| Includes subaward financials on UD invoices and reports submitted to the sponsor | I | I |  | I | P |