

Federal Fiscal Compliance – Sub-recipient Monitoring

In the event the School disburses federal funds received through a federal award to other entities and assigns responsibilities to the outside entity to conduct a portion of the work, the School shall be responsible for determining, on a case-by-case basis, whether the agreement with such entity places the outside entity in the role of a sub-recipient receiving a sub-award of federal funding, or the role of a contractor.

If the School grants sub-awards of federal funding to other entities as sub-recipients, the School shall be responsible for:

1. Evaluating the entity for risk of noncompliance to determine appropriate monitoring practices.
2. Monitoring the sub-recipient entity's implementation to ensure compliance with federal, state and local laws, conditions of the federal funding award, and Board policies and administrative procedures.
3. Notifying the sub-recipient entity of identified deficiencies found during the monitoring process and ensuring that identified deficiencies are corrected.
4. Documenting and retaining records on sub-recipient identification, notification, evaluation, monitoring and corrective actions taken.

Definitions

For purposes of policies and procedures related to federal programs, the following definitions shall apply:

Contract – a legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used here does not include a legal instrument, even if the entity considers it a contract, when the substance of the transaction meets the definition of a federal program award or sub-award. (2 CFR 200.22)

Contractor – an entity that receives a contract, as defined in law and regulations, by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. (2 CFR 200.23)

Pass-through entity – a non-federal entity that provides a sub-award to a sub-recipient to carry out part of a federal program. The School serves as the pass-through entity in cases where it awards federal funding to a sub-recipient as defined in this procedure. (2 CFR 200.74)

Sub-award – an award provided by a pass-through entity to a sub-recipient in order to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A sub-award may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. (2 CFR 200.92)

Sub-recipient – a non-federal entity that receives a sub-award to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. (A sub-recipient may also be a recipient of other federal awards directly from a federal awarding agency.) (2 CFR 200.93)

Sub-recipient Versus Contractor

The School must determine, on a case-by-case basis, whether an entity receiving funds from the School as part of a federal funding program serves in a role of sub-recipient or contractor. (2 CFR 200.330)

The Business Manager or designee shall be responsible for analyzing the criteria listed in the chart below and evaluating the relationship with the entity based on the substance of the legal agreement, rather than the form of the agreement. The designee(s) may consult with the School solicitor in making such determination.

Sub-recipient	Contractor
Creates a Federal assistance relationship	Purpose is to obtain goods and services for the non-Federal entity's own use and creates a procurement relationship
Determines who is eligible to receive what Federal assistance	Provides the goods and services within normal business operations
Has its performance measured in relation to whether objectives of a Federal program were met	Provides similar goods or services to many different purchasers
Has responsibility for programmatic decision making	Normally operates in a competitive environment
Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and	Provides goods or services that are ancillary to the operation of the Federal program; and
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 (PTE)	Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons

*chart provided by © American Institute of CPAs (AICPA)

The School shall notify sub-recipients that they have been identified as a sub-recipient and that the funding qualifies as a sub-award. The School shall provide the sub-recipient with the following information as specified at 2 CFR Sec. 200.331(a) regarding the federal funding award, and any subsequent changes:

- 1) Federal Award Identification information, including:
 - (i) Sub-recipient name (which must match the name associated with its unique entity identifier);
 - (ii) Sub-recipient's unique entity identifier;
 - (iii) Federal Award Identification Number (FAIN);
 - (iv) Federal award date (see §200.39 federal award date) of award to the recipient by the federal agency;
 - (v) Sub-award period of performance start and end Date;
 - (vi) Amount of federal funds obligated by this action by the pass-through entity to the sub-recipient;
 - (vii) Total amount of federal funds obligated to the sub-recipient by the pass-through entity including the current obligation;

- (viii) Total amount of the federal award committed to the sub-recipient by the pass-through entity;
 - (ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
 - (x) Name of federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity;
 - (xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each federal award and the CFDA number at time of disbursement;
 - (xii) Identification of whether the award is R&D; and
 - (xiii) Indirect cost rate for the federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).
- 2) All requirements imposed by the pass-through entity on the sub-recipient so that the federal award is used in accordance with federal statutes, regulations and the terms and conditions of the federal award;
 - 3) Any additional requirements that the pass-through entity imposes on the sub-recipient in order for the pass-through entity to meet its own responsibility to the federal awarding agency including identification of any required financial and performance reports;
 - 4) An approved federally recognized indirect cost rate negotiated between the sub-recipient and the federal government or, if no such rate exists, either a rate negotiated between the pass-through entity and the sub-recipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f);
 - 5) A requirement that the sub-recipient permit the pass-through entity and auditors to have access to the sub-recipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and
 - 6) Appropriate terms and conditions concerning closeout of the sub-award.

Evaluation of Risk

The School shall evaluate each sub-recipient's risk of noncompliance with law, regulations and the terms and conditions of the sub-award to determine appropriate monitoring practices. (2 CFR 200.331)

The Business Manager or designee shall be responsible for evaluating risk based on the following factors:

1. The sub-recipient's prior experience with the same or similar sub-awards;
2. The results of previous audits, including whether the sub-recipient receives a single audit and the extent to which the same or similar sub-award has been audited;
3. Whether the sub-recipient has new personnel, or new or substantially changed systems and processes;
4. The extent and results of any federal award agency's monitoring of the sub-recipient.

The Business Manager or designee shall request adequate documentation from the sub-recipient to conduct the evaluation of risk; such documentation may include, but shall not be limited to, audit reports, financial reports, policies and procedures, detailed descriptions or users' guides of current systems and processes.

The School shall evaluate sub-recipients for risk of noncompliance as specified in the legal agreement and/or contract.

Based on the results of the risk evaluation, the School may consider imposing specific conditions on implementation of the sub-award, in accordance with applicable law and regulations. (2 CFR 200.207, 200.331)

Monitoring

The School shall monitor the implementation and activities of each sub-recipient as necessary to ensure that the sub-award is used for authorized purposes, in accordance with law, regulations and the terms and conditions of the sub-award. The School shall notify sub-recipients of monitoring requirements, and may provide technical assistance to sub-recipients in complying with monitoring requirements.

As part of the monitoring process, the School shall complete the following steps: (2 CFR 200.331)

1. Review financial and performance reports required by the School.
2. Follow-up and ensure that the sub-recipient takes timely and appropriate action on all deficiencies pertaining to the sub-award detected during monitoring through audits, on-site reviews and other means.
3. Issue a management decision for audit findings pertaining to the sub-award provided to the sub-recipient, in accordance with applicable law and regulations. (2 CFR 200.521)

Monitoring –

The Business Manager or designee shall be responsible for monitoring of sub-recipients. Monitoring activities may include, but shall not be limited to:

1. Review of progress reports, financial reports and data quality.
2. On-site visits.
3. Review of federal or state debarment lists.
4. Review of other agreed-upon procedures specified in the legal agreement or contract. (2 CFR 200.425)

The School shall verify that sub-recipients are audited as required by applicable law and regulations. (2 CFR 200.331, 2 CFR 200.500-200.521)

Follow-Up Actions –

The Business Manager or designee shall provide sub-recipients with written documentation detailing their monitoring results and listing any identified deficiencies. The School shall consider whether the results of monitoring indicate the need to revise existing School policy and procedures. (2 CFR 200.331)

The School shall require sub-recipients to take immediate action on issues involving ineligible or illegal use of federal funding, and notify the School of corrective action taken.

The School shall require sub-recipients to develop a corrective action plan to address other identified deficiencies or noncompliance issues; such plan shall be submitted to the School as specified in the agreed-upon procedures, and the School shall evaluate and monitor the activities taken by the sub-recipient under the corrective action plan. The School may provide technical assistance and/or training to sub-recipients in complying with corrective action requirements.

The Business Manager or designee shall maintain all documentation on monitoring of sub-recipients and corrective action taken during the monitoring process.

The School shall report issues of noncompliance to the appropriate federal agency where required by law, regulations, or requirements of the federal funding program.

Remedies for Noncompliance –

When monitoring activities identify issues of noncompliance that are not addressed through corrective action, the School may take the following actions: (2 CFR 200.331, 200.338)

1. Impose specific conditions on the sub-recipient, in accordance with applicable law and regulations. (2 CFR 200.207)
2. Temporarily withhold cash payments, in accordance with applicable law and regulations.
3. Disallow or deny use of funds for all or part of the cost of the activity or action not in compliance.
4. Wholly or partially suspend or terminate the agreement for the federal award.
5. Recommend that the federal agency initiate suspension and debarment proceedings.
6. Withhold further awards or agreements for the project or program.
7. Take other remedies legally available, in consultation with the School solicitor or other qualified counsel.

Record Retention

The Business Manager or designee shall ensure that all documentation regarding sub-recipient identification, notification, evaluation, monitoring activities and corrective action is maintained in accordance with Board policy and procedures. (Pol. J101)

Records shall be retained in accordance with applicable law, regulations, specific requirements of the federal program and the School's document retention schedule. (2 CFR 200.333-200.337, Pol. J101)

Adopted: