

<b>University of Central Florida Guidance &amp; Directive</b>	
<b>Guidance &amp; Directive No: ORC-04</b>	<b>Date of Adoption/Revision: July 2006</b>

<b>Subject</b>	<b>Issuing sub-awards &amp; subrecipient Monitoring</b>
<b>Authority</b>	<b>OMB Circular A-110, A-133</b>
<b>Applicability</b>	<b>Administration of Sponsored Projects</b>

### **1.0 Statement and Purpose**

The University of Central Florida (UCF) is responsible for the programmatic and financial monitoring of its sponsored research award subrecipients. A subrecipient is a third-party organization performing a portion of UCF research projects or other sponsored programs and the terms of UCF-subrecipient relationships are documented in subrecipient agreements. Subrecipient agreements are subject to OMB Circular A-110 Section 51 monitoring and reporting guidance.

These guidelines and directives are provided to assist faculty and staff in ensuring that subrecipients conduct their portions of research projects in compliance with laws, regulations and terms and conditions of awards and sub-awards and that project costs incurred by subrecipients are reasonable and allowable.

### **2.0 General Information**

The Office of Research & Commercialization (ORC) is responsible for monitoring subrecipient agreements with support of Principal Investigators and other UCF personnel. ORC sends Audit Certification Forms to subrecipients, collects completed forms and requested documentation, reviews the documents, and maintains the official files of subrecipient audit forms and documentation.

The UCF Internal Audit Office may be asked to review completed forms and support documentation. UCF Internal Auditors will notify ORC if they discover significant audit issues that impact the subrecipient agreement, and contact the subrecipient to resolve areas of concern that need to be addressed. Failure of a subrecipient to provide the requested documentation or to address any concerns raised by review of the submitted materials may be grounds for withholding payment or terminating the agreement.

The federal regulations that describe subrecipient monitoring are general, but contain the following elements of compliance:

- Advising subrecipients of all applicable federal laws and regulations, and all appropriate flow-down provisions from the prime agreement
- The routine receipt and review of technical performance reports

- The routine review of budget reports.
- The periodic performance of on-site visits, or regular contact, if necessary
- The option to perform "audits" if necessary
- Review of OMB Circular A-133 (A-133) and other audit reports filed by subrecipients and any audit findings
- Review of corrective actions cited by subrecipients in response to their audit findings
- Consideration of sanctions on subrecipients in cases of continued inability or unwillingness to have required audits or to correct non-compliant actions

The above list is not exhaustive of all compliance requirements. In addition to the general elements of compliance noted above, there may be additional sponsor-specific or program-specific requirements that mandate collecting and documenting other assurances (e.g. on lab animals, human subjects, biohazards, etc.) during the course of a project.

### **3.0 Definitions**

**3.1 Sub-award** - A sub-award is a formal written agreement made between UCF and a "subrecipient" (defined below) to perform a portion of the Statement of Work (SOW) under a sponsored project. A sub-award must include a clearly defined, intellectually significant Statement of Work to be performed by the subrecipient. The subrecipient's SOW is performed by its personnel, using the subrecipient's facilities and resources and work is usually performed at the subrecipient's site. The subrecipient assumes full responsibility for adhering to the terms and conditions of the sub-award, and assumes creative and intellectual responsibility and leadership as well as financial management for performing and fulfilling the subrecipient's SOW within the subrecipient's approved budget. The subrecipient's responsibility under a sub-award is also called "programmatic decision-making" under federal funding terminology. A sub-award SOW may include fabrication of specialized equipment to be used for the UCF sponsored research project as a project-related asset or as a deliverable to the sponsor.

**3.2 Pass-through Entity** - The pass-through entity is defined as a non-federal entity that provides an award to a subrecipient to carry out a program. The pass-through entity assumes responsibility for negotiation, issuance, oversight and management of a sub-award. The pass-through entity assumes many of the responsibilities typically assigned to a prime sponsor in issuance and oversight of an award to a grantee or contractor, including verification of the financial viability, adequacy of compliance controls and audit status of its subrecipients as well as oversight and verification of the subrecipient's fulfillment of its portion of the programmatic effort. UCF serves as the pass-through entity for sub-awards issued under its sponsored projects.

**3.3 Subrecipient** - A "subrecipient" (Also referred to as a sub-grantee, sub-awardees, sub-contractor, etc.) is a non-UCF entity that expends awards received from UCF to carry out a portion of UCF's programmatic effort under a sponsored project. There must be an arms-length relationship between UCF and its subrecipients. In keeping with this requirement, the subrecipient may not involve an individual who is also a direct beneficiary of such a program at UCF, the sponsor or a higher-tier subrecipient. The subrecipient may be another educational institution, an independent laboratory, a foundation, a for-profit corporation, a non-profit corporation or other organization, and may be a domestic or foreign entity. For both federal and non-federal sponsored projects, UCF adheres to the federal government definition of a subrecipient as defined in Office of Management and Budget Circular A-133 Section 105.

**3.4 Vendor** – A-133 considers an organization to be a vendor when it:

**3.4.1** Provides goods and services within normal business operations

**3.4.2** Provides similar goods and services to many different purchasers

**3.4.3** Operates in a competitive environment

**3.4.4** Provides goods and services that are ancillary to the operation of the federal program

**3.4.5** Is not subject to compliance requirements of the federal program

#### **4.0 Duties and Responsibilities**

**4.1 Principal Investigator (PI)** – Monitor subrecipients to ensure compliance with federal regulations and both prime and subrecipient award terms and conditions.

**4.2 Department Administrator** – Assist Principal Investigators with monitoring responsibilities for reviewing invoices from subrecipients and investigating expenditures and maintaining support documentation of monitoring activities.

**4.3 Office of Research & Commercialization (ORC)** – Ensure that the University's subrecipient monitoring procedures are compliant with federal and other applicable regulations and are consistent with sound business practices. ORC will provide training, monitoring, and guidance for interpreting applicable regulations and subrecipient award terms and conditions.

**4.4 Department Chair** - Establish effective processes and controls that will ensure compliance with this guidance and directive. Assign an individual to oversee the certification of effort for the department and to function as a point of contact between the department and the Office of Research & Commercialization.

**4.5 Dean** - Provide general oversight and problem resolution.

**4.6 Vice President for Research** - Oversee the formulation of UCF's subrecipient Monitoring Policy.

## **5.0 Procedures**

### **5.1 General Procedures for Establishing Sub-awards**

#### **5.1.1 Standards for issuing sub-award or procurement actions**

##### **UCF will issue a sub-award when:**

- A. UCF determines who is eligible to receive the sub-award with approval from the sponsor
- B. The subrecipient has its performance measured against whether the objectives of the sponsored program are met
- C. The subrecipient has responsibility for programmatic decision-making
- D. The subrecipient assumes responsibility for adherence to applicable sponsor program compliance requirements
- E. The subrecipient uses sponsor funds to carry out a program as compared to providing goods or services.

UCF will use procurement actions when a vendor meets the criteria described in Section 3.4.

#### **5.1.2 Sponsorship Approval of Subrecipient Agreements**

- A. UCF must obtain sponsor approval prior to preparation of the subrecipient agreement
- B. Subrecipient agreement must contain the rationale for subrecipient selection and should include a clear description of the work to be performed
- C. Competitive process must be used when subrecipient services are available from more than one source, unless an Exempted Purchase Sole Source Certification is approved.
- D. Role and unique qualifications of proposed subrecipient should be described in the proposal if the desired subrecipient has been identified at the time of proposal submittal and subrecipient budgets should be included in the proposal.
- E. The PI must obtain written approval from the sponsor and ORC via a formal written request if the subrecipient was not identified at the time of the initial proposal. The formal request must be approved by ORC prior to submission to the sponsor. The PI can prepare the technical aspects of the subrecipient agreement once he receives written approval from the sponsor.

- F. A sub-award will not be issued, nor payments to a subrecipient authorized, prior to UCF's receipt and acceptance of a funding commitment from the sponsor. The subrecipient should not begin working without a fully executed sub-award agreement in place. Proposed subrecipients who commence work without a fully executed sub-award agreement from ORC do so at their own risk and have no assurance of payment from UCF.

### **5.1.3 Preparing Subrecipient Agreements**

- A. ORC staff will prepare subrecipient agreements for externally-funded projects and negotiate terms of the agreement with technical assistance from the PIs. The Office of Science and Technology Policy and Office of Management and Budget endorsed the broad use of the Federal Demonstration Partnership model sub-agreement by all recipients of research grants and cooperative agreements as they deem appropriate for use in their collaborative arrangements with universities subject to A-110. The sample sub-agreement form is available at the Federal Demonstration Partnership website at [www.thefdp.org](http://www.thefdp.org).
- B. Subrecipient agreements under federal government prime contracts and grants should contain language, as indicated below, that requires subrecipients to promptly report to UCF any findings related to UCF sub-contracts identified in their annual A-133 audit and submit a corrective action plan to UCF:

*"AUDIT: Subcontractor agrees to comply with the requirements of OMB Circular A-133. Subcontractor further agrees to provide UCF, in a timely manner, with access to any of the independent auditors' reports that present instances of noncompliance with federal laws and regulations that bear directly on the performance or administration of this Subcontract. In cases of such noncompliance, Subcontractor will provide copies of responses to auditors' reports and a plan for corrective action(s). All reports prepared in accordance with the requirements of OMB Circular A-133 shall be available for inspection by representatives of UCF or the government during normal business hour. The Subcontractor agrees that it shall keep for a period of three (3) years following completion of the project, or until all litigation, claims or audit findings have been resolved and final action is taken, such records as may be reasonably necessary to facilitate an effective audit. The Subcontractor shall cooperate with UCF in resolving questions that UCF may have concerning the auditors' report and plans for corrective action(s)."*

- C. Subrecipient agreements should also contain language as specified in A-133, Subpart D (“Pass-Thru Entity Responsibilities”) and A-110, Appendix A (“Contract Provisions”). Sub-agreements may also include additional provisions related to termination or assignment, intellectual property rights and equipment.
- D. ORC (in conjunction with Finance & Accounting) should review A-133 audit reports filed by potential subrecipients. Staff may view subrecipient A-133 audit reports in the Federal Audit Clearinghouse (FAC) database.
- E. Subrecipient agreements should include reporting requirements that specify the type of reporting required (such as financial, technical, intellectual property, etc.) and the frequency or due dates of reports. OMB Circular A-110, Section .50 - .53 contains guidance for reporting requirements.
- F. Sub-agreements with foreign entities, small business concerns and commercial organizations may include additional considerations.

## **5.2 Subrecipient Monitoring**

### **5.2.1 ORC General Monitoring Guidelines**

ORC will consider the following factors as guidance from A-110 in analyzing risk associated with active subcontracts annually and may initiate monitoring actions based on the results of the annual risk analysis:

- A. Size of the subrecipient award. Large awards (for example with annual budgets >\$500K) would receive substantial and frequent review and monitoring; mid-sized awards (annual budget \$100K - \$500K) would receive proportionately less substantial and less frequent monitoring; smaller awards (<\$100K) would receive general review with the least frequent oversight
- B. Award size relative to the subrecipient's sponsored research portfolio
- C. Percentage passed through: the larger the percentage of program award passed through, the greater the need for subrecipient monitoring
- D. Award complexity, sensitivity of the work and/or extensiveness of the governing regulations
- E. Prior experience with the subrecipient, e.g. a new subrecipient, an inexperienced subrecipient, a history of non-compliance, having new personnel, or having new or substantially changed systems

- F. Subrecipient location or for-profit status (remoteness from UCF may mandate more oversight); increased risk associated with some foreign and for-profit subrecipients dictates that they would merit a greater degree of review, evaluation and attention
- G. Degree of external oversight by auditors or sponsoring agencies. Note that UCF is obligated to monitor subrecipients of its federal awards, regardless of the subrecipients being subject to A-133 or other audits
- H. Sophistication of the subrecipient's systems and administrative operational systems

### **5.2.2 ORC Monitoring Activities**

- A. ORC is responsible for sending the Audit Certification Form to all subrecipients, collecting the completed forms and requested documentation, reviewing the documents, and maintaining the official files of subrecipient audit forms and documentation.
- B. The UCF Internal Audit Office may be asked to review completed forms and back-up documentation. After review, the UCF Internal Auditors will notify ORC if they discover significant audit issues that impact the subrecipient agreement, and contact the subrecipient to resolve areas of concern that need to be addressed
- C. ORC (in conjunction with Finance & Accounting) should review A-133 audit reports filed by subrecipients. Staff may view subrecipient A-133 audit reports in the Federal Audit Clearinghouse (FAC) database. This web site provides evidence to verify that the subrecipient has completed an A-133 audit and to assess the presence of audit findings. This FAC verification would be done in lieu of reviewing A-133 reports submitted by the subrecipient to UCF. In cases of continued inability or unwillingness of a subrecipient to have the required audits, ORC may consider taking appropriate sanctions.
- D. Discretionary audits of subrecipients are an acceptable monitoring procedure under federal regulations, and all of the University's cost-reimbursement subrecipient agreements contain "right-to-audit" clauses.
- E. Pursuant to A-133, Subpart D, ORC (in conjunction with Finance & Accounting) shall issue a management decision on audit findings within 6 months after receipt of the subrecipient audit report, and will also evaluate subrecipient corrective actions cited in response to audit findings. Corrective actions should be reviewed to ensure subrecipient compliance and may necessitate on-site monitoring.

ORC shall also consider whether subrecipient audit findings necessitate adjustment of their own records.

- F. For subrecipients not subject to A-133 (including foreign and for-profit entities as A-133 does not apply to foreign or for-profit subrecipients), UCF may establish its own requirements, as necessary, to ensure compliance by such subrecipients. ORC will use subrecipient monitoring techniques similar to those used for entities that are subject to A-133. Contracts with foreign or for-profit subrecipients should describe applicable compliance requirements and responsibilities. Methods to assess compliance with federal sub-awards made to foreign or for-profit subrecipients may include pre-award audits, monitoring during the contract and post-award audits.
- G. In the event there are audit findings which relate to the funding provided by UCF under any sub-awards, ORC will require compliance by the subrecipient with a Corrective Action Plan as required by OMB Circular A-133, Section 315. ORC (in conjunction with Finance & Accounting) will exercise management authority and decision-making to determine whether to approve a Corrective Action Plan proposed by the subrecipient or to modify that plan to incorporate additional requirements. PIs will be informed if their subrecipient is subject to a Corrective Action Plan, and may be asked to help monitor the subrecipient's compliance.
- H. ORC should verify that any human subject, animal subject, bio-safety or other compliance approvals applicable to the subrecipient's Statement of Work are kept current throughout the performance of the sub-award.

### **5.2.3 Principal Investigator & Department-Level Monitoring Activities**

- A. The PI should understand the terms and conditions of the prime award, and those assigned to the subrecipient and regularly monitor the subrecipient's adherence to the sub-award's terms and conditions. Such monitoring may take place through phone calls, emails, site visits, meetings, or other regular contact.
- B. The PI should ensure that subrecipient's invoice format and appropriate deliverable documents are in accordance with the University's Prime Award requirements. The PI is also responsible for verifying that subrecipient deliverable requirements have been met, as applicable.
- C. The PI should review technical reports timely and should investigate and document any deviations from the project schedule or specific deliverables. Documentation should be retained in the Department's files for ready access by regulators. In some cases, sub-award terms may require specified deliverables in addition to or in lieu of



technical reports. Copies of accepted deliverables should be forwarded to the ORC Contract Manager for their file.

- D. The PI should monitor the subrecipient's scientific progress related to the Statement of Work and any required milestones. If scientific progress is not satisfactory, or if technical reports required of the subrecipient are not prepared timely, the PI is responsible for contacting the subrecipient to address these issues. If continued performance is not satisfactory, PIs should contact OSR to discuss appropriate remedial actions or termination of the sub-award.
- E. The PI shall monitor subrecipient invoices (expenses) on a regular basis (see Direct Cost Charging guidance) to ensure the cost categories are in accordance with the program requirements.
- F. The PI should be the primary point of contact for the subrecipient during performance of the sub-award. The PI may delegate those responsibilities on a day-to-day basis to another member of the research project, so long as such other member is a full-time, regular UCF employee; however, such delegation may not be made to a contractor or temporary employee working at UCF.
- G. The PI should plan for efficient completion of performance and close-out of the sub-award. This includes requiring that the sub-award period of performance end no later than the end date of the prime award, and that the subrecipient's final invoice, final technical report, and any required reports, including those on property, use of small businesses, or inventions, be submitted to UCF no later than 60 days after the end of the sub-award period of performance or as otherwise stated in the sub-award terms and conditions.
- H. The PI shall assist ORC, upon request, in obtaining or reviewing reports, advising during risk analyses, complying with additional monitoring responsibilities for high-risk auditees, obtaining audit information or monitoring a subrecipient's adherence to corrective action plans.

### **5.3 Sub-award Closeout**

**5.3.1 Description:** A sub-award is closed out when its period of performance comes to an end, regardless of whether UCF's research project ends or continues. When feasible, it is advisable for a sub-award period of performance to be slightly shorter than the project, to allow sufficient time for collection and review of the subrecipient's final reports, verification of subrecipient data, and incorporation of the subrecipient's research results into UCF's final technical report to the sponsor.

#### **5.3.2 Close-out Responsibilities**

- A. PIs are responsible for obtaining final technical reports from their subrecipients, and retaining a copy in their project file.
- B. Other final reports, including property reports, patent reports, small/disadvantaged business reports, and Assignment and Release documents may be required. PIs and departments may be asked to assist ORC in obtaining the necessary closeout reports in a timely manner from the subrecipient.
- C. Subrecipients are required to submit a final invoice -- clearly marked "FINAL" to UCF no later than 60 days after the end of the subrecipient's period of performance, or such other date as may be specified in the sub-award. In the event no invoice is received 60 days after the end of a sub-award, UCF may treat the subrecipient's last invoice as the final invoice. Payment for subrecipient invoices submitted to UCF later than 60 days after the end of the sub-award may not be paid. PIs and departments are responsible for assisting ORC in obtaining final closeout information, including invoices, from their subrecipients.

### **6.0 Records Retention**

Financial records, supporting documents, statistical records, and all other records for all Federal and State sponsored projects must be retained for at least three (3) years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. Additional records retention requirements must conform to the award and/or policy of the specific sponsoring agency. Where documentation cannot be provided as to the allowability, allocability and reasonableness of any project expense, including but not limited to expenses incurred late in the project period, the sponsor may deny them. In this case, the PI, Department or College will be expected to cover the expense from unrestricted sources.

Refer to 45 CFR 74.53 and CFR 92.42 for further guidance on records retention requirements.

## Subrecipient Monitoring Compliance Reference

### 1. Risk Identified:

Grant subrecipients are not selected via a competitive bid process and ORC does not document a sole source certification for subrecipients.

#### Strategy to Mitigate Risk:

Subrecipients should be selected via a competitive bid process when the subrecipient contract amount meets the requirements for competitive bids per Section 5 of the UCF Purchasing Manual. ORC should receive an approved sole source certification prior to engaging the subrecipient per Section 6 (Exempted Purchases) of the UCF Purchasing Manual.

#### Guidance Addressing Risk:

- *From Subrecipient Monitoring Guidance:* Competitive process must be used when subrecipient services are available from more than one source, unless an Exempted Purchase Sole Source Certification is approved.
- OMB Circular A-110 Section 46.

#### Control(s) Mitigating Risk:

- *Preventative:* ORC should confirm a competitive bid process was used for subrecipient selection or complete the Sole Source Certification prior to executing a subrecipient agreement.

### 2. Risk Identified:

There is no prequalification process of potential subcontractors, such as confirmation with the A-133 clearing house that there are no existing audit findings. UCF does not perform background checks nor obtain conflict of interest statements from potential subcontractors. UCF does not maintain a database or list of "qualified" subcontractors previously used.

#### Strategy to Mitigate Risk:

The University should perform background checks, obtain conflict of interest statements from subcontractors, and confirm audit results with the A-133 clearing house prior to contract negotiations to ensure compliance with A-110, federal awarding agency regulations, and the terms of the award. A listing of subcontractors previously used by the University might assist in identifying qualified organizations for future collaborations on sponsored projects.

#### Guidance Addressing Risk:

- *From Subrecipient Monitoring Guidance:* ORC (in conjunction with Finance & Accounting) should review A-133 audit reports filed by subrecipients. Staff may view subrecipient A-133 audit reports in the Federal Audit Clearinghouse (FAC) database. This web site provides evidence to verify that the subrecipient has completed an A-133 audit and to assess the presence of audit findings.

#### Control(s) Mitigating Risk:

- *Preventative:* A prequalification process for potential subrecipients including background checks and A-133 audit reports.

### **3. Risk Identified:**

There is no policy/procedure to distinguish roles and responsibilities with respect to subcontractor invoice review and approval, review and maintenance of deliverables and closeout. PI's will generally "sign-off" on subcontractor invoices prior to submittal to Finance & Accounting for payment; however, the approval to pay an invoice is not necessarily correlated to the monitoring of subcontractor deliverables (where applicable) or reasonableness of the invoice. Current policies also do not require that subcontractor deliverables be sent to ORC on an ongoing basis, although some departments do follow this practice regularly. Therefore, missing subcontractor deliverables may not be identified until contract closeout

#### **Strategy to Mitigate Risk:**

Develop policy/procedure to distinguish roles and responsibilities with respect to subcontractor invoice review and approval, review and maintenance of deliverables and closeout

#### **Guidance Addressing Risk:**

- *From Subrecipient Monitoring Guidance:* The PI should ensure that subrecipient's invoices are prepared in accordance with sub-award requirements. The PI is also responsible for verifying that subrecipient deliverable requirements have been met, as applicable.

#### **Control(s) Mitigating Risk:**

- *Preventative:* An invoice review process to verify subrecipient deliverables support invoice details.