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## 1. Policy Statement

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As the recipient of a sponsored award, the University (aka "Rutgers") may award financial assistance to a collaborator (subrecipient) to facilitate performance of and payment for specific work to be conducted in connection with the sponsored program. The University is obligated in its role as recipient of the primary award to undertake certain stewardship activities and to ensure compliance by the intended subrecipient with governing laws, regulations and terms and conditions of the prime award. When the University assigns responsibility for conducting a portion of the work under the prime award to a subrecipient, the University remains responsible to the sponsor for managing funds and meeting performance goals. This responsibility involves a pre-award risk assessment of any proposed subawards and post-award monitoring of the programmatic and financial activities of the subrecipient.

## 2. Reason for Policy

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This policy seeks to promote compliance with federal, state, and local government regulations regarding the issuance and administration of subawards that are funded by a sponsored program, as well as to ensure that risks associated with a subaward or subrecipient are identified prior to issuance and managed during its administration.

This policy provides guidance as to the appropriate unit-level and individual responsibility and accountability for the management of the subaward, to ensure that sponsor's funds are appropriately spent and that the University and its sponsors receive value for the funds expended.

## 3. Who Should Read this Policy

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All members of the Rutgers University community who are responsible for sponsored program administration should read this policy.

## 4. Definitions

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**Subaward:** A formal written agreement, executed by an authorized University official between Rutgers University and another entity, to perform a portion of the statement of work under a Rutgers sponsored program that incorporates the sponsored award terms and conditions. The term subaward is used in the general sense to indicate any of a number of possible types of subawards, including subcontracts, subagreements, subgrants and others.

**Subrecipient:** Entity receiving a subaward from Rutgers University that expends pass-through sponsored program funds to carry out a portion of the prime award's programmatic effort. A subrecipient may be a domestic or foreign educational institution, a for-profit corporation or non-profit organization. An individual cannot serve as a subrecipient. The term subrecipient is used in the general sense to indicate any number of possible types of subrecipients, including subawardee, subgrantee, subcontractee and others.

**Prime Sponsored Program Award (Prime Award):** A funding arrangement in which the University is providing a return benefit to, or agrees to provide a defined deliverable or complete a set of activities for, an external sponsoring agency in exchange for funds regardless of type of funding instrument, which may be in the form of a grant, contract, cooperative agreement, or otherwise.

**Vendor** (Also referred to as **Contractor** in OMB Uniform Guidance): A merchant or other seller providing goods and services that are utilized in the conduct of a sponsored program. Characteristics of a vendor are that the organization provides goods and services within normal business operations and to many different purchasers, operates in a competitive environment and is not subject to compliance requirements of the sponsored program as a result of the agreement.

**Federal Funding Accounting and Transparency Act of 2006 (FFATA):** An Act of Congress that requires information on federal awards to be made available to the public via [www.USASpending.gov](http://www.USASpending.gov).

**Modified Total Direct Costs (MTDC):** Means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards and subcontracts up to the first \$25,000 of each subaward or subcontract (regardless of the period of performance of the subawards and subcontracts under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward and subcontract in excess of \$25,000.

**5. Policy and Procedure**

**5.1 General Considerations**

To ensure compliance with the prime sponsored award, regardless of funding source, the Office of Research and Sponsored Programs (ORSP) or Office of Corporate Contracts (OCC) prepares, issues and administers subawards jointly with Grant and Contract Accounting (GCA), and the prime award’s Principal Investigator and his/her unit administration. Subawards are issued in accordance with federal, state, and local regulations and the University’s and sponsor’s policies as well as the terms of the prime award to the University.

The ORSP issues subawards for which the prime sponsor to Rutgers is a federal, state or not-for-profit entity while the OCC issues subawards for which the prime sponsor to Rutgers is a for-profit entity.

The University follows the requirements found in the Office of Management and Budget Circular A-133 and Uniform Guidance to distinguish subawards from other procurement actions.

The appropriate classification of a subaward or other procurement action at the time it is proposed and funded is essential for ensuring proper accounting for costs and compliance requirements. Misclassifications may result in inaccurate calculation of sponsored award costs, which may result in inaccurate award funding available to the University’s Principal Investigator.

<p><b>The University will issue a subaward through ORSP or OCC when the subrecipient:</b></p>	<p><b>The University will use other procurement actions through University Procurement Services when the organization:</b></p>
<ul style="list-style-type: none"> <li>▪ Has its performance measured against whether the objectives of the sponsored program are met</li> <li>▪ Has responsibility for programmatic decision-making</li> <li>▪ Has responsibility for adherence to applicable sponsored award compliance requirements specified in the prime award</li> <li>▪ Uses sponsored program funds to carry out a program (Statement of Work) of the University as compared to providing goods or services to the University, and</li> <li>▪ Determines who is eligible to receive a sponsored program’s financial assistance</li> </ul>	<ul style="list-style-type: none"> <li>▪ Provides the goods or services within normal business operations</li> <li>▪ Provides similar goods or services to many different purchasers</li> <li>▪ Operates in a competitive environment</li> <li>▪ Provides goods or services that are ancillary to the operation of the University’s sponsored program</li> <li>▪ Is not subject to compliance requirements of the sponsored award</li> <li>▪ Requires minimal or no discretionary judgment on part of the provider</li> </ul>
<p>All of the characteristics listed above may not be present in all cases. The University will use its judgment in classifying each agreement as a subaward or a procurement contract.</p>	

## **5.2 Subaward Issuance**

The prime sponsored award to the University usually includes specific authorization and is budgeted explicitly for the subaward. Occasionally, the need for a subrecipient's collaboration develops after an award has been made to the University. Under those circumstances, most sponsor policies require that the University obtain prior written approval of the subaward by the sponsor prior to a subaward's issuance.

Subawards will only be issued once the University has received and processed the prime award funding (i.e. the funding has been established in the University's General Ledger) which authorizes the University to enter into the proposed contractual agreement and a subaward budget, budget justification and a scope of work in a format acceptable to ORSP or OCC is provided and risk assessment completed.

Subawards may only be issued, modified and executed on behalf of the University by an authorized institutional official with delegated signature authority within ORSP or OCC.

A Rutgers Principal Investigator or designee may not authorize a subrecipient to begin working without a fully executed subaward in place. Proposed subrecipients that commence work without a fully executed subaward from Rutgers do so at their own risk and have no assurance of payment from Rutgers.

The University typically issues subawards on a cost-reimbursable basis. Only in rare circumstances, will requests for advance payments to subrecipients be considered. Any advance payment, if approved by ORSP or OCC and GCA, is issued after a fully-executed subaward agreement and purchase order is in place. Upon full execution of the subaward, ORSP will issue a purchase order to the subrecipient compliant with the appropriate costing in the University's General Ledger on the prime sponsored agreement.

All subrecipients subject to FFATA requirements must have a Dun and Bradstreet Universal Numbering System (DUNS#) and an active System for Award Management (SAM) registration. ORSP will not issue a subaward that is subject to FFATA until these requirements are met. Upon the subaward's execution, ORSP will forward all required documentation to GCA within five business days to ensure all FFATA reporting requirements are met.

## **5.3 Subaward Period of Performance**

Subawards will be issued for no more than twelve calendar months or a shorter period as defined in the prime award's funded budget and modified accordingly for each new increment of funding received by Rutgers to support the subaward. The period of performance and duration of a subaward (including any requested extensions) may not be outside of Rutgers own period of performance on the prime sponsored award.

## **5.4 Subaward Facilities and Administrative Costs (F&A)**

Rutgers will issue a subaward using the subrecipient's federally negotiated F&A rate. Rutgers personnel may not require or suggest to subrecipients that they forego F&A to which they are otherwise entitled. Rutgers will expect to apply its federally negotiated F&A rate to subawards that it receives from other entities and will not waive F&A for subrecipients who have their own federally negotiated F&A rates, except under the following conditions:

- A reduced rate must be used by both Rutgers and all of its subrecipients if a federal program or a non-profit sponsor has a published statutory F&A cap or has an agency-approved reduced rate listed in the RFA.
- If the subrecipient does not have a federally negotiated F&A rate, a ten percent (10%) de minimus F&A rate must be used on the subaward's Modified Total Direct Costs as per section 200.414 of the Uniform Guidance. Unless otherwise dictated by the federal sponsor, this rate is available to both domestic and foreign subrecipients. Principal Investigators may not negotiate or agree to lower rates with their proposed subrecipients.
- ORSP will, as an alternative to a 10% de minimus F&A rate, negotiate a F&A rate with a subrecipient that is ineligible to negotiate with the federal government and has more than \$750,000 sponsored award business

with Rutgers annually. Please contact your ORSP Grant Specialist or OCC Contract Manager if you believe this may apply to your situation.

For ongoing subawards that receive a new obligation of funds subject to the Uniform Guidance, the F&A rate will remain at the rate(s) used in the original subaward throughout the rest of the current project period (unless a federal agency has specified differently.). New subawards not yet fully executed at the time its parent award becomes subject to the Uniform Guidance will be required to conform to Uniform Guidance F&A requirements listed above, unless the federal agency designates otherwise.

Rutgers will recover its F&A on the first \$25,000 of each subaward issued during a project period when the F&A is to be applied to Modified Total Direct Costs (MTDC).

### **5.5 Fixed Price Subawards**

Rutgers may issue fixed price subawards under limited circumstances, usually to higher risk subrecipients or for certain types of work. Under the Uniform Guidance and unless waived by the federal agency, such subawards require specific prior sponsor approval and may not exceed \$150,000. In addition, changes to the Principal Investigator, project leader, project partner, or scope of effort must receive prior written approval by Rutgers and/or the Sponsor. A fixed price award cannot be used in programs which require mandatory cost sharing or match.

For the issuance of a fixed price subaward, all of the following conditions must apply:

- The project scope is specific
- adequate cost, historical, or unit pricing data is available to establish a fixed amount award based on a reasonable estimate of actual cost
- Payments are based on meeting specific requirements of the prime award
- Accountability is based on performance and results
- The subrecipient will realize no increment above actual costs

Principal Investigators and their departments are responsible for ensuring that the proposed subaward costs are in alignment with the programmatic objectives of the prime award and represent allowable and reasonable costs. Properly established costs are determined through the application of the cost principles in the Uniform Guidance and/or by past experience with similar types of work for which outcomes and their costs can be reliably predicted.

When using a fixed-price subaward, specific payment methods may be utilized as follows

- Milestone payments where specific milestones and the payments associated with each have been agreed upon in advance of performance of the work and set forth in the Prime Award
- Unit price basis where payments are made on a per unit basis at defined prices agreed to in advance of performance of the work and as set forth in the Prime Award
- Lump sum payment at time of award completion

At the completion of the subaward, the subrecipient must certify in writing that the project or activity was completed fully or the level of effort fully expended. If the required level of activity or effort was only partially completed, the price of the contract must be adjusted to fairly reflect the amount of work actually done.

### **5.6 Subaward Modifications**

Subaward modifications are to be executed to incrementally fund or otherwise change the initial subaward's terms and conditions in accordance with any modifications to the prime sponsored award or as a result of actions required due to subrecipient monitoring. A new subaward agreement may be issued whenever Rutgers receives funding under a new competitive segment or renewal from the prime sponsor.

**5.7 Risk Assessment**

Rutgers University employs a risk-based approach to subaward issuance and modifications, focusing more frequent monitoring efforts on those subrecipients who are deemed to pose a greater risk for potential non-compliance.

A subrecipient must be selected based upon its technical expertise and potential ability to perform the scope of work successfully, within an infrastructure that meets certain federal internal control and policy requirements. Principal Investigators are responsible for assessing the technical adequacy of subrecipients and the appropriateness of their proposed budget in the prime award. The ORSP and GCA validate the adequacy of the internal controls and policies of the selected subrecipient via risk assessments.

In those instances that Rutgers determines that the risk of entering into a subaward with the proposed entity is excessive, it reserves the right to not enter into such agreement.

When warranted and documented through a subaward's monitoring activities, should a subrecipient be deemed noncompliant, one or more of the following actions may be taken:

- Temporarily withholding cash payments pending correction of the deficiency
- Denying both use of funds and any applicable matching credit for all or part of the cost of the activity or action
- Wholly or partly suspending or terminating the subaward
- Taking other remedies that may be legally available

For further guidance, refer to the Subrecipient Monitoring Policy in the documents section below.

**6. Roles and Responsibilities**

The matrix below outlines the high-level roles and responsibilities involved for subaward issuance and modification:

Subrecipient Issuance and Modification	Roles								
Responsibilities	Chancellor	Principal Investigator	School/Dept. Finance Office	Chairperson	Dean/Director	ORSP	OCC	ORRA	GCA
Identifies the need for third-party participation in sponsored program		X							
Establishes and maintains communication with proposed subrecipient during proposal preparation and submission		X							
Assists PIs with the subrecipient proposals to be included in the Rutgers proposal to the sponsor (statement of work, budget, letter of intent signed by subrecipient Authorized Organization Official and small business contracting plans, if required)			X						
Ensures ORSP/OCC has all required subaward issuance/modification information			X						

Subrecipient Issuance and Modification (cont.)	Roles								
Responsibilities	Chancellor	Principal Investigator	School/Dept. Finance Office	Chairperson	Dean/Director	ORSP	OCC	ORRA	GCA
Confirms vendor or subrecipient relationship. Collaborates with Procurement as required						X	X		
Checks conflict of interest status between subrecipient and Rutgers key personnel						X	X		
Reviews proposals requiring subawards prior to proposal submission or contract execution, ensuring appropriate budgeting and F&A cost rate used						X	X		
Assesses the level of subrecipient risk prior to issuing a subaward and/or modification						X	X		
Determines the appropriate type of subaward agreement and terms & conditions to issue						X	X		
Verifies that the appropriate F&A rate and F&A base is being assessed on proposed subaward						X	X		
Works with GCA to identify additional terms and conditions for subawards deemed high risk						X	X		
Negotiates terms and conditions with subrecipients						X	X		
Notifies PIs and units when additional post-award subrecipient monitoring by PI and unit is required for medium and high-risk subrecipients						X	X		
Identifies subrecipients who have been suspended or debarred from receiving federal funding, identified as terrorist entities or associated with terrorist entities						X	X		
Ensures each subrecipient completes a Rutgers Subrecipient Commitment Form						X	X		
Gathers all required associated documents from subrecipients including certificate of insurance, compliance approval certifications						X	X		
Ensures Issuance and receiving fully executed subawards and/or modifications from subrecipients						X	X		
Distributes executed subawards to PIs, School/Department finance support staff and GCA						X	X		
Files all required subaward FFATA reports									X

## 7. Related Documents

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- Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, Final Guidance (“Uniform Guidance”), including:
  - [§ 200.330 Subrecipient and contractor determinations](#)
  - [§ 200.331 Requirements for pass-through entities](#)
  - [§ 200.332 Fixed amount subawards](#)
  - [§ 200.92 Subaward definition](#)
- [Subaward Monitoring Policy](#)
- [Award Closeout Procedure](#)

## 8. Contacts

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- Office of Research & Sponsored Programs, (848) 932-0150, [sponpgms@orsp.rutgers.edu](mailto:sponpgms@orsp.rutgers.edu)
- Grant and Contract Accounting, (848) 932-0165, [dqca1@rci.rutgers.edu](mailto:dqca1@rci.rutgers.edu)