

## Review of Proposed Subawards and Procurement Contracts under Grants and Cooperative Agreements

### ISSUES:

What is the difference between a subrecipient relationship and a vendor relationship under a grant or cooperative agreement?

Under what circumstances is ONC prior approval required before I may enter into a subaward (subrecipient relationship) or a procurement contract (vendor relationship) under my grant or cooperative agreement?

### KEY POINTS:

- Consistent with the terms and conditions of your award, as a recipient of a grant or cooperative agreement, you generally may award procurement contracts or subawards as part of carrying out the award. A procurement contract is used by a recipient to procure routine goods and services for its use in carrying out a project. A subaward (also termed a “subgrant”) is used by a recipient to provide funds to a third party (subrecipient or subgrantee) to carry out part of the approved programmatic activity. ONC authorities with respect to review of documentation or prior approval differ depending on whether you are entering into a procurement contract or a subaward. However, it should be noted that these authorities do not differ based on whether the federal award is a grant or cooperative agreement.
- Your procurement of routine goods and services generally is not subject to ONC prior approval nor are you generally required to submit procurement documentation for ONC review. However, if you are a **governmental recipient other than a State**, ONC may review the sufficiency of pre-solicitation/pre-award procurement documentation if your procurement procedures or operations fail to comply with the procurement standards under 45 CFR 92.36 or under any of the other circumstances specified in 92.36(g)(2). ONC also may request, pursuant to 45 CFR 92.36(g)(1), that you submit technical specifications for proposed procurements. If you are a **State**, ONC does not have the authority to review procurement documentation associated with your acquisition of routine goods and services under the conditions specified in either 45 CFR 92.36(g)(1) or (2), as those provisions do not apply to States. **If you are a university or other non-profit recipient**, ONC has the right to review the sufficiency of pre-solicitation/pre-award procurement documentation as provided in 45 CFR 74.44(e).
- For transfer of substantive programmatic activity, **for all types of recipients (including States) and regardless of whether you characterize the resulting agreement as a contract or a subaward**, ONC is required to review in advance the potential effect on the transfer on approved project, e.g., what role you will play, how you will oversee the subrecipient, and the impact on the project if the subrecipient does not perform adequately. If the transfer of substantive programmatic activity was not part of the approved application, you must obtain ONC prior approval before you can engage in such an activity. To make these determinations, ONC requires the information shown in Attachment 1. In addition, ONC also may request a copy of your standard subaward agreement(s) for review to ensure that it adequately addresses the flowdown of HHS and ONC requirements.



- ONC is not a party to your procurement contracts or subawards and is **not** authorized to approve the specific written agreement (procurement contract or subaward agreement) between you and the vendor or subrecipient. ONC personnel may not direct you to make an award to a particular entity, suggest sources, or interfere with your selection decisions.

**RECIPIENT RESPONSIBILITIES:**

- Comply with the requirements in 45 CFR part 74 or 92, as applicable.
- Obtain prior approval from the ONC Grants Management Officer that signed your award if you intend to transfer part of the substantive programmatic activity as the result of a post-award change to your approved application. The type of information you must provide is shown in the attachment to this Grants Management Advisory (GMA). If the proposed subaward was approved with the necessary detail required in the attachment to this GMA at the time of award, additional approval is not required.
- Consult the Grants Management Specialist if you are uncertain as to the type of relationship you plan to enter into or what approval requirements apply.
- Provide any requested documentation to ONC in accordance with 45 CFR 74.44(e), 45 CFR 92.36(g)(1) or (2), or an ONC request to review your standard subaward agreement, as applicable.
- Flow down applicable programmatic and administrative requirements under a subaward, such as the applicable cost principles and prior-approval requirements.
- Include required contract provisions under a procurement contract as provided in 45 CFR 74.48 or 92.36(i), as applicable.

**REFERENCES:**

45 CFR 74.25(c)(7); 74.44(e); and 74.48; 45 CFR 92.30(d)(4) and 92.36;  
OMB Circular A-133 §\_\_.210; Recovery Act guidance; HHS Grants Policy Statement



**ATTACHMENT**

**REQUIRED INFORMATION FOR REVIEW OF POST-AWARD REQUEST TO  
TRANSFER SUBSTANTIVE PROGRAMMATIC WORK**

**METHOD OF SELECTION:** State whether the planned subaward(s) will be competitively awarded or awarded on a non-competitive basis. If an organization is the only entity solicited for a subaward, include an explanation as to why this organization is the only one capable of performing the work.

**TYPE OF ENTITIES TO BE SOLICITED OR NAME OF SUBRECIPIENT (IF KNOWN):** Describe the type of entity (ies) that will be asked to submit applications/proposals for a subaward(s). If the award will be limited to a single entity, specify the name of the proposed subrecipient and indicate whether the subaward will be with an individual or organization.

**PERIOD OF PERFORMANCE:** Specify the beginning and ending dates of the subaward. How does the performance period relate to the grant budget period/project period?

**JUSTIFICATION FOR USE OF A THIRD PARTY:** Indicate how use of a third party to perform this portion of the programmatic work will benefit the project and the impact on the project if the request to subaward is not approved.

**SCOPE OF WORK:** Describe in outcome terms, the specific services/tasks to be performed by the subrecipient as related to the accomplishment of program objectives. Work effort should be clearly defined.

**METHOD OF ACCOUNTABILITY:** Describe how the progress and performance of the subrecipient will be monitored during and at the close of the subaward period. Identify who will be responsible for overseeing subaward performance.

**ITEMIZED BUDGET AND JUSTIFICATION:** Provide an itemized budget for the proposed subaward with appropriate justification. If applicable, include any indirect costs to be paid under the subaward and the indirect cost rate used. Provide a copy of the negotiated indirect cost rate agreement.