Contacts Meeting

September 10, 2015
Agenda

- NIH & UC San Diego Updates & Reminders
- Subawards & Subrecipient Monitoring w/ OCGA
FY 2016 Federal Budget Appropriations Act - Status

• Both Budget Committees have passed all 12 appropriation sections, but not all have made it to the floor in the House nor the Senate.

  • Wrinkles:
    • Only 12 legislative days left in FY 2015
    • Stalemate over Budget Control Act Caps
    • Stalemate over federal funding for Planned Parenthood
    • Need to raise the Debt Ceiling
    • Highway Bill is in discussion, temp funded till 10/31/2015
    • Confederate Flag Debacle

  • Crystal Ball:
    • 3 Month Continuing Resolution will be passed before FY 2015 end
    • Another possible Government Shutdown = Sequestration

  • Be Aware: House Version of Budget Appropriations
    • Contains a clause to lower the Salary Cap from Executive Level II to Executive Level III (8% drop)
21st Century Cures Act - Status

• Reauthorize the NIH through FY 2018
• The NIH Innovation Fund is established to fund a strategic plan, early stage investigators, and high-risk, high-reward research; these innovation funds are a supplement to NIH standard budget appropriation.
• ESI, high risk/reward research, intramural programs, small biz research, increase loan forgiveness from $35k to $50k, use of guidance for multi-site.
• How to fund this bill → By selling three days of U.S. petroleum reserve
• PA-15-322: Research Supplements to Promote Diversity in Health-Related Research (Admin Supp) has been re-issued

• eRA Commons Help Desk has a new name – eRA Service Desk

• IE and Firefox are the best browsers to use when viewing eRA Commons, NIH RePORT, and ASSIST
  • For more information on eRA Browser Policy, go here:
    https://era.nih.gov/browser_support_ext.cfm

• Various Listservs for NIH have been consolidated
Coming Soon!!!

- Possible changes in Multi-site IRB Review
- Possible changes to effort under NCE as well as a justification will soon be required with request
- Possible FCOI overhaul, esp. w/ regards to Travel COI
- Release of Final RPPR version
- Updated NIH Guidelines
- Revised PHS 398 Form Pages
- New SF424 Adobe Forms D Application Packages
- eRA Commons and Mobile Strategy
Coming VERY Soon: Grants.gov & Workspace

A shared, online environment where team members may simultaneously access & edit different forms within an application.

* Planned release is early Fall
NOT-OD-15-134: RFI - Strategies for Simplifying NIH’s Grant Application Instructions

• Leave Feedback here: http://grants.nih.gov/grants/rfi/rfi.cfm?ID=47
• Deadline is September 25, 2015

NOT-OD-15-103: Enhancing Reproducibility through Rigor and Transparency

• NIH plans to clarify and revise application instructions and review criteria to enhance reproducibility of research findings through increased scientific rigor and transparency. These updates, pending approval by OMB, will take effect for applications submitted for the January 25, 2016, due date and beyond.

• Applicants will be instructed to include their consideration of scientific premise, rigorous experimental design, and consideration of sex and other relevant biological variables in the Research Strategy section.

• Page limits for this section will not change.

• Authentication of Key Resources will be incorporated as a new attachment under the Other Research Plan Sections.

NOT-OD-15-102: Consideration of Sex as a Biological Variable in NIH-funded Research

• With women now accounting for roughly half of all participants in NIH-supported clinical research, this notice focuses on NIH's expectation that scientists will account for the possible role of sex as a biological variable in vertebrate animal and human studies.

• Clarification of these expectations is reflected in plans by NIH's Office of Extramural Research (OER) to update application instructions and review questions; once approved by the OMB, these updates will take effect for applications submitted for the January 25, 2016, due date and thereafter.

• For more information on NIH expectations for the consideration of sex as a biological variable can be found here: http://orwh.od.nih.gov/sexbio/overview/pdf/NOT-OD-15-102_Guidance.pdf

NIH Policy allows a max of 100% (12 person months) effort, whereas UC San Diego’s Policy only allows for a max of 97% effort (11.64 person months) for PIs paid exclusively from federally-funded awards.


Reminder: HS Research Service Core offering a Comprehensive T32 Training Grant Course

- This course is geared towards program directors/coordinators, admin assistants, fund managers, and/or graduate coordinators who manage NIH Training Grants.

- This course aims to standardize and streamline the training grant process and practices by explaining how to manage the entire lifecycle of the NIH T32 training grant.

- The course will focus on the RSC Training Grant Menu of Services:
  - Menu of Service 1: Training Grant Website and Resources
  - Menu of Service 2: Custom Data Tracking Plans for Training Grants
  - Menu of Service 3: Campus Training
  - Menu of Service 4: Data Automation - Future Initiative

- Course Date: September 14, 2015. Enroll online at http://uclearning.ucsd.edu/.
  Course Title: Research Service Core Training Grant.

- For more information, contact Jill Weller at jweller@ucsd.edu or 858-534-3933
Reminder:
NIH Regional Seminar in San Diego this Fall!!!

• This is a two-day event, with an optional pre-seminar workshop day, October 14 to October 16, 2015.

• The seminar will have more than 50 NIH and Department of Health and Human Services (HHS) staff sharing the latest updates and guidance on NIH initiatives, policies, and updates on the NIH grants process.

• Informative for not only Research Administrators (Central Office Staff, Fund Managers, Assistants), but also PIs and ESIs (including Post Docs).


Don’t Delay! Register today!
The standard registration ends THIS FRIDAY!!!
After this, there will be a late registration fee!!!
Reminder:
NIH Regional Seminar – Volunteers Needed!

This year, UC San Diego will be hosting the NIH Regional Seminar at the Hilton San Diego Bayfront hotel in Downtown San Diego & VOLUNTEERS ARE NEEDED!!!

Volunteer Options:

• Registration; Room Monitors for Sessions & 1:1 (Meet the Experts); Data Entry; Floaters

Volunteer Requirements:

• Volunteer for the entire day(s). There is no cost for the day you volunteer. If you wish to attend the seminar on the day you do not volunteer, the fee to attend 1 day of the seminar is $100

• Registration for Volunteering: https://www.regonline.com/2015regionals-volunteers-sandiego

• For more information, contact Megan Murphy, ORU Core Services Event Coordinator at mem001@ucsd.edu
Mark Your Calendar!!
The NEXT Contacts’ Meeting is:
Subawards & Subrecipient Monitoring

Subawards, Incoming Service Agreements, ADCS, Unfunded Agreements Team

Rachel Sievert, Assistant Director, Office of Contracts & Grants Administration (OCGA)
Roadmap

• What is a Subaward?
• Subrecipient vs Contractor determinations
• Monitoring Obligations
  • Subawards Team
  • Departments
• So, What does the Subawards Team Do?
• Marketplace Demonstration
• Questions
What is a Subaward? (A Contract!)

A binding legal agreement between UCSD and another legal entity where:

1. A defined portion of your sponsored project's *intellectually significant* activity is assigned to another entity ("Subrecipient") to fulfill.

   *Sharing the work statement of the overall project*  
   *Responsible for meeting its scope of work*

2. Work is generally performed by the Subrecipient’s personnel using their resources, usually at their site.
What is a Subaward?

3. The Subrecipient takes full responsibility, for the portion of the work statement that they will undertake. 

   Responsible for programmatic decision making  
   Could result in IP developed or publishable results

4. The award terms and conditions UCSD accepted from the funding agency are “flowed down” to the Subrecipient, who must also agree to comply with them, e.g.

   • audit requirements
   • Prior approval requirements
   • compliance approvals
   • conflict of interest
   • etc.
Probably NOT a Subaward if:

The entity you are contracting to…

1. Provides the goods or services within its normal business operations
   a) Commercially available supplies and materials

2. Provides similar goods or services to many different purchasers

3. Provides goods or services that are ancillary to the operation of your institution's sponsored project

4. Is not subject to compliance requirements of UCSD’s sponsor

5. No Subrecipient PI
Other Names for a Subaward

Depending on the source of funds, Subawards are sometimes called…

- Subgrant
- Subcontract
- Subagreement
- Flow-Down

A caution about word choice - A “Subcontract”, in federal legal usage, often means a “procurement”. A Subcontract under a prime grant is a vendor transaction and not a Subaward. A Subcontract under a prime contract can mean either a Subaward or vendor agreement. UG specifically states that it is the substance of the relationship that is critical—not the form.
Kinds of Subawards
(it depends on the Sponsor’s award)

• If prime award is a grant or cooperative agreement, that award is deemed by the government to be “financial assistance”. A Subaward on such a project is also financial assistance. UCSD issues the same CFDA# to the Subrecipients in the subaward.

• If prime award is a federal contract, that award is deemed by the government to be a “procurement”. A Subaward on such a project is also a “procurement”.
Subrecipient vs Contractor Determinations
Subrecipient and Contractor Determinations

• Uniform Guidance – section 200.330 Subrecipient and Contractor determinations
  • Must be done before the subaward is issued. Makes business sense to do it at proposal stage to confirm proper IDC calculation
  • Subjective decision – Substance over Form
  • Determination for each transaction required
  • Pass-through entity is required to make the determination on a case-by-case basis

• Uniform Guidance – section 200.311(a)(4)
  • Responsibility of pass through entity to allow proper IDC
  • Federally approved, de minimus (10%) or negotiated rate
Subrecipient vs Contractor
Get it Right the First Time!

If you incorrectly propose a Subrecipient as a Contractor…

- You may need to go back to the sponsor to get approval to enter into a Subaward relationship and/or to rebudget the excess F&A

If you incorrectly propose a Contractor as a Subrecipient…

- You will likely have a budgetary shortfall for the F&A applied after the first $25k. (This can be huge!)
- Example:
  - $1M vendor proposed as a Subrecipient will include $25k x 55% F&A = $13,750 for F&A.
  - When corrected, F&A for vendor is $1M x 55% = $550,000.00
  - Shortfall to budget is $550,000 - $13,750 = $536,250.00
Subrecipient vs Contractor

• Eligibility and disqualifying factors
  • Examples under a prime grant or cooperative agreement:
    • No “loaded rates”, a complete break out of costs is required
    • Support for overhead required (unless Sponsor sets as with foreign)
    • Not to individuals
    • Not (directly) to US governmental entities if federally funded
      • Not to VA but okay to foundation, not okay to JPL or directly to Navy Labs, etc
    • NASA grants with Subawards to Chinese entities
  • “Determinations”
    • Final review and approval by Subawards Team
    • Part of regulatory responsibility
Subrecipient vs Contractor Determinations

Determinations are a full review, including:

- Statement of Work (SOW) compared against UCSD’s SOW
  - Is the effort of the Sub/vendor “ancillary”?
- Budget cost components and budget justification review
- Verifying overhead and other rates requested by Subrecipient
- Regulatory and compliance requirements
- Sponsor’s award (or RFP/funding announcement):
  - terms and conditions
  - Sponsor’s named “key personnel”
- Subrecipient’s business model (website)
- Subrecipient’s past or future involvement in the project
- Subrecipient Commitment Form
Subrecipient vs Contractor Determinations

- Determinations are done with the following in mind:
  - Consistency: Uniform Guidance states we must be consistent in how we treat entities and meet compliance objectives.
  - Protecting the department and UCSD – “Allow”ability of costs, examples:
    - Profit isn’t allowed on subaward under prime grant, but is for vendors
    - Ability to support Fringe Benefit or overhead rates is less exact or irrelevant for vendor transactions
  - Assisting the PI with Performance requirements
    - Strict fixed-price is appropriate in a vendor transaction
    - Ability to meet (and applicability of) compliance requirements
    - Much more…

Note: our goal is to protect UCSD while helping PI – we advise on how to modify the project where possible
Subrecipient vs Contractor Determinations – Process

• All Campus, including SIO
  • Pre-proposal:
    • Department has Subrecipient complete SCF pre-proposal
    • Contract Officer submitting proposal or Department will contact Subaward Team for assistance where problems are identified
  • At time of issuance
    • Final determination by Subaward Team when Marketplace requisition is submitted (unless previously made by Subaward Team)
• SIO and others on request (pre-proposal)
  • Draft Subaward items are submitted to Subaward Team prior to submission to C&G
  • Final determination is made prior to submission to C&G
To obtain Subaward Team’s final determination pre-proposal:

• Email subawards@ucsd.edu
  • Subject: Subaward vs Contractor determination
  • Provide deadline or time concerns
  • Attach:
    • SoW
    • Budget
    • Budget justification
    • SCF
    • UCSD’s SoW in proposal
    • Link or copy of funding announcement or RFP
  • Include PI name and project title

Note: attachments can be in draft, near-final form
Subrecipient Monitoring
Subrecipient Monitoring Obligations

December 26, 2014 - implementation date for the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (UG for short)

UG CFR section 200.331 – all pass through entities must evaluate each Subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purpose of determining the appropriate Subrecipient monitoring…

For-Profit Entities – UG CFR section 200.501 (h) For-profit Subrecipient
Since this Part does not apply to for-profit Subrecipient's the pass-through entity is responsible for establishing requirements to ensure compliance with by for-profit subrecipient. The agreement with the for-profit Subrecipient should describe applicable compliance requirements and the for-profit’s compliance responsibility. See CFR section 200.505 sanctions for subrecipients who refuse to undergo an audit.
Subrecipient Monitoring Obligations
A-133/UG and CPSR

• UCSD is subject to many kinds of audits, including project-specific audits and Office of Inspector General

• Regular / most-common audits are A-133/UG and CPSR (Contractors Purchasing System Review)
Monitor the Subrecipient to:

- Ensure that federal awards are used for authorized purposes in compliance with laws, regulations, and provisions of the prime.
- Evaluate risk and impose conditions.
- Ensure that performance goals are achieved.
- Ensure that Subrecipients expending $750K or more annually have met the audit requirements for that fiscal year.
- Issue a management decision on audit findings within 6 months of receipt of the Subrecipient's audit report.
- Ensure that the Subrecipient takes appropriate and timely corrective action.
- Require each Subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary.

UC San Diego
Health Sciences
Monitoring Obligations
Additional Approvals for Prime Contracts

Even if the sponsor approves the Subrecipient at the proposal review and acceptance stage, Subawards under contracts may require written approval or notification to enter into the subaward:

- Sponsor Notification is required “reasonably in advance” for:
  - Cost-plus-fixed-fee subcontract
  - Fixed-price subaward exceeding $150K or 5% of the total estimated cost of the contract
- If under a federal contract, the following may also be required:
  - a detailed written cost analysis of Subrecipient’s proposal (Subaward Team has UCSD’s forms)
  - a certificate of cost and pricing data
  - a small business subcontracting plan (FAR 52.219-9)
  - a sole source justification (Subaward Team has UCSD’s forms)
Monitoring Obligations
Highlights of Subaward Team Responsibilities

• Determine financial adequacy of the Subrecipient
  • Acceptable A-133/UG or DCAA audit or financial questionnaire
  • Obtain satisfactory evidence of F&A rates/FB rates- negotiate rate or apply 10% rate
  • Conduct and document formal or informal cost & pricing analysis and certificate if needed

• Make risk determination
  • Modify contract to address high-risk and audit issues

• Verify Subrecipient is not debarred or suspended

• Verify all necessary approvals have been received

• Ensure all compliance approvals have been obtained

• FCOI compliance

• Ensure Subrecipient is not a restricted party
Monitoring Obligations
Department Responsibilities

• Provide a good statement of work (SOW)
  • Critical for performance monitoring

• Define any special invoicing requirements
  • Consider special sponsor’s requirements, e.g.: separate billing per task order
  • More detail may assist with performance monitoring

• Provide special terms and conditions you want (use separate attachment)
  • May address many issues, such as required monthly invoicing, timing of reports, travel receipts, etc.
  • Prior approvals – despite Sponsor’s terms allowing rebudgeting or carry forward, does PI want to require permission first?

• Provide a cost-share budget for Subrecipient if applicable

• Carefully review invoices for consistency, reasonableness, allowability, and allocability of all charges (A-21).

• Review invoices to compare spend vs performance

• PI monitors Subrecipient performance and communications for UCSD directly

Notify Subaward Team early if you have problems! We can modify the subaward to help.
What is a SOW?

- A Statement of Work describes the work to be performed and includes a timeframe necessary for the completion of the work. A well written SOW allows the Subrecipient to provide a detailed response, with a realistic cost estimate. The goal is to allow the other party to understand what is expected of them and what should be included in the finished product.
Elements of a SOW

- A good Statement of Work should include the following elements:
  - A detailed description of the work to be performed
  - Clearly state what you want the contractor to achieve and deliver.
  - Will travel be required to complete the work?
  - Is there a specific number of times something needs to be done” (i.e. interview 10 subjects)
- Period of Performance – When do you want this work to start and end?
- Deliverables
  - Define the major deliverables, the tasks that support them, and what is acceptable
  - Include a timeline of major deliverable due dates
  - Fixed dates, or
  - Flexible dates (i.e. Two weeks after some event occurs)
  - Include milestones as necessary so that the work can be monitored to ensure that you are getting what you need and the quality of the work is as expected.
- Special requirements
  - Travel
  - Special skills or knowledge
  - Resources
  - other
Monitoring Obligations
SOW

Remember to include

• Specific language
  • Don’t leave room for interpretation
  • Use language everyone can understand

• A definition of completion
  • If a final product is submitted, what constitutes acceptance?

• Payment terms
  • Tie to milestones – payment can be tied to acceptance of the product?
  • Based on monthly/quarterly invoices?
  • Lump sum at the end of the project? (for Cost-Reimbursement, withhold pending successful completion)
Monitoring Obligations: invoice review criteria

1. Were the dates of occurrence for all expenses within the Subaward start and end dates?
2. Does the invoice total correctly?
3. Are the cumulative expenses within the overall budget amount and any limits per cost category?
4. Are the expenses included in the Subrecipient’s budget?
5. Is the F&A calculated correctly with the correct and agreed upon rate for the Subrecipient?
6. Are the expenses allowable per the Subaward and the prime award? Remember the prime award requirements and budget restrictions flow down to the subrecipient.
7. Do expenses appear to be based on actual expenses? Cost reimbursable Subawards require invoicing based on actual expenses only.
8. Does the invoice have an institutional official signature and contain something similar to the following:
   "I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the application and award documents." (These are requirements of OMB Circular A-21.)
9. Are the expenses in the agreement consistent with the programmatic plan or work completed to date? The expenses invoiced should agree with the work incurred
10. If Subrecipient committed to cost-share, is there a separate invoice documenting pro-rata cost share?

IF THERE ARE ANY QUESTIONS ON THE INVOICES, DO NOT APPROVE UNTIL ALL ITEMS ARE APPROPRIATELY RESOLVED
Monitoring Obligations
Closeout

- Verify receipt of all deliverables
- Verify fulfillment of any cost-sharing requirements
- Verify receipt of invoice marked “Final”
- Obtain all final reports (including technical, invention and property reports)
- Obtain signed Refunds, Rebates, Credits Form (if necessary)
- Verify clear understanding about record retention
- Audit subaward (if necessary)
(Subaward Team) Provides Consultative Services to Departments
(Subaward Team)
Provides Consultative Services to Departments

• Subaward Team will schedule time to consult on many topics, e.g.:
  • Project planning for projects involving complex purchases and/or subaward requirements connected to UCSD’s research goals
  • Proposing a “center”
  • Research Consultants
  • Whether a “fixed-price” subaward is appropriate & permissible
  • Subrecipient performance problems
  • The following “Special Topics”
  • Other

• Contact subawards@ucsd.edu for assistance.
Did you know…?

Marketplace generated subawards

• Once the requisition is submitted/approved by your department, you cannot make changes **BUT** the contract officer can make many of the changes you need without you “withdrawing” the requisition!

• Requires a **Subaward Modification** in Marketplace for changes (not a “PO revision or cancellation”). Found under the Subaward Request iRequests (see next slide). This Modification request is specific to Subawards and helps our department quickly process your request with copy/paste functions.

• Subaward Modifications now require the Original Requisition instead of the PO number to avoid confusion.
### Subaward Request

<table>
<thead>
<tr>
<th>iRequest: Subaward Modification</th>
<th>Total Favorites: 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLACE IN SEPARATE CART: This Request is used to request a modification to an existing Subaward created in Marketplace.</td>
<td></td>
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<table>
<thead>
<tr>
<th>iRequest: Subaward with IDC (S)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>PLACE IN SEPARATE CART: This Request is used to request a new subaward for your sponsored project.</td>
<td></td>
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</tbody>
</table>
Did you know… (continued)?

Statement of work and budget and Notice of Award (NOA) are ALWAYS needed for a new subaward.

On a Subrecipient’s budget, the F&A/IDC is being paid to the Subrecipient- it is NOT what UCSD charges the department & sponsor.

Detailed budget and current NOA is (usually) needed for time/money modifications

IFIS-Finlink generated subawards are still in IFIS.

• Requires a SMRF to subawards@ucsd.edu for changes

• (search SMRF in Blink to find the necessary forms, and for more information)
What We handle

- Subawards (under a federal grant or cooperative agreement)
- Subcontracts (under a federal contract)
- Clinical Trial Agreements (CTAs) (PI-initiated, Outgoing)
- Multi-Campus Awards (as of January, 2015) multicampusawards@ucsd.edu
- Modifications to Agreements
- All the above subaward or vendor determinations
- UCSD sponsored research and other sponsored activities
- Negotiation of terms and conditions of the Subaward or CTA Agreement
- Subrecipient Monitoring & Compliance prior to issuance of Agreement (i.e.: Debarred or visual compliance, A-133/UG audits, IACUC or IRB, FCOI compliance, F&A rate agreements for Subs, etc)
- All campus departments and SIO
- Monthly Federal Reporting under the Federal Funding Accountability and Transparency Act (FFATA)
- Service Agreements when UCSD is the service provider
Any questions?