

PROGRAM INSTRUCTION

SUA-17-PI-02

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TO: Area Agency on Aging Directors

FROM: Cynthia Brammeier, Administrator, State Unit on Aging

BY: Ben Stromberg, Program Specialist
Erik White, Nutrition Program Specialist EW
Renee Savidge, Fiscal Program Manager
Madhavi Bhadbhade, Program Specialist MB

SUBJECT: Subcontractor and Subrecipient Monitoring

CONTENT: This Program Instruction describes the process by which Area Agencies on Aging, as Subrecipients of Federal Grant Subawards, are responsible for ensuring compliance in monitoring subcontractors and subrecipients. These materials were previously shared via email, and during FY 16 monitoring visits.

As referenced in section KK of the Federal Grant Subaward:
“The Subrecipient shall ensure that all subcontractors and subrecipients comply with all requirements of this subaward and applicable federal, state, county and municipal laws, ordinances, rules, and regulations.”

Each Area Agency on Aging will need to take the following steps:

1. Identify all potential subcontractors and subrecipients by utilizing the Determination of Subrecipient and Contractor tool to determine if entities are subcontractors or subrecipients.
 - A. If the entity is a subcontractor, ensuring compliance with all requirements of the contract and applicable federal, state, county and municipal laws, ordinances, rules and regulations is necessary. Methods for ensuring compliance could include audits of documentation, reviews of contracts and actions the entities are taking to ensure obligations of contract are being met, as well as interviews with the subcontractors and their clients.
 - B. If the entity is a subrecipient, the entity will need to have their risk level evaluated. The attached Pre-Award Risk Assessment can be used. This document can be used to evaluate current subrecipients as well as new / future subrecipients.

- i. Regardless of evaluated risk level, all entities require monitoring of activities of the subrecipient as noted in §200.331, which mandates monitoring of the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Please review §200.331 (provided with this email) for a complete list of requirements. Methods for ensuring compliance could include audits of documentation, reviews of subawards and actions the entities are taking to ensure obligations of subawards are being met as well as interviews with the subrecipients and their clients.
- ii. Risk level needs to be evaluated initially (prior to award with all future subrecipients and with all current subrecipients within six months of issuance of this PI). The attached Pre-Award Risk Assessment can be used as well as any other assessment for evaluating risk. Methods for determining frequency of completion of ongoing and/or future monitoring should be determined by consulting your agency's auditors to identify risk factors (per criteria on Pre-Award Risk Assessment) which would indicate a need for increased monitoring.

The Code of Federal Regulations, §200.331, describes requirements for pass through entities. The full regulation as well as a Determination of Subrecipient and Contractor tool and Pre-Award Risk Assessment are included in this PI for reference.

If you have questions, please feel free to contact Ben Stromberg at 402-471-4555; Erik White at 402-471-4732; Madhavi Bhadbhade at 402-471-2309 or Renee Savidge at 402-471-4737 or via email at dhhs.aging@nebraska.gov.

§200.331 Requirements for pass-through entities.

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

(1) Federal Award Identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);

(ii) Subrecipient'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) Subaward Period of Performance Start and End Date;

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;

(viii) Total Amount of the Federal Award committed to the subrecipient 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 subrecipient 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 subrecipient 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 subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (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 subrecipient permit the pass-through entity and auditors to have access to the subrecipient'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 subaward.

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

(c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in §200.207 Specific conditions.

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.

Nebraska Department of Health and Human Services

Contract/Sub-grant Information		
Order Number:	CFDA Number:	
Prepared By:	Date:	
Determination of Sub-recipient and Contactor		
<p>(a) A subrecipient is a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program.</p> <p>(b) A contractor is providing goods and services for the non-Federal entity's own use and creates a procurement relationship. Generally, a primary recipient uses a procurement contract when the recipient buys goods or services for its own benefits or use.</p>		
Subrecipient Checklist		
• Determines who is eligible to receive what federal assistance?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Has its performance measured in relation to whether objectives of the federal program were met?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Has responsibility for programmatic decision making?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Is responsibility for adherence to applicable Federal program requirements specified in the Federal Award?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• 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?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Contractor Checklist		
• Provides goods or services within normal business operations?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Provides similar goods or services to many different purchasers?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Operates in a competitive environment/market?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Provides goods or services that are ancillary to the operation of the federal program?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Is not subject to the compliance requirements of the federal program as a result of the agreement?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Use of judgment		
<p>§200.330 (c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.</p>		
Determination		
Sub-recipient/Contractor Name:	Order Number:	
Signature:	Date of Signature:	

Pre-Award Risk Assessment

Subrecipient:
 Program:
 Grant:
 Preparer:
 Date:

A Pre-Award risk assessment is required under 2 CFR 200.331(b) for any subawards made by DHHS. The assessment is to be kept in the program records and available upon request. Please answer all questions about this subrecipient and put an 'X' in the box that best fits. If the program is subawarding dollars to this organization for the first time, other programs should help answer these questions based on their experience with this organization. The Internal Audit staff is available to answer questions related to the risk assessment process. Their contact information can be found on the DHHS intranet.

Yes answers indicate a higher risk for this subrecipient.

Overall Assessment				
Question	Yes	No	N/A	Comments
Is the entity new to operating or managing state or federal funds?				
Is this program new for the entity?				
Is DHHS a new provider of funds of this entity?				
Has there been high turnover of their employees?				
Are the staff assigned to the program inexperienced with the program?				
Has the entity been untimely in the submission of:				
a. Applications				
b. Amendments				
c. Fiscal reporting				

d. Draw downs					
e. Budget revisions					
Has the entity been untimely in responding to questions from program?					
Is the program unusually complex (funding, program, matching requirements, etc.)?					
Does the entity lack effective procedures and internal controls?					
Has the entity been disbarred or suspended?					
Are there external risks associated with this entity related to:					
a. Economic Conditions					
b. Political Conditions					
c. Regulatory Changes					
d. Unreliable Information					

Monitoring Assessment					
<u>Questions</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>Comments</u>	
Has it been more than 3 years since the entity has had a site-visit?					
Has it been over a year since the entity had a desk audit?					
Were there any findings or concerns based on-site reviews or desk audits of the entity?					
Has it been more than one year since audited financial statements have been received from the entity?					
Has the entity been untimely in submitted audited financial statements?					
Is the entity not required to have an A-133 (Single Audit) done?					

If audited as a major program, have there been findings?				
Did the organization have overall findings?				
Were there items to discuss/resolve with the entity?				
Has the entity been listed as a Required Increase Monitoring Subrecipient?				
Does the entity have trouble meeting its cash needs?				

Grant/Expenditure Assessment				
Questions	Yes	No	N/A	Comments
Is the grant large in terms of percentage of overall funding for the entity?				
Is there concern of the entity's ability to meet grant requirements?				
Have there been variations between expenditures and the budget?				
Has there been inadequate supporting documentation of expenditures provided?				
Has the entity been untimely in the drawdown of funds?				

Other risk assessment factors not addressed above:

Based on the results of this risk assessment, will a subaward be made to this entity?

The Internal Audit staff should be consulted about any questions about the risk assessment process or in situations of a high risk assessment.