

Get Control over Subrecipient Monitoring Controls

Speakers



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Session Agenda

- Interactive Polls Throughout
- What is Subrecipient Monitoring?
- Subrecipient Monitoring Internal Controls Framework
- NIH Foreign Subawards
- Fixed Amount Subs
- Upcoming Uniform Guidance Changes
- Key Take Aways

Poll Question 1

- What is your role at your institution?
 - A. Central Pre
 - B. Central Post
 - C. Departmental
 - D. Audit/Compliance
 - E. Other

Poll Question 2

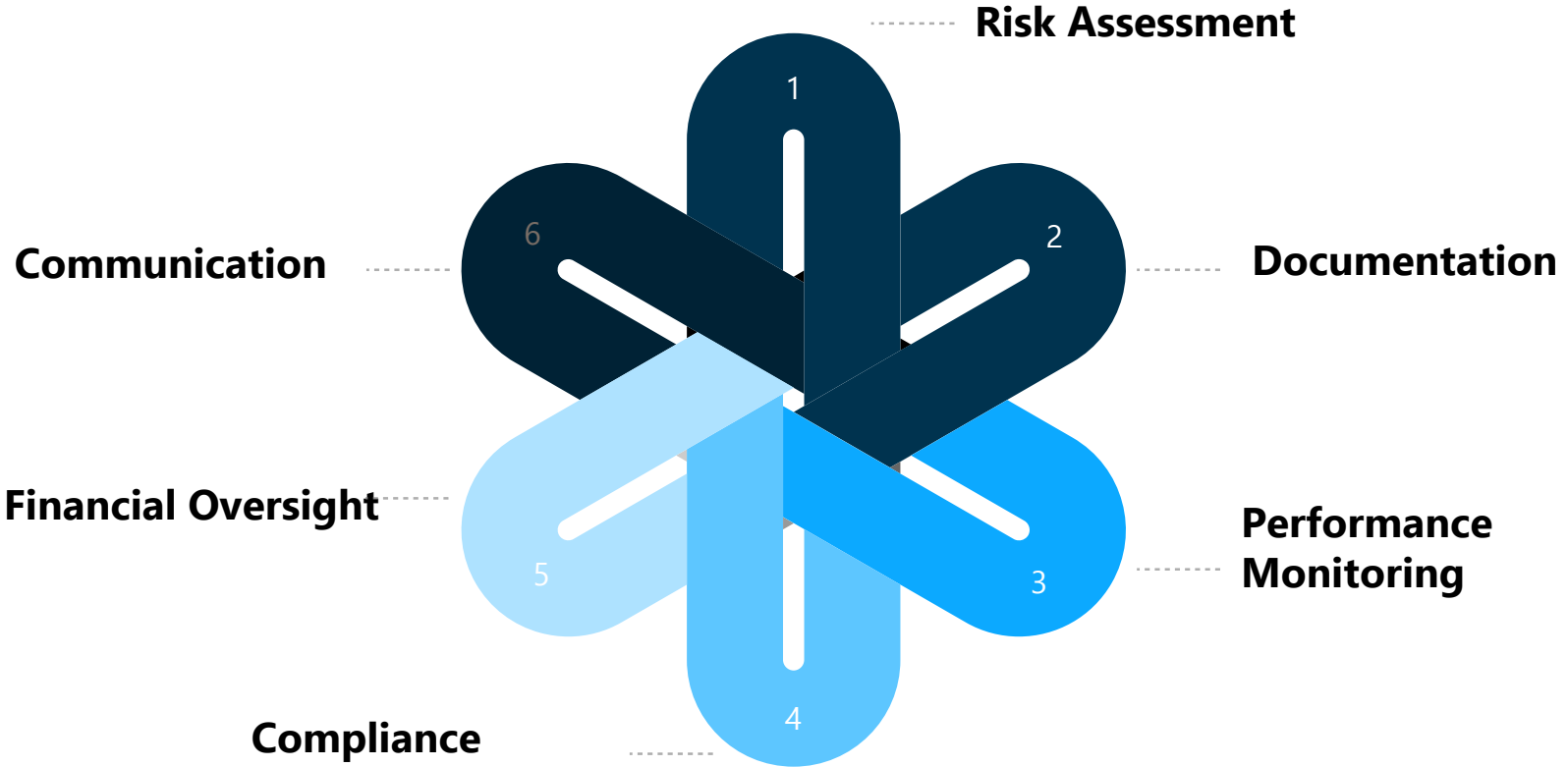
- Are you responsible for Subrecipient Monitoring?
 - A. Yes
 - B. No
 - C. I don't know and I am unsure who is at my institution

WHAT IS SUBRECIPIENT MONITORING?

What is Subrecipient Monitoring?

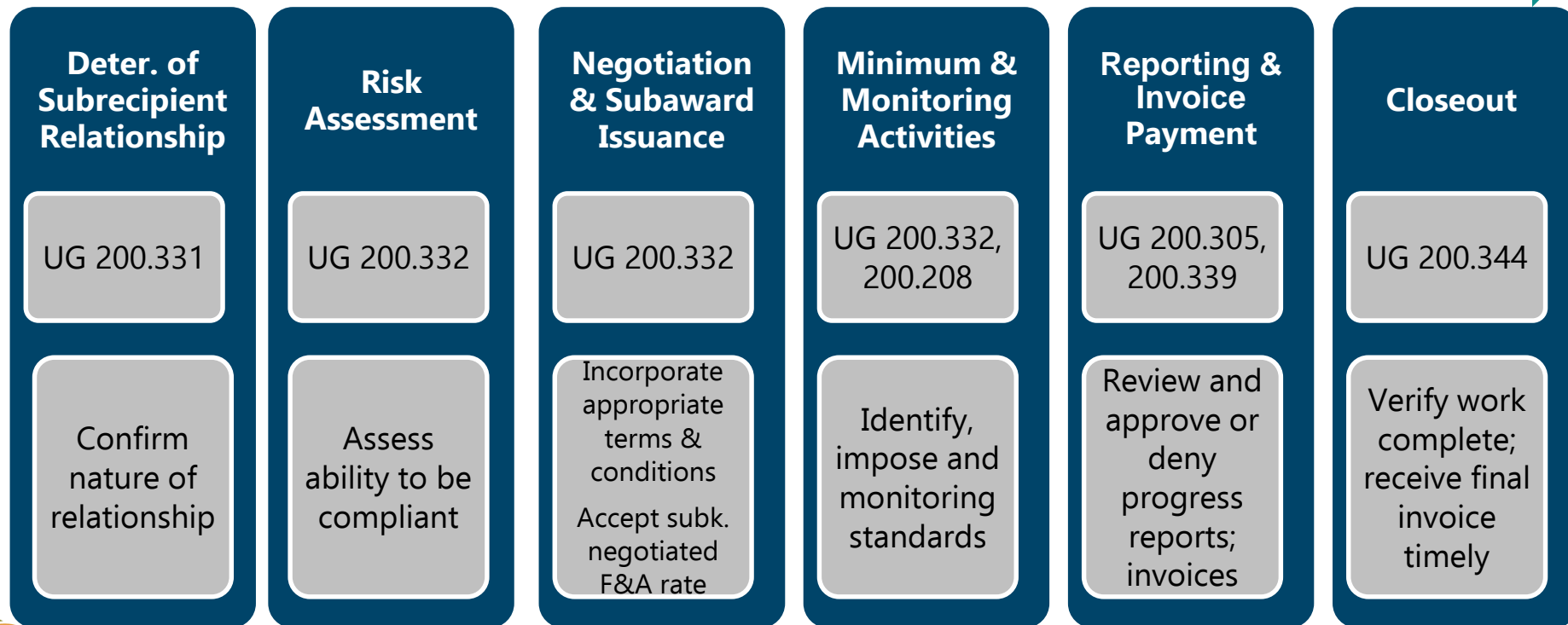
Subrecipient monitoring is essential for accountability, transparency, and the successful management of the Prime Award. The Uniform Guidance requires it to safeguard the proper use of resources, maintain regulatory compliance, and ensure the overall success of collaborative efforts between the prime recipient and its subrecipients.

Key Elements of Subrecipient Monitoring

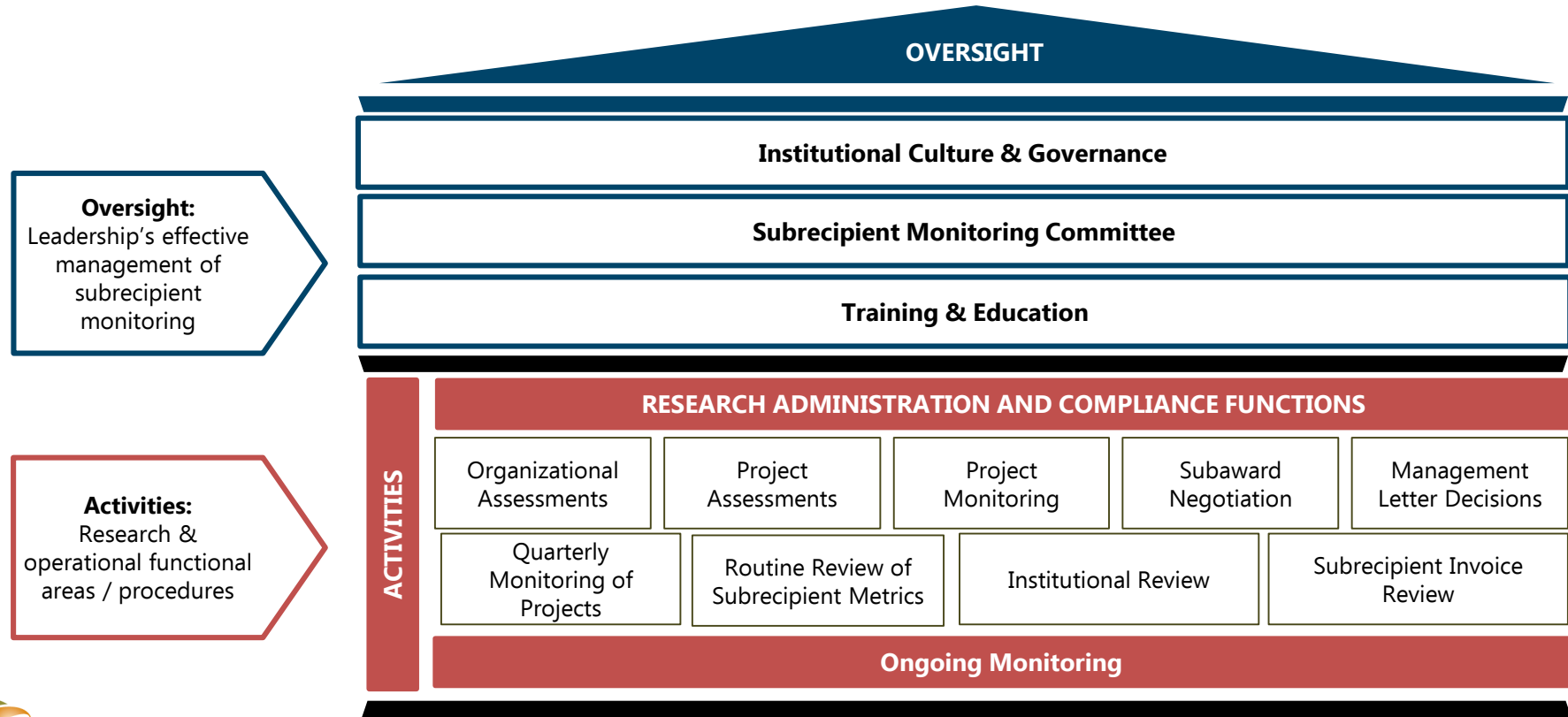


Subrecipient Monitoring Lifecycle

Uniform Guidance Requirements Across the Subrecipient Monitoring Lifecycle

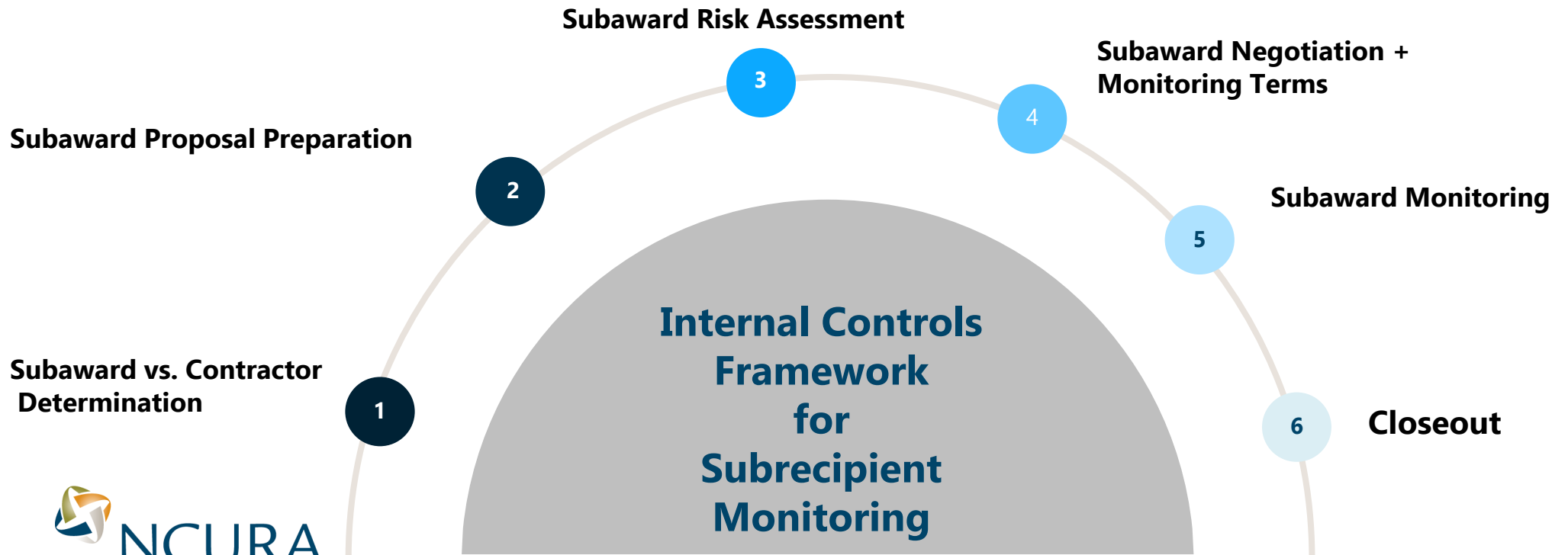


House of Subrecipient Monitoring



SUBRECIPIENT MONITORING INTERNAL CONTROLS FRAMEWORK

Internal Controls Framework (ICF)



Control Objective 1: Subrecipient and Contractor Determination

Regulatory Requirements

Determination: The award recipient must make case-by-case determinations of whether federal disbursements to a party is for a role of **subrecipient** (subawardee) or a **contractor**.

200.1 Contractor is an entity that receives a **Contract**. **Contract** is a legal instrument for the purchase of property or services needed to carry out a federal award.

200.1 Subrecipient is an entity that receives a Subaward provided by a pass-through entity to carry out part of a Federal award received by the pass-through entity.

Description and Regulatory Reference

200.331(c) When making a determination of whether an agreement between entities is a subrecipient or a contractor, judgement is based on the substance of the relationship and not the form of the agreement.

200.331 (b) Contractor Determination Characteristics: **1)** Is providing goods and services as part of its' normal business operations; **2)** Provides similar goods or services to different purchasers; **3)** Normally operates in a competitive environment; **4)** Provides goods or services that are ancillary to the operation of the federal program; and **5)** Is not subject to compliance requirements of the Federal program as a result of the agreement.

200.331 (a) Subrecipient Determination Characteristics: **1)** IHE determines who is eligible to receive a portion of the federal award; **2)** Has performance measured by ability or completion of federal program objectives; **3)** Has responsibility for programmatic decision-making; **4)** Is responsible for adherence to applicable requirements of the award; and **5)** In accordance with its agreement, uses 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.

Control Activities

Use of a Contractor vs. Subrecipient Checklist will help document the nature of the work and whether they are appropriately classified as a Subrecipient or Contractor. This can be a tool used as part of a process or as a required document at the proposal or award stage. If at the proposal stage, there may be added burden and unnecessary work as most proposals are not funded. If the checklist is completed at the award stage, the award budget may need to be adjusted if incorrectly budgeted as a Contractor in the proposal. This is a risk to the awarding process and may impact the overall budget available to perform the work. The process to help determine the appropriate classification should be in a procedure with training and education to those responsible for review (to the Characteristics of Contractor vs. Subrecipient) or as a required checklist for completion.

Ex. [FDP Templates](#)

Poll Question 3

- My institution completes a determination of Subrecipient vs. Contractor form:
 - A. For every proposal submitted
 - B. At Time of Award
 - C. We don't complete a determination form of any kind/ it is part of a review process that is undocumented
 - D. I don't know

Control Objective 2: Subrecipient Proposal Review and Preparation

Regulatory Requirements

Federal Certs and Reps/Letter of Commitment:

Each Federal awarding agency or PTE is authorized to require the non-Federal entity to submit certifications and representations required by Federal statutes or regulations on an annual basis. An AO signed Letter of Commitment provides assurance that commitments will be made and subrecipient assurances are met.

Scope of Work (SOW): A separate, distinct and detailed scope of work is necessary for the PTE to appropriately monitor programmatic performance of the subrecipient and to help confirm that cost estimate for the scope of work is reasonable. The subrecipient's SOW should correlate with their budget and budget justification.

Budget - Cost Estimate: Project budgets must be allowable, reasonable, allocable and necessary for the performance of the proposed scope of work.

Budget Justification: A detailed narrative providing the details included in each cost category requested in the proposal budget as well as justifying why they are necessary to complete the proposed project.

Description and Regulatory References

200.209 - Certifications and representations. **200.206 (1)** Review if subaward entity is debarred or suspended and **(2)** If subaward exceeds the Simple Acquisition Threshold review SAM to ensure the subaward demonstrates a satisfactory record of executing federal awards. The PTE may determine the information is not relevant to the specific subaward. **200.214** Restricts awards and subawards being issued to entities suspended or debarred.

200.308 - Monitoring and reporting program performance

The budget must follow any Federal agency specific administrative limitations or requirements (e.g. NIH Salary Cap, etc.) and UG 200 Subpart E - Cost Principles.

Federal agency specific policy or instructions

Control Activities

LOI signed by subrecipient AO that should include project title, PI name, project dates, funding expected and amount of cost share expected. Can also include certifications for status of debarred or suspended, or other agency specific requirements, e.g., PHS compliant COI policy. PTE may opt to screen each subrecipient for required compliance items.

Scope of Work reviewed by PI along with budget (cost estimate) as being reasonable and aligned to technical needs of the main award.

Staff should have a specific role assigned to review subrecipient budget and budget justifications for compliance.

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Control Objective 3: Subrecipient Risk Assessment

Regulatory Requirements

PTEs have a responsibility to evaluate the subrecipient's ability to comply and perform the proposed work. This evaluation may be performed and documented by performing a Risk Assessment.

Description and Regulatory References

200.332 (b) PTE must evaluate each subrecipient's risk of noncompliance to federal or award specific requirements. This evaluation may consider the subrecipient's **1)** prior experience with similar subawards, **2)** previous audits of the entity or similar award, **3)** change in new personnel or systems and **4)** results of same awarding federal agency monitoring of subrecipient's compliance.

Control Activities

The risk assessment should be documented. It can be performed at the proposal and/or the award stage. Due to low funding rates and burden, **it is recommended to have a triage process to do an entity level assessment at proposal stage and a fuller assessment at time of award.** Institutions should adapt to the elements used in the FDP Risk Assessment Template..

Org Assessment

- Evaluates entity-specific risk factors
- Intervals determined by the entity's annual audit cycle

Factors Reviewed:

- Organization Type
- Audit Results
- Maturity & Experience with federal funds
- Negotiated IDC rate



Based on subrecipient entity audit cycle

Project Assessment

- Evaluates project-specific risk factors
- Intervals determined by project period lifecycle

Factors Reviewed:

- Potential Conflicts of Interest
- Portion of award activities
- Prime award type/sponsor
- Scope of work
- Research compliance approvals



Based on project period life cycle



Poll Question 4

- My institution completes a risk assessment on a subrecipient:
 - A. At time of proposal
 - B. At time of Award
 - C. We don't complete a risk assessment form of any kind / it is part of a review process that is undocumented
 - D. I don't know

Control Objective 4: Subaward Agreement Type and Establishing Monitoring

Regulatory Requirements

Type of Subaward Agreement: Just like the purpose of the exchange determines the type of relationship (Subrecipient vs. Contractor (vendor) Tab 1), the type work to be done and regulatory requirements informs the type of an appropriate Subaward agreement (e.g. Subcontract, Subrecipient Agreement (fixed or cost reimbursement), Foreign vs. Domestic, Clinical Trial etc.

PTE Authority to Add Requirements to an Agreement: Based on the Risk Assessment performed, the PTE has the authority to adjust specific federal award conditions, determine the appropriate legal agreement for the sub's performance, and incorporate controls to mitigate risks or ensure performance and compliance to the regulations.

If Additional Requirements are Added: If the PTE imposes any additional requirements they must be clearly communicated on the rationale for them, their term, and if applicable, the remedies needed for the Sub to remove the additional requirements. This is aligned to the performance focus of the Uniform Guidance to remove administrative burden. The intent to focus on performance over compliance.

Required Data Elements of an Agreement: There are reporting requirements for federal funding that must be upheld (e.g. SEFA). In addition, there are core identifiers for federal funding and the PTE and sub that must be accurately reported and communicated in the subaward agreement.

Description and Regulatory References

200.201 (a) Federal Award Instrument: The PTE decides the appropriate instrument for the Federal Award (i.e. Grant Agreements (including fixed amount awards), Cooperative Agreements and Contracts.

200.1 Subaward: an award provided by the PTE to a subrecipient. It does not include payments to a contractor (vendor) or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a

200.208 (b) - PTE has authority to adjust federal award conditions based on: **1)** its Risk Assessment of the Sub (in accordance with 200.206) **2)** Sub's history of compliance of federal awards; **3)** Sub's ability to meet performance goals; or **4)** a responsibility determination by the PTE to the Sub.

200.208 (c) - Additional agreement conditions may include **1)** Requiring payments as reimbursement rather than advance payments; **2)** withholding authority to proceed to next phase (performance or financial installment) until receipt of acceptable performance; **3)** Requiring more detailed financial reports; **4)** Requiring additional monitoring; **5)** Requiring Sub to obtain /administrative assistance/training; or **6)** Establishment of

200.208 (d) - If PTE is imposing additional requirements, the PTE must notify the sub as to: **1)** the nature of the additional requirements; **2)** the reason for additional requirements; **3)** the actions needed to remove the additional requirement if applicable; **4)** the time allowed for completing applicable actions; and **5)** the method for reconsideration of the additional requirements imposed. NOTE (e): any additional requirements must be promptly removed once the conditions that prompted them have been satisfied.

200.332 - Each subaward must have required data elements included (a)(1) [14 specific elements - included in FDP templates]

Control Activities

Institutions should have guidance that considers the type of prime award, the scope of work to be performed, the type of subaward entity, and the performance risk of the entity to help determine the appropriate subaward agreement type. Institutions should try to setup the agreement type and conditions that minimizes burden for the PTE and Sub awardee. Institutions should use the FDP Subaward Templates.

A formal procedure should be in place to document the Risk Assessment performed along with the rationale used to justify any additional conditions or controls imposed by the PTE to the Sub.

Any additional monitoring controls imposed by the PTE and their rationale must be clearly communicated. These should be formally documented and prescribed as additional controls in the subaward agreement. The conditions to alleviate any additional control should also be incorporated in the award document or as part of the Sub monitoring procedures.

There should be a clear written procedure to document all data element requirements for incorporation into the subaward. It is recommended to follow the FDP Template.

Control Objective 5: Subaward Monitoring of Performance, Financial, and Regulatory Compliance

Regulatory Requirements

Active Monitoring: Monitoring controls must take place on an ongoing basis while the subaward is active. There are multiple controls and approaches that can be taken. Basic monitoring controls should be part of written procedures with clear roles and responsibilities. There should be documented evidence of their occurrence.

Specific Monitoring Controls for High Risk Subs (See Additional Monitoring Controls of Tab #4): If included as part of the subaward, specific and additional monitoring activities should be documented and followed-thru. For example, if additional training is required, by whom and when and the PTE has documentation of the completion.

Audit Findings to Subaward: If there is a PTE audit, Subrecipient self-audit, or independent audit where there are findings involving the subaward award, the PTE must issue a management decision in accordance with 200.521 (a). This may or may not require federal agency notice, but the management decision must be documented by the PTE.

Description and Regulatory References

200.329 The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. **200.332 (d)** A PTE shall monitor the activities of a sub to ensure financial and program performance. PTE monitoring "must" include: **1)** Review of Sub financial and performance reports **2)** assurance subs take timely and appropriate action on all deficiencies pertaining to the federal award detected thru audits, site reviews and any Single Audit findings related to the subaward. **3)** Issuance of management decisions for audit findings related to the award. **4)** Responsibility for resolving audit findings related to the subaward. (The PTE can rely on the subs cognizant auditee agency to perform audit follow-up on cross-cutting findings).

200.332 e) Based on the PTE Risk Assessment of the Sub, the following monitoring tools may be useful: **1)** Provide subs training and assistance on the program; **2)** Perform on-site reviews of program operations; **3)** Arrange for agreed-upon-procedure engagements (For specific and independent audits of a sub). **200.208 Specific Conditions:** The PTE may impose additional subaward conditions for monitoring financial and performance compliance.

200.521 Management decision (c) PTE is responsible for issuing a management decision for audit findings that relate to Federal awards it made to subrecipients.

Control Objective 5: Subaward Monitoring of Performance, Financial, and Regulatory Compliance

Control Activities

Invoicing: Monitoring to identify if invoices are submitted on time, complete, and in the correct format. Invoice Review: Procedure for reviewing if the invoices are appropriate (e.g. \$0 or a large amounts in a short period or large whole numbers when cost reimbursable) and aligned with program activity. This may include PI review and approval of each invoice. Procedure should document the review purpose, routing process, and evidence of review.

Account Receivable: Monitoring to identify spend rates (too low or high). This may also help evaluate if budget shifts should occur for performance (anticipate if a subaward should be increased or decreased in funding).

Financial Reports: Procedure for PI, Dept. and/or Central review of financial reports for performance alignment and appropriateness. Progress/Milestone/Technical Reports: Procedure for PI review and acceptance of progress/technical report and milestone achievement. Process for PI to communicate subaward performance concerns during the project.

Additional Prior Approval Requirements: Process and oversight to ensure sub awardee follows additional requirements imposed. For example, more stringent budget transfer authority, creation of new budget categories, or changes in personnel.
Subaward Training: Is subaward PI or administrator training needed to better understand federal requirements?

Desk Review/Support Documentation: Detailed reviews of support documentation or subaward procedures can help give assurance of compliance requirements (e.g. require detailed support/receipts for periodic/specific invoices).

Electronic System Review: If subaward changes financial systems or concerns exist on their complexity to comply with federal requirements, may review controls of their enterprise systems. **Site Visits:** Site visits can provide detailed insight into the management and control environment of the organization. It also allows for review of program capacity and capability. Consider financial and performance based reviews.

Audit Reports/Special Investigations: Any identification of independent audit findings, self-assessed (subaward internal audit) or identified in Prime formal desk-review/audit need to be identified and addressed by the Prime. Formal Management decisions are required to be documented.

Control Objective 6: Subaward Closeout

Regulatory Requirements

There must be PTE review and acceptance of subawardee performance. Overall financial and performance requirements are between the PTE and the Federal Awarding agency.

Description and Regulatory References

200.344 Closeout: The PTE will closeout the subaward when it determines all actions and work have been completed. The subawardee must submit all financial, performance, and other required reports no later than 90 calendar days after the project end date. The Prime and PTE must liquidate all financial obligations no later than 120 calendar days after project expiration.

Control Activities

Final Invoice/Financial Statement: Procedure to review and approval Final Financial Statement for compliance, completeness and that it is accepted as part of the performance completion of the project. This should have PI review and approval for final payment and acceptance.

Final Progress/Technical Report: PI close review on acceptance and compliance to completion. There is documentation of the overall performance (progress report) by the sub awardee and its acceptance.

Subaward Clearance: May consider using a final subaward clearance form and attestation that no future financial change will be made unless necessary for federal compliance (e.g. any additional costs would be borne by the sub - PTE will not make future financial adjustments on Sub awardee behalf.

NIH FOREIGN SUBRECIPIENT REQUIREMENTS

NIH Requirements for Foreign Subrecipients

- 9/15/2023 NIH released [NOT-OD-23-182](#) NIH Final Updated Policy Guidance for Subaward/Consortium Written Agreements
 - Effective 01/01/2024
 - Requires ALL (existing and new) subawards to foreign entities to include a term that requires the subrecipient to provide **access to** copies of all lab notebooks, all data, and all documentation that **supports the research outcomes as described in the progress report**, to the primary recipient with a frequency of **no less than once per year**, in alignment with the timing requirements for Research Performance Progress Report submission.

NIH Requirements for Foreign Subrecipients

- NIH expects recipients to update existing subaward agreements to address this requirement ***within 60 days*** of the effective date of this notice. NIH recognizes that recipients may need additional time depending on the number of agreements an institution has in place for each project. Therefore, extensions may be requested, if needed.
- NIH suggests adding language to the subrecipients letter of support at time of proposal acknowledging this requirement.
- If subrecipient is unable to accept the language, the subaward agreement must not be issued/terminated for existing awards.

FIXED AMOUNT SUBS

Poll Question 5

- If your institution issues fixed amount subs, which entities do you issue them to (select all that apply):
 - A. Foreign entities
 - B. Private entities
 - C. High Risk entities
 - D. Low Risk entities
 - E. Institutions of Higher Education

Significance of Fixed Amount Subawards

Integrity

PTE is better able to manage the integrity of the research

Performance > Compliance

Focus on adequate performance rather than detailed financial compliance

Use Cases

Appropriate scenarios for fixed amount awards

Reduced Burden

Reduced administrative and faculty burden

Data Analysis

Percentage of subawards under \$250K as fixed-amount subawards

Fixed Amount Subawards

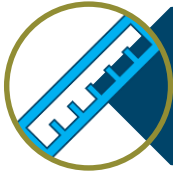
Fixed Amount Subawards Use Cases



Low-risk entities that have compliance infrastructures and track records to manage federal funds appropriately and meet performance requirements.



High-risk entities that are capable or necessary to meet unique performance requirements but lack complex administrative structures for U.S. federal regulatory compliance.



Performance activities encapsulated in units (service or materials), based on successful participation or event completion, or delivery of special programs; or performance deliverables that are difficult to track and account for costs for the deliverable(s).



Prime Awards that are Contracts/Fixed Price Contracts or Fixed Amount Awards.



Shifting Focus to Performance

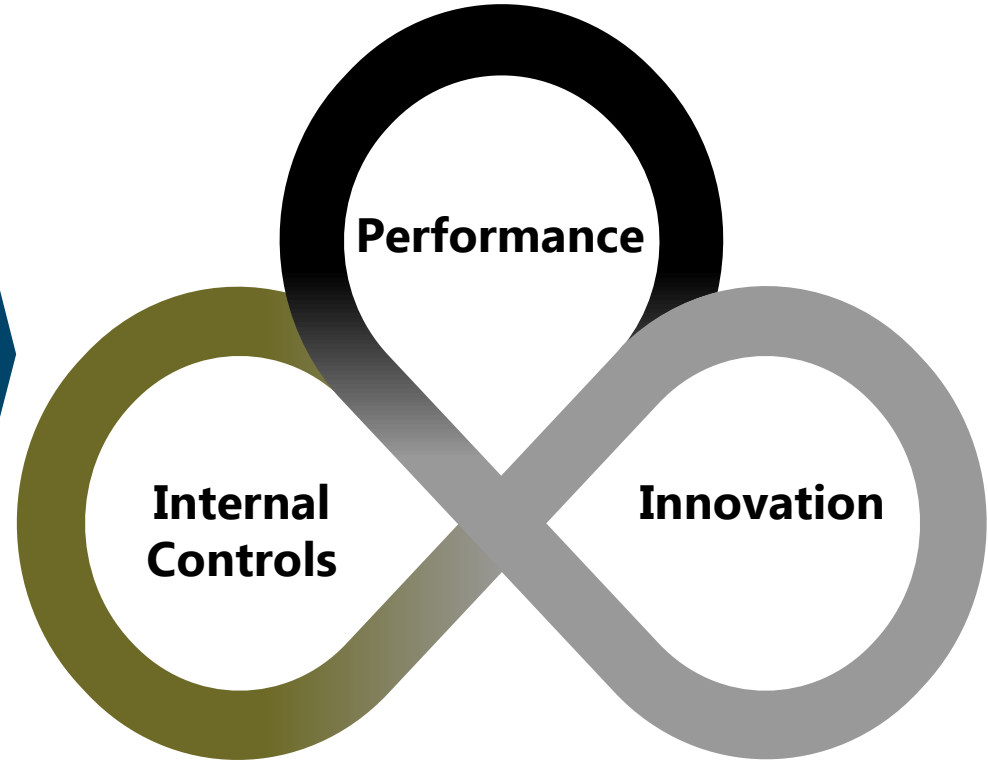
Requirements

By shifting the focus to performance instead of solely on financial compliance, the PTE is better able to manage the integrity of the research.

- 2 CFR 200.201(b)(1), fixed-amount awards would still require estimating costs on the cost principles (or other pricing info) as a guide.
- Fixed amount award costs will not be reviewed by a governmental agency unless the award is terminated before completion of the Federal award
- Expansion of the definition of fixed amount awards in 2020 to include grants and cooperative agreements



UG Focus



Benefits of Fixed Amount Subawards



• Decreased audit risk for both Pass-Thru-Entities (PTE) and subrecipients



Shifting focus to performance milestones



Elimination of pre-payment necessity for subrecipients



Reduction of administrative burden, especially for small and medium-sized institutions



Challenges and Considerations



Limitation to the single-acquisition threshold (SAT)

- *Might be removed pending changes to the UG*



Cultural shift in writing milestone-based scope of work



Need for understanding the distinction between fixed-price contracts and fixed amount awards



Coordination challenges between milestone completion and invoice submission

Evaluation of Success



• Subrecipient Reporting

- Timeliness
- Accuracy

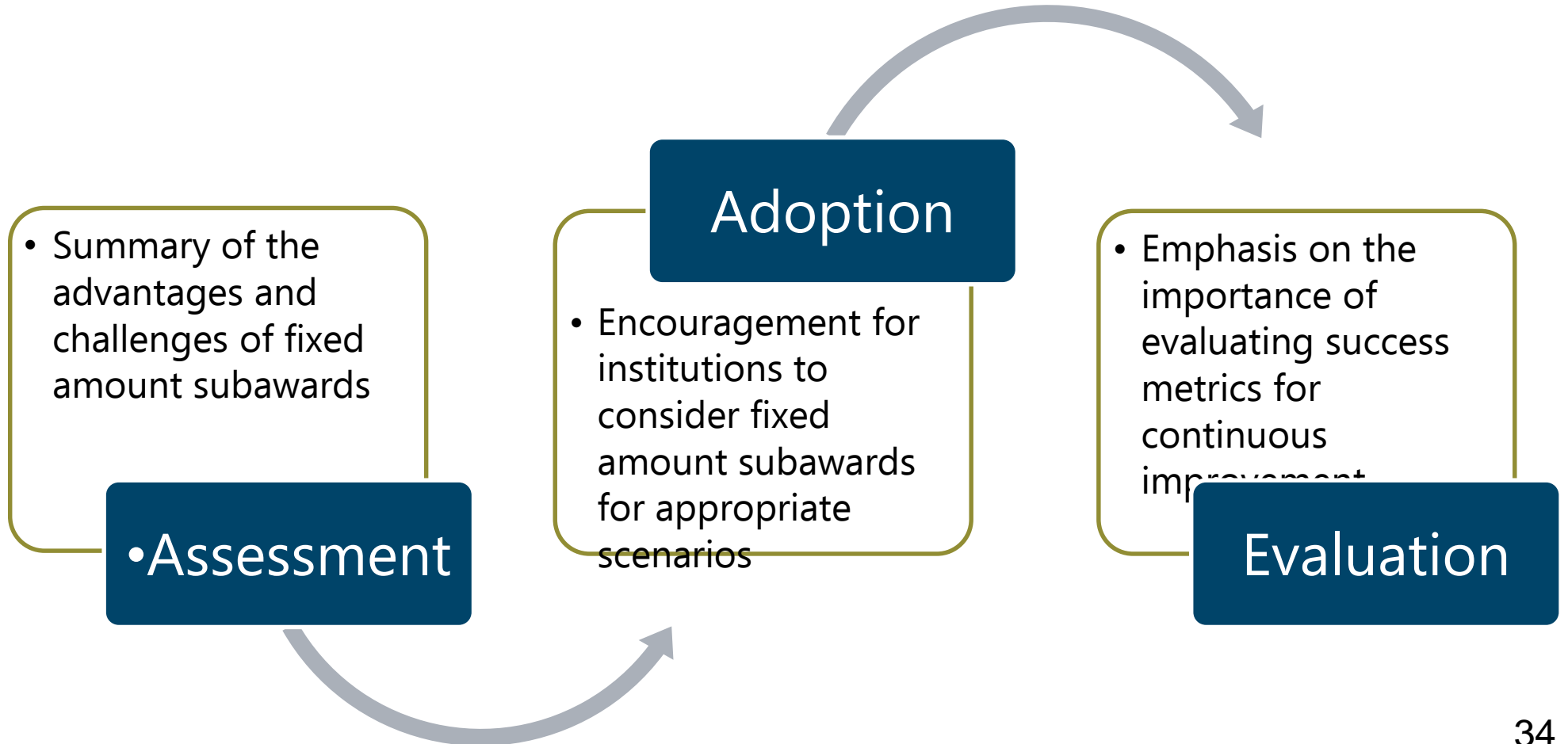
Feedback from faculty + administrators

- Awareness of technical progress
- Reduces administrative burden

Poll Question 6

- Would your institution consider issuing fixed amount subs to institutions of higher education?
 - A. Yes
 - B. No
 - C. Maybe
 - D. I don't know
 - E. I want to!

Closing Thoughts



UNIFORM GUIDANCE CHANGES

UG Proposed Changes Related to Subrecipient Monitoring

UG Revision	Description
§ 200.1 Definitions.	Redefines <i>Modified Total Direct Costs (MTDC)</i> to include “up to the first \$50,000 of each subaward (regardless of the period of performance)” and exclude “portion of each subaward in excess of \$50,000”
§ 200.414 Indirect Costs	Increases de minimis rate from 10% to 15%
§ 200.305 Federal Payment	Recipient & Subrecipient may retain up to \$500 per year of interest earned on funds for use of administrative expenses Anything in excess of \$500 must be returned via PMS , regardless of whether the recipient was paid through PMS
§ 200.333 Fixed Amount Subawards	Removes the “simplified acquisition threshold” cap for fixed-amount sub-awards , which is currently in place to provide agencies and recipients with increased flexibility to make programmatic and budgetary. The new guidance will allow recipients to establish their own award-specific thresholds with the prior written approval of the federal agency.

CONCLUDING THOUGHTS

Key Takeaways

- Prime has ultimate responsibility
- Documentation, documentation, documentation
- Engage faculty and researchers
- Timeliness is key!
- Subs can also be your primes – be kind!
- Be mindful of Should vs. Must
- Additional terms and conditions do not always mean less risk
- High risk does not equal a bad sub-partner

Thank You!



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APPENDIX

Subrecipient Monitoring Sample Policies and Procedures

- [Subrecipient Monitoring: Financial and Technical](#), Cornell University
- [Subrecipient Monitoring Policy](#), Harvard University
- [Subrecipient Monitoring](#), Yale University
- [Subrecipient Monitoring and Management](#), University of Texas at Arlington
- [Subrecipient Monitoring Guide Sheet](#), The Office of Justice Programs Territories Financial Support Center (OJP TFSC)