Implementing and Managing International Proposal Development & Subawards

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Agenda

Objective:
Participants will be presented with a framework for identifying, coordinating and managing international subawards across a variety of institution types

- Proposal Development
- Partner Due Diligence
- Risk Mitigation
- Subaward Issuance
- Subaward Management
- Closeout Considerations
PROPOSAL DEVELOPMENT
Foundations for a Relationship

What happens at proposal can impact the entire relationship, through award and closeout.

• Communication Challenges
• Regulatory Challenges
• Institutional Policy Challenges
Before you dive in…..

Who are you working with?
What does the sponsor/solicitation require?
What does your institution require?
What regulations apply?
Business as usual, but more

Similar - but expanded - processes followed to include a foreign subrecipient or a vendor in your proposal:

• Statement of Work
• Budget
• Project Supporting Activities
• Compliance
PARTNER DUE DILIGENCE
Key Considerations

• Risk Assessment
• Debarment/Excluded Parties
• Foreign Influence issues
• Foreign Corrupt Practices Act
• Potential Procurement Issues
  • Appropriate competition/source justification
Key Considerations

Registrations required – are they in place?

- UEI
- EIN
- NATO Commercial and Gov’t Entity (NCAGE) Code
- SAM.gov
- Agency specific – e.g., eRA Commons, Research.gov
## Best Practices

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Engage foreign collaborators EARLY, allow adequate time for required reviews/approvals before submission</td>
</tr>
<tr>
<td>2.</td>
<td>Identify the best/preferred means for exchanging information/discussing</td>
</tr>
<tr>
<td>3.</td>
<td>Be clear about submission requirements, including registrations</td>
</tr>
<tr>
<td>4.</td>
<td>Develop a project plan that addresses programmatic AND compliance issues</td>
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</tbody>
</table>
RISK MITIGATION
Risk Mitigation

• The due diligence process provides a roadmap for navigating collaboration to minimize risk
• Strategies will vary based on information collected during due diligence
• Document:
  • Internally
  • Using subaward
Routine Re-Assessment is Important

University of Manchester ends research project with Chinese firm over alleged links to Uighur persecution

Foreign Affairs Committee chair says he is ‘pleased’ at decision

Zoe Tidman  Wednesday 03 February 2021 20:48  Comments


- Partnership with state-owned Chinese company linked to providing technology & infrastructure related to the repression of the Uyghur people
- Radio astronomy collaboration
- Export licenses denied by UK government
- Partnership terminated after UK lawmakers started asking questions
Risk Mitigation: Institution

Confirm compatibility
Will policies/precedents be violated in partnership?

Understand motivations
Motivation of partner may be different

Perceived message
Will your partnership be received well

Put it in writing
Document expectations
Risk Mitigation: Project

Know your partner

Collaborations are shaped by the countries in which partners are based
Consider partner's past activities, sector it operates in, legal/regulatory environment
Consider academic freedom risks

Strike and maintain robust agreements

Exit strategy (right to withdraw from agreement, terminate early)

Establish clear roles and responsibilities for staff/project team

Continue to develop procedures/policies for identified risks
Institution should consider how it supports staff to make informed decisions
Collaborator Engagement Risk

- High Risk Collaborator / Low Risk Engagement
- High Risk Collaborator / High Risk Engagement
- Low Risk Collaborator / High Risk Engagement
- Low Risk Collaborator / Low Risk Engagement
Risk Tolerance & Designing Controls

High Risk
• More hands on monitoring
• Additional terms are a must

Low Risk
• More routine procedural monitoring
• Unlikely specific terms are needed

All Subawards
• Risk Assessment
• Obligation to know partners
The Best Strategy... Communication

- Written / oral communication
- Cadence
- Use of agendas
- Cultural norms
Crossing Language Barriers

- What languages are spoken/documentated at the partner institution?
- Can you accept P/staff translations?
- Do you need an official translation?
- Impact of translation on terminology
SUBAWARD ISSUANCE
Special Consideration for International Subrecipients

- Partners operating under different regulatory regimes
- Different norms around costs & financial records
- Language, time zone, infrastructure differences
- Be explicit about prior approvals, costs, communication, reports & other expectations
  - Understand it is not a function of belief in ability, but rather a recognition that someone is working in a different context
  - Tools like invoice templates and guides on allowable costs allow subrecipients to be successful
  - Consider fixed amount subawards
Subaward Form

**Fixed Price**

**Pros:**
- Reduces risk of cost overruns
- Payment can be tied to performance
- Streamlines reporting
- Preferable for vendors/contractors

**Cons:**
- Necessitates accurate cost estimate
- Less visibility into spending
- Milestones can be incompatible w/research

**Cost Reimbursable**

**Pros:**
- Payment based on actual cost
- Detailed reporting
- Payment tied to regular invoicing
- Preferable for research

**Cons:**
- Onus on subrecipient/vendor to control costs
- Requires internal controls
- Lack of performance guarantees
## Considerations for your Template

Consider expanding on certain terms:

<table>
<thead>
<tr>
<th>Consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Differences in terminology</td>
</tr>
<tr>
<td>Signature authority</td>
</tr>
<tr>
<td>Currency</td>
</tr>
<tr>
<td>Payment terms</td>
</tr>
<tr>
<td>Performance milestones</td>
</tr>
<tr>
<td>Data use, protection, management &amp; sharing requirements</td>
</tr>
<tr>
<td>Anti-corruption &amp; anti-discrimination</td>
</tr>
<tr>
<td>Governing law &amp; language</td>
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</tbody>
</table>
Bright Lines

Understand your organization’s ‘bright lines’...and those of your collaborator.
## Legal & Regulatory Compliance

<table>
<thead>
<tr>
<th>Regulatory Area</th>
<th>Potential Institutional Partners</th>
<th>Questions to Ask</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human subjects &amp; Data (Open vs protected)</td>
<td>Ethics Board, Department, PI, Legal, ITS</td>
<td>• Regulations/conditions for the use and/or sharing of this data?</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Security requirements</td>
</tr>
<tr>
<td>Conflict of Interest &amp; Commitment</td>
<td>Legal, Department, PI</td>
<td>• Can you substitute your COI policy? Does the scope align?</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• If you don’t have one, can you rely on another party in the collaboration?</td>
</tr>
<tr>
<td>Export Controls &amp; Data Protection</td>
<td>Export Control/Trade Compliance, Legal, Tech Transfer Office</td>
<td>• Licenses needed to import/export materials/software, etc.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Deemed exports</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Dual use</td>
</tr>
<tr>
<td>Vertebrate Animals</td>
<td>Animal Care Office, Department, PI</td>
<td>• Regulations for care</td>
</tr>
</tbody>
</table>
Best Practices

- Discuss requirements that may impact agreement structure up front
- Map out the relevant experts for each area (e.g., Export Controls)
- Identify & educate on applicable flow-downs
- Engage in negotiations with ‘bright lines’ in mind
- Review with audit experts to practically predict problematic areas
SUBAWARD MONITORING
Subrecipient Monitoring
Subrecipient Monitoring
Examples of Challenges in Managing U.S Funds
Subrecipient monitoring
Have different funding mechanisms been explored?
Who is responsible?
Monitoring Strategies

Overview
- Research Due Diligence – the context
- Research Funders – the requirement for due diligence
- Research Due Diligence at King’s – our approach from first steps to growing maturity
- The King’s Approach to Post Award DD (incl Transaction samples)
- Local project Management (incl storage of information, financial systems, receipting, holding of HR records)
- Annual reviews – What we are seeking
- Invoicing / QTex reporting / End of Project Management Invoicing
- Questions?
- How does it work locally at your organisation?

Research Due Diligence at King’s –

Keeping an Eye on the Ball!
- Post-award expenditure monitoring (academics monitor project delivery)
  - Each award incorporates a finance schedule which should be used for a quarterly claim & provision of a detailed expenditure listing
  - Either a 20% selected sample (Volume or value) is sent and reviewed or the collaborator is expected to provide a full set of transactions / salary info (dependent on the Diligence approval criteria)
  - Occasionally the sample may be higher if requested by the Panel
  - Where an advance was paid this will be expected to be recovered from either the third or fourth quarter against an agreed recovery plan with full recovery prior to the final quarter (Any major project of 25 quarters pays £125 per quarter from the third quarter to fifteenth quarter)
- Follow-up on outstanding information and actions – 3 months, 6 months … plus!
- Regular contact between project team, research assurance and post award – vital link is Project Manager and local Finance Manager
Monitoring Strategies
Monitoring Strategies
Audits
UG §200.343 Closeout
Reports due at Closeout

- **Technical reports** – PI is responsible
- **Invention reports** – PI is responsible
- **Property records** – managed by procurement office
- **Financial reports** – Coordinated, submitted by Post-Award
Critical Questions for Financial Closeout

- Is the cost allowable? Sponsor terms and institutional policies
- Is the cost reasonable? Accepted standards
- Is the cost treated consistently? Similar costs are charged to the sponsor
- Is the cost allocable and timely? Benefits project and within project period

fall CHECKLIST
- step on crunchy leaves
- eat something pumpkin-flavored
- snuggle under blankets
- get out warm clothes
- watch the trees change colors
- spot a ghost for Halloween

chibird
Tips for Effective Project Closeout

- Start early – send notification to department and PI 60-90 days prior to end date of award
- Determine if a No Cost Extension will be (or has been) requested
- Review budget justification again to identify any unusual costs that were included in it.
- Within 30 days of end date do a preliminary review of costs and contact department
- Close award within 60-90 days; do not wait till final 10-15 days. Timely submission is critical.
Research Administration Heroes
Resources

• NCURA [Country Guidebook](#)
• NYU RAD [Series](#)
• NPSA [Trusted Research Guidance](#) for Academia
• Innovation, Science & Economic Development Canada’s [Research Partnerships Risk Assessment Form](#)
• [UCOP Foreign Influence](#) guidance
• [FDP Subaward Tools’](#)
• [NIH Info](#) for Foreign Grants
Federal Award Flow-Downs

Useful UG Clauses to know for International Collaborators

1. Notice of funding opportunities (200.203(b))
2. Subrecipient monitoring and management (200.330-200.331)
3. Indirect costs (200.414)
4. Fixed amount subawards (200.332)
5. Closeout (200.331(a)(6) and 200.343)
6. Exchange rates (200.440)
7. Taxes (200.470(c))
8. Recruiting costs (visas) (200.463(d))
9. Allowable Costs (Subpart E – Cost Principles)
Q & A CASE STUDIES
Risk Mitigation Example 1

Fact Pattern

- Professor Xavier from the US meets Professor LeBeau, from Zimbabwe at a conference
- They decide to work together on a project studying energy grid resilience plans and outcomes in high heat scenarios
- Prof. LeBeau’s institution is well-established, but lacks experience working with US grant regulations
- Professors Xavier & LeBeau have established a solid research & dissemination plan, including using public repositories for data
- All the data will be generated in Zimbabwe, Professor Xavier’s role would be centered on analyzing the data
Risk Mitigation Example 1

Strategies

• Discussion with partner institution to design an appropriate financial oversight plan to address infrastructure challenges & cultural differences
  • Segregation of accounts
  • Back up for expenses
  • Excluded expense categories (ex., lawn mowers)
• Ensure the contract reflects PI understandings about data sharing, financial plan and other key compliance requirements
• Annual check-in with the PI on subrecipient progress
Risk Mitigation Example 2

Fact Pattern

- Prof McCoy wants to pursue study funded by a US think tank with new partners in Finland and China
- The project involves:
  - Service: ethical guidance on AI-based facial recognition services to collect payment on public transit systems
  - Research: examine rider psychological comfort & willingness to adopt
- Companies providing software require review of publications for patentable information
- Project involves providing guidance on software as needed, thus there will be access to source code
- It is unclear what the publication goals are given the mix of service and research
Risk Mitigation Example 2

Strategies

• Internal discussion of the balance of risks related to geopolitical tensions:
  • Uyghurs/human rights concerns
  • Access to emerging/developing technology
  • Access to source code
  • PIPL: march in access for government
• Ensure the contract keeps the obligations to comply separate for each based on data requirements of each country
• Discussion with sponsor about data requirements of each partner
Financial risks/management case study

• Your project partner in Lithuania is contacting you because the exchange rate they used for the budget in the application has changed dramatically due to the unstable situation in the region.
• What advice would you give the project partner?