



Subcontract Policy

Date: August 27, 2009

SUBCONTRACT DEFINITION

The term subcontracting is defined herein as those situations that call for substantive work or project activities that are a primary part of a research program supported by a grant, contract, or cooperative agreement to be conducted by another institution. The activities involved must constitute a significant portion of the sponsored research program and require the leadership and direction of a responsible investigator located at the worksite of the cooperating institution. Usually on research projects, a subcontract is for collaboration with colleague(s) at another institution.

These procedures DO NOT apply to (1) vendor-type relationships, i.e., routine purchase of equipment, supplies, and services; and (2) employment of outside consultants.

ESTABLISHING A SUBCONTRACT

The Office of Research Services (ORS) assists in the preparation and endorses subcontracts on sponsored projects. Once an award is received that involves co-investigators at other institutions, the Principal Investigator (PI) should verify with ORS that all of the necessary documentation is in place to authorize preparation of the subcontract. If the awarded amount is less than the proposed amount, a revised subcontract budget may need to be prepared.

Under OMB Circular A-110, the University is required to flow-down the requirements of the prime award on fiscal activities, inventions, and equipment to all subcontractors. The documentation will be included in the formal subcontract agreement as part of the contracting procedures. The PI is responsible for ensuring that any required programmatic reports or documents are submitted as part of the reporting process. For additional information, the PI should refer to the prime award documents and the subcontract documentation, or contact the Office of Research Services.

SUBCONTRACT COSTS

As stated in OMB Circular A-21 Section G.2, “F&A costs shall be distributed to applicable sponsored agreements and other benefiting activities within each major function (see Section B.1) on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, **and subcontracts up to the first \$25,000 of each subcontract (regardless of the period covered by the subcontract).**”

Loyola University of Chicago applies indirect costs to the first \$25,000 of every subcontract associated with a grant or contract, unless otherwise specified in the primary award.

When two or more subcontracts are established for a project, the first \$25,000 of each subcontract should be budgeted to account 6580 (Subcontracts under \$25,000).

6580 (Subcontracts under \$25,000) - Represents the first \$25,000 budgeted for each subcontract entered into over the life (competitive segment) of an externally funded grant or contract.

6581 (Subcontracts over \$25,000) – Represents the balance of subcontract costs (including the non-competing years of continuation), once the initial indirect cost allowance of \$25,000 is satisfied. Account 6581 may also be utilized for subcontracts that do not allow indirect costs.

If accounts 6580 and 6581 are not used appropriately, the University could potentially lose indirect costs to which we are entitled, or overcharge the primary funding agency.

SUBCONTRACTS: ENCUMBRANCE AND PAYMENTS

To ensure that funds budgeted for subcontracts are not expended for purposes other than payment to the subcontractor, the full amount of the subcontract, as stated in the agreement, will be encumbered upon inception. Encumbering the subcontract funds up-front will reserve them for payments owed the subcontractor, thus ensuring the University’s ability to fulfill its financial obligation to the subcontractor institution.

ENCUMBRANCE – Upon awarding a subcontract to another institution, the Office of Research Services or the awarding department should forward a copy to Sponsored Program Accounting (grntcon@luc.edu). The Staff Accountant in Sponsored Program Accounting will then create a purchase order for the full amount of the subcontract, therefore encumbering the funds for future payment under a specific purchase order number. A fully-executed copy of the subcontract must be received in order to create the purchase order.

PAYMENTS – Invoices received by Sponsored Program Accounting from the subcontractor require the approval of the PI; the signature of the Principal Investigator on the invoice constitutes satisfactory performance of the subcontractor. The invoice referencing the purchase order number, including authorization of both the PI and SPA, is then submitted to Accounts Payable. The amount of the invoice is applied towards the PO, and a check is cut to the subcontractor. The invoice amount is then deducted from the total subcontract encumbrance, becoming an actual expenditure. Please note that no payments may be made from accounts 6580 and 6581 without providing the purchase order number on the payment request.

FINAL PAYMENT – Subcontract agreements typically terminate annually, at the end of the prime award's budget period. As financial reports are often required within 90 days of the prime award end date, final invoices should be received from the subcontractor no later than 60 days after the subcontract end date. The PI should work with the collaborating institution to ensure that the final invoice is received within the 60 day timeframe; Sponsored Program Accounting will assist as needed. An invoice that is received beyond 60 days may not be honored at the discretion of the principal investigator. Under no circumstances will an invoice be honored if received later than 90 days after the end of the prime award's project period.

MANDATORY ANNUAL PROGRESS REPORTS

When Loyola is the prime recipient of a grant award and issues a subcontract to another institution, the co-investigator from that institution will be required to provide an annual progress report to the Principal Investigator and the department. The progress report is necessary for two reasons: It will serve as official documentation that the work stated has been performed, and it will also support the invoices that are submitted during the course of the funding period. The awarding PI/department is responsible for maintaining the progress reports.

UNSATISFACTORY PERFORMANCE/EARLY TERMINATION

The Principal Investigator will determine the validity of the invoice based upon the progress of the subcontractor. The Principal Investigator reserves the right to reject any invoice based upon insufficient or unsatisfactory performance. The Principal Investigator should notify the subcontractor, ORS, and SPA in the event an invoice is rejected, and provide adequate documentation detailing the lack of performance.

In the event that subcontractor shall be in breach, violation or default of any of its obligations under the subcontract and shall fail to remedy such default, the PI shall have the option of terminating this subcontract upon written notice thereof.

Upon any termination action, subcontractor shall within thirty (30) days of the termination date, submit a final invoice. The subcontractor shall be reimbursed

for all allowable non-cancelable costs and commitments incurred in the performance of this subcontract up to date of termination, not to exceed the maximum reimbursable amount set forth in the agreement.

The subcontractor will be required to furnish all necessary reports of research completed or in progress through the date of termination.

FAQ's

Are Principal Investigators required to review and approve subcontract agreements?

Prior to ORS endorsing a subcontract agreement, Principal Investigators should review and acknowledge that the terms and conditions of the award, along with any supporting documentation (i.e. budget) are acceptable.

Is the PI obligated to honor an invoice that's more than 90 days old?

In many cases awards from federal agencies, such as NIH, are made for a specific *project* period **and not budget period**. Under expanded authorities (NIH), institutions have been given more latitude to manage sponsored projects; however, we are required to be fiscally responsible.

The 90 day policy calls for the posting of expenditures and other costs within 90 days of their occurrence. The 90 day rule is not a standard established by regulation or law. It is based upon a practical standard that it is reasonable to expect that costs can be properly assigned within 3 months of their occurrence.

It's not unusual to receive invoices that are older than 90 days. It is recognized that executing subcontract agreements with other institutions often requires additional time that may extend beyond a 90-day time period. However, because the vast majority of subcontracts involve federally sourced funds, it is critical that the subcontracts are executed as promptly as possible so that expenditures can be accurately recorded. It is the responsibility of the PI to review and approve invoices in a timely manner. If the invoice is rejected or if there are any discrepancies, the department should notify Sponsored Program Accounting and the Office of Research Services as soon as possible.

SPECIAL NOTE ON FINAL PAYMENTS – Subcontract agreements typically terminate annually, at the end of the prime award's budget period. As financial reports are often required within 90 days of the prime award end date, final invoices should be received from the subcontractor no later than 60 days after the subcontract end date. The PI should work with the collaborating institution to ensure that the final invoice is received within the 60 day timeframe; Sponsored Program Accounting will assist as needed. An invoice that is received beyond 60 days may not be honored at the discretion of the Principal Investigator. Under no circumstances will an invoice be honored if received later than 90 days after the end of the prime award's project period.

What if the principal investigator is dissatisfied with the performance of the subcontractor?

The Principal Investigator will determine the validity of the invoice based upon the progress of the subcontractor. The PI reserves the right to reject any invoice based upon insufficient or unsatisfactory performance. The PI should notify the subcontractor, ORS, and SPA in the event an invoice is rejected, and provide adequate documentation detailing the lack of performance.

What documentation is required by SPA to honor a payment on a subcontract?

1. Sponsored Program Accounting must be in possession of a fully-executed copy of the subcontract.
2. An invoice from the subcontractor containing the purchase order number.
3. The signature of the Principal Investigator indicating approval.

Who has the responsibility of following up with the collaborating institution if invoices are not received in a timely manner?

The awarding department is responsible for following up with subcontractor. Sponsored Program Accounting will assist if necessary.

What if the subcontract has unspent committed funds after the final invoice has been received and paid?

If in fact it has been confirmed by the subcontractor that all obligated subcontract payments have been received, the remaining amount of the purchase order will be canceled by the Grant Accounting Manager, Sponsored Program Accounting. The PI should work with his/her SPA Grant Administrator to re-budget any remaining funds in 6580/6851 as needed. Agency approval may be required in some cases for re-budgeting.

Who's monitoring subcontracts in Sponsored Program Accounting?

Your SPA Grant Administrator will be the primary contact for each subcontract; he/she will have the primary authority over expenditure approval as all fully-executed subcontracts are maintained in the primary grant award file. The SPA Staff Accountant maintains separate files of all subcontracts and related encumbrances and payments, and reviews/approves all subcontract payments. Questions related to subcontract budgets, encumbrances, and payments/expenses can also be addressed to Sponsored Program Accounting at grntcon@luc.edu.