



Subcontracts and Subrecipient Monitoring

California Institute of Technology
Pasadena, California

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Purpose:

The purpose of this policy is to define subcontracts, identify roles and responsibilities for those requiring subrecipient monitoring, and provide guidance in fulfilling those responsibilities. In addition, the application of indirect costs on the various types of subcontracts is clarified.

Definitions:

What is a subcontract? In its broadest sense, a subcontract is a purchase, or other contractual arrangement, made under the auspices of a contract. Similar terms that are commonly used are: subaward, subgrant and subagreement. Although these can have slight nuances of meaning, they are all, legally, subcontracts.

When does Caltech issue subcontracts? There are two types of subcontracts.

1. Those issued for the purpose of obtaining commercial services, or supplies/equipment, under an existing extramural award, that are usually routine, require no special handling or prior approvals, and are issued as standard purchase orders, are known as **vendor agreements**.
2. However, in some cases, a PI may need to subcontract a part of the **programmatic effort** of the award (e.g., a portion of the research). This type of subcontract usually requires prior approval of the sponsor and requires additional effort by Caltech staff in order to get it issued. A subcontract for the transfer of substantive programmatic effort is known as a **subaward** and is subject to **subrecipient monitoring**. A subaward is issued when the PI is involved in a research collaboration with investigators at other institutions or determines that the programmatic expertise to accomplish a portion of his extramurally funded project does not exist at Caltech. Often, the technical lead for the subawardee is functionally a co-PI on Caltech's project, but resides at a different institution, and will incur costs there, for their portion of the research (e.g., salaries, tuition, equipment, supplies, travel, indirect costs, etc.).

How do I tell the difference between a vendor agreement and a subaward? Provided below is a table listing characteristics of each type of relationship:

Subaward	Vendor Agreement
Subawardee services are uniquely designed in response to each project, and not provided commercially.	Vendor provides the goods or services commercially
Subawardee technical lead is usually a scientific collaborator, or even a co-PI on the Caltech project.	Vendor operates in a competitive environment.
Subawardee retains rights to intellectual property.	Vendor retains no rights to intellectual property.
Subawardee participates in development and execution of statement of work.	Vendor provides the goods or services ancillary to the operation of the federal program.
Subawardee results are likely to be published in the scientific literature and/or subawardee is likely to be a co-author on a Caltech publication.	

In some cases it may be difficult to tell the difference between a Subaward and a Vendor Agreement. But a look at the budget and statement of work will usually provide enough information to make the determination. If you have any questions when preparing a proposal budget, please contact your Sponsored Research team for assistance. (Please note that it is in the PI's best interests that vendor agreements and subawards be identified the proposal budget as accurately as possible, since the assessment of indirect costs will be determined by the characteristics of the subcontract at the time it is issued.)

Application of Indirect Costs:

Subawards and vendor agreements will be assessed indirect costs in the following manner:

- **Vendor Agreements** - Indirect costs will be assessed on the full amount, just as with most other direct costs.
- **Subaward Agreements** - Indirect costs are only assessed on the first \$25,000 of the subaward. No additional indirect costs will be assessed on a subaward during the approved period of the award under which it was issued (e.g., during the 3 year lifespan of an NSF award). However, if there is follow-on funding beyond the originally approved period of the award (e.g., competitive renewal), then indirect costs will again be assessed, on the first \$25,000 of each subaward. It is particularly important to keep this in mind when preparing proposal budgets.

The difference in application of indirect costs between subawards and vendor agreements is specified in Caltech's Facilities and Administrative Rate Agreement with the Federal government.

Subawards and Subrecipient Monitoring:

As a prime recipient and a pass through entity of Federal awards, the California Institute of Technology (Caltech) is required to monitor the activities of subrecipients. The following is provided to assist faculty and staff in ensuring that subrecipients conduct their portions of research projects in compliance with laws, regulations, and the provisions of awards or subawards; and that project costs incurred by subrecipients are reasonable and allowable.

Governing Requirements:

The requirements for subrecipient monitoring are contained in 31 USC 7502 (f)(2)(B) (Single Audit Act Amendments of 1996 (Pub. L. 104-156)), OMB Circular A-133 (§__.225 and (§__.400 (d)), OMB Circular A-110 (§__.51 (a)), Federal awarding agency program regulations, and the terms and conditions of an award.¹

Roles and Responsibilities

Principal Investigator (PI):

- Ensures compliance with the policy for Subrecipient Monitoring.
- Makes initial determination as to whether a subrecipient or vendor relationship exists.
- Identifies subawards/subcontract programmatic activity in proposals.
- Determines the frequency and scope for monitoring programmatic activities of a subrecipient. Refer to Guidance for Subrecipient Monitoring for more information.
- Ensures subrecipients comply with the provisions of the subaward.
- Maintains support for monitoring activities.

Academic Divisions:

- Ensure that division personnel involved in financial administration of sponsored projects are familiar with the policy for Subrecipient Monitoring.
- Assist the PI in monitoring responsibilities and maintaining supporting documentation.
- Monitor awards to ensure that costs are appropriate, approved and accumulated in the accounting system.
- Monitor subrecipients deemed to have greater (subrecipient) risk.
- Notify Purchasing Services of subrecipients requiring closer scrutiny.
- Review annually subrecipient risk

¹ OMB Circular A-133, Appendix B Compliance Supplement – M. Subrecipient Monitoring, Compliance Requirements, Source of Governing Requirements.

Procurement Services:

- Maintain a system to identify current subrecipients.
- Verify whether a subrecipient or vendor relationship exists.
- Include an appropriate clause (“audit compliance”) in each subaward where the recipient is subject to the requirements of Circular A-133.
- Ensure appropriate flow down requirements are included in the subaward (subcontract) agreement.
- Ensure that subrecipients expending \$500,000 or more in Federal awards during a fiscal year meet the audit requirements of A-133.
- Review A-133 reports for subrecipients (this can be performed with the reports filed with the single audit clearinghouse) or obtain an annual certification by the subrecipients for compliance with A-133.
- Where findings exist, follow up to ascertain if the Caltech award is impacted.
- Maintain records to support an annual certification process of subrecipients.
- Follow-up on instances of subrecipients’ noncompliance with annual certification requirements.
- Notify ASIC on all instances where an A-133 report indicates material findings or noncompliance with federal laws and regulations, reportable conditions, or other findings specifically related to the subaward (subcontract) from Caltech.
- Provide ASIC with the corrective actions cited by subrecipients in response to their audit findings.
- Review annually subrecipient risk for financial activities with the respective campus PI/division personnel responsible for the subaward.
- Ensure subawards (subcontracts) are closed timely and certifications are obtained.

Office of Sponsored Research:

- Review proposals prior to submission to assure that subaward (subcontract) arrangements are appropriately budgeted in the prime award.
- Review for whether a subrecipient or vendor relations exists.
- Upon request, advise PIs, divisional administrators and central administrative departments of flow down requirements from prime award to subaward (subcontract) agreements.
- Advise central administrative departments whether subrecipient or vendor relationship exists.

Audit Service and Institute Compliance (Compliance Role):

- Provide recommendations to and support for Procurement and Payment Services on actions to be taken by Caltech when subrecipients report problematic A-133 audit findings.
- Coordinate follow up activities on instances where an A-133 report indicates material findings or noncompliance with federal laws and regulations, reportable conditions, or other findings specifically related to the subaward (subcontract) from Caltech.
- Review that the corrective action cited by subrecipients in response to their audit findings is timely and appropriate.

- Provide recommendations for sanctions on subrecipients in cases of inability or unwillingness to correct non-compliance actions.

Guidance for Subrecipient Monitoring:

Subrecipient monitoring can take on various forms and is not limited by the practices described below. The Compliance Supplement provides the following guidance for monitoring:

Factors determining frequency and intensity of monitoring:

- *Program complexity - Programs with complex compliance requirements have a higher risk of non-compliance.*
- *Percentage passed through – The larger the percentage of program awards passed through the greater the need for subrecipient monitoring.*
- *Amount of awards – Larger dollar awards are of greater risk.*
- *Subrecipient risk - Subrecipients may be evaluated as higher risk or lower risk to determine the need for closer monitoring.*

Forms of monitoring activity:

- *Reporting – Reviewing financial and performance reports submitted by the subrecipient.*
- *Site Visits – Performing site visits at the subrecipient to review financial and programmatic records and observe operations.*
- *Regular Contract – Regular contacts with the subrecipients and appropriate inquiries concerning program activities.*

Subaward versus Vendor Agreement – What rules and restrictions apply?

Subaward	Vendor Agreement
Requires prior approval of the sponsor, if not originally included in proposal.	Generally does not require prior approval of the sponsor, subject to rebudgeting restrictions imposed on the particular category of cost.
Indirect costs are assessed only on the first \$25,000 of each approved funding cycle.	Indirect costs are assessed on entire amount.
Is exempt from sole-source justification or open-bid requirements (unless issued under a federal contract).	Is subject to sole-source documentation or open-bid requirements.
Is subject to federal subrecipient monitoring requirements.	Is not subject to federal subrecipient monitoring requirements.

FAQ's:

Does the inclusion of a subaward need to be described in the proposal narrative? Most federal proposal guidelines require that a proposal that includes a subaward should describe the details of the collaboration between the subawardee and Caltech. This statement should discuss the management structure, as well as the specific work to be conducted by the subawardee.

Under which category should I include a subaward in a Caltech proposal budget? This is really up to the PI, provided the sponsor's guidelines do not provide specific instructions. However, since a proposal budget might very well include both subawards for the transfer of programmatic effort, and vendor agreements for laboratory or other types of commercial services, it would be best to clearly label each type of subcontract so that it is easier to determine how indirect costs were assessed on each.

Do indirect costs apply to vendor agreements and subawards? Yes, but differently. In the case of a vendor agreement, indirect costs are assessed on the full amount, just as with most other direct costs. However, in the case of a subaward, indirect costs are only assessed on the first \$25,000 of the subaward. No additional indirect costs will be assessed on a subaward during the approved period of the award under which it was issued (e.g., during the 3 year lifespan of an NSF award). However, if there is follow-on funding beyond the originally approved period of the award (e.g., competitive renewal), then indirect costs will again be assessed, on the first \$25,000 of each subaward. It is particularly important to keep this in mind when preparing proposal budgets. The difference in application of indirect costs between vendor agreements and subawards is specified in Caltech's indirect cost agreement with the federal government.

Do I need to obtain sponsor approval if my PI wants to issue a subaward that is not listed in the approved budget? Usually, but it depends on the terms of the award. The PI usually determines the need for a subaward at the proposal stage. Thus, the subaward is already listed in the sponsor-approved budget. However, sometimes the need for a subaward is only determined after receipt of the award. In that case, it will likely be necessary to obtain sponsor approval prior to issuing the subaward. If you are unsure, please contact OSR.