

SUBAWARD POLICY AND PROCEDURES

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Introduction

Sponsored Programs funded by external awards are generally performed exclusively by the Utah State University's (USU) own faculty, staff and students, but there are times when Principal Investigators (PI's) may wish to collaborate with other institutions or entities to complete a portion of the funded program. This kind of collaboration between different organizations, which often leads to a more sophisticated end-product, has become a common practice and is commonly implemented by means of subawards. A subaward is one of several forms of agreement issued by a University receiving a prime external award. The subaward delegates a portion of the prime award's funding, and responsibility for a portion of the work to be undertaken under the prime award, to a third-party organization or organizations participating in the sponsored project.

This document provides guidance to USU faculty and staff on the preparation, administration, and monitoring of USU-issued subawards. Its purpose is to facilitate compliance with laws, regulations, and the terms and conditions of prime awards, and to ensure that all costs are reasonable and allowable. It also provides definitions of key terms. There is a discussion on how to determine if a project requires a subaward (in the form of a subgrant or a subcontract), or a procurement action (involving a vendor agreement or a professional services contract). This document defines the administration of subawards, and describes the respective responsibilities of USU PI's, Colleges, Sponsored Programs, and Controller's Office (including Sponsored Programs Accounting and Purchasing) for the development, issuance, billing, monitoring, and administration of subawards.

Subaward Categorization

“Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of the [...] award received by the pass-through entity. It does not include payments to a contractor 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 contract.” Uniform Guidance, e-CFR §200.92.

When a subaward is issued, a three-way collaboration is created between independent parties acting at arms-length: 1) sponsor; 2) prime award recipient or awardee; and 3) subrecipient or subawardee. The third party (subrecipient/subawardee) is required to provide the resources and personnel necessary to conduct its portion of the work as an independent contractor.

An initial set of determinations must be made to categorize third parties correctly and to provide the correct framework for the work to be undertaken by them. The determining factors that must be asked of a third party are, “Is the third party truly independent?” “Is the contemplated third-party transaction merely a ‘procurement action?’” and, “Is it a subgrant or subcontract?” The following information contains the answers to such questions.

Is the third party truly independent?

If a portion of the work to be undertaken, under a prime award, is assigned to another person or entity within the prime recipient’s own organization rather than to an independent third-party organization, a subaward is not created. For example, if work to be undertaken under a prime award issued to USU is to be accomplished primarily in one college or department, with a portion of the work to be done in another college or department, an “Internal Award” is created rather than a subaward. Similarly, even if a true third-party organization is to be assigned responsibility for a portion of the work, it can only be awarded a subaward or act as a subawardee if it utilizes its own employees and resources to accomplish its portion of the work. Under no circumstances can a subawardee employ USU employees to perform the work on a subaward.

Is the contemplated third-party transaction a “procurement action?”

A subaward should not be mistaken for a procurement or vendor agreement. A vendor typically provides goods or services to many different purchasers. Subawards are issued for collaborative work closely associated with and tailored to the programmatic effort to be undertaken under the prime award. In contrast, a procurement action in the form of a professional services contract or vendor agreement is issued for the purchase of services or goods which are available generally and are of more generic applicability.

Specialized services performed by a non-USU employee (an individual, medical provider, or licensed professional such as an attorney, accountant, architect, or engineer) require a Professional Service Contract issued by the Purchasing Department in the Controller’s office.

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A Professional Services Agreement is used when purchased services involve an organizational entity but do not involve a substantive portion of the work effort of the project. For example, a Professional Services Agreement would be appropriate for the performance of repetitive tests or activities requiring little or no discretionary judgment on the part of the provider.

Note: There must be an arms-length relationship between USU and its subawardees. Under no circumstance can a subawardee employ USU employees to perform the work on a subaward.

Sponsored Programs can assist to make the determination whether the services needed require a subaward or a procurement action. The guidelines below illustrate how the determination is made.

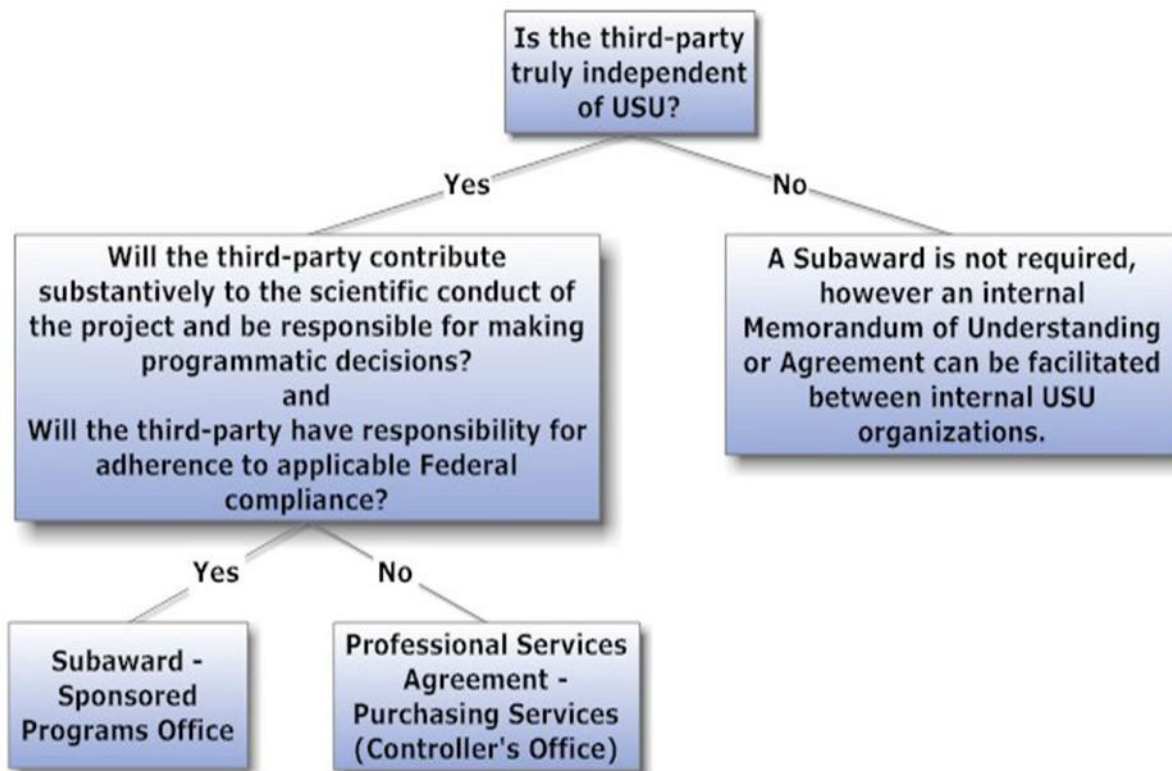


Figure 1: Determination of a subaward or other procurement action

Subawards may be called subcontracts, subagreements, or subgrants. They may also have the appearance of procurement agreements in format and language.

Is it a subgrant or a subcontract?

After determining whether the agreement should be a subaward, the next decision to make is whether it is properly characterized as a subgrant or a subcontract—subawards consist of both subgrants and subcontracts and distinguishing between the two is important since each is subject in some respects to different rules and administrative procedures. It is a distinction that is not necessarily dependent on how an agreement might be captioned or described in sponsoring agency guidelines since the terms “subaward,” “subgrant,” and “subcontract” are loosely applied and frequently used interchangeably. The correct distinction, however, is easily made by looking at the prime award—is the prime award a grant or a contract? If the prime award is a grant, then the subaward will be a subgrant; if the prime award is a contract, then the subaward will be a subcontract. Figure 2 below illustrates this concept.

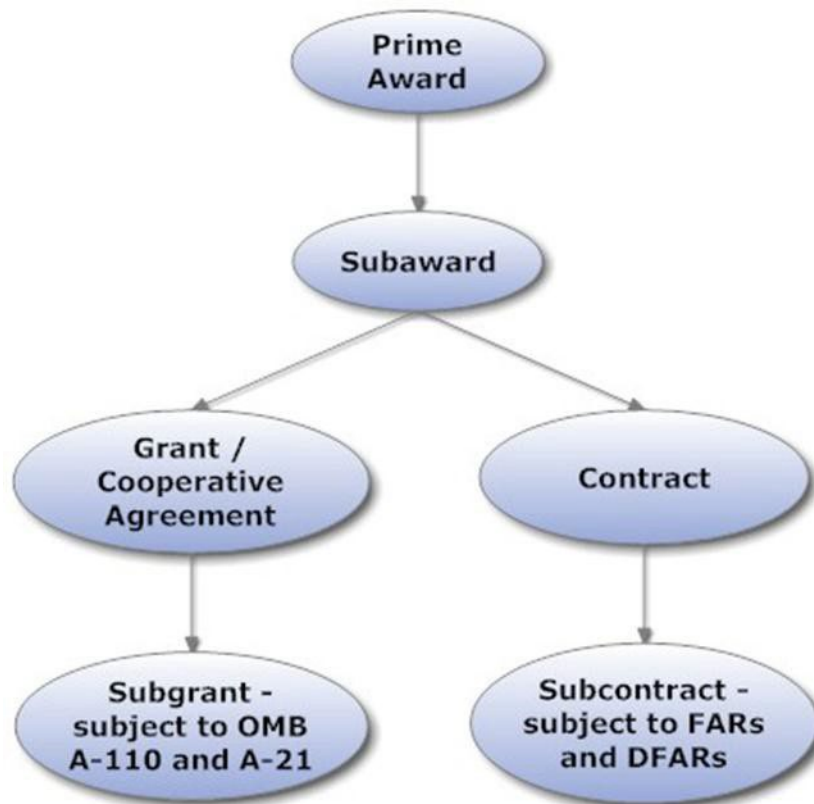


Figure 2: Subgrant or contract

The subgrant and subcontract designations are important to determine applicability of flow-down requirements and subaward monitoring. This is because subgrants, like grants, are subject to the Uniform Guidance (2 (CFR) 200), while subcontracts and contracts are not. Conversely, contracts issued by federal agencies, and subcontracts issued under federal contracts, are subject to Federal Acquisition Regulations (FAR) and applicable ancillary regulations such as DFARs, while federal grants and subgrants are not.

Administration of the Subaward

Inclusion of Subaward in the proposal

The intent to subaward a portion of the prime award should be described in the initial proposal to the sponsor, and details of the subaward, including the subaward scope of work and subaward budget, should be included in the proposal to the maximum extent possible; this practice facilitates sponsor approval of the subaward at the time of the award. If a USU proposal that includes subaward details is accepted by the sponsor, as submitted, and results in an award to USU, we accept the award as evidence of subaward approval, and sufficient sole source and cost justification for the subaward.

When a subaward is to be included in a proposal, sufficient time must be allowed to receive the subawardee proposal and budget and to discuss and negotiate the scope of work for the subawardee. The subawardee must provide a detailed scope of work, letter of intent, and budget as part of the Kualii proposal process. The budget will show all applicable categories including salaries, fringe benefits, materials, supplies, equipment, travel, and other direct costs that are necessary to accomplish the specific aspects of the project assigned to the subaward. If Facilities and Administration (F&A) costs are included in the subaward budget, such costs must be based on the subrecipient's current rate or a rate mandated by the prime sponsor in the Request for Proposal (RFP).

In order to verify the amount of F&A costs requested and to support costs when requested by the prime award, the subawardee will include a copy of their current negotiated rate agreement with their proposed scope of work, budget and letter of commitment. If the subawardee does not have a negotiated rate agreement, no F&A will be allowed.

Subaward costs are included in USU's budget as a direct cost. When calculating USU's F&A costs, the portion of each subaward contained in the proposal that exceeds \$25,000 is excluded, as required by Uniform Guidance when using the Modified Total Direct Cost type.

Sponsored Programs will complete a debarment/suspension check for each subawardee during the review of proposals prior to submission.

Note: USU calculates F&A costs only on the first \$25,000 of each separate subaward issued under any single sponsored prime award regardless of the number of budget periods involved during performance.

Subaward development after award is issued

In instances where a need for a subaward is determined after the award is made, the following guidelines for subaward development are applicable:

The new subaward must be approved by the sponsor before it can become effective. Uniform Guidance , 2 CFR Part 200 Subpart C, §200.206, requires that the Federal awarding agency review risk posed by all applicants, including subrecipients, prior to awarding funds.

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- The terms and conditions of the prime award or the regulations covering the award may provide direction and requirements for prior sponsor approval of the new subaward.

When a subaward is not included in the original proposal package and therefore not approved in the award, the PI, in collaboration with the contract administrator, must request and receive approval from the sponsor to issue such subaward.

Note: From time to time, USU may elect to engage in a site visit to a sub recipient to verify their programmatic, financial and technical fitness. If a site visit is conducted, all documentation will be kept in the applicable grant/contract file.

USU Subaward Process

PI Subaward initiation

The subrecipient's proposal documents (scope of work, budget, letter of intent) will be routed and approved as part of the Quali proposal process prior to submission to the sponsor. Once a project is awarded to USU, Sponsored Programs will work closely with the PI to issue each subaward. To initiate the subaward process, the PI must sign and complete a Subaward Initiation Form and return it to the Sponsored Programs Contract Administrator. As part of the Subaward Initiation Form, the PI must designate if the request is for a new subaward or an amendment to an existing subaward.

In addition to the above information, the PI should also include any special requirements desired for the subaward, as well as the flow-down requirements of the prime award. Once the form is completed and the additional information compiled, The PI must return the form to Sponsored Programs.

Contract Administrator Review

Subaward determination

The Contract Administrator will identify the Subaward as either a subgrant or a subcontract. Once the subaward has been identified, the Contract Administrator will prepare the subaward using standardized templates. The Contract Administrator can make changes to the template as warranted by any unique subaward requirements.

Subaward approval process

If the subaward is approved, the Contract Administrator will assign a subaward number that is associated with the prime award USU control number.

Subrecipient Review

The Contract Administrator evaluates the subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward, in accordance with Uniform Guidance, 2 CFR 200.332(b). This review includes a check to confirm that the subawardee is not debarred or suspended. The Contract Administrator then compiles the subaward documents and the appropriate attachments and sends the documents to the subrecipient for review and signature. If necessary, the Contract Administrator will negotiate terms and conditions with the subrecipient. Once an agreement has been reached, the subrecipient will sign on behalf of subrecipient organization and return the fully- executed subaward, the W-9, Subpart F Single Audit form, and a FFATA form (as applicable) to the Contract Administrator.

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Contract Administrator Final Review

Once the Contract Administrator receives the subaward and attached forms, they will perform one final review to ensure that no unapproved changes have been made to the documents and that the subrecipient is in compliance with required certifications.

If the subrecipient has had findings in the Subpart F single audit, the Contract Administrator will notify Sponsored Programs Accounting, to ensure the subrecipient has initiated an adequate plan of action to change or correct the findings.

Once everything is in order, the Contract Administrator signs and returns a fully executed copy to the subrecipient.

Amendments

When an existing subaward agreement must be revised or amended, the PI must provide a new Subaward Initiation Form to the Contract Administrator outlining what changes are needed to the subaward. Once the Subaward Initiation Form is received by the Contract Administrator, they will review the Subaward Initiation Form and prime award to ensure that any intended amendments are in compliance with USU policies and procedures, Sponsored Programs regulations, and the terms and conditions of the prime award.

Using the Subaward Initiation Form, the Contract Administrator will prepare the amendment using a standard boilerplate template, incorporating any changes or additions as necessary. The Contract Administrator will also re-evaluate the subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward, in accordance with Uniform Guidance, 2 CFR 200.332(b). General procedures for amendments are the same as for the initial subaward.

Accountant Review (Sponsored Programs Accounting)

Monitoring and issuing payments

USU will issue payment terms for subawards based on the payment terms of the USU prime award agreement. Subaward monitoring during the subaward period and subaward payments are handled by Sponsored Program Accounting. Specific questions related to this area should be addressed to the assigned accountant and/or the supervisory accountant. However, the following is a general representation of the payment and monitoring processes.

All invoices should be sent directly to the Controller's Office for review. The assigned accountant will go through a multi-step process to review the invoice and determine if it meets the terms and conditions of the subcontract. As part of this process, the assigned accountant will:

- Ensure that the subcontract has been executed and the funds have been encumbered in Banner (FGAENCB).
- Verify that the invoice period falls within the approved period of performance for the subcontract.

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- Check to see if there is sufficient funding to cover the invoiced amount.
- Make sure the costs incurred are allowable according to the terms and conditions of the subcontract.
- Verify if cost sharing is required. If it is, the accountant will verify that both the current and cumulative cost share is documented and reports.

If an invoice fails any of these steps, the accountant will contact the subrecipient to let them know why their invoice cannot be paid. Depending on the problem, it may be necessary for the subrecipient to submit a revised invoice.

If the above steps are satisfied, the accountant will update invoice information as necessary in the Controller's Office subaward database.

PI Final Review

The accountant will then send the invoice to the PI for their approval and signature. If the PI is awaiting deliverables before the invoice can be approved or has other concerns, he or she should contact the subrecipient to advise them what is required and notify the accountant that approval is being withheld until the requirements are met.

If approved, The PI should sign and return the invoice to the accountant for final review. If a change in the amount to be paid or associated Banner Index has been made, the accountant verifies that there is a valid encumbrance with sufficient funding. The accountant updates the database to show the date approved and then sends the invoice to Accounts Payable for payment. Accounts Payable sends the invoice back to the accountant who will then verify the following:

- A check was issued to the proper vendor for the correct amount, noting the check number and date paid.
- There was a de-obligation against the encumbrance for the amount paid and the correct account was charged.

The accountant updates the database to show that the above requirements were met and satisfied. The accountant then submits the invoice for scanning.

Close-out Process

The close-out process of subawards will be initiated by one of two occurrences. The first is the receipt of a "final" invoice, and the second is following the conclusion of the project as determined by the period of performance.

In either case, the Contract Administrator sends a request/concurrence letter to PI to authorize close-out of the subaward. If the PI intends to amend the subaward, then a Subaward Initiation Request Form is requested, and the amendment process is followed.

Close-out documents

Once the PI approves closeout, the Contract Administrator prepares the close-out documents based on the sponsor requirements. The subaward will only include a report of inventions document and/or a final inventory of property document if explicitly required in the prime award.

The Contract Administrator will send the appropriate close-out documents to the subaward recipient, and a copy is kept in the file. The Contract Administrator should follow up periodically until the close-out forms are signed and returned. However, in unusual circumstances, if the subrecipient is unresponsive and the lack of response will not impact our ability to report to the prime sponsor, the Contract Administrator can get close-out approval from the Sponsored Programs Director to expedite the close-out of the prime award.

Upon return of close-out documents, the Contract Administrator verifies proper signatures and any inventions and/or property acquired with funds.

Assigned Responsibilities for Subawards

Several entities at USU are involved in ensuring successful subawards and appropriate subaward monitoring. The breakout below defines the primary responsibilities for each of these entities:

- Principal Investigator (PI) and Department
- College
- Research Center Responsibilities

Principal Investigator Responsibilities

The primary responsibilities of the PI are diverse, and outlined in the USU Subrecipient Monitoring Notice Form. They oversee the performance of the subrecipient to ensure that all goals are achieved and completed in a timely manner either by phone calls, emails, site visits, meetings, or other regular contact with the subrecipient. They also conduct periodic reviews of all progress and technical reports and the monitoring of scientific progress in relation to the scope of work. When necessary, they will contact the subrecipient to resolve issues if the scientific progress or technical reports are not prepared in a timely manner or turn out to be unacceptable.

In addition to the roles stated above, they serve as the primary technical point of contact for the subrecipient during performance of the subaward and develop a viable *Scope of Work* (SOW) with the subrecipient. This entails checking whether the subaward scope of work requires modification to add funding, time or other considerations, and notify contract administrator in a timely manner so modifications can be prepared.

Next, they review, monitor, and approve invoices received from the subrecipient, which includes 1) costs that are allocable, allowable, and reasonable; 2) level of detail on invoice is detailed enough to fully

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understand the costs; 3) personally approve acceptable subaward invoices for payment and routinely review expenditure statements.

It is crucial that they clearly understand the terms and conditions of the prime award, including those that are flowed down to the subrecipient and any additional terms and conditions imposed by USU.

Lastly, they must verify that the subrecipient is meeting any cost share commitments made in the subaward and also ensure that any compliance approvals applicable to the subrecipient's scope of work are kept current throughout the life of the subaward. And they will also need to obtain detailed expense records as needed from the subawardee to substantiate expenses.

Sponsored Programs Responsibilities

Those in charge of Sponsored Programs must review proposals prior to submission to ensure that subaward arrangements are properly budgeted in the prime award. This review includes performing a risk assessment of the proposed subrecipient, in compliance with requirements imposed by the Uniform Guidance. Then, they need to determine whether a subrecipient or vendor relationship exists. Afterwards, it becomes necessary that they verify and obtain certifications that the subrecipient has not been suspended, debarred, or otherwise deemed ineligible to participate in federal programs.

If a proposal is funded, the Contract Administrator will prepare the appropriate subaward agreement and negotiate subaward terms and conditions. Working with the PI to acquire agency approval for subawards not listed in the original proposal may be necessary as well. Sponsored Programs personnel must also obtain appropriate close-out documents from the authorized official of the subrecipient.

Sponsored Programs Accounting (SPA) Responsibilities

Primary responsibilities for SPA include encumbering the subaward funds in the financial system through Banner and assisting the PI and departments with monitoring of subawards. SPA must also process invoices verifying proper PI approval has been obtained. Modifying subaward encumbrances as needed in the financial system, working through Banner, must also be dealt with. Lastly, they need to complete financial close-out documents and financial reports associated with the subaward.

Purchasing Services

Those in charge of Purchasing Services need to facilitate purchasing services agreements as per USU policy and approve sole source justifications where required. Purchasing Services is also required to issue competitive bids and perform bid analyses where needed. Then, they must supply pricing tools, including offering assistance to faculty and staff for small business subcontracting plans.

Definitions

Administrative Requirements – Common to grants and contracts in general, such as financial management, types and frequency of reports, and retention of records.

Award – Financial assistance that provides support of stimulation to accomplish a public purpose. An award can be a grant or a contract.

Contract – An award from an external agency which usually has a specific statement of work and detailed deliverables.

Cost Sharing or Matching – The value of the USU/third party contributions and/or the portion of the costs of a project or program not borne by the prime sponsor.

Equipment – Tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A subawardee or subcontractor may use its own definition of equipment provided that such definition would at least include all equipment defined here.

Grant – Award of financial assistance, including cooperative agreements, money, or property in lieu of money, by the prime sponsor to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. The grant is usually team oriented, more flexible than a contract, and the only deliverable is usually reports.

Grantee – Legal entity to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

Principal Investigator – Person primarily responsible for monitoring the technical, programmatic, and financial performance of a subrecipient.

Prior Approval – Documentation evidencing consent prior to incurring specific cost.

Programmatic requirements – In contrast to administrative requirements, these concern matters that can be treated only on a program-by-program, grant-by-grant, or contract-by-contract basis, such as types of activities that can be supported by grants or contracts under a particular program.

Recipient – The legal entity who receives the award directly from the prime sponsor; the holder of the prime award. Organizations can be recipients, but individuals cannot.

Subaward – Award of financial assistance in the form of money or property in lieu of money, made under a grant or a contract; may be called a subgrant or a subcontract.

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Subcontract – Document that formalizes an acquisition or procurement relationship with a third party to perform substantive sponsored project effort to accomplish the aims based upon a sponsored contract made to Utah State University; an agreement entered into with another institution, private firm or individual for the performance of work that is directly related to the furtherance of the scope of work of a sponsored project awarded to the University. The subcontractor is an independent contractor responsible for completion of the work described in the subcontract.

Subgrant – Award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of grant provided above.

Subgrantee – Legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Subrecipient – The recipient of a subaward; a subgrantee or a subcontractor.

Supplies – All tangible personal property having an acquisition cost of up to and including \$4,999, which is other than equipment as defined above.

Suspension – Depending on the context, either:

- Temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee/awardee or subgrantee/subawardee or a decision to terminate the grant.
- An action taken by a suspending official in accordance with agency regulations implementing Executive Order 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

Termination – Permanent withdrawal of the authority to obligate previously awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee/awardee or subgrantee/subawardee. Termination does not include:

- Withdrawal of funds awarded on the basis of the grantee's/awardee's underestimate of the unobligated balance in a prior period.
- Withdrawal of the unobligated balance as of the expiration of a grant.
- Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award.
- Voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

Terms and Conditions of a Grant or Subgrant/Subaward – All requirements of the grant or subgrant/subaward, whether in statute, regulations, or the award document.

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Third-Party Contributions – Property or services which benefit a sponsored project or program and which are contributed by non-federal third parties without charge to the grantee/awardee under the grant agreement.