



2019 Western/Southern Meeting

W203: Subrecipient Monitoring



Who are we?

Who are you?

**What are we going to
cover today?**

Who are we? Who are you?



Lead Presenter: John Sites, Higher Ed Consulting Manager, Huron Consulting Group

Co-Presenter: Diane Scott, Higher Ed Consulting Associate, Huron Consulting Group

- *How many of you do subrecipient monitoring as a part of your regular duties?*
- *How many of you are new to subcontracting and subrecipient monitoring?*
- *How many of you are from universities? Non-Profits? International organizations?*

Session Description



Description: A pass-through entity is **responsible for monitoring the programmatic and financial activities** of its subrecipients to **ensure** proper stewardship of sponsor funds. **Failure** to perform this requirement **may lead to audit findings** which may jeopardize current and future funding for the pass-through entity.

This session will provide information and guidance regarding a holistic review of all phases of interactions with a subrecipient from proposal submission to closeout. This will include the following: determination of the relationship regarding subrecipient versus contractors, the pass-through entities responsibilities, a review of roles and responsibilities of individuals and offices as the pass-through entity, conducting a risk assessment and options regarding how to manage those subrecipients that are not low risk as well as ongoing monitoring throughout the life of the subaward and closeout processes.

Learning Objectives



- ✓ Learn how to identify the differences between a subrecipient and contractor
- ✓ Understand the impact of federal regulations on sub-recipient monitoring
- ✓ Learn best practices for conducting risk assessments for subrecipients and how to manage risk mitigation
- ✓ Recognize the required actions needed to adequately monitor your institutions sub-recipients

Subrecipient vs. Contractor Determination

Subcontractor vs. Vendor (cont.)

§200.330 Subrecipient and contractor determinations.

- + (b) *Contractors*. A contract is for the purpose of **obtaining goods and services** for the non-Federal entity's own use and **creates a procurement relationship** with the contractor. See § 200.22 Contract. **Characteristics indicative of a procurement relationship** between the non-Federal entity and a contractor are when the contractor:
 - (1) Provides the goods and services **within normal business operations**;
 - (2) Provides similar goods or services to **many 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, though similar requirements may apply for other reasons.

Subcontractor vs. Vendor

§200.330 Subrecipient and contractor determinations.

- + (a) *Subrecipients*. A subaward is **for the purpose of carrying out a portion of a Federal award** and creates a Federal assistance relationship with the subrecipient. See § 200.92 Subaward. **Characteristics which support the classification** of the non-Federal entity as a subrecipient include when the non-Federal entity:
 - (1) Determines who is eligible to receive what Federal assistance;
 - (2) Has its **performance measured in relation to** whether objectives of a Federal program were met;
 - (3) Has responsibility **for programmatic decision making**;
 - (4) Is responsible for **adherence to applicable Federal program requirements** specified in the Federal award; and
 - (5) In accordance with its agreement, uses the 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.

Subcontractor vs. Vendor (cont.)

§200.330 Subrecipient and contractor determinations.

- + (c) *Use of judgment in making determination.* In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, **the substance of the relationship is more important than the form of the agreement.** All of the characteristics listed above **may not be present in all cases**, and the pass-through entity **must use judgment in classifying each agreement** as a subaward or a procurement contract.
- + The Federal awarding ***agency may supply and require*** recipients to comply with ***additional guidance*** to support these determinations provided such guidance does not conflict with this section.

Impact of Federal Regulations

Impact of Federal Regulations

§200.331 Requirements for pass-through entities.

+ All pass-through ***entities must:***

- (a) ***Ensure*** that ***every subaward*** is clearly identified to the subrecipient as a subaward and ***includes*** the following information...
- (b) ***Evaluate*** each subrecipient's ***risk of noncompliance***
- (c) Consider imposing ***specific subaward conditions*** upon a subrecipient if appropriate

Impact of Federal Regulations (cont.)

§200.331 Requirements for pass-through entities (cont.)

- + All pass-through ***entities must:***
 - (d) ***Monitor the activities*** of the subrecipient as necessary to ***ensure*** that the subaward is used for ***authorized purposes,***

Impact of Federal Regulations (cont.)

§200.331 Requirements for pass-through entities (cont.)

- + All pass-through ***entities must:***
 - (e) ***Depending upon the pass-through entity's assessment of risk*** posed by the subrecipient (as described in paragraph (b) of this section), the following ***monitoring tools*** may be useful for the pass-through entity ***to ensure proper accountability and compliance*** with program requirements and achievement of performance goals:

Impact of Federal Regulations (cont.)

§200.331 Requirements for pass-through entities (cont.)

- + All pass-through ***entities must:***
 - (f) ***Verify*** that ***every*** subrecipient is audited
 - (g) Consider whether the ***results of the subrecipient's audits***, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
 - (h) Consider taking ***enforcement action*** against ***noncompliant*** subrecipients

Impact of Federal Regulations (cont.)



Conducting Risk Assessments and Managing Risk Mitigation

Conducting Risk Assessment

§200.331 Requirements for pass-through entities.

- (b) ***Evaluate*** each subrecipient's ***risk of noncompliance***
- (d) ***Monitor the activities*** of the subrecipient as necessary to ***ensure*** that the subaward is used for ***authorized purposes***,
- (e) Depending upon the pass-through entity's assessment of risk ... ***ensure proper accountability and compliance*** with program requirements and achievement of performance goals:

How do I measure risk?

§200.519 Criteria for Federal program risk

- + General. The auditor's determination should be based on **an overall evaluation** of the risk of noncompliance occurring that could be material to the Federal program.
- + The auditor must consider criteria, such as described in paragraphs (b), (c), and (d) of this section, to identify risk in Federal programs.

How do I measure risk?

§200.519 Criteria for Federal program risk

- + Current and prior audit experience.
 - Weaknesses in internal control over Federal programs would **indicate higher risk...**
 - A Federal program administered under multiple internal control structures **may have higher risk.**
- When assessing risk in a large single audit, the auditor **must consider** whether weaknesses are **isolated** in a single operating unit (e.g., one college campus) or **pervasive** throughout the entity.

How do I measure risk?

§200.519 Criteria for Federal program risk

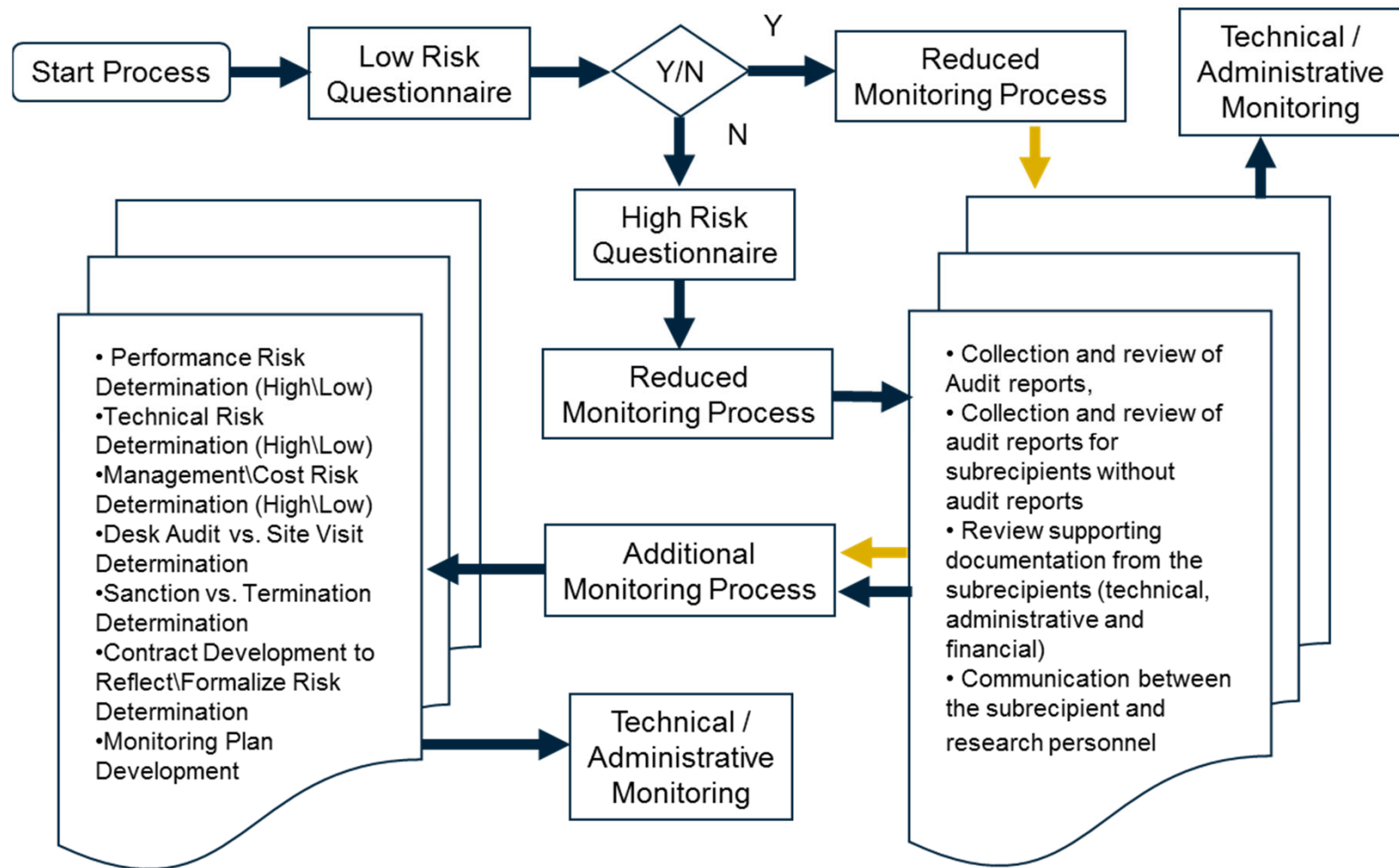
- + Current and prior audit experience. (cont.)
 - When **significant parts** of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients **would indicate** higher risk.

How do I measure risk?

§200.519 Criteria for Federal program risk

- + Current and prior audit experience. (cont.)
 - **Prior audit findings** would indicate higher risk, particular when the situation identified in the audit findings **could have a significant impact** on a Federal program or have not been corrected.
 - Federal programs not recently audited as major programs **may be of higher risk** than Federal programs recently audited as major programs without audit findings.

Example Model for Discussion



Required Actions to Adequately Monitor Sub- Recipients

Required Actions

§200.331 Requirements for pass-through entities.

- + All pass-through ***entities must***:
 - (a) ***Ensure*** that ***every subaward*** is clearly identified to the subrecipient as a subaward and ***includes*** the following information...
 - (b) ***Evaluate*** each subrecipient's ***risk of noncompliance***
 - (c) Consider imposing ***specific subaward conditions*** upon a subrecipient if appropriate

Required Actions (cont.)

§200.331 Requirements for pass-through entities (cont.)

- + All pass-through ***entities must:***
 - (d) ***Monitor the activities*** of the subrecipient as necessary to ***ensure*** that the subaward is used for ***authorized purposes,***

Required Actions (cont.)

§200.331 Requirements for pass-through entities (cont.)

- + All pass-through ***entities must***:
 - (e) ***Depending upon the pass-through entity's assessment of risk*** posed by the subrecipient (as described in paragraph (b) of this section), the following ***monitoring tools*** may be useful for the pass-through entity ***to ensure proper accountability and compliance*** with program requirements and achievement of performance goals:

Required Actions (cont.)

§200.331 Requirements for pass-through entities (cont.)

- + All pass-through ***entities must:***
 - (f) ***Verify*** that ***every*** subrecipient is audited
 - (g) Consider whether the ***results of the subrecipient's audits***, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
 - (h) Consider taking ***enforcement action*** against ***noncompliant*** subrecipients

Required Actions (cont.)



Federal Audit Clearinghouse

Internet Data Entry System (IDES)

- + The Office of Management and Budget (**OMB**) **designated the Federal Audit Clearinghouse - FAC** for the receipt of Single Audit Reports from state and local governments (later to include nonprofit organizations).
- + FAC serves as the **central collection point and repository for audit reports** prepared and submitted under provisions of the Single Audit Act of 1984 and Uniform Guidance.

Federal Audit Clearinghouse (cont.)

Internet Data Entry System (IDES)

- + States, local governments, Indian Tribes or Tribal Organizations, institutions of higher education (IHEs), and nonprofit organizations that annually **expend \$750,000 or more in federal awards must perform a Single Audit** and complete Form SF-SAC for every fiscal period during which they meet the reporting dollar threshold.

For-Profit and Other Entities

Source: §200.501 Audit requirements.

- + (h) For-profit subrecipient. Since this part **does not apply to for-profit subrecipients**, the pass-through entity is **responsible** for establishing requirements, as necessary, **to ensure compliance** by for-profit subrecipients.
- + The agreement with the for-profit subrecipient **must describe applicable compliance requirements** and the for-profit subrecipient's compliance responsibility.

For-Profit and Other Entities (cont.)

Source: §200.501 Audit requirements.

- + **Methods** to ensure compliance for Federal awards made to for-profit subrecipients **may include** pre-award audits, monitoring during the agreement, and post-award audits

Other Audit Standards

Source: §200.501 Audit requirements.

- + (c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award ***do not require a financial statement audit of the auditee***, the auditee ***may elect*** to have a program-specific audit conducted in accordance with §200.507 Program-specific audits.

Other Audit Standards (cont.)

Source: §200.501 Audit requirements.

- + A program-specific audit ***may not be elected for R&D unless*** all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

Other Audit Standards (cont.)

Source: §200.501 Audit requirements.

- + (d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends ***less than \$750,000*** during the non-Federal entity's fiscal year in Federal awards ***is exempt*** from Federal audit requirements for that year, ***except as noted*** in §200.503 Relation to other audit requirements;

Other Audit Standards (cont.)

Source: §200.501 Audit requirements.

- + ...but ***records must be available for review or audit*** by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

**What if they make things
difficult?**

What if they refuse?

§200.505 Sanctions and §200.338 Remedies for noncompliance

- + In cases of **continued inability or unwillingness** to have an audit conducted in accordance with the part, ... pass-through entities **must take appropriate action** as provided in §200.338 Remedies for noncompliance.

What if they refuse?

§200.505 Sanctions and §200.338 Remedies for noncompliance

- + If a non-Federal entity **fails to comply** with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or **pass-through entity may impose additional conditions**, as described in §200.207

What if they refuse?

§200.505 Sanctions and §200.338 Remedies for noncompliance

- + If the Federal awarding agency or pass-through entity determines that **noncompliance cannot be remedied** by imposing additional conditions, the Federal awarding agency **or pass-through entity may take one or more of the following action**, as appropriate in the circumstances:
 - Temporary **withhold cash payments** pending correction of the deficiency by the non-Federal entity or **more severe enforcement action** by the Federal awarding agency or pass-through entity

What if they refuse?

§200.505 Sanctions and §200.338 Remedies for noncompliance

- + **Disallow** (that is, deny both use of funds and any applicable matching credit for) **all or parts** of the cost of the activity or action not in compliance
- + Wholly or partly **suspend or terminate** the Federal award
- + **Initiate suspension or debarment** proceedings as authorized under 2 CFR part 180 and Federal awarding agency

What if they refuse?

§200.505 Sanctions and §200.338 Remedies for noncompliance

- + **Withhold** further Federal awards for the project or program
- + Take **other remedies** that may be legally available

Questions?

Thank You!

John Sites, CRA
Higher Ed Consulting Manager

Email : jsites@huronconsultinggroup.com
Office : 312-880-3646
Cell : 312-752-8140

Diane Scott, MBA, CRA
Higher Ed Consulting Associate

Email : discott@huronconsultinggroup.com
Cell : 202-384-3736

