

NPC Best Practices:

**Superior Subawarding and**  
**Contracting Workshop**



September 14, 2011



**Superior Subawarding and**  
**Contracting Workshop**

Purpose for Being Here:

**Our '3 Dimensional'**  
**Challenge**

- Process Dimensions
- Issue Dimensions
- Evolving Dimensions

## Some Logistics...

- We will share questions...
- We will challenge each other...
- We will face our overarching issues
  - Look for 'meta questions'
- We need to get started\* ...

\* = Look for follow-on workshop focus areas

## Purpose For Being Here: Our '3D' Challenge

- **Process Dimensions**
- Issue Dimensions
- Evolving Dimensions

PART I: KEY '**PROCESS**'  
DIMENSIONS OF THE  
CHALLENGE...

**THE THREE T'S:**

**Time, Tools and Talent**

**1. TIME: Garbage In = Garbage Out**

- The life of a grant in both pre- and post-award context
- Superior understanding of subaward internal controls guides pre-award environment
- Consistent application of internal controls is goal during post-award

## **2. TOOLS: Control or Be Controlled**

- Internal Controls\*
  - Committee of Sponsoring Organizations (COSO) of the Treadway Commission
  - 80/20 rule
- You ARE in a control environment:  
Control or Be Controlled

### **The Meta Question I:**

What are the best practice techniques for consistently applying 'internal controls' for subaward and contractor awards?

**Internal controls:  
The World of 'COSO'\***

1. Tone (control environment)
2. Risk assessment
3. Internal controls
4. Communication and training
5. Monitoring

**What's the internal control  
environment of your NPC?**

Control environment, risk assessment, control activities,  
information, communication and monitoring

## A-133 and Compliance Supplement: Exploit for Improved Internal Controls\*

- Obtain an understanding of internal controls, assess risk, and test internal controls as required by OMB Circular A-133 §\_\_\_\_.500(c)
- ‘Federal as best practice’
- Use the supplement the way we eat a loaf of bread
- Continuous process improvement – thanks Dr. Deming

## A-133 and Compliance Supplement \*

### *Types of Compliance Requirements*

A. <i>Activities Allowed or Unallowed</i>	B. <i>Allowable Costs/Cost Principles</i>	C. <i>Cash Management</i>	D. <i>Davis-Bacon Act</i>	E. <i>Eligibility</i>	F. <i>Equipment and Real Property Management</i>	G. <i>Matching, Level of Effort, Earmarking</i>
H. <i>Period of Availability of Federal Funds</i>	I. <i>Procurement and Suspension and Debarment</i>	J. <i>Program Income</i>	K. <i>Real Property Acquisition Relocation Assistance</i>	L. <i>Reporting</i>	M. <i>Subrecipient Monitoring</i>	N.** <i>Special Tests and Provisions</i>

### **3. TALENT: Operations / Program / Technical v. Business Systems**

- Why barriers between staff?
- Skill levels and checks/balances
- How to manage the great divide?
- Best practices (staff, communication, procedures)

#### *Program Versus Business Staff:*

### **How Do They Measure Up?**

PI	Grants Official (NPC Admin)
<p><i>Responsible for achievement of technical objectives</i></p> <ul style="list-style-type: none"> <li>▪ Technical</li> <li>▪ Programmatic</li> <li>▪ Operational</li> <li>▪ Schedule</li> </ul>	<p><i>Responsible for achievement of business objectives</i></p> <ul style="list-style-type: none"> <li>▪ Agreement changes</li> <li>▪ Financial</li> <li>▪ Reporting</li> <li>▪ Coordination of all business functions</li> </ul>

Purpose of being here:  
Our '3D' Challenge

- Process Dimensions
- **Issue Dimensions**
- Evolving Dimensions

PART II: KEY '**ISSUE**' DIMENSIONS  
OF THE CHALLENGE...

**The Where, How and What?**

- A. Where am I?
- B. How am I acquiring?
- C. What are my best monitoring
  - practices?

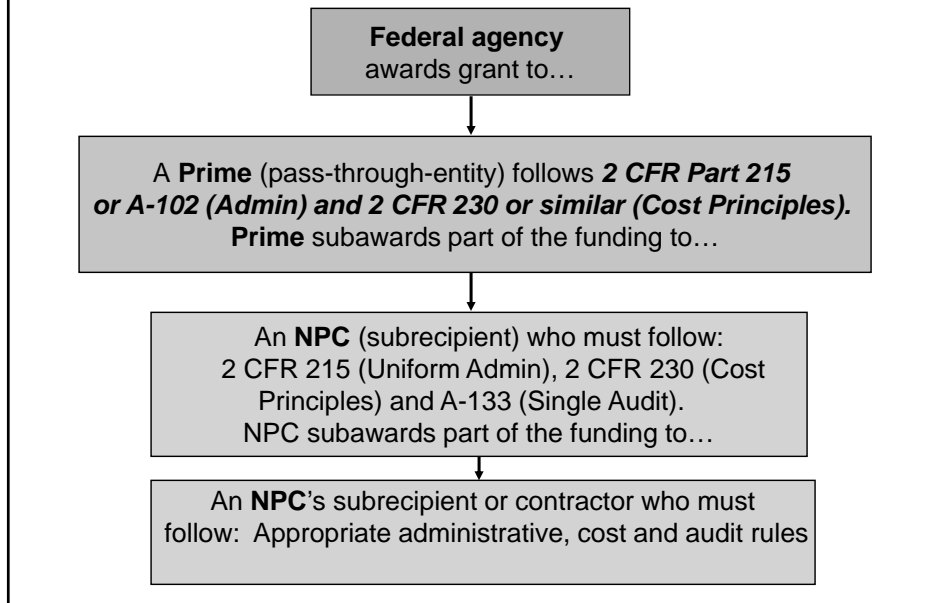
## **Part II(A): Where Am I?**

- Who are our usual funders
  - DoD, NIH, Universities, other Non-Profits, Industry Sponsors
  - How do they operate?
- Where do we fit in the process?

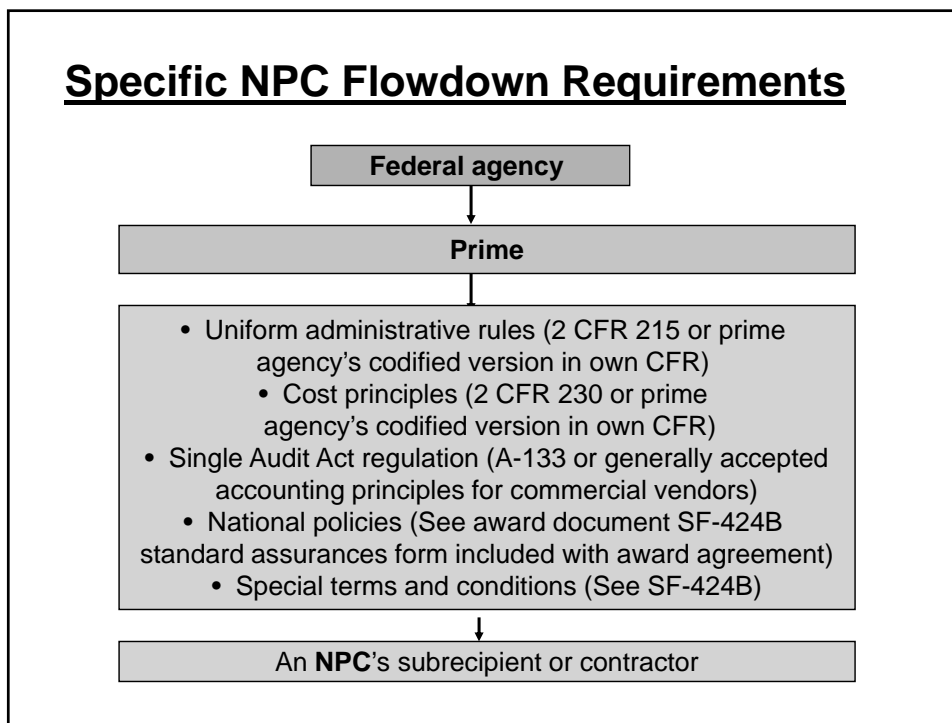
## **The Meta Question II:**

What are the key NPC Subaward  
'Situational Awareness' issues?

## General Flowdown of Requirements



## Specific NPC Flowdown Requirements



## Specific NPC Flowdown Requirements

Federal agency

Prime

- Research agencies are able to utilize a new standard core set of administrative terms and conditions on research and research-related award
- This resulted from an initiative of the Research Business Models (RBM) Subcommittee of the Committee on Science (CoS), a committee of the National Science and Technology Council (NSTC). One of the RBM Subcommittee's priority areas is to create greater consistency in administration of Federal research awards
- For the statutory requirements and the regulatory-based requirements for all Federal research agencies please access the Research Terms & Conditions, Appendix C – National Policy Requirements Matrix:  
<http://www.nsf.gov/bfa/dias/policy/rtc/appc.pdf>.

An NPC's subrecipient or contractor

## Specific NPC Flowdown Requirements

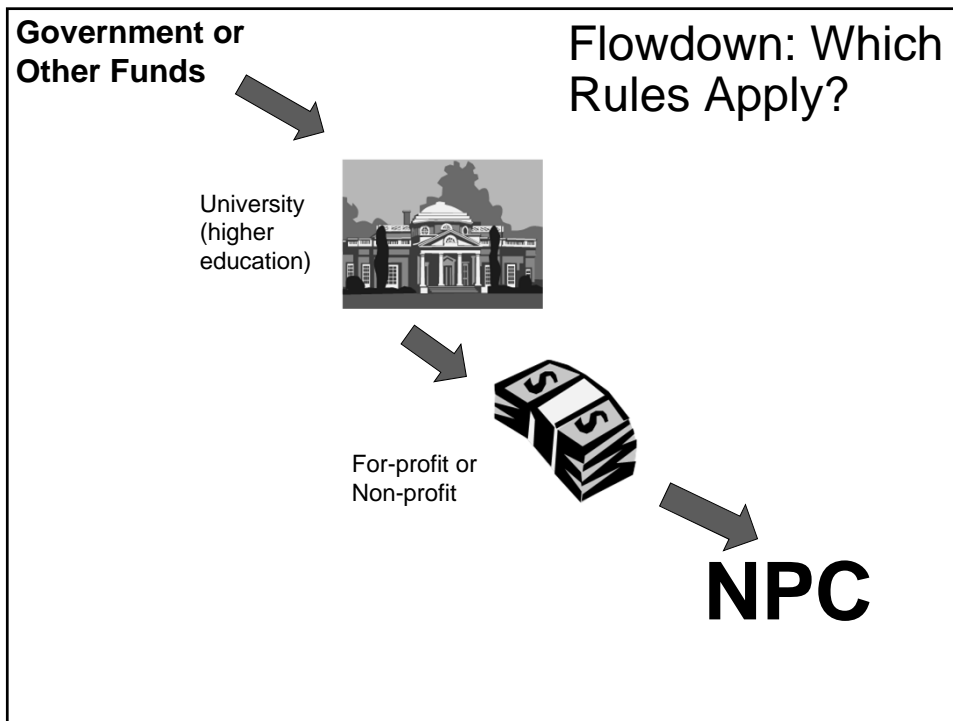
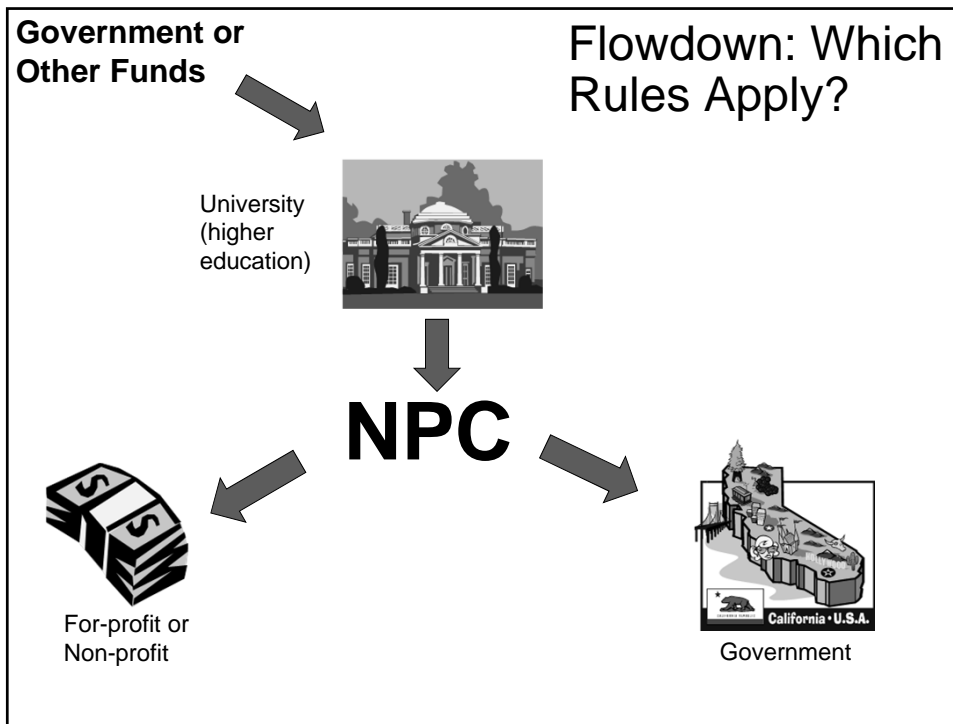
Federal agency

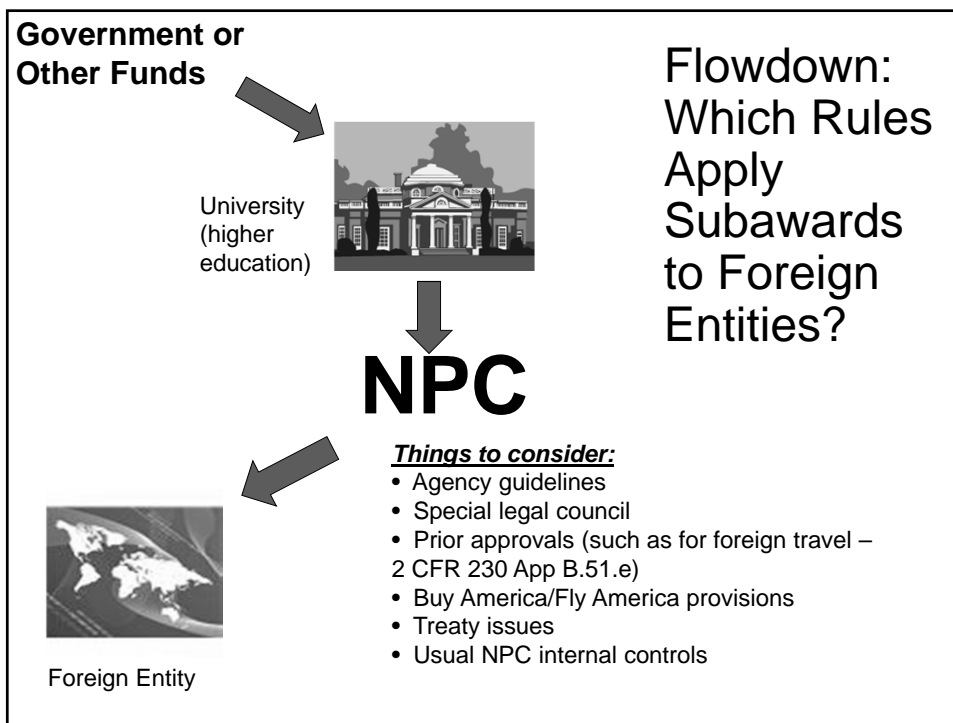
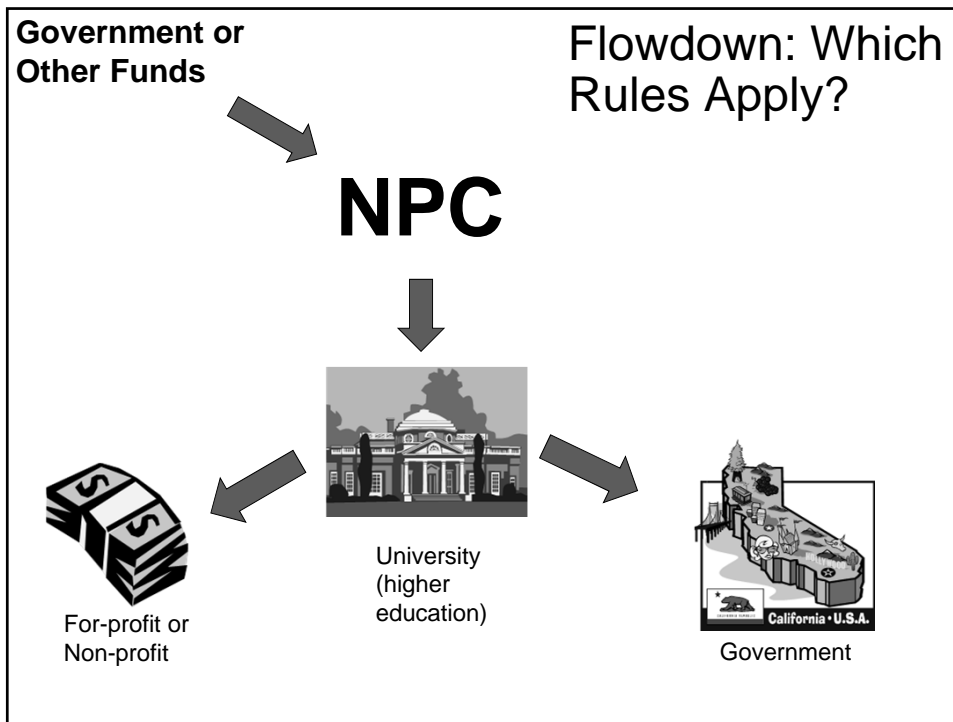
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***Special Condition: Federal Demonstration Partnership (FDP) IV Operating Procedures -- Appendix A Provision Relating to Subgrants Made Under FDP Awards***

***Note: Also a Good Template for General Management***

An NPC's subrecipient or contractor





**The Toughest Job in Grants:**  
**A Successful 'Pass-Through-Entity'\***

- Concurrently satisfy the funder, sub-recipient, vendors and auditors
- Speak and listen at once
- Speak multiple languages
- Seek best practices\*

**How to Think Like a Fed**

- Monitoring (cost, schedule and performance)
- Technical Assistance (what to ask for, when and how)
- Sanctions (what are they and how to minimize the damage)

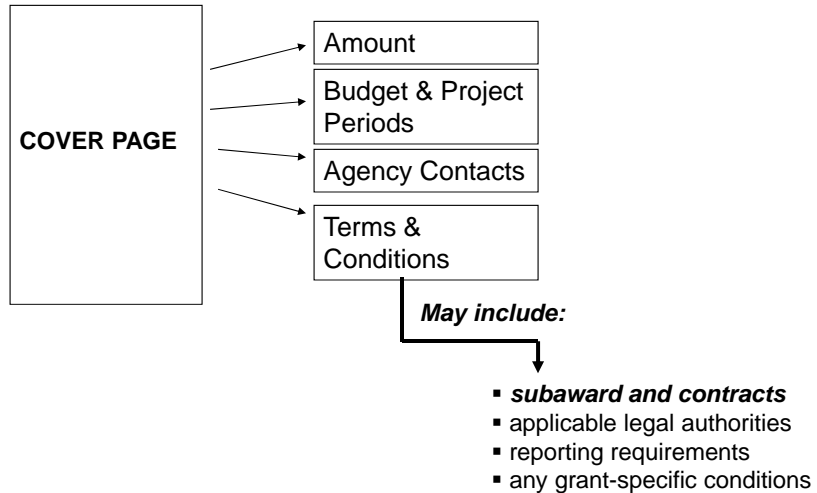
## **Understanding Your Agreement**

- NPC award document is single most important instrument to understand
- Role of prior approval and related best practices
- Review of award document

## **Part II(B): How Do We Acquire What We Need and What Are the Risks?**

Subaward v. Contract

## Grant Award Notices



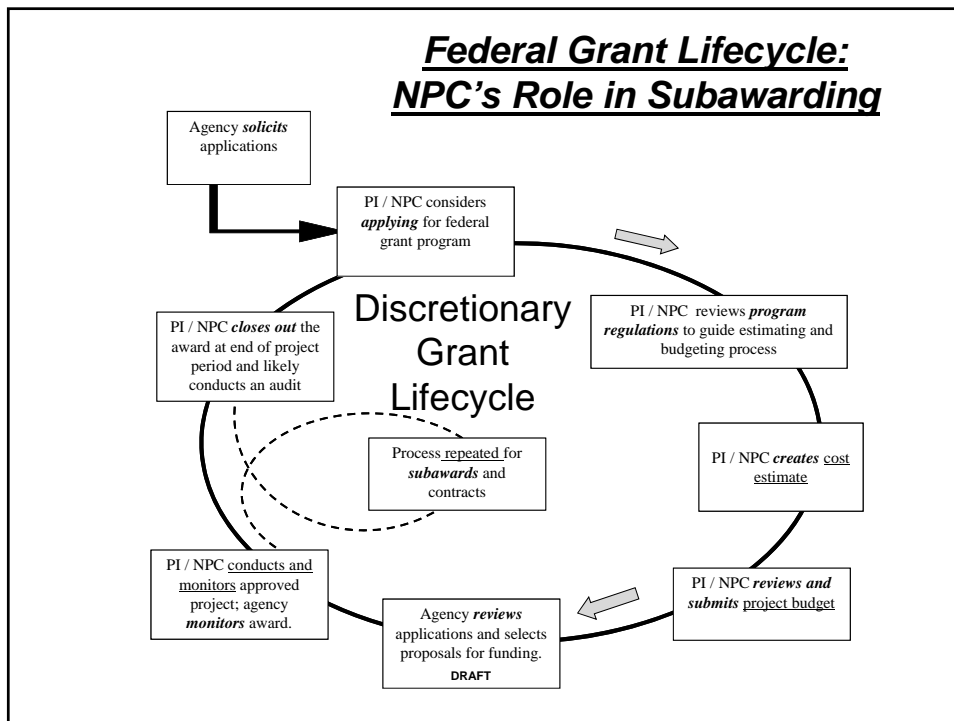
## **Pass-Through Program Relationships**

- Pass-through entity is responsible to federal government for subrecipient mistakes
- NPC (as pass-through entity) proposed budget will become all or in-part the allowable costs reflected in the grant agreement
- Standard business systems (2 CFR 215, Subpart C, paragraphs .20 through .62)
  - Purchasing, property system, financial management systems all working together

## **Pass-Through Program Relationships: Recommended Best Practices**

- Review, evaluation and upkeep of subaward practices can be learned from agency guides
  - National Science Foundation: *Grant Policy Manual* (NSF 05-131) and *Prospective New Awardee Guide* (NSF 05-29)
  - U.S. Agency for International Development (AID): *Grants and Cooperative Agreements to Non-Governmental Organizations* (303.3.9.1, April 2009)

### **Federal Grant Lifecycle: NPC's Role in Subawarding**



## Definitions

- Subaward = subgrant, etc
- Subaward = (2 CFR 215.2(ff)):  
“An award of financial assistance ...made under an award by a recipient to an eligible subrecipient...includes financial assistance...even if called a contract, but does not include procurement of good and services.”

## A Subaward is...

- Financial assistance under a grant for the transfer of **substantive, programmatic** work enabling the subawardee **discretion to carry out delegated program activities**
- Without program content or discretion within delegated duties, **sub**award environment does not exist and a contract is the appropriate instrument

(See OMB A-133 Compliance Supplement)

**Principal Purpose Test:  
Subawards v. Contracts**

*Provides goods or services for direct use and benefit of grant program* = *Contractor\**

*Receives financial assistance to carry out program supported by primary recipient* = *Subrecipient*

\* Contractor = Vendor

**Characteristics of Federal Assistance and Procurement**

*(Federal Grant and Cooperative Agreement Act of 1977 (FGCA Act), Pub. L. No. 95-224)*

	<i>Award Type?</i>	<i>Who Benefits?</i>
<i>Grants or Cooperative Agreements</i>	<i>Federal Assistance</i>	<i>Beneficiaries</i>
<i>Contract</i>	<i>Procurement</i>	<i>Awarding Entity</i>

## **Procurement 101**

- See in context of other business systems
  - This thread touches all business systems
- Think the 'Great Eight' federal standards
- Improve through strong internal controls\*
- Best Practice: Federal Transit. Admin.:
  - Procurement Review, Chapter 3 Questions @ [http://www.fta.dot.gov/funding/oversight/grants\\_financing\\_1145.html](http://www.fta.dot.gov/funding/oversight/grants_financing_1145.html)

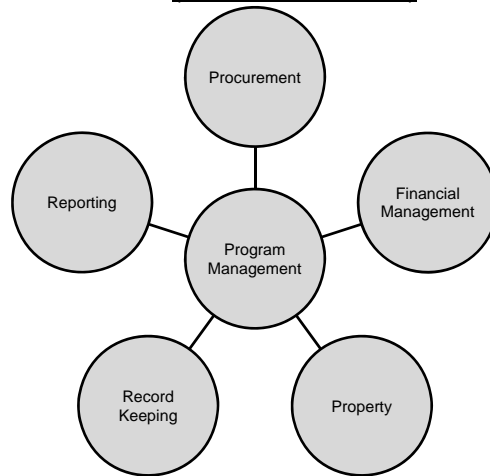
## **Federal Procurement Standards: What Are They?**

(2 CFR 215.40 - .48)

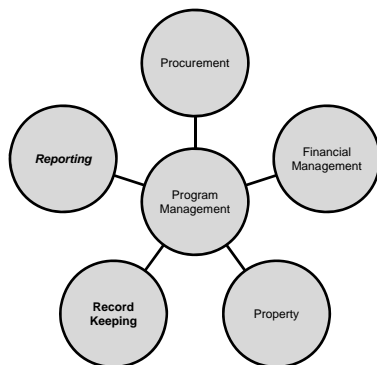
- Recipient responsibilities
- Code of conduct
- Competition
- Procurement procedures
- Cost and price analysis
- Procurement records
- Contract administration
- Contract provisions

## Grant Business Systems: An Integrated View

(2 CFR 215.20 - .53)



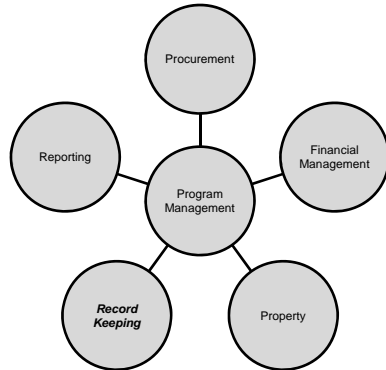
## Grant Business Systems – Beyond Procurement: Reporting



### **Reporting:**

- Cost, performance and property reporting
- See 2 CFR 215.50 - .51 for reference
- 215.50 = Performance reporting (think RPPR)
- 215.51 = Financial reporting (SF-425)
- SF-428 = Real tangible personal property report

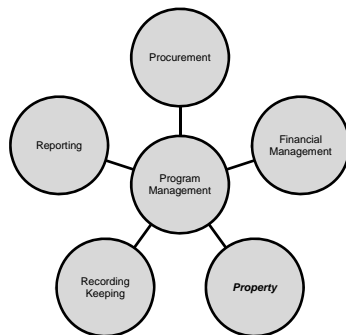
## Grant Business Systems – Beyond Procurement: Record Keeping



### **Record Keeping:**

- See 2 CFR 215.53 for reference
- 3 year rule – minimum
- Reasonable expectation of federal release
- Other than FOIA, HIPAA, and Privacy Act

## Grant Business Systems – Beyond Procurement: Property



### **Property:**

- See 2 CFR 215.30 - .37 for reference
- Most prescriptive part of standards
- Recipients liable for safeguard, maintain, document and dispose of property
- Title vests with recipient so do all responsibilities

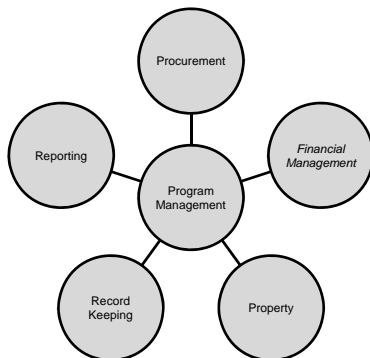
## Grant Business Systems – Beyond Procurement: Financial Management



### **Financial Management:**

- See 2 CFR 215.20 - .29 for reference
- Recipients of federal funds must have internal controls over cash management, financial reporting and allowable costs
- Funders may add additional requirements
- See grant agreement for possible add-ons

## Grant Business Systems – the Other Big 2: Travel and Personnel



### **Travel:**

- No single federal standard
- 2 CFR 230 App B.51 is best guide source

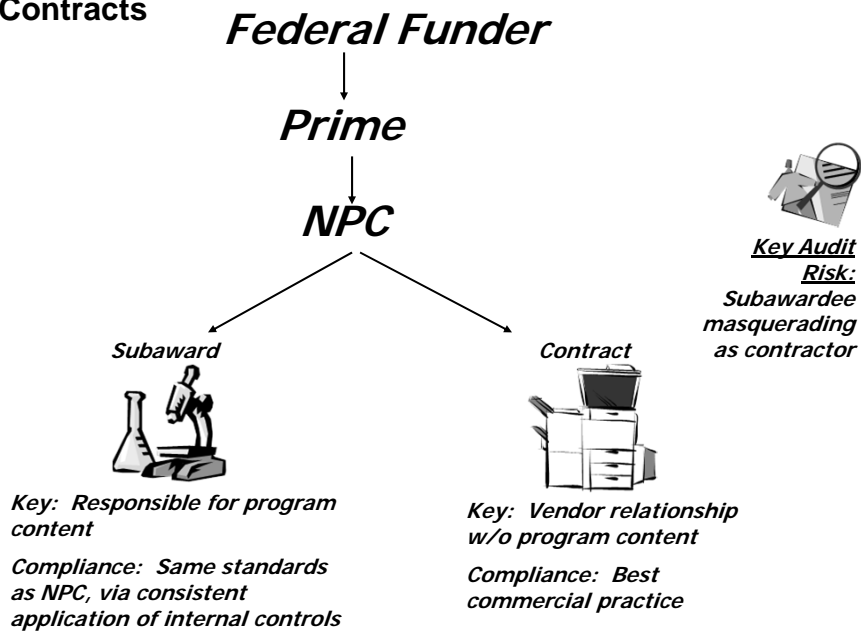
### **Personnel:**

- 2 CFR 230 App B.8.a-m
- No single federal standard
- Compensation for personnel services are key cost principle guides
- Recipient internal controls are essential

## The Meta Question III:

What is the biggest risk in misapplication of a subawarding versus contracting action?

### NPC Subawards and Contracts



## **The Nature of Pass-Through Project Awards: A Summary**

- Subaward v. contract
  - Funder to NPC to subrecipient/contractors
  - Subaward and contract have different rules attached
  - Subrecipient
    - Programmatic content
    - Responsible for all funder's rules
    - But, NPC always accountable
  - Contractor
    - Market place goods and services
    - Normal commercial best practices

### **Grant Flowdown of Requirements and Risk Factors: Subrecipient v. Contractor**

Gray = Key Issues

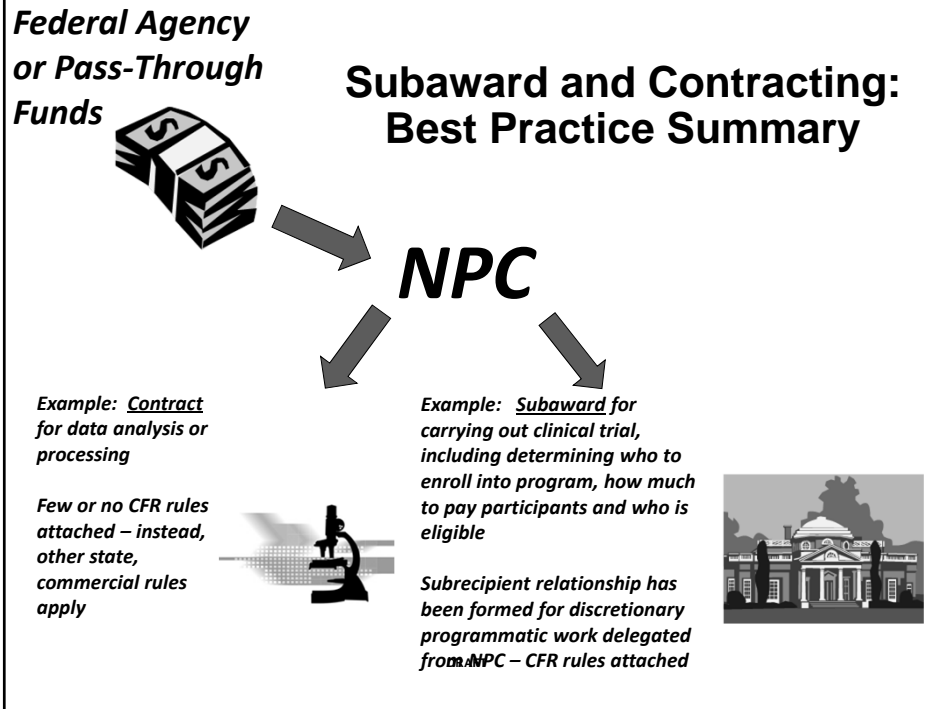
<b>Issue</b>	<b>Subrecipient</b>	<b>Contractor</b>
<b>Audit</b>	A-133 or similar	Commercial audit practices
<b>Cost Principles</b>	2 CFR 220, 225 or 230 or similar attached	Federal procurement or best commercial practices used
<b>Administrative Rules</b>	2 CFR 215 or A - 102 or similar attached	Federal procurement or best commercial practices used
<b>Performance Risk</b>	Min risk to sub (max NPC risk)	Most risk to vendor (min risk to ZSSD)
<b>Type of Effort</b>	Level of effort	Fixed price contract
<b>Payment</b>	Based on allowable costs	Cost and profit
<b>Payment Timing</b>	May be advance payment	After completion or progress payments w/permission
<b>Scope of Work</b>	Includes funder desired program content	Vendor providing commercial services
<b>Number of awards</b>	Multiple awards based on funding	One award to single vendor
<b>Privity</b>	None between funder and sub	None between funder and vendor

## **How to Distinguish Between Subrecipients and Contractors**

- **Competition**: None required for subrecipients; contracts require full and open competition (A-102 and 2 CFR 215)
- **Program content** (A-133.210(b)(5)): 'Carrying out program' equals a subrecipient

## **More on How to Distinguish Between Subrecipients and Contractors**

- **Risk**: Higher risk to NPC for subrecipient as working in a 'cost reimbursement, level of effort type environment' v. fixed price for contract
- **Rules**: Different rules attached to subrecipient or vendor (such as audit and use of the Federal Acquisition Regulation)



## Why does it matter, Part 1?

- NPC will monitor all agreements
  - All come under cost, schedule and performance monitoring, however...
- NPC monitors subaward differently than a contract
  - Subrecipients have federal assistance rules attached
  - Contracts have federal commercial acquisition rules attached

## **Why does it matter, Part 2?**

- Acquisition of services/supplies handled differently if subs or vendors
  - Commercial vendors must follow Competition in Contracting Act (CICA)
    - Must compete every action unless waiver in place
  - Subrecipient acquisition process not covered by CICA

## **Why does it matter, Part 3?**

- Subrecipients have program rules attached (administrative rules, cost principles and audit regulation)
  - Such as: 2 CFR 215, 2 CFR 230 and A-133 (and Compliance Supplement)
- Vendors (contractors) have Federal Acquisition Regulation (FAR) rules attached
  - Such as: FAR for general compliance and Generally Accepted Accounting Principles (GAAP) for audit (A-133 not applied)

## **What if We Get it Wrong: Risks of Bad Subawarding**

- Audit findings and disallowance of grant costs
- Failure to invoice or collect revenue from the funder
- Violation of federal and other regulations
- Damage to funder relations
- Improper financial reporting
- Potential commitment of funds to non-project activities

### NPC Subawards and Contracts: One More Thing...

**Program Funder**  
↓  
**NPC as Hiring Agent**

**Employee**



**Key:** Routine, supervision, direct work  
**Compliance:** Consistent treatment of HR internal controls

**Consultant**



**Key:** Infrequent, do not direct day-to-day work  
**Compliance:** Consistent treatment of HR internal controls



**Key Audit Risk:**  
Treating consultant as employee or retaining consultant but not treating as subawardee

## **Does it Matter if We Call All Award Documents 'Contracts?'**

- No, use your internal controls
- What matters is scope of work/clauses
- Not what we call them (see A-133)

**Break:  
10:00 to 10:30**

- Turn in questions (last chance to find blanks and fill out)...
- Reminder on puzzles...

### **Part III(C): What are Monitoring Pre-Award Best Practices?**

- Inform subrecipients of Federal program requirements, supplementary subrecipient rules
  - A-133, Single Audit Act, Compliance Supplement Part M
  - Share or require self-assessment best practice: National Science Foundation (NSF) Prospective New Awardee Guide (NSF 1162, dated June 7, 2011)
- Check EPLS.gov
- Include CFDA number, award number, year, title and name of awarding agency in award documents

### **The Meta Question IV\*:**

What is variance analysis, why do we care and how do we 'scale' it for our needs?

## **Post-Award: Cost, Schedule and Performance Monitoring\* (1 of 4)**

- Reporting tools = Variance analysis\*
- Best practice: Earned value system if approach 'scales' to project
- Integrated cost, schedule and performance reporting

## **Post-Award: Cost, Schedule and Performance Monitoring (2 of 4)**

- Cost: SF-425, leverage or cost share and special features
- Performance: Research Performance Progress Report coming soon
  - Now: Plan versus actual
- Schedule: No federal norm; best practices are unique to work

**Post Award: Steps of Monitoring:  
Collect Info, Analyze Info and Action  
(3 of 4)**

- Monitor based on risk assessment
- Risk factors, monitoring objectives, monitoring technique, resources available
- Monitoring techniques: Audit, reports, site visit, email, phone call
  - Based on 3 R's: risk of project, resources and regulation

**Post-Award Steps of Monitoring:  
Collect, Analyze and Act (4 of 4)**

- Use A-133 Single Audit Act documentation format
  - Condition, criterion, cause, effect, recommendation and...
- Corrective Action Plan
  - Best practice includes: Corrective tasks, responsible parties and due date

## **PART IV: Audience Q&A**

- Q&A from crowd
  - Deposited during break time
- Open to questions from audience
- Rex has prepared questions

## **The Meta Question V:**

What key subawarding topics has Rex not covered that are essential to me and hopefully others?

## **PART V: Evolving Issues**

- Data Management Planning
- IDC Rate Caps
- Ethics (Sarbanes Oxley)
- Other

## **Superior Subawarding Workshop: Closure**

- Today's action items
- The way ahead...
- Evaluations

## **PART VI: Closure**

- Thank you
- As a Vet I honor your work
- Quick 3 hours, we did a lot...more work to follow...
- Shared ideas and tools
- If in need of advice...send an email



## **Superior Subawarding Workshop: Your Thoughts**

– Largest risk area is \_\_\_\_\_

\_\_\_\_\_

– Thing I need to learn more about is \_\_\_\_\_

\_\_\_\_\_

– Other agency we need to work more with is \_\_\_\_\_  
\_\_\_\_\_ and why \_\_\_\_\_

– Have you thought about \_\_\_\_\_

Name and email address: \_\_\_\_\_(optional)

