I. Background

Florida Atlantic University is required by OMB Circular A-133, under the Audits of States, Local Governments and Non-Profit Organizations, as a pass-through entity to monitor subcontracts. A subcontractor, as defined by OMB Circular A-133, is a non-Federal entity that receives Federal awards from a pass-through entity to carry out a Federal program.

II. Purpose

Establish uniform subcontract and monitoring procedures for both Federal and Non-Federal awards in order to provide guidance and to ensure compliance with OMB Circular A-133, OMB Circular A-21, OMB Circular A-110, university policies and state regulations.

III. General Statement

Research Accounting is available to answer questions and provide assistance regarding the requirements of the Subcontract and Monitoring Policy.

IV. Policy

A. Determining a Subcontractor:

The Principal Investigator (PI) is the expert in determining whether a subcontractor is necessary for the performance of a project. Subcontracted work is generally conducted at another institution or company and usually has a
budget for salary/fringe benefits, supplies, etc. The sponsor requirements/terms and conditions are passed down to the subcontractor via written agreements and compliance must be monitored.

1. Determining if the service being provided is from a consultant, vendor or subcontractor:

<table>
<thead>
<tr>
<th>Category</th>
<th>Consultant</th>
<th>Vendor</th>
<th>Subcontractor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of work</strong></td>
<td>A company or an individual that provides advice, expertise, consulting, training or related professional services for specified matters (work for hire)</td>
<td>Performs services or provides goods (no discretionary judgment) such as lab testing that is a part of regular business operations and are available to many different purchasers or customers</td>
<td>Completes work promised and analyzes results found; performance is measured against the scope of work</td>
</tr>
<tr>
<td><strong>F&amp;A (Indirect Costs)</strong></td>
<td>F&amp;A costs apply to entire amount</td>
<td>F&amp;A costs apply to entire amount</td>
<td>F&amp;A costs apply only to the first $25,000 of the subcontract regardless of the time it takes to research the $25,000 figure</td>
</tr>
<tr>
<td><strong>Principal Investigator</strong></td>
<td>Person conducting the work is identified, but has no programmatic decision making</td>
<td>Person conducting the work is not necessarily identified</td>
<td>Investigator is identified and is responsible for programmatic decision making</td>
</tr>
<tr>
<td><strong>Compliance</strong></td>
<td>N/A</td>
<td>N/A</td>
<td>Responsible for adhering to applicable program compliance requirements i.e., OMB Circulars, agency regulations, etc.</td>
</tr>
<tr>
<td><strong>Technology Transfer</strong></td>
<td>Title to all inventions and discoveries made by the Consultant resulting from the work performed resides with FAU</td>
<td>No potential for patentable or copyrightable technology to be created</td>
<td>Potential for patentable or copyrightable technology to be created through the project; entity has the right to protect technology</td>
</tr>
<tr>
<td><strong>Publications</strong></td>
<td>N/A</td>
<td>N/A</td>
<td>Publication of results are expected; investigator to author or co-author</td>
</tr>
<tr>
<td><strong>Cost Sharing</strong></td>
<td>N/A</td>
<td>N/A</td>
<td>May be providing cost sharing or matching funds</td>
</tr>
<tr>
<td><strong>Agreement Type</strong></td>
<td>Fixed (Daily or hourly rate)</td>
<td>Fixed</td>
<td>Cost Reimbursable (typically)</td>
</tr>
<tr>
<td><strong>Restrictions</strong></td>
<td>*FAU staff and faculty “cannot” be a consultant unless work is outside their normal job. *Federal funds “cannot” be used to pay for federal consultants</td>
<td>N/A</td>
<td>Refer to sponsor terms and conditions of the award document, agreement, contract, etc.</td>
</tr>
<tr>
<td><strong>Documents</strong></td>
<td>N/A</td>
<td>N/A</td>
<td>Letter of Intent (LOI) – Proposal stage Scope of Work (SOW) – Proposal stage Detailed Budget – Proposal stage IDC Rate Agreement – Proposal Stage Subcontract Application – Executed Award e Financial Profile – Executed Award</td>
</tr>
</tbody>
</table>
A formal bidding process is available; refer to the University’s Purchasing Manual at (http://wise.fau.edu/purchasing/files/Purchasing_Manual.pdf). The Purchasing staff webpage is available at (http://wise.fau.edu/purchasing/contact.php) or contact the Purchasing Office directly at (561) 297-3080 regarding questions.

B. Subcontractor Eligibility and Approval:

All potential subcontractors are required to fill out a Subcontract Application Form http://www.fau.edu/research/docs/forms/researchacct/application.doc regardless of the funding type. The application includes but is not limited to: PI contact, Scope of Work (SOW), Detailed Budget and Financial Profile.

Note: Only at proposal submission, will a Letter of Intent (LOI) will be requested from named subcontractors.

1. The PI reviews the Subcontract Application and submits a completed Subcontract Verification Form – Proposal Review http://www.fau.edu/research/docs/forms/researchacct/proposal_review.doc. This verification confirms that the proposal submitted meets the project requirements in order to conduct the research project and the budget submitted is allowable, allocable, reasonable and appropriate for the work to be performed.

2. Upon receiving both the Subcontract Application Form and Subcontract Verification Form, Sponsored Programs will review these forms to determine eligibility, by completing a Subcontract Risk Assessment Form http://www.fau.edu/research/docs/forms/researchacct/risk_assess.doc. This document is used as a checklist to review the following areas (Note: this listing is not inclusive):

a. Determine if the service being provided is from a consultant, vendor or subcontractor.

b. Verify whether or not the organization is debarred by using the Excluded Parties List website at (http://www.epls.gov/). If the subcontractor has been debarred, they are not permitted to receive Federal funds. Sponsored Programs will notify the PI if the subcontractor is ineligible.

c. Verify the Specially Designated Nationals List (SDN) at (http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml). If a potential subcontractor is listed on this website, they are not permitted to receive Federal funds.

d. Perform a budget evaluation (cost analysis) on the detailed budget to determine if the funds requested are allowable, allocable and reasonable.

e. Review the organizations most current A-133 Audit for material weaknesses, reportable conditions and findings (if applicable). If needed, Research Accounting will provide assistance in reviewing this section.

f. Determine if there are export control issues.
g. Assess the level of risk associated with the proposed subcontractor (Low, Medium, High):

The risk assessment ‘may’ be assigned as follows:

- **Low** – the subcontractor is with another educational institution that consistently has good A-133 reports with no potential audit findings
- **Medium** – the subcontractor has previous A-133 findings or failed to submit timely programmatic reports
- **High** – lack of documented internal controls, no previous experience with subcontractor, foreign institution, no audited financial reports, subcontract is for more than 75% of the award (Note: requires additional approval from General Counsel)

3. Sponsored Programs will inform the PI if approval is denied or if the risk level assessed is high.

4. With an award notification and approval in place, Sponsored Programs will negotiate an agreement with the subcontractor.

5. Sponsored Programs will prepare the subcontract agreement for execution.

6. Once executed, the Principal Investigator or designee will need to submit a University Requisition along with a Sponsored Programs Exemption Form [http://www.fau.edu/research/docs/forms/sponsoredprogs/sp_exemption.pdf](http://www.fau.edu/research/docs/forms/sponsoredprogs/sp_exemption.pdf) (if applicable) to Research Accounting for approval. The requisition will then be forwarded to Sponsored Programs for approval and forwarded to Purchasing for final processing.

C. Monitoring Subcontracts (**Federal and Federal Flow-Through Only**):

1. The Principal Investigator is responsible for the following subcontract monitoring areas:

   a. Establish and maintain channels of communication with the subcontractor.

   b. Perform on-site visits, if applicable. These visits would be conducted to evaluate compliance with the scientific objective of the project.

   c. Review that invoices are:

      1. Submitted in a timely manner; and
      2. Invoices are approved by the PI to be forwarded manually or electronically via email to Accounts Payable for payment.

   d. Ensure that expenses are:

      1. Allowable, allocable and reasonable (refer to the Criteria for the Allowability of Costs on Federal Awards)
2. Incurred within the period of performance;
3. Aligned with technical progress; and
4. Cost-sharing is appropriately reflected, if applicable

e. Review technical progress to ensure that performance goals are achieved; and identify any problems in carrying out the project. In some cases, subcontract terms may require specified deliverables in addition to or in lieu of technical reports.

f. The PI is required to fill out a Semi-Annual Subcontract Verification Form [http://www.fau.edu/research/docs/forms/researchacct/semiannual.doc](http://www.fau.edu/research/docs/forms/researchacct/semiannual.doc) issued by Research Accounting; typically 6 months after the start date.

g. The PI must contact Sponsored Programs to approve and process a no-cost extension or amendment.

h. The PI must contact Sponsored Programs if changes occur with the prime agency or subcontractor. If the scope of work changes significantly, Sponsored Programs will advise whether a new or modified subcontract is needed.

i. Upon the end date of the subcontract agreement, the PI must submit a Close-out Subcontractor Verification Form, [http://www.fau.edu/research/docs/forms/researchacct/closeout.doc](http://www.fau.edu/research/docs/forms/researchacct/closeout.doc) to document the PIs confirmation that all requirements were met by the subcontractor; typically 90 days after the end date.

2. Research Accounting will be responsible for the following subcontract monitoring areas:

   a. Maintain audit documentation for monitoring efforts on the following types of entities:

      1. **Non-Profit:**

         A. Issue standard letters for requesting and reviewing annual A-133 Audit Reports, if applicable.

         B. Review annual A-133 reports and document findings, if any, using a subcontract monitoring form [http://www.fau.edu/research/docs/forms/researchacct/monitoring.doc](http://www.fau.edu/research/docs/forms/researchacct/monitoring.doc).

         C. Any finding related to the project will be referred to General Council and the Director of
Research Accounting who will determine whether the subcontractor carrying out the project may need to be monitored more rigorously.

D. Research Accounting will notify the Principal Investigator and Sponsored Programs if additional monitoring will be required.

2. For-Profit:

A. Issue standard letters for requesting and reviewing annually audited financial statements, if applicable. **Note:** For-Profit entities are not required to disclose financial statements.

B. If the subcontract amount is in excess of $500,000, a discretionary audit may be performed sometime during the life of the subcontract agreement. Although these audits are generally infrequent, they are considered an acceptable monitoring practice under federal regulations; the University’s subcontracts contain a “right-to-audit” clause.

*Audit documents requested could include, but are not limited to: payroll certifications or timecards, copies of expenditure receipts and/or invoices as well as travel charges and cost share documentation, if applicable.*

3. Foreign:

A. Foreign subcontracts are associated with increased risk which may require a greater degree of review, evaluation and attention therefore; pre-award or discretionary audits may be required.

b. Research Accounting will assist the PI in carrying out their monitoring responsibilities by issuing and maintaining the Subcontractor Verification Forms for the semi-annual reviews and close-outs.

c. Document reviews of Harbor Branch Oceanographic Institute’s (HBOI) subcontract monitoring efforts may be periodically performed.

d. Discretionary audits of subcontracts are considered acceptable monitoring practices under federal regulations; the University’s subcontract agreements contain a “right-to-
audit” clause. Audits could be performed, but are generally infrequent.

D. Non-compliance of subcontractors:

Failure of a subcontractor to provide requested documentation or to address any concerns raised by the review of submitted materials ‘may’ require FAU to take the following action:

1. Suspend funding or payments until an audit is conducted; or
2. Early termination of the agreement

V. Definitions

Refer to http://www.fau.edu/research/researchacct/acctglossary.php for a list of definitions associated with subcontracts and monitoring.

VI. Accountability

The Principal Investigator, PI designee, Research Accounting and Sponsored Programs are responsible for monitoring subcontract agreements. Refer to http://www.fau.edu/research/docs/forms/researchacct/guidance_grid.doc for a summarized listing of subcontract and monitoring responsibilities.

VII. Annual Review of Procedures Manual

The Subcontract and Monitoring Policy will be reviewed annually.

POLICY APPROVAL

Initiating Authority

[Signature] Date: 11/21/13

Barry T. Rosson, Vice President for Research