UNIVERSITY OF ALASKA
UNIFORM GUIDANCE WORKING GROUP

Section Number & Name: 200.330 - Subrecipient and Contractor Determinations
Reference: A133.B210

BACKGROUND INFORMATION:

A. Does the revised guidance contain new language? ☒ Y ☐ N

Specifically describe the new language and how it differs: See attached.

Moves determination criteria from audit to administrative requirements from A-133 200.210(b), (c). Adds subrecipient monitoring tools currently in the Compliance Supplement.

B. Is the new guidance more or less restrictive than university processes? ☒ More ☐ Less

Specifically describe how it is more or less restrictive:

The uniform guidance now requires a subaward or contractor determination for all disbursements of federal funds. Federal sponsors may require recipients to comply with additional guidance to support those determinations. This may result in each sponsor having their own determination form needed for documenting determinations. If a federal agency does not provide a determination form, UA will need to develop one.

Applies to for-profit and not for profit.

C. Cite any relevant system-wide policies/regulations/procedures:

Accounting and Administrative Manual Section 100 No. D-06 Subawards and Vendor Contracts.
Accounting and Administrative Manual Section 100 No. D-07 Subrecipient Monitoring
UA Procurement Manual, 7/1/13

D. Cite any MAU-level relevant processes or manuals:

UAF- Procurement & Contract Services - Subrecipient Monitoring Policy
UAF- Office of Grants & Contracts Administration – Information Manual 2013

E. Is there an impact to electronic systems (Banner HR/Finance, Web Timesheets, Effort Reporting, etc.)? ☒ Y ☐ N

List specific system(s) impacted and method of impact:
Banner Workflow-

ACTION PLAN: Is specific action needed? ☒ Y – see below ☐ N – no action needed

Recommended Action(s):

1. SW Accounting & Administrative Manuals need to be updated to reflect the new administrative requirements as they are currently included under audit. With a focus on determinations, care should be taken to ensure terminology for procurements verses subawards are used correctly.
2. Banner workflow is used for determinations, however, it is limited to specific account codes and does not include call numbers or credit card purchases/payments. The required determination does not have a minimum dollar threshold and applies to all disbursements of federal funds. Can the Workflow process be expanded to include call numbers? How can credit cards be incorporated?
3. Current account codes included in Workflow exclude for example, 3011, 3013, 3016, 3052 and others. A full review of account codes is needed to determine those that need to be included in Workflow so the vendor vs. subaward determination can be easily made by OGCA.

UA responsible area for documentation of compliance: Wei Guo

200.330 Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. 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.

(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.

(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 non-Federal entity receiving the Federal funds:

(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

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Deleted: (a) **General**. An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs **(b)** and **(c)** of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services. ¶
(b) **Federal award**. Characteristics indicative of a Federal award received by a subrecipient are when the organization: ¶

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(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.

(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.

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(e) **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 contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the

Deleted: , and post-award audits.

Deleted: (f) **Compliance responsibility for vendors**. In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements¶