

International Subcontracting

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Partnering with Foreign Organizations

Why?

What are the benefits?

Why not?

What are the costs/risks?

When to partner with a local organization?

Common situations:

- Need to own property (real or personal) in a foreign country
- Need a local bank account
- Hiring locals or local independent contractors
- Use of chemicals, fertilizers, or other sensitive materials
- Locally dispensing medications or controlled substances
- Enrolling local subjects into a clinical study

Consult legal counsel, risk management, international compliance:

- Need legal presence in the foreign country?
- Registration for business activities?
- Other licenses and permits?

Choosing the Right Partner

- Be clear about what you need:
 - PI's relationship
 - Scope of work, accountability, timelines, etc.
 - Compliance (even if not important locally)
 - Safety and security
 - Decision making process
 - Dispute resolution process
 - Exit strategy understanding
 - Budget (cheapest may not be best...)

Choosing the Right Partner (Continued)

- International Sub Risk Assessment:
 - Stability of organization (size, establishment)
 - DUNS (if federal)
 - Annual financial statements
 - Annual audits
 - Prior government contracting/grant experience
 - Adequate accounting records/systems
 - Capable of producing invoices and supporting documentation in English
 - Records retention
 - Written policies and procedures
 - Timesheets

Question:

When subcontracting to an international institution, does your institutional risk assessment change based solely on the fact the Subrecipient is foreign?

Are all foreign subawards inherently more risky?

Question:

What methods are used to determine the financial competence of a foreign entity?

Why?

Question:

How are you obtaining audit information for international subawardees?

Question:

A portion of the work needs to be done by people on the ground where the University doesn't have an established presence.

Subrecipient or Vendor?

Question:

What governing law should you use in an international subcontract?

Why?

Additional Subaward Questions from Group?

Dr. Jones

Dr. Jones, an overwhelmingly optimistic and prolific researcher, who wears a wide-brim fedora, is not big on details. He receives a federal award involving surveying local indigenous populations. Dr. Jones wants to hire foreign universities to perform the surveys and process data.

What is required to issue a subaward to a foreign university?

Dr. Jones - Conclusion

- DUNS (not SAM.gov registration)
- Scope of Work and Budget
- Risk assessment
 - Accounting systems?
 - Invoice in English and in USD?
 - NICRA?
 - Written policies and procedures?
 - Annual audits?
 - More?

Guided Amazon River Excursion

Principal Investigator proposes a federally funded grant with a small (\$25k) subaward to a small, foreign non-profit entity. The proposed subaward scope of work is for: “introducing the PI to the indigenous people along the Amazon River.”

Is a subaward appropriate here?

What is the subawardee doing?

How is subaward to get paid?

Amazon River - Conclusion

- After discussing with PI, University learned that entity was simply facilitating relationships. Additionally, entity did not have a bank account.
- Recommended Solutions:
 - Issue PO to buy and install radios;
 - Issue PO to hire a translator for the document reviews;
 - Use an Expense Advance to rent/hire a boat and purchase food and gas; and
 - Issue an MOU to the non-profit entity to “shore up” the relationship

Super-duper PI

PI is very involved and always wants to do the right thing. PI's proposed project involves a foreign subrecipient with longstanding ties to university and personal ties to PI. Because university has never subcontracted with sub before, they are designated as high-risk and additional invoicing requirements are included in the subaward. Because of the ties, PI asks to be the primary contact on all communications between sub and university. After subaward is set up, core office learns that subrecipient didn't understand and couldn't comply with the additional accounting and invoicing requirements.

How could this situation have been avoided?

Super-duper PI - conclusion

- When an institution is identified with elevated risk, PTE's often impose additional invoicing requirements. However, risk mitigation tools should have been implemented here beyond additional invoicing. For example, PTE could have provided additional training and guidance on the accounting and invoicing requirements.
- Further, core offices might consider independently evaluating proposed subrecipients and not rely on the well-meaning relationships of PI.