

University of Louisiana System

**Title: PRIVATE GRANT AND FEDERAL FUNDS
*DELEGATION OF AUTHORITY FOR RESEARCH SUBCONTRACTS***

Effective Date: October 24, 2008

Cancellation: None

Chapter: Finance

Policy and Procedures Memorandum

Many institutions in the UL System are experiencing growth in external funding for research and sponsored programs; funds awarded to our universities currently exceed \$71 million, a 28% increase from Fiscal Year 2000 awards of \$55.9 million. It is anticipated that continued increases in these funds will necessitate the frequent use of delegated authority for subcontracting as university faculty collaborate and share knowledge and resources.

Under Louisiana Revised Statutes 39:1481 et. seq., the Office of Contractual Review has the power and authority for governing the procurement and management of all professional, personal, consulting and social service contracts. No contract shall be valid until it has first been executed by the head of the using agency and the contractor and has been approved in writing by the director of the Office of Contractual Review. However, LA R.S. 39:1482K states that these provisions shall not apply to contracts of an institution of higher education to which the director of the Office of Contractual Review has delegated authority to procure services with private grant funds or federal funds. Such delegation has been granted to the University of Louisiana System.

In order to enhance the research posture of the universities comprising the UL System, the System Office is delegating authority to the University Presidents or their designees for private grant funds and federal research sub-grants which total less than \$100,000.

This Policy and Procedures Memorandum will provide guidelines for a system-wide delegation of authority for use on research funding that requires subcontracts in an amount up to \$100,000. The use of a delegation of authority and a common subcontract template will provide assurances that the subcontract language is in compliance with the

provisions of the Administrative Procedure Act and Office of Contractual Review guidelines.

1. The University must enter into a Subcontract Agreement with the contractor.
 - a. Subcontracts issued for amounts up to \$100,000 may be submitted to the President of the University or his designee for his review and approval.
 - b. Subcontracts in excess of \$100,000 must be submitted to the University of Louisiana System for review and approval by the System Vice President for Business and Finance
2. The recommended Subcontract Agreement which has been approved by the Office of Contractual Review is found in *Attachment 1* of this Policy and Procedures Memorandum.
 - a. All Subcontract Agreements should contain, at a minimum, all **applicable** provisions of the agreement found in *Attachment 1*.
 - b. Additional terms and conditions may be added as required by the scope of work and grant requirements.
 - c. Substantive modifications to the contract format must be approved by the System Vice President for Business and Finance.
3. For Federal Grant Awards, all federal laws with regard to competitive bidding requirements for procurement of research services must be followed. Procurement of services made under this delegation of authority shall be in accordance with the following state laws:
 - a. Professional and Personal Service contracts do not require competitive bidding (in accordance with LA R.S. 39:1494 and 1495).
 - b. Consulting Services with a total maximum amount of compensation of \$49,999 or less may be awarded without the necessity of competitive bidding.
 - c. Subcontracts shall not be artificially divided so as to exempt them from the competitive bidding requirements or System Office review and approval.
 - d. There is no prohibition on multiple awards to a single contractor as long as the awards are made under separate grants.
4. Institutions must ensure subcontractors' compliance with all applicable state and federal audit requirements. University management shall obtain and review a copy of all audit reports.
5. Institutions will be required to submit bi-annual reports to the UL System Office identifying any contracts issued under the authority of this PPM. Reports will be due March 30 and September 30 of each year. Reports shall include, at a minimum:

- a. Project Name and Federal Award Number
- b. Contractor Name
- c. Contract Amount
- d. Contract Period of Agreement

Policy References:

Louisiana Revised Statutes

Review Process:

System Office Staff
Presidents
Vice Presidents for Business and Finance
University Research/Grant Officers
Board of Supervisors
Legal Counsel

Distribution:

University Presidents
Vice Presidents for Business and Finance

ATTACHMENT 1

Subcontract Agreement

Under a Federal Grant /Award/Cooperative Agreement With **(Name of Institution in the University of Louisiana System Ex: University of Louisiana, Southeastern Louisiana University, Nicholls State University, etc.)**
and

(Legal Name of Subcontractor)

PART A. General Conditions

This Subcontract Agreement, hereafter referred to as the Agreement, entered into by The Board Of Supervisors of **(Name of Institution in the University of Louisiana System)** on behalf of the **(Name of Institution)** _____ represented herein by its duly authorized representatives as set forth on page ___ below, hereafter referred to as **(Short Name of Institution Ex: ULL, SELU, NICHOLLS, etc.)**, and **(Legal Name and Full Mailing Address of Subcontractor)**, _____, hereafter referred to as the Subcontractor, establishes policies and procedures for the participation of these institutions in the project entitled: **(Name of Project Listed in Award Notice/Cooperative Agreement)** _____:

Federal Award Number: _____ awarded to **(Short Name of Institution)** by the **(Name of Federal Agency Making Award to Short Name of Institution)**, _____

Unless otherwise changed or modified pursuant to an Exception Addendum as defined in Part F(6) hereof, the parties agree as follows:

1. The Standard Provisions of the Federal prime grant award/Cooperative Agreement also apply to this Agreement. Specifically, in order of precedence, they are: (1) Legislation: 42 USC 241; (2) Regulations: 42 CFR Part 52; (3) PHS Grants Administration Manual Chapters in effect on the beginning date of this Agreement; (4) PHS Grants Policy Statement in effect on the beginning date of this Agreement; (5) 45 CFR Part 74.

2. The Period of Performance for this Agreement shall begin _____ and shall not extend beyond _____ unless the period is extended by amendment in writing of this Agreement.

3. The Principal Investigator for this Federal grant/award/Cooperative Agreement, and for this Agreement is **(Name of Principal Investigator)** _____, of **(Short Name of Institution)** _____, who will be responsible for the overall conduct and management of the project.

4. Subcontractor's Senior Investigator for the project at Subcontractor's institution will be responsible for all aspects of proposed work to be performed by Subcontractor and Subcontractor has designated **(Name)** _____ to serve as Senior Investigator.

5. Cost: **(Short Name of Institution)** agrees to reimburse the Subcontractor from grant project funds for actual expenditures during the effective time period, but not to exceed the amount of \$_____ (_____ Dollars), unless the parties agree in writing to revise this amount.

6. Invoices: All invoices to be sent pursuant to Part C (2) below shall be sent to _____ **(Name/Title of (Short Name of Institution) designee to receive invoices for payment):**

PART B. Scientific Conditions and Statement of Work

The Principal Investigator will be responsible for the overall scientific conduct of the research project and will carry out those studies to be done at **(Short Name of Institution)**.

The Senior Investigator will be responsible for those aspects of the study to be conducted by the Subcontractor and shall exert his best efforts to provide the work as indicated in the grant proposal referenced in Part A of this Agreement, and as set forth in Statement of Work in Appendix A, attached hereto and incorporated herein by reference.

PART C. Financial Conditions

1. Allowable Costs

a. The authorized amount will cover direct and indirect costs of the research, as detailed in the attached budget which becomes a part of this Agreement as Appendix B, attached hereto and incorporated herein by reference.

b. The allowance of direct costs will be in accordance with applicable DHHS Cost Principles and applicable fiscal policies and procedures of the Subcontractor, provided such policies and procedures are in compliance with sponsor guidelines.

c. All travel shall be reimbursed in accordance with PPM-49 (Louisiana General Travel Regulations), or if the subcontractor is governed by similar regulations of another state, in accordance with those regulations.

2. Submission of Invoices and Places of Payment

Once each month, on the fifteenth (15) day of the month, or as mutually agreed upon by both parties, the Subcontractor shall submit to **(Short Name of Institution)** an invoice for payment. The invoice shall show current period and cumulative expenditures, itemized by major budget category as described in Appendix B, and shall be in the format described in Appendix C which is attached hereto and incorporated herein by reference. The final invoice shall be marked as such, and submitted within sixty (60) days of the

termination of this Agreement.

PART D. Other Administrative Conditions

1. Record Retention

Subcontractor agrees to retain all books, records, and other documents relevant to this Agreement and the funds expended hereunder for at least three (3) years (L.R.S. 44:3 Preservation of Records) after final payment, or as described in 45 CFR 74:21(b), whichever is longer. Subcontractor is deemed to be a subcontractor receiving funds under a Federal award, and as such, Subcontractor shall be responsible for conducting any audit required by the Federal agency providing funds to Subcontractor via this Agreement, in the time and manner prescribed by the Federal funding agency. Subcontractor shall furnish a copy to **(Short Name of Institution)** of any such required audit.

2. Patents

Each institution shall retain title to each invention conceived or reduced to practice as a result of the performance by each party of its respective work under this Agreement and the Grant referred to in Part A hereof and in accordance with the subcontracting provisions of 35 U.S.C. 202-204 and the government-wide regulations 37 CFR 401, as implemented in 45 CFR 6 & 8. Any invention made or first reduced to practice by the Subcontractor in the performance of this Agreement must be disclosed within thirty (30) days to **(Short Name of Institution)** which in turn shall disclose the invention to the funding agency, as required.

3. Reporting Requirements

A cumulative financial report is to be sent to the address given in Part A (6) above within sixty (60) days of the completion of this Agreement. Reports of all scientific findings related to the project should be sent to the Principal Investigator when requested and in time to be included in annual reports and the final report to the funding agency, as required. In addition, the Subcontractor agrees to provide **(Short Name of Institution)** documentation necessary for **(Short Name of Institution)** to complete any additional reports required by DHHS (such as human subject assurances).

5. Liability

The Subcontractor shall at all times be considered to be an independent contractor and shall not hold himself/herself out as an employee of **(Short Name of Institution)**. Each party shall be solely liable for any claims, actions, demands or damages arising out of its performance of this Agreement.

6. Publication and Copyright

Each party shall be entitled to freely publish the results of its research carried out pursuant to this Agreement or the Grant referred to in Part A hereof. Disposition of any copyrights or any copyrightable material shall be determined by the policy of the institution with which the principal author is affiliated.

7. Termination

a. Either party shall have the right to terminate, in whole or in part, this Agreement by sending written notice of termination to the other 30 days prior to the effective date of such termination.

b. It is expressly understood and agreed that in the event that the Grant is terminated or the funding thereunder ceases, **(Short Name of Institution)** may, at its option, terminate, in whole or in part, this Agreement by sending written notice of termination to the Subcontractor.

c. Upon notification that this Agreement has been terminated, whether pursuant to paragraph (a) or (b) of this Paragraph 7, the Subcontractor shall immediately stop all work under this Agreement on the date and to the extent specified in the notice of termination. The Subcontractor shall not place any orders or subcontracts for materials, services, or facilities, except as may be necessary for the completion of such portion of the work as is not terminated. Upon termination of this Agreement, whether pursuant to paragraph (a) or (b) of this Paragraph 7, **(Short Name of Institution)** agrees to compensate the Subcontractor for all work performed prior to said termination, and not previously paid for under the provisions of Part C.

8. Changes

(Short Name of Institution) may, from time to time, request changes in the scope of the service to be performed by the Subcontractor. Such changes which are mutually agreed upon between the Subcontractor and **(Short Name of Institution)** shall be incorporated in written amendments to this Agreement.

9. Grant Related Income

Policy requires that **(Short Name of Institution)**, as grantee, maintain records of the receipt and disposition of all grant-related income generated by grant-supported activities. Thus, it is necessary for the Subcontractor, as the cooperating institution, to likewise maintain records of any grant-related income generated by their participation in this grant-supported activity and report such within 60 days of the expiration of the contract.

PART E. Special Assurances

1. Civil Rights and Equal Employment Opportunity

(Short Name of Institution) and the Subcontractor certify that each institution has an active program for compliance with all applicable state and federal regulations, executive orders and legislation concerning equal opportunity or affirmative action, and that, wherever required, valid assurances of compliance are on file with the cognizant enforcement agency. Wherever applicable, the above statement of certification includes but is not necessarily limited to the following specific Acts:

a. The Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of any or other forms of compensation; and selection for training, including apprenticeship. The Subcontractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

b. The Subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

c. The Subcontractor will send to any labor union or representative of workers with which the subcontractor has a collective bargaining agreement or other Contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Subcontractor's commitments under Section 202 of Federal Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Subcontractor will comply will all provisions of Federal Executive Order No. 11246 of September 24, 1965, and the rules, regulations and relevant order of the Secretary of Labor.

e. The Subcontractor will furnish all information and reports required by Federal Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the Subcontractor's noncompliance with the non-discrimination clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Subcontractor may be declared ineligible for further Government Contracts in accordance with procedures in Federal Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise by law.

g. The Subcontractor will include the provisions of Paragraphs (a) through (f) in every subcontract or purchase order unless exempted by rules, regulations, or orders of

the Secretary of Labor issued pursuant to Section 204 of Federal Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontract or vendor. The Subcontractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Subcontractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Subcontractor may request the United States to enter into such litigation to protect the interests of the United States.

h. Subcontractor agrees to abide by the requirements of the following, as amended and as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, The Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Act of 1972, and Subcontractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

Subcontractor agrees not to discriminate in its employment practices, and will render services under this Agreement without regard to race, color, religion, sex, national origin, veteran status, political affiliation, and/or disabilities.

Any act of discrimination committed by Subcontractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

2. Protection of Human Subjects

Pursuant to 45 CFR 46, Subpart A, Protection of Human Subjects, Section 46, 107, the Subcontractor and (**Short Name of Institution**) agree that any human research protocol conducted under this Agreement shall be reviewed and approved by (**Short Name of Institution**) Institutional Review Board (IRB) before any human research subjects are included in the project.

3. Vertebrate Animals

Pursuant to the Animal Welfare Act and the Public Health Service Policy in Humane Care and Use of Laboratory Animals, the Subcontractor and (**Short Name of Institution**) agree that any animal research protocol conducted under this Agreement shall be reviewed and approved by (**Short Name of Institution**) Institutional Animal Care and Use Committee (IACUC) before any animal research is undertaken in the project.

4. Certifications

a. Acceptance of this Agreement constitutes certification that the Subcontractor is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency, in accordance with OMB Guidelines (53 FR 19161-19211).

- b. Acceptance of this Agreement constitutes certification that the Subcontractor is not delinquent on any Federal debt in accordance with OMB Circular No. A-129.
- c. Acceptance of this Agreement constitutes certification that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, and that if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Agreement, grant, loan or cooperative agreement the Subcontractor shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying."
- d. Acceptance of this Agreement constitutes certification that the Subcontractor will comply with the PHS policy requiring high ethical standards in all grant-supported projects and to inquire into and, if necessary, investigate and resolve promptly and fairly all instances of alleged or apparent misconduct in science (45 CFR Part 50, Subpart A).
- e. Acceptance of this Agreement constitutes certification that the Subcontractor will comply with the Drug Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D). Effective March 18, 1989, all grantees receiving grants from any Federal Agency certify that they will maintain a drug-free work place (45 CFR Part 76) (and published in the Federal Register on January 13, 1989).
- f. Subcontractor agrees to notify (**Short Name of Institution**) immediately if there is any change of status in a, b, c, d or e above.
- g. Acceptance of this Agreement constitutes certification that the Subcontractor will comply with the requirements for an annual audit as required by OMB Circulars A-102 (implemented in A-128) and A-110 as appropriate. Subcontractor agrees to provide to (**Short Name of Institution**) a copy of the Subcontractor's annual audit as required by OMB Circulars A-102 and A-110.

PART F. Miscellaneous

1. This Agreement shall be construed under the laws of Louisiana. [Note: It may be necessary to remain silent on F.1. (e.g. subgrantee is not permitted under state statute to be bound by the laws of another jurisdiction.)]
2. **CONFIDENTIALITY.** Subcontractor hereby warrants that it shall comply with all applicable Federal and State laws, rules, and regulations concerning confidentiality which safeguard information.

3. RIGHT TO AUDIT. The State Legislative Auditor, and/or the Office of the Governor, Division of Administration Auditors, Federal Auditors, (**Short Name of Institution**) auditors or those designated by (**Short Name of Institution**) shall have the option of auditing all accounts pertaining to this Agreement. Records will be made available during normal working hours for this purpose.
4. FUND USE. Subcontractor agrees not to use funds paid for services rendered under terms of this Agreement to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the legislature or any local governing authority.
5. ASSIGNMENT. Subcontractor shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novations), without prior written consent of (**Short Name of Institution**) provided, however, that claims for money due or to become due to the Subcontractor from (**Short Name of Institution**) under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to (**Short Name of Institution**).
6. ENTIRE AGREEMENT. This Agreement supersedes all previous contracts and constitutes the entire Agreement between the parties. Neither party shall be entitled to any benefits other than those specified herein. No oral statements or written material not specifically incorporated herein shall be of any force and effect and no changes in or additions to this Agreement shall be recognized unless incorporated herein by amendment as provided herein, such amendment(s) to become effective on the date stipulated in such amendments. Provided, however, that any other language in this Agreement to the contrary notwithstanding, if there is an Exceptions Addendum, duly executed by all required authorities of the University and of the Subcontractor, appended to this Agreement, to the extent that the terms and conditions of said Exception Addendum vary from the terms or conditions of this Agreement, then the terms and/or conditions of the Exception Addendum shall prevail. There IS IS NOT an Exception Addendum to this Agreement, and if there is, it consists of () page(s) in length. It is understood by both parties that this Agreement may be modified or amended only by written agreements signed and duly approved by those representatives of both parties so authorized to enter into agreements, and that no amendment or modification shall take effect until so approved by all parties to the Agreement.

7. PAYMENT OF TAXES. Subcontractor hereby agrees that the responsibility for payment of taxes from the funds thus received under this Agreement shall be the obligation of the Subcontractor and identified under tax identification number.
8. REBUDGETS. Rebudgeting from one category to another is permissible within standard Policy limitations, and the specific restrictions placed on this award. Prior approval is required, and should be submitted simultaneously to the Principal Investigator (**named in Part A of this Agreement**) and to (**Title of (Short Name of Institution) Designee to approve rebudgets**).
9. INVENTION STATEMENT. A Final Invention Statement and Certification (HEW Form 568) is to be submitted to (**Short Name of Institution**) within ninety (90) days of the expiration of this Agreement to _____ (**Name of (Short Name of Institution) Office/Address to receive invention statement**).
10. NOTICE. Any required notice under this Agreement shall be sent:
If to (**Short Name of Institution**), to:
If to Subcontractor, to:

IN WITNESS WHEREOF, the parties hereunto set their hands to execute this Agreement this _____ day of _____ (Month), _____ (Year).

(Short Name of Institution)

SUBCONTRACTOR

(Name of Institution)

By: _____
(SIGNATURE) (DATE)

Its: _____

By: _____
(SIGNATURE) (DATE)

Its: _____

By: _____
(SIGNATURE) (DATE)

By: _____
(SIGNATURE) (DATE)

Its: _____ (TITLE)

By: _____
(SIGNATURE) (DATE)

Its: _____ (TITLE)

By: _____
(SIGNATURE) (DATE)

APPENDIX A STATEMENT OF WORK

APPENDIX B BUDGET

APPENDIX C SAMPLE INVOICE