

Contracts with State Agencies

Introduction

The Research Foundation of State University of New York (RF) is charged with the management and administration of sponsored programs for the State University of New York (SUNY). Under this relationship, the RF is responsible for submitting applications to prospective sponsors and for accepting sponsored program awards.

Policy

As a private corporation, the RF does not enter into contracts or subcontracts (including contracts under a Memorandum of Understanding) that cede control to a state agency or act as a pass-through for the state. These are commonly referred to as “for” contracts.

Basis for Policy

The June 1, 1977, Agreement between State University of New York (SUNY) and the RF charges the RF with the management and administration of sponsored programs at the state-operated campuses of SUNY. Under this relationship, the RF is responsible for making the applications to prospective sponsors and for accepting sponsored program awards. All sponsored program contracts (including grants and agreements) should be in the name of the RF. Accordingly, for sponsored programs the RF assumes fiscal responsibility for the award; the conduct of the research remains the duty of the principal investigator and SUNY.

“For” Contract Definition

A “for” situation exists when goods or services are provided through third-party contracting, (contracting for the state), thus asking a prime contractor to act as a procurement conduit and enter into contracts or subcontracts “for” the state agency. The contractor is essentially doing what the state agency should be doing for itself via its direct procurement process.

A “for” situation may also exist if a state agency requests personnel services that typically would be provided by state employees.

It is incumbent upon the RF, especially sponsored program officials, to:

- identify such instances
- prevent RF involvement in these types of “for” contracts.

Identifying “For” Contracts

If a third-party subcontract is “for” the State, it becomes subject to Section 112 of the New York State Finance Law and review by State officials (e.g., Office of the State Comptroller). For that reason, avoid these types of contracts.

Common scenarios identifying possible “for” situation are listed below:

- A state agency enters into a Memorandum of Understanding (MOU) with the campus and the campus then contracts with the RF to administer the program.

- A substantial amount of the scope of work or contract deliverables is subcontracted to a subrecipient.
- The RF lacks a choice of a subrecipient or vendor and the state agency “recommends” the subrecipient to the RF.
- The RF has limited or no programmatic or fiscal oversight or control over the process to complete the work, the work outcome, or deliverables.
- The RF/principal investigator (PI) has limited expertise regarding the scope of work or contract deliverables.
- The state agency exerts control or influence over the hiring/firing of RF personnel.

Related Resources

Below are related resources to carry out the policy or that provides other relevant information or instructions.

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None	

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