Next Workshops

OSP Primer
October 11, 18, 25 and November 1, 2001

Material Transfer and Non-Disclosure Agreements
November 29, 2001

www.osp.cornell.edu/Education/
PRINCIPLES OF SUBCONTRACTING

September 7, 2001
Volume of Sponsored Programs

Fiscal Year 2001 Figures:

Proposals:
- Total Dollars Requested: $893,944,157
- Total Number of Proposals Processed: 2,164
  (e.g., new, renewal, continuation, revised, supplemental)

Awards:
- Total Dollars Awarded: $230,935,016
- Total Number of Award Transactions: 931
  (e.g., new, renewal, continuation, revised, supplemental)

Expenditures:
- Total Sponsored Expenditures: $396,137,799
  (FY 2000 – including Weil Medical College)
# Purchasing Activities

## Purchasing Indicators

**FOR YTD PERIOD ENDING**

**June 30, 2001**

### INDICATORS:

<table>
<thead>
<tr>
<th></th>
<th>FY 2000/01</th>
<th>FY 2001/02</th>
<th>% INC/(DEC)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ORDER VOLUME</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Endowed</td>
<td>18,822</td>
<td>18,305</td>
<td>-2.75%</td>
</tr>
<tr>
<td>Research</td>
<td>8,142</td>
<td>6,985</td>
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<tr>
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<td>7,368</td>
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<td>Federal &amp; Income</td>
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<tr>
<td>State</td>
<td>1,004</td>
<td>757</td>
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</tr>
<tr>
<td><strong>Totals</strong></td>
<td>43,748</td>
<td>42,042</td>
<td>-3.90%</td>
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**ORDER DOLLARS**

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<tr>
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<th>FY 2000/01</th>
<th>FY 2001/02</th>
<th>% INC/(DEC)</th>
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</thead>
<tbody>
<tr>
<td>Endowed</td>
<td>$44,420,404</td>
<td>$45,619,150</td>
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<tr>
<td>Research</td>
<td>$8,093,577</td>
<td>$17,535,817</td>
<td>15.86%</td>
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<tr>
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<td>$21,033,096</td>
<td>$23,493,614</td>
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<tr>
<td>State</td>
<td>$6,063,464</td>
<td>$5,057,039</td>
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<td>$94,745,764</td>
<td>$100,892,457</td>
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**PAYMENT TRANSACTION VOLUME**

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<th>FY 2000/01</th>
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<th>% INC/(DEC)</th>
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<td>53,115</td>
<td>50,453</td>
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<td>63,962</td>
<td>62,862</td>
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<td>187,209</td>
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<td>L-Orders</td>
<td>1,856</td>
<td>0</td>
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<td><strong>Totals</strong></td>
<td>306,142</td>
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**PAYMENT TRANSACTION DOLLARS**

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<th>FY 2000/01</th>
<th>FY 2001/02</th>
<th>% INC/(DEC)</th>
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</thead>
<tbody>
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<td>Single Purchase Orders</td>
<td>$96,567,030</td>
<td>$92,735,337</td>
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<td>Blankets</td>
<td>$45,444,896</td>
<td>$46,395,739</td>
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<tr>
<td>Procurement Card</td>
<td>$19,642,957</td>
<td>$27,520,432</td>
<td>40.10%</td>
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<tr>
<td>L-Orders</td>
<td>$193,970</td>
<td>0</td>
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<tr>
<td><strong>Totals</strong></td>
<td>$161,848,853</td>
<td>$166,651,508</td>
<td>2.97%</td>
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Subcontracting Activities

- Active Subcontracts: 420
  - Separate Subcontractors: 398
    » 227 Universities
    » 36 Corporations
    » 11 Foreign entities
    » 124 Other (state and local gov’ts, non-profit)

- Active Consulting Agreements: 84
Outline

- Why?
- Definitions
- Federal Regulations
- Subcontractor’s Proposal
- OSP Portal
- Request to Issue
- Subcontractor Profile
- Subcontract Administration
WHY?
WHY?

- Provide a means for establishing, evaluating and maintaining the efficiency, effectiveness and consistency with which the institution oversees the spending of sponsored funds;
- Provide a means for evaluating the institution’s compliance with existing sponsor’s regulations;
- Provide reliable current information on institution’s systems for source selections and cost and pricing analysis;
- Provide standard agreements for inclusion and accuracy of required flowdowns
SUBAWARDS

Types of Subawards

- Purchase Order
- Consulting Agreement
- Subcontract/Subgrant/Subagreement
Presenters

Denise Clark
Director
Office of Sponsored Programs

Vince Patriarco
Director
Office for Purchasing Services
**Purchasing**

**What Do We Do**

Our department is responsible for providing the business skills and coordinating the technical skills required to purchase goods, supplies, equipment and services necessary for the continuous operation of the University.

Our role is to…

– Obtain best value for your money
– Provide good business practices
– Preview contracts and terms & conditions
– Negotiate with Suppliers
– Review Proper Suppliers
**PURCHASE ORDER**

- Legally binding commitment
- Outside vendor
- Acquisition of goods and services
- Flows through Purchasing Department
- Issued primarily to procure goods and services
- Incorporates certain basic terms and conditions, usually printed on back of form
Purchasing

- Quotations
- Maintenance Agreements
- Order Forms
- Software License Agreements
- Pricing Agreements
- Service Agreements
- Lease/Rental
OSP

What We Do

- Administer Awards for Sponsored
  - Research
  - Instruction
  - Extension
OSP
What We Do

- Funding opportunities
- Proposal development
- Award Negotiation & Acceptance
- Subcontracts & Consulting Agreements
- Monitor compliance
CONSULTANTS

- Services are temporary, special, urgent or highly technical
- Independent contractor without detailed supervision
- “Work-for-hire” basis
Consulting Agreement Workshop

Scheduled for December 13, 2001
McManus Lounge

Denise Clark, Director, OSP
Anne Shapiro, Assistant Controller
Consulting Agreement Workshop

- Independent contractor status
- Individuals
- Corporations
- Foreign concerns
Third party (Independent Contractor)
Acquisition of services or the conduct of prescribed activities
“Substantive programmatic work”
Significant intellectual contribution
SUBCONTRACT PURPOSE

- Defines relationship:
  - Clarifies expectations of both parties
    » Period of performance
    » Estimated costs
    » Cost sharing
    » Scope of work
    » Reporting requirements
    » Deliverables
  - Independent Contractor
Provides for accountability
- Evidence of accountability to our prime
- Evidence of sub accountability to us
- Mechanism for payment

Resolves conflicts
- Preventing disputes by clearly stating terms and conditions both parties must comply with
- Offers protection for both parties should something unforeseen happen
FEDERAL REGULATIONS REVIEW

- OMB Circulars
- Federal Acquisition Regulations
Sections 40-48 set forth standards for establishing procedures for procurement actions including:

- Purchase orders
- Consulting agreements
- Subcontracts
Section 41 – Recipient Responsibilities

We are the responsible authority, without recourse to the Federal agencies regarding the settlement and satisfaction of all contractual and administrative issues.

Includes:
- Payment
- Disputes
- Claims
- Performance
PRIVITY

- No contractual relationship between prime and sub
- Protects prime from direct liability
Cool Word

Pedagogue (n. PED-uh-gog)

The word “pedagogue” means teacher, and “pedagogy” is teaching philosophy or style.
Section 42 - Codes of Conduct

No employee shall participate in the selection, award or administration of a procurement action if a real or apparent conflict of interest would be involved.
Conflict of Interest

- When the individual has the opportunity to influence the University’s business, administrative, academic or other decisions in ways that could lead to personal gain or advantage of any kind.
Legal and Ethical Conduct

http://www.univco.cornell.edu/purchasing/PurManual/103.html

- Related policy-- Standards of Ethical Conduct: http://www.univco.cornell.edu/policy/SOEC.for.htm

- Conduct business keeping with highest moral legal & ethical standards

- Conflict of Interest-- avoid or disclose a conflict of interest is one that a reasonable person would think would compromise the open, competitive process

- Gifts & Entertainment don’t become obligated!
Conflict of Interest

- Monitored by the Form 10
- Purchasing – Vendors must disclose on the Vendor Information form
Section 43 - Competition

- All procurement transactions shall be conducted in a manner that provides open and free competition.
Specifications should be clear
- Competition must be open and fair
- Solicit quotes only from those vendors that you intend to do business with
- Ensure all bidders have the same conditions to submit bids
- Discourage revision of bids
- Never divulge a vendor's price to a competitor
Request for Solicitation

Office for Purchasing Services
373 Pine Tree Rd
Ithaca, NY 14850

This form provides the means of notifying the Office for Purchasing Services when there is a need to issue requests for pricing and/or specifications (P/BID). The user department can complete this online form with all the required information and submit it directly to the appropriate purchasing team.

Choose specific form format: General | Copier Worksheet | Graphics/Printing Specifications

To select the purchasing team for the solicitation:

Lab Team
- Mike Winters
- Susan Morse
- Karen Humble
- Elane Huize

MRO Team
- Jeff Spada
- Melinda Sweazy

Technology Team
- Glenn Morey
- Debi Benson
- Holley Clark

Printing/Graphics Team
- Garry Huddle
- Helen Stone
- Dan Bechele
- Shelley Crampton

Department: ____________________________
Requestor: ____________________________
e-mail: ______________________________
Date: _________________________________
Phone#: ______________________________
Type of Funds: _________________________
Est Amt $: ____________________________

General Description of Item(s):

Provide a detailed description and specifications of the item. Be as complete as possible, listing all necessary information needed.
Section 44 – Procurement Procedures

Positive efforts shall be made to utilize:
- Small businesses
- Small disadvantaged businesses (minority owned)
- Women-owned businesses
Section 44 – Procurement Procedures

- Governing Law – 95-507 – clause 52.219-8
- Subcontracting plans under federal contracts are required by section 8(A) of the Small Business Act (15 USC 637(d)).
- Failure to comply may render the institution ineligible for future awards and/or the institution may be liable for liquidated damages.
Small, Small Disadvantaged, Women-owned, Veteran-owned and Hub Zone Businesses

See attached handout
The SBA created a database to track these certified companies.

PRO-Net is designed to allow the contractor to look for SDB’s and other classifications.
**Subcontractor Selection**

When contracting under a federal prime contract award (not grant) documentation on selection must indicate the following:

- Whether small business concerns were solicited and if not, why not;
- Whether veteran-owned small business concerns were solicited and, if not, why not;
- Whether HUBZone small business concerns were solicited and, if not, why not;
- Whether small disadvantaged business concerns were solicited and, if not, why not;
- Whether women-owned small business concerns were solicited and, if not, why not;
- If applicable, the reason award was not made to a small business concern.
Section 44 – Procurement Procedures

Type of procuring instrument used shall be determined and shall be appropriate for the particular action:
- Cost reimbursable subcontract
- Fixed price subcontract
- Consulting agreement
- Purchase order
COST-REIMBURSEMENT CONTRACTS

- Procurement of non-commercial items which cannot be based on reasonably definite functional or detailed specifications (i.e., R&D).
- There is no incentive for contractor to control costs, thus government imposes tighter controls.
COST-REIMBURSEMENT CONTRACTS

- Prime Contractor
  - Tighter rebudgeting controls
  - More frequent financial reports
  - Closer scrutiny

- Subcontractor
  - Best efforts basis
  - Run out of funds, stop working
FIXED PRICE CONTRACTS

- Procurement of supplies or services on the basis of reasonably definite functional or detailed specifications.
- When cost can be estimated with reasonable accuracy.
- Imposes on contractor maximum incentive to control costs, but with minimum administrative burden.
- Preferred method of contracting by gov’t.
FIXED PRICE CONTRACTS

- **Prime Contractor**
  - Payments tied to deliverables (full payment upon receipt of final report)
  - If Subcontractor runs out of funds, too bad

- **Subcontractor**
  - Freedom to rebudget
  - Limited financial reporting
  - Keep it if you don’t spend it
Cool Word

Neologism (n. nee-ALL-uh-jiz-um)

If you’ve ever invented a new word, you’ve created a neologism and you are a neologist. A neologism is a new word, expression, or usage.
Some form of cost or price analysis shall be made and documented in the files.
COST AND PRICING ANALYSIS

Technique used to determine whether a subcontractor’s proposed budget is fair and reasonable

- **Price Analysis** - Looking at the total cost without examining each line item.
  - Principal investigator input
    - Scope of work
    - Level of effort, travel, etc.
COST AND PRICING ANALYSIS cont’d

– Cost Analysis - Line item by line item examination of the budget
  » Adds across and down
  » Each line item is:
    ■ Reasonable
    ■ Allowable
    ■ Allocable
    ■ Necessary
WHAT IS REASONABLE AND APPROPRIATE?
SUBCONTRACT COST ANALYSIS
Reasonable and Appropriate?

Salary and Wages

PI
– title
– years of experience
– level of effort or days/hours/man months or % of time
  » is the level of effort appropriate for task?
  » comparison in the field
– annual and escalation %
– certification of salary (by OSP office or department personnel)
SUBCONTRACT COST ANALYSIS

Reasonable and Appropriate?

Administration/Clerical
- allowed by prime
- justification for direct charges

GRA’s
- what are components
- check the role as listed in statement of work
- verification from OSP counterpart
- Board of Trustees (or equivalent announcement)
**SUBCONTRACT COST ANALYSIS**

**Reasonable and Appropriate?**

**Employee Benefits**
- verification from OSP counterpart (history/experience)
- web sites

**Travel**
- the purpose and number of persons traveling are necessary to meet SOW
  - how many trips
  - destination
  - airfare

Based on: experience, travel office, gov’t./state/inst. guidelines
SUBCONTRACT COST ANALYSIS

Reasonable and Appropriate?

Equipment

- all items have been itemized and justified for necessity to meet program objectives
- verification from institution that equipment does not already exist
- verification as to vendor quote or experience quote
- nontechnical equipment (office, general purpose) allowed by prime?
SUBCONTRACT COST ANALYSIS
Reasonable and Appropriate?

Materials
- list of major individual items
- office supplies - allowed by Prime and justified

Based on:
- history
- vendor quotes

Communications
- identify individual items
- compare to statement of work – direct vs. indirect

Based on:
- history
- quotes
SUBCONTRACT COST ANALYSIS
Reasonable and Appropriate?

Publications
- number of pages
- page charges
Based on:
- history
- journal quotes

Subcontract
- cost analysis
- responsibility of subcontractor

Consultants
- number of days
- $ per day
- limitation by Prime
Based on:
- history
- consultant quote
SUBCONTRACT COST ANALYSIS
Reasonable and Appropriate?

Facility & Administration Cost
- negotiated rate agreement
- hard copy or web site
- is escalation necessary (are out years required)
- are escalation factors reasonable?

Fixed Fee
- reasonable
COOL WORD

Charlatan (n. SHAR-luh-tun)

A charlatan is a person who makes inflated claims about his or her skills or qualifications; a quack, imposter, phony, or fraud.
Section 46 – Procurement Records

- Shall include:
  - Basis for selection
  - Justification for lack of competition when bids not obtained (sole source)
  - Basis for award cost or price
SUBCONTRACTOR SELECTION

- Collaborative Efforts
  - Subcontractor specified in proposal
  - Eliminates competitive and sole source procedures
  - Sponsor/peer review process approves selection
  - Eliminates the need for agency prior approval (in most cases)
SUBCONTRACTOR SELECTION

- Competitive Bid
  - Normal method of contracting
  - Free and open competition
  - Eliminates unfair advantage
SUBCONTRACTOR SELECTION

- Sole Source Selection
  - Why
Purchasing

Single/Sole Source Justification

http://www.univco.cornell.edu/purchasing/PurManual/111.html

Single Source
- One source in a competitive marketplace with predominant qualifications

Sole Source
- One & only source regardless of marketplace

How do you let us know?
- Use Form 111-A Justification Content (front of form)
- Why competition is restricted
- Information provided by department
- Reasonableness of the Price (back of form)
- Determine that non-competitive price is fair
- Provided by department; confirmed by agent
This document is available to view in Adobe Acrobat format. You will need the Adobe Acrobat reader. Publications and Information Group has created a page with full direction and pointers to obtain this software.

If you already have Acrobat installed, please read this version of the document:

Form 111A, Single Source/Sole Source Justification Form
Section 47 – Contract Administration

- Shall be maintained to ensure conformance with the terms and conditions
Section 48 – Contract Provisions

- Incorporate articles that define a sound and complete agreement
  - Administrative
  - Contractual
  - Remedies for breach
  - Termination
  - Audit
  - National policy
SUBCONTRACT SECTIONS

- Preamble
- Schedule
- Exhibits
FLOWDOWNS?
Generally five different types of clauses:
- Government clauses that must be incorporated in subs exactly as written
- Clauses that must have their substance incorporated
- Clauses which are silent regarding how they are to be incorporated but are automatically applicable to subs due to the operation of law
- Clauses that are not mandatory but are necessary because they impose obligations that we cannot fulfill effectively unless similar provisions are incorporated in the sub
- Clauses that we choose to flow down based on the circumstances of the sub agreement
SUBCONTRACTOR’S PROPOSAL

- Adequate time to review and incorporate
- Proper data to support proposal
- Components
  - Statement of work
  - Budget
  - Rate Agreements
  - Compliance Issues
  - Signature of Authorized Official
Subcontractor’s Proposal

- F&A calculated on the first $25,000 of each subcontract
- Calculated at the off-campus rate
- For the life of the non-competitive cycle
Subcontractor’s Proposal

- Competing Cycle
  - New award #
  - New OSP #
  - When in doubt - ASK
Award Phase

- How does a subcontract get issued?
- What takes so long?
- Who should I contact?
Cool Word

Pedagogue (n. PED-uh-gog)

The word “pedagogue” means teacher, and “pedagogy” is teaching philosophy or style.
How to Get to Portal

- Portal URL
  - http://osp.cit.cornell.edu/portal/default.htm
- Data Access Request Form
  - http://www.osp.cornell.edu/Forms/Portal/
- OSP Portal Feedback
  - osp-feedback-L@cornell.edu
Welcome to the Sponsored Projects Portal

2/15/2001 - Online Request to Issue a Subcontract Form

With the rollout of SPS Portal v.3.0, new subrecipient management features are being implemented. First up is the Request to Issue a Subcontract, which allows you to submit subcontract requests directly to your GCO. To use it: go to a project, click the Subrecipients button at the end of the page, optionally select a subcontractor name if it's already in the system, then click the "Request to Issue a Subcontract" button.

Click the green General Query tab above to begin. Please send comments and questions to osp_whs_feedback@cornell.edu.

Note - You must have SideCar running to access this system.
This form is completed by the Principal Investigator when subcontracting work to another organization under a sponsored program. Subcontract should be written in accordance with prime agreement terms and conditions. Upon submission, this form will be sent to the Office of Sponsored Programs for review and generation of the contract document. Contact SPS Portal Feedback at osp_whs_feedback@cornell.edu for assistance with this form.

### Award Identification

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<th>NAIR, P SEGRAN</th>
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<tr>
<td>Issuance</td>
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<td>New Subcontract</td>
<td>Amendment</td>
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### Cornell Principal Investigator Information

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<tr>
<th>PI Name</th>
<th>SHEALY, JAMES R</th>
<th>Department Name</th>
<th>E&amp;CE</th>
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### Subcontract Contact Information

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<tr>
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<th>Division or unit</th>
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<table>
<thead>
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<table>
<thead>
<tr>
<th>Phone</th>
<th>Comments about subcontractor</th>
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<td></td>
</tr>
</tbody>
</table>
TRIVIA

Who are the top five solo artists of all time?

– Garth Brooks (81 million albums)
– Elton John (60.6 million)
– Billy Joel (60 million)
– Barbara Streisand (57.3 million)
– Elvis Presley (50.1 million)
WHY PRE QUALIFY?

WHAT A RIDICULUS SITUATION

Establishment of Subcontractor Profile
Establishment of Subcontractor Profile

- Why Pre Qualify
  - Subcontractor source
  - FDP
  - Subcontractor Classification
  - Financial management system
    » identify source and application of funds
    » accountability for property
  - Formal personnel policy
    » Salary rates and benefits
    » Time and attendance
  - Formal travel policy
  - Formal purchasing procedure
  - Comply with CASB
  - Annual financial audit
  - Legitimate business
This image depicts a screenshot of the Sponsored Projects Portal, a web-based application designed to manage and track sponsored projects. The portal includes several input fields for users to search for projects based on various criteria such as OSP Number, Title, Sponsor ID, Sponsor Name, Investigator, Account Number, GCO, and Administrative Unit. Users can also select options for display and proposal/award categories.

The portal features a search function where users can enter specific details to find relevant projects. Additionally, options for subrecipient searches and other searches are provided, allowing users to query previous subcontract requests and access subcontractor profiles.
SUBCONTRACT ADMINISTRATION

- Payments without fully executed prime
  - Extremely rare circumstance
  - Approval by Director of OSP
- Advanced payments
  - Rare circumstances
  - Dependent upon the prime
  - Case by case situation
Pre-award costs
- Automatic 90 days under A-110, if federally funded (expanded authorities)
- Need prior approval otherwise
- If prime doesn’t allow, subcontract can’t allow
SUBCONTRACT ADMINISTRATION

- Prior approvals
  - Change in Sub PI or scope of work
  - Rebudgeting
  - No cost extension
    » Estimated unobligated balance
    » New end date
    » Reason for NCE
SUBCONTRACT ADMINISTRATION

- Modifications or amendments
  - Administrative reasons
  - Incorporate prior approvals
  - Incrementally fund
SUBCONTRACT ADMINISTRATION

- Monitoring invoices
  - Appropriate certification
  - Cost sharing commitments met
  - Technical compliances (are deliverables on schedule)
  - Inventory compliance
  - Invention compliance
XYZ UNIVERSITY

INVOICE DETAIL

August 22, 2001

Account / Receivable Number: 2

Cornell University

Project Period:
From: Jan 01, 2001
To: Dec 31, 2003

OSP #12345-6789

Invoice Period:
From: Jan 01, 2001
To: Jan 31, 2001

Stella Gabortz

<table>
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<th>Budget</th>
<th>Current Expenses</th>
<th>Cumulative Expenses</th>
<th>Current Cost Sharing</th>
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Certification: I hereby certify that the costs for which reimbursement is requested and any corresponding cost sharing are the actual costs as recorded in XYZ Universities records and as expended for the work actually performed in accordance with the terms of the agreement.

Signature:
SUBCONTRACT ADMINISTRATION

- Close-out procedures
  - Certification from Subcontractor
  - Deliverables completed
    » Final deliverables approved by PI
    » Final inventory and invention received by OSP
    » A133 certifications
    » Final invoice received and paid
Conclusion
Don’t forget to fill out the evaluations!

Thanks y’all!
Contact Us!

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Next Workshops

OSP Primer
October 11, 18, 25 and November 1, 2001

Material Transfer and Non-Disclosure Agreements
November 29, 2001

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