Health Center Program Site Visit Protocol:

Contracts and Subawards

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CONTRACTS AND SUBAWARDS

Primary Reviewer: Fiscal Expert
Secondary Reviewer: Governance/Administrative Expert

Authority: *Section 330(k)(3)(I) and Section 330(q) of the Public Health Service (PHS) Act; 42 CFR 51c.113, 42 CFR 56.114, 42 CFR 51c.303(t), and 42 CFR 56.303(t); 45 CFR Part 75 Subpart D; and Section 1861(aa)(4)(A)(ii) and Section 1905(l)(2)(B)(ii) of the Social Security Act*

Document Checklist for Health Center Staff

Documents Provided Prior to Site Visit:

- ☐ Procedures for purchasing and procurement, including, if applicable or separate, procedures for contracting and contract management
- ☐ Most recent annual audit and management letters
- ☐ If the health center has contracts that support the HRSA-approved scope of project (i.e., to provide health center services or to acquire other goods and services), provide a complete list of these contracts. Include all active contracts and all contracts that had a period of performance which ended less than 3 years ago. In the list, include all of the following information for each contract:
    - Whether the health center utilizes federal award funds to pay in whole or in part for the contract (not applicable to look-alikes);
    - Contractor/contract organization;
    - Value of the contract (if there is a federal share, state the federal share amount);
    - Brief description of the good(s) or service(s) provided; and
    - Period of performance/timeframe (for example, ongoing contractual relationship, specific duration)
- ☐ All subrecipient agreements (if updated since last application submission to HRSA) (not applicable to look-alikes and as applicable for awardees)
  Note: *Per 45 CFR 75.351(c): "In determining whether an agreement between a pass-through entity [Health Center Program awardee] 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; see 45 CFR 75.351(a) and (b)] may not be present in all cases, and the pass-through entity [Health Center Program awardee] must use judgment in classifying each agreement as a subaward or a procurement contract."*

Documents Provided at the Start of the Site Visit:

- ☐ Based on the list of contracts provided prior to the site visit that support the HRSA-approved scope of project:
    - Sample of half or five (whichever is less) contracts AND related supporting procurement documentation for actions of $25,000 or more that **utilize federal award funds**

Note: *The same sample of contracts/agreements is to be utilized for the review of both Contracts and Subawards and Conflict of Interest*

  - Sample of half or five (whichever is less) contracts AND related supporting procurement documentation for actions that **do NOT utilize federal award funds**
- Two to three reports or records (for example, monthly invoices or billing reports, data run of patients served, visits provided) drawn from the sample of contractors selected from the list provided prior to the site visit
- Documentation of subrecipient monitoring methods (not applicable to look-alikes and as applicable for awardees)
- Sample of financial and performance reports from the subrecipient (not applicable to look-alikes and as applicable for awardees)
- Documentation of prior approval for contracts for the performance of substantive work (i.e., contracting with a single entity for the majority of health care providers) under the federal award (if applicable)
- Documentation of prior approval of subrecipient arrangement(s) (not applicable to look-alikes and as applicable for awardees)

Demonstrating Compliance

Is this a Look-Alike Site Visit?
☐ YES ☐ NO

NOTE*: Because look-alikes do not receive federal funding under section 330 of the PHS Act, any aspects of a requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.*

Contracts: Procurement and Monitoring

Element a: Procurement Procedures

The health center has written procurement procedures that comply with federal procurement standards, including a process for ensuring that all procurement costs directly attributable to the federal award are allowable, consistent with federal cost principles.[1]

Site Visit Team Methodology

- Review health center's procedures for purchasing and procurement, including any related to contracting and contract management.
- Interview health center staff involved in contract procurement and monitoring.

Site Visit Findings

1. Does the health center have written procedures for procurement?
   ☐ YES ☐ NO

[1] See 45 CFR 75 Subpart E: Cost Principles.

If No, an explanation is required:

_____

2. Do these procedures, at a minimum, ensure that all procurements directly attributable to the federal award will be conducted in a manner providing full and open competition[2] and will only include costs allowable, consistent with federal cost principles (for example, do the procedures contain relevant references or citations to 45 CFR Part 75 Subpart E: Cost Principles)?

   Note: *Select "Not Applicable" if the health center is a look-alike.*
   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:

   _____

Element b: Records of Procurement Actions

NOT APPLICABLE FOR LOOK-ALIKES

The health center has records for procurement actions paid for in whole or in part under the federal award that include the rationale for method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. This would include documentation related to noncompetitive procurements.

Site Visit Team Methodology

- Review sample of half or five (whichever is less) contracts AND related supporting procurement documentation for actions that were $25,000 or more that **utilize federal award funds** (not applicable to look-alikes and as applicable for awardees).
  Note: *The same sample of contracts/agreements is to be utilized for the review of both Contracts and Subawards and Conflict of Interest.*

Site Visit Findings

3. Does the health center have any:
   - Active contracts paid for in whole or in part with federal award funds?
     ☐ YES ☐ NO ☐ NOT APPLICABLE
   - Contracts that had a period of performance which ended less than 3 years ago and that were paid for in whole or in part with federal funds?
     ☐ YES ☐ NO ☐ NOT APPLICABLE

4. Based on the review of the sample of contracts, was there supporting documentation of the procurement process that addressed the following:

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[2] As defined by 45 CFR 75.329(f), procurement by "non-competitive proposals" is procurement through solicitation of a proposal from only one source.

- Rationale for the procurement method?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

- Selection of contract type?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

- Contractor selection or rejection?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

- Basis for the contract price?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

If No was selected for any of the above, an explanation is required:

_____

Element c: Retention of Final Contracts

NOT APPLICABLE FOR LOOK-ALIKES

The health center retains final contracts and related procurement records, consistent with federal document maintenance requirements, for procurement actions paid for in whole or in part under the federal award.[3]

Site Visit Team Methodology

- Review sample of half or five (whichever is less) contracts AND related supporting procurement documentation for actions that were $25,000 or more that **utilize federal award funds** (not applicable to look-alikes and as applicable for awardees).
  Note: *The same sample of contracts/agreements is to be utilized for the review of both Contracts and Subawards and Conflict of Interest.*

Site Visit Findings

5. Was the health center able to produce final contracts that have been awarded within the past 3 years?
   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:

   _____

Element d: Contractor Reporting

The health center has access to contractor records and reports related to health center activities in order to ensure that all activities and reporting requirements are being carried out in

[3] See 45 CFR 75.361 for HHS retention requirements for records.

accordance with the provisions and timelines of the related contract (for example, performance goals are achieved, Uniform Data System (UDS) data are submitted by appropriate deadlines, funds are used for authorized purposes).

Site Visit Team Methodology

- Review two to three reports or records (for example, monthly invoices or billing reports, data run of patients served, visits provided) drawn from the sample of contractors that were selected from the list of contracts provided prior to the site visit.

Site Visit Findings

6. Based on the review of the sample, does the health center have access to records and reports as necessary to oversee contractor performance?
   ☐ YES ☐ NO

   If No, an explanation is required:

   _____

Element e: HRSA Approval for Contracting Substantive Programmatic Work

If the health center has arrangements with a contractor to perform substantive programmatic work,[4] the health center requested and received prior approval from HRSA as documented by:

- An approved competing continuation/renewal of designation application or other competitive application, which included such an arrangement; or
- An approved post-award request for such arrangements submitted within the project period (for example, change in scope).

Site Visit Team Methodology

- Review complete list of contracts (provided prior to the site visit) to identify those that support *substantive programmatic work*.
- Interview key management or other health center staff involved in procurement or contract oversight.
- Review the documentation identified by the health center that includes HRSA's approval of the contracting arrangement for *substantive programmatic work*.

[4] For the purposes of the Health Center Program, contracting for substantive programmatic work applies to contracting with a single entity for the majority of health care providers. The acquisition of supplies, material, equipment, or general support services is not considered programmatic work. Substantive programmatic work may be further defined within HRSA Notices of Funding Opportunity (NOFOs) and applications.

Site Visit Findings

7. Based on the list of contracts reviewed and interview(s) with health center staff, does this health center currently contract with a single entity for the majority of health care providers (i.e., substantive programmatic work)?
   ☐ YES ☐ NO

8. **If Yes:** Was the health center able to produce documentation of prior approval by HRSA (i.e., the arrangement was included in a HRSA-approved application or post-award request)?
   ☐ YES ☐ NO ☐ NOT APPLICABLE

   If No, an explanation is required:

   _____

Element f: Required Contract Provisions

The health center's contracts that support the HRSA-approved scope of project include provisions that address the following:

- The specific activities or services to be performed or goods to be provided;
- Mechanisms for the health center to monitor contractor performance; and
- Requirements for the contractor to provide data necessary to meet the recipient's applicable federal financial and programmatic reporting requirements, as well as provisions addressing record retention and access, audit, and property management.[5]

Site Visit Team Methodology

- Review entire sample of contracts that support the HRSA-approved scope of project.

Site Visit Findings

9. Does the health center have one or more contracts to provide health center services or to acquire other goods and services in support of the HRSA-approved scope of project?
   ☐ YES ☐ NO

10. **If Yes:** Based on the sample of contracts reviewed, do these contracts contain provisions that address the following areas:

    - Specific activities or services to be performed or goods to be provided by the contractor?
      ☐ YES ☐ NO ☐ NOT APPLICABLE

    - How the health center will monitor contract performance?
      ☐ YES ☐ NO ☐ NOT APPLICABLE

[5] For further guidance on these requirements, see the HHS Grants Policy Statement, at http://www.hrsa.gov/grants/hhsgrantspolicy.pdf.

- Data reporting expectations and intervals for such reporting?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

- Provisions for record retention and access, audit, and property management?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

If No was selected for any of the above, an explanation is required:

_____

Subawards: Monitoring and Management

Element g: HRSA Approval to Subaward

NOT APPLICABLE FOR LOOK-ALIKES

If the health center has made a subaward,[6] the health center requested and received prior approval from HRSA as documented by:

- An approved competing continuation/renewal of designation application or other competitive application, which included the subrecipient arrangement; or
- An approved post-award request for such subrecipient arrangements submitted within the project period (for example, change in scope).

Site Visit Team Methodology

- Review Form 8: Health Center Agreements.
- Review most recent annual audit and management letters to determine if subrecipients were identified in the audit report, including the amount of the subawards.
- Review all subrecipient agreements.
- Review the documentation identified by the health center that includes HRSA's approval of the subrecipient arrangement.

Site Visit Findings

11. Has the health center made any subawards (new or continuing) during the current project period?
    ☐ YES ☐ NO ☐ NOT APPLICABLE

12. Was the health center able to produce documentation of prior approval by HRSA of the subrecipient arrangement (i.e., arrangement was included in the last approved Service Area Competition (SAC) application or was approved through a separate post-award request)?
    ☐ YES ☐ NO ☐ NOT APPLICABLE

[6] Specifically, the purpose of a subaward is to carry out a portion of the federal award and creates a federal assistance relationship with the subrecipient, while the purpose of a contract is to obtain goods or services for the health center's own use and creates a procurement relationship with the contractor.

If No, an explanation is required:

_____

Element h: Subaward Agreement

NOT APPLICABLE FOR LOOK-ALIKES

The health center's subaward(s) that supports the HRSA-approved scope of project includes provisions that address the following:

- The specific portion of the HRSA-approved scope of project to be performed by the subrecipient;
- The applicability of all Health Center Program requirements to the subrecipient;
- The applicability to the subrecipient of any distinct statutory, regulatory, and policy requirements of other federal programs associated with their HRSA-approved scope of project;[7]
- Mechanisms for the health center to monitor subrecipient compliance and performance;
- Requirements for the subrecipient to provide data necessary to meet the health center's applicable federal financial and programmatic reporting requirements, as well as provisions addressing record retention and access, audit, and property management;[8] and
- Requirements that all costs paid for by the federal subaward are allowable consistent with federal cost principles.[9]

Site Visit Team Methodology

- Review all subrecipient agreements.

Site Visit Findings

13. Does the health center's subrecipient agreement(s) include provisions that address the following:

    - The portion of the health center project that will be carried out by the subrecipient (i.e., sites, services provided) and how?
      ☐ YES ☐ NO ☐ NOT APPLICABLE

    - All Health Center Program requirements applying to the subrecipient?
      ☐ YES ☐ NO ☐ NOT APPLICABLE

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[7] Subrecipients are generally eligible to receive Federally Qualified Health Center (FQHC) payment rates under Medicaid and Medicare, 340B Drug Pricing Program, and Federal Tort Claims Act (FTCA) coverage. However, such benefits are not automatically conferred and may require additional actions and approvals (for example, submission and approval of a subrecipient FTCA deeming application).
[8] For further guidance on these requirements, see the HHS Grants Policy Statement, at http://www.hrsa.gov/grants/hhsgrantspolicy.pdf.
[9] See 45 CFR 75 Subpart E: Cost Principles.

- The applicability of any other distinct statutory, regulatory, and policy requirements of associated programs and benefits (for example, requirements that will apply if the subrecipient participates in the 340B Drug Pricing Program)?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

- Mechanisms for the health center to monitor subrecipient compliance and performance?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

- The data the subrecipient must collect and report back to the awardee (for example, UDS data)?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

- Record retention and access, audit, and property management (if applicable); and
  ☐ YES ☐ NO ☐ NOT APPLICABLE

- Requirements that all costs paid for under the subaward are consistent with federal cost principles?
  ☐ YES ☐ NO ☐ NOT APPLICABLE

If No was selected for any of the above, an explanation is required:

_____

Element i: Subrecipient Monitoring

NOT APPLICABLE FOR LOOK-ALIKES

The health center monitors the activities of its subrecipient to ensure that the subaward is used for authorized purposes and that the subrecipient maintains compliance with all applicable requirements specified in the federal award (including those found in section 330 of the PHS Act, implementing program regulations and grants regulations in 45 CFR Part 75). Specifically, the health center's monitoring of the subrecipient includes:

- Reviewing financial and performance reports required by the health center in order to ensure performance goals are achieved, UDS data are submitted by appropriate deadlines, and funds are used for authorized purposes;
- Ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the subaward that may be identified through audits, on-site reviews, and other means; and
- Issuing a management decision for audit findings pertaining to the subaward.[10]

[10] Per 45 CFR 75.521, the management decision [issued by the health center to the subrecipient] must clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action.

Site Visit Team Methodology

- Review all subrecipient agreements.
- Review documentation of subrecipient monitoring.
- Review sample of financial and performance reports received from the subrecipient.
- Interview health center staff who provide oversight of subrecipient activities.

Site Visit Findings

14. Does the health center monitor the activities of the subrecipient to ensure the subrecipient maintains compliance with all Health Center Program requirements and all other applicable requirements specified in the federal award?
    ☐ YES ☐ NO ☐ NOT APPLICABLE

    If No, an explanation is required:

    _____

15. Does the health center receive and review financial and performance reports in order to ensure:

    - Performance goals are achieved?
      ☐ YES ☐ NO ☐ NOT APPLICABLE
    - UDS data are submitted by appropriate deadlines?
      ☐ YES ☐ NO ☐ NOT APPLICABLE
    - Funds are used for authorized purposes?
      ☐ YES ☐ NO ☐ NOT APPLICABLE

    If No was selected for any of the above, an explanation is required:

    _____

16. Does the health center have a process for ensuring that the subrecipient takes timely and appropriate action on deficiencies that may be identified through audits, on-site reviews, or other means (including issuing a management decision for audit findings pertaining to the subaward)?
    ☐ YES ☐ NO ☐ NOT APPLICABLE

    If No, an explanation is required:

    _____

Element j: Retention of Subaward Agreements and Records

NOT APPLICABLE FOR LOOK-ALIKES

The health center retains final subrecipient agreements and related records, consistent with federal document maintenance requirements.[11]

Site Visit Team Methodology

- Review all subrecipient agreements.
- Review documentation of subrecipient monitoring.
- Review sample of financial and performance reports received from the subrecipient.

Site Visit Team Findings

17. Was the health center able to produce final (executed) subrecipient agreements that have been awarded within the past 3 years and related financial and other performance records?
    ☐ YES ☐ NO ☐ NOT APPLICABLE

    If No, an explanation is required:
    _____

[11] See 45 CFR 75.361 for HHS retention requirements for records.