

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 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
- All subrecipient agreements (if updated since last application submission to HRSA/BPHC) (not applicable to look-alikes and as applicable for awardees)

Documents Provided at the Start of the Site Visit:

- Complete list of all contracts for goods or services for procurement actions that were \$25,000 or more and include costs directly attributable to the federal Health Center Program award (not applicable to look-alikes and as applicable for awardees)
- From the above list of all contracts, a sample of half or five (**whichever sample size is smaller**) current contracts AND related supporting procurement documentation (not applicable to look-alikes and as applicable for awardees)
- Sample of **up to** five final contracts that support the HRSA-approved scope of project, including Column II service contracts, **regardless of whether the costs of such contracts are directly attributable to the federal award** (if applicable). *Note: The same sample of contracts utilized for reviewing other program requirement areas may also be used for this sample*
- Sample of two to three reports or records from contractors selected for the sample above (e.g., monthly invoices or billing reports, data run of patients served, visits provided)
- 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

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.⁵⁰

Site Visit Team Methodology

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

Site Visit Findings

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

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 and will only include costs allowable, consistent with Federal Cost Principles (e.g., 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-ALIKES⁵¹

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,

⁵⁰ See 45 CFR 75 Subpart E: Cost Principles.

⁵¹ Because look-alikes do not receive federal funding under section 330 of the Public Health Service (PHS) Act, any aspects of the requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.

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 sample size is smaller**) current contracts that include costs directly attributable to the federal Health Center Program award AND related supporting procurement documentation for actions that were \$25,000 or more (not applicable to look-alikes and as applicable for awardees).

Site Visit Findings

3. Based on the review of the sample of contracts, was there supporting documentation of the procurement process that addressed the following:
 - o Rationale for the procurement method?
 YES NO NOT APPLICABLE
 - o Selection of contract type?
 YES NO NOT APPLICABLE
 - o Contractor selection or rejection?
 YES NO NOT APPLICABLE
 - o Basis for the contract price?
 YES NO NOT APPLICABLE

Note: Select “Not Applicable” if the health center:

- Does not have any active contracts paid for in whole or in part utilizing Federal award funds.
- Had contracts paid for in whole or in part with Federal funds but the period of performance for such contracts ended more than three years ago.

If No OR Not Applicable was selected for any of the above, an explanation is required:

Element c: Retention of Final Contracts

NOT APPLICABLE FOR LOOK-ALIKES⁵²

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.⁵³

⁵² Because look-alikes do not receive federal funding under section 330 of the PHS Act, any aspects of the requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.

⁵³ See 45 CFR 75.361 for HHS retention requirements for records.

Site Visit Team Methodology

- Review sample of half or five (**whichever sample size is smaller**) current contracts that include costs directly attributable to the federal Health Center Program award AND related supporting procurement documentation for actions that were \$25,000 or more (not applicable to look-alikes and as applicable for awardees).

Site Visit Findings

4. Was the health center able to produce final contracts that have been awarded within the past three years?
- YES NO NOT APPLICABLE

Note: Select “Not Applicable” if the health center:

- Does not have any active contracts paid for in whole or in part utilizing Federal award funds.
- Had contracts paid for in whole or in part with Federal funds but the period of performance for such contracts ended more than three years ago.

If No OR Not Applicable, 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 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 sample of two to three reports or records from contractors, in particular those related to contracts for health center clinical services.

Site Visit Findings

5. 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,⁵⁴ 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

- 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*.
- Review complete list of all contracts for goods or services for procurement actions that were \$25,000 or more and include costs directly attributable to the federal Health Center Program award (not applicable to look-alikes and as applicable for awardees).

Site Visit Findings

6. 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
7. **If Yes:** Was the health center able to produce documentation of prior approval by HRSA (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

If No, an explanation is required:

⁵⁴ 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.

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.⁵⁵

Site Visit Team Methodology

- Review health center's Form 5A: Services.
- Review a sample of **up to** five final contracts, including Column II service contracts, that support the HRSA-approved scope of project, **regardless of whether the costs of such contracts are directly attributable to the federal award** (if applicable). **Note:** *The same sample of contracts utilized for reviewing other program requirement areas may also be used for this sample.*

Site Visit Findings

8. Does the health center provide one or more Required or Additional Services via Column II: Formal Written Contracts/Agreements?
 YES NO
9. **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
 - 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:

⁵⁵ For further guidance on these requirements, please see the HHS Grants Policy Statement, at <http://www.hrsa.gov/grants/hhsgrantspolicy.pdf>.

Subawards: Monitoring and Management

Element g: HRSA Approval to Subaward

NOT APPLICABLE FOR LOOK-ALIKES⁵⁶

If the health center has made a subaward, 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

10. Has the health center made any subawards (new or continuing) during the current Project Period?

YES NO

11. 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 SAC application or was approved through a separate post-award request)?

YES NO NOT APPLICABLE

If No, an explanation is required:

⁵⁶ Because look-alikes do not receive federal funding under section 330 of the PHS Act, any aspects of the requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.

Element h: Subaward Agreement

NOT APPLICABLE FOR LOOK-ALIKES⁵⁷

The health center's subaward(s) that supports the HRSA-approved scope of project include 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;⁵⁸
- 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;⁵⁹ and
- Requirements that all costs paid for by the federal subaward are allowable consistent with Federal Cost Principles.⁶⁰

Site Visit Team Methodology

- Review all subrecipient agreements.

Site Visit Findings

12. 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

⁵⁷ Because look-alikes do not receive federal funding under section 330 of the PHS Act, any aspects of the requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.

⁵⁸ Subrecipients are generally eligible to receive Federally Qualified Health Center reimbursement under Medicaid and Medicare, 340B Drug Pricing, and Federal Tort Claims Act coverage. However, such benefits are not automatically conferred and may require additional actions and approvals (e.g., submission and approval of a subrecipient deeming application).

⁵⁹ For further guidance on these requirements, please see the HHS Grants Policy Statement, at <http://www.hrsa.gov/grants/hhsgrantspolicy.pdf>.

⁶⁰ See 45 CFR 75 Subpart E: Cost Principles.

- The applicability of any other distinct statutory, regulatory and policy requirements of associated programs and benefits (e.g., 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 (e.g., 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-ALIKES⁶¹

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 Public Health Service (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 health center 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.⁶²

⁶¹ Because look-alikes do not receive federal funding under section 330 of the PHS Act, any aspects of the requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.

⁶² 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 that provide oversight of subrecipient activities.

Site Visit Findings

13. 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:

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

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

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

15. 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-ALIKES⁶³

The health center retains final subrecipient agreements and related records, consistent with federal document maintenance requirements.⁶⁴

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

16. Was the health center able to produce final (executed) subrecipient agreements that have been awarded within the past three years and related financial and other performance records?

YES NO NOT APPLICABLE

If No, an explanation is required:

⁶³ Because look-alikes do not receive federal funding under section 330 of the PHS Act, any aspects of the requirement that relate to the use of Health Center Program federal award funds are not applicable to look-alikes.

⁶⁴ See 45 CFR 75.361 for HHS retention requirements for records.