Post-Award Subcontract Administration

Brief

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<th>Post-Award Subcontract Administration</th>
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<tbody>
<tr>
<td>Publication date:</td>
<td>4/30/2018</td>
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<td>Effective:</td>
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BRIEF

Policy Summary

This policy defines the guidelines and requirements for effective post-award subcontract and agreement administration, coordination, and performance monitoring at Lawrence Berkeley National Laboratory (Berkeley Lab).

Who Should Read This Policy

Any employee involved in post-award subcontract and agreement administration, coordination, and performance monitoring.

To Read the Full Policy, Go To:

The POLICY tab on this wiki page

Contact Information

Chief Procurement Officer, OCFO

Policy

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POLICY

A. Purpose

This policy defines the guidelines and requirements for effective administration and performance monitoring of subcontracts and agreements at Lawrence Berkeley National Laboratory (Berkeley Lab).

B. Persons Affected

Any employee involved in the post-award administration, coordination, and performance monitoring of a subcontract or agreement.

C. Exceptions

None

D. Policy Statement

Post-award subcontract or agreement (herein after referred to as a subcontract) administration encompasses all actions taken to ensure that both the Laboratory and the subcontractor satisfy their respective rights and obligations under the subcontract, and is a shared responsibility between Procurement and the requesting division.

Subcontract administration commences upon award of the subcontract and continues until the goods and/or services are accepted, all obligations
are fulfilled, final payment is made, any claims or disputes are resolved, and the subcontract is closed. Subcontract administration includes monitoring the schedule, deliveries, and services; assuring the quality of the goods or services; receipt and review of subcontract deliverables (e.g., reports, drawings, and other design documents); interpreting and clarifying requirements; reviewing and approving invoices for payment (see the Invoice Certification Policy); maintaining documentation and records; and subcontract closeout activities.

Procurement manages most administrative aspects of the subcontract (e.g., pricing, subcontract provisions, award, notices to proceed, and modifications), maintains all subcontract documentation (with the exception of invoices and subcontract deliverables), and works with the requester and technical representative to monitor subcontractor performance, such as the quality and quantity of deliverables, resolve disputes and claims, and close out the subcontract.

The division requester or technical representative monitors the schedule, deliveries, and services; assures satisfactory performance; interprets and clarifies the technical requirements; serves as the invoice reviewer and certifier, or provides input to the certifier (see the Invoice Certification Policy), maintains documentation and records (including subcontract deliverables); and provides input to Procurement related to subcontract changes, disputes, claims, terminations, and subcontract closeout activities.

The technical representative must complete training on the roles and specific responsibilities related to administration of the following types of subcontracts. This individual is assigned by the division as the technical representative and is named, at a minimum, in the following types of subcontracts:

- Design and construction.
- Fabrication.
- Research and development.
- Any other subcontracts:
  - With quality assurance requirements (e.g., inspection, acceptance testing, acceptance, and/or operational training).
  - For complex equipment configuration (e.g., telecommunications, scientific equipment with multiple parts, or IT data/storage systems).
  - With project milestones.
  - That require technical direction and/or performance monitoring related to the scope of work stated in the subcontract.

Subcontract administration and performance monitoring involves the following:

1. Monitoring of Schedule, Deliveries, and Services

The requester or technical representative works with the procurement specialist to monitor for schedule delays, as well as the quality and quantity of goods and/or services, and ensures the subcontractor’s work conforms to all subcontract requirements. Monitoring of a subcontractor’s progress towards completion helps avoid and resolve problems before they escalate into disputes and claims. Any issues related to the subcontractor’s performance must be documented in writing.

2. Quality Assurance (QA) and Acceptance

The requester must identify any specific quality requirements or acceptance criteria for the subcontract on the purchase requisition or attached specification or statement of work. The need for, type of, and extent of quality requirements will depend on the particular circumstances, and may range from inspection at the time of acceptance to a requirement for the subcontractor’s implementation of a comprehensive quality assurance program. Additional information regarding QA requirements can be found on the Office of Contractor Assurance (OCA) web page on quality assurance.

The requester or technical representative, when applicable, is responsible for coordinating with designated quality assurance personnel in conducting any required quality assurance reviews of the subcontractor’s work or delivered products and/or performance of required acceptance testing to assure satisfactory performance. The requester or technical representative must receive and review any required reports or testing results prior to accepting items.

When the requestor or technical representative identifies potential or actual suspect and/or counterfeit items during inspection and/or acceptance activities, they must contact the Office of Institutional Assurance and Integrity. An individual in this office will determine whether the item is suspect and/or counterfeit. Additional information on handling of suspect or counterfeit items can be found on the OCA webpage on suspect/countfeit items or the LBNL Quality Assurance Program Description (QAPD) (PUB-3111).

3. Subcontract Changes

Only the procurement specialist is authorized to modify the terms of a subcontract or enter into a change order or other contractual commitment on behalf of the Laboratory. Specific individuals with written authorization from Procurement may issue field directed changes to construction subcontracts. The requester or technical representative must notify the procurement specialist when a change (subcontract modification) is required and assist in defining the technical requirements of a contemplated change, evaluating its technical elements, estimating costs, and negotiating modifications.

4. Termination, Disputes, and Claims

The requester or technical representative is responsible for working with the procurement specialist to resolve termination actions and subcontractor disputes and claims if they arise.

5. Documentation and Records

The requester or technical representative is responsible for reviewing, approving, and retaining all documentation produced or used in performance of the subcontract, such as progress and final reports, drawings, and other design documents, as applicable, and coordinating with other Berkeley Lab departments as needed. Procurement maintains the official record of all actions performed by the Procurement department in its administration of the subcontract. The requester or technical representative maintains all subcontract documentation produced or used during subcontract performance, such as subcontract deliverables. Disposition and legal destruction of these records are based on record-retention schedules. See
the Archives and Records Management Policy and the Laboratory’s Information Technology Archives and Records Office website for more information.

6. Environment, Safety, and Health
Subcontractors performing work at a Berkeley Lab site are subject to the Laboratory’s Environment, Safety, and Health (ES&H) requirements, and are required to take all reasonable precautions to protect the environment and workers’ safety and health, and to comply with all applicable ES&H regulations and requirements of the Laboratory and the Department of Energy (DOE). Berkeley Lab flows down these requirements to lower-tier subcontractors and their employees through subcontract terms and conditions. This flow down of requirements ensures that the safety and health activities of subcontractors are integrated with Laboratory activities. See the Worker Safety and Health Program (PUB-3851), Integrated Environment, Safety, & Health Management Plan (PUB-3140), and the ES&H Manual (PUB-3000). When on-site hands-on work is performed, refer to the sJHA Process — Subcontractor Job Hazards Analysis Policy. Also, see the sJHA and Work Authorization website for more information regarding the sJHA process.

7. Patents, Data, and Copyrights
Requesters or technical representatives are required to ensure that the subcontractor’s obligations related to patents, data, and copyrights (e.g., reporting inventions and software, reporting notices or claims of infringement, and securing required DOE approvals) are properly fulfilled. If known, these obligations for reporting should occur prior to the approval of the last invoice and before subcontract closeout. If the subcontractor does not fulfill these obligations, the requester or technical representative shall notify the procurement specialist and the Intellectual Property Office immediately so that appropriate and timely action may be taken. See the Intellectual Property Policy for more information regarding intellectual property.

8. Subcontracts with Foreign Travel
It is the responsibility of the requesting division to obtain DOE approval for each incident of foreign travel by a subcontractor before the travel occurs. See the Travel Policy and the Laboratory’s Foreign Travel Information web page for specific policy related to foreign travel.

9. Government Property
The requester or technical representative should notify Procurement & Property Management of any changes to government furnished property (GFP) and/or subcontractor acquired property (SAP) during performance of the subcontract. Such changes may indicate a need to adjust the subcontract price and issue a subcontract modification. Property Management will track GFP and/or SAP identified in the subcontract.

10. Invoice Certification
Invoice certifications must be performed in a timely manner using the online certification system to ensure that the subcontractor is paid within the payment terms of the subcontract. Failure to provide timely certification may result in a late payment, which could affect the Laboratory’s ability to comply with the terms of the subcontract and DOE requirements. Prior to invoice certification, the invoice certifier may need to consult with the requester or technical representative to complete and return. Other closeout-related documents pertaining to government property, intellectual property, and other items providing evidence that the work is complete may also be required to be completed by the requester or technical representative or the subcontractor. The division may also be requested to certify the final invoice. See Procurement’s PO Closeout website for further information about the closeout process and division responsibilities.

11. Subcontract Closeout
a. Timely subcontract closeout ensures that contractual obligations between the Laboratory and the subcontractor are met and that subcontract encumbrances are released back to the project if not required to fulfill the true financial obligation of the subcontract. Subcontract closeout requirements may include confirmation of the full amount to be paid to the subcontractor, disposition of government property, receipt of final reports, issuance of scientific reports, completion of final acceptance testing, reporting of intellectual property developed, and certifications of patents created under the subcontract. Subcontract closeout is initiated by Procurement when subcontract work is finished (i.e., physically complete) and accepted.

b. Divisions have a key role in the closeout process. The requester or technical representative must review the subcontract renewal notices received and promptly notify the subcontract administrator if a subcontract modification is necessary. If no modifications are necessary, Procurement will initiate the subcontract closeout process. If doing so is required based on the type of subcontract goods or services purchased, Procurement may send a Subcontract Closeout Memorandum to the requester or technical representative to complete and return. Other closeout-related documents pertaining to government property, intellectual property, and other items providing evidence that the work is complete may also be required to be completed by the requester or technical representative or the subcontractor. The division may also be requested to certify the final invoice. See Procurement’s PO Closeout website for further information about the closeout process and division responsibilities.

E. Roles and Responsibilities

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| Procurement specialist                    | - Ensures that a trained technical representative is designated in the subcontract, when applicable.  
- Manages most administrative aspects of the subcontract (e.g., pricing, subcontract provisions, award, notices to proceed, and modifications).  
- Maintains all contractual documentation related to the subcontract (with the exception of invoices and subcontract deliverables).  
- Works with the requester and technical representative to monitor subcontract performance and deliverables.  
- Works with the technical representative and requester to resolve quality issues, disputes, and claims.  
- Evaluates and administers subcontract changes in coordination with the requester and technical representative.  
- Follows the Invoice Certification Policy to determine when he or she must certify invoices. Ensures that the invoice conforms to the terms and conditions of the subcontract. Works in conjunction with the requester and technical representative as needed to close the subcontract upon completion and acceptance of the work. |
| Technical representative                  | - Completes the Laboratory’s technical representative overview training and takes refresher training every two years.  
- Reviews the subcontract to understand contractual requirements.  
- Provides technical direction on the subcontract and monitors subcontractor performance to ensure that quality, deliverables, and milestones are met.  
- Ensures that the subcontractor’s obligations related to patents, data, and copyrights (e.g., reporting inventions, reporting notices or claims of infringement, and securing required DOE approvals) are properly fulfilled.  
- Notifies Procurement of non-conformance, schedule delays, and cost overruns.  
- Reviews, approves, and retains non-subcontract documentation produced or used in subcontract performance and coordinates with other Berkeley Lab departments as needed.  
- Coordinates with designated quality assurance personnel in conducting any required quality assurance reviews of the subcontractor’s work.  
- Confirms acceptance of goods and services required on subcontracts (e.g., quantity, quality, installation, acceptance testing and associated training, written reports, and scientific data).  
- Notifies Procurement when a change (subcontract modification) is required and assists in defining the technical requirements of a contemplated change.  
- Assists Procurement & Property Management with managing government property during subcontract performance and with disposition of government property upon work completion.  
- Coordinates with the invoice certifier and/or requester to certify that goods and services have been received per subcontract requirements prior to invoice payments.  
- Assists Procurement to close out subcontracts.  
- Verifies that work is complete; reports are received; proper certifications have been obtained; and no issues, claims, or invoices are outstanding. |
| Requester                                 | During the pre-award process, the requester or other division personnel informs Procurement of the technical representative to be designated in the subcontract, if required. If a technical representative is not designated in the subcontract, the requester:  
- Reviews the subcontract to understand contractual requirements.  
- Ensures that the subcontractor's obligations related to patents, data, and copyrights (e.g., reporting inventions, reporting notices or claims of infringement, and securing required DOE approvals) are properly fulfilled.  
- Notifies Procurement of non-conformance, schedule delays, and cost overruns.  
- Confirms acceptance of goods and services required on subcontracts (e.g., quantity, quality, installation, written reports, and scientific data).  
- Maintains, reviews, and approves non-subcontract documentation produced or used in subcontract performance.  
- Notifies Procurement when a change (subcontract modification) is required and assists defining the requirements of a contemplated change.  
- Assists Procurement & Property Management with managing government property during subcontract performance and with disposition of government property upon work completion.  
- Coordinates with the invoice certifier to certify that goods and services have been received per subcontract requirements prior to invoice payment.  
- Works with Procurement in resolution of subcontract termination actions and subcontractor claims and disputes.  
- Assists Procurement to close out subcontracts.  
- Verifies that work is complete; reports are received; proper certifications have been obtained; and no issues, claims, or invoices are outstanding. |
| Invoice certifier                         | - Validates receipt of goods or services and ensures that subcontractor invoices adhere to all contractual requirements.  
- Consults with the requester and/or technical representative as necessary to ensure invoices should be paid before certifying.  
- Ensures the material received is in accordance with the subcontract requirements.  
- Ensures that invoices for labor include names, positions/job classifications, hourly rates, and the number of hours worked.  
- Notifies the supplier and the procurement specialist of any discrepancies to resolve them in a timely manner.  
- Uses the online certification system to certify in a timely manner that services have been performed and/or goods have been received. |
| Accounts payable                          | - Makes payment and maintains invoices received from the subcontractor. |
F. Definitions/Acronyms

<table>
<thead>
<tr>
<th>Term</th>
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<tbody>
<tr>
<td>Agreement</td>
<td>An agreement is an understanding or arrangement issued under the DOE-UC Prime Contract between the University of California Regents (as managing operator of the Berkeley Lab) and a third party that contains the essential terms and conditions under which goods or services will be furnished to Berkeley Lab. An Intra-University Transaction (IUT), a DOE Contractor Order, a National Institute of Health (NIH) agreement, or a Master Agreement constitutes an agreement.</td>
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<tr>
<td>Invoice certifier</td>
<td>A Berkeley Lab employee who is designated to review and certify invoices, and to validate the receipt of goods or services prior to payment.</td>
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<tr>
<td>Procurement specialist</td>
<td>A Berkeley Lab employee in the Procurement &amp; Property Management Department who is responsible for the solicitation, negotiation, award, administration, and closure of subcontracts.</td>
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<tr>
<td>Requester</td>
<td>An individual in a Berkeley Lab division who requests a good and/or service for purchase.</td>
</tr>
<tr>
<td>Subcontract</td>
<td>A legally binding contract that is subordinate to the UC-DOE Prime Contract. The subcontract, which is between the University of California Regents (as managing operator of the Berkeley Lab) and a third party, contains the essential terms and conditions under which goods or services will be furnished to Berkeley Lab. A purchase order or order constitutes a subcontract.</td>
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<tr>
<td>Subcontractor</td>
<td>A subcontractor is the party to whom Berkeley Lab, on behalf of the University of California Regents, issues a subcontract under the UC-DOE Prime Contract for goods or services for Berkeley Lab.</td>
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<td>Technical representative</td>
<td>A trained employee designated by a Berkeley Lab division who provides technical direction on the subcontract and monitors subcontractor performance.</td>
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G. Recordkeeping Requirements

None

H. Implementing Documents

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<tr>
<td>12.01.002.002</td>
<td>Procurement &amp; Property Management</td>
<td>Web site</td>
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I. Contact Information

Chief Procurement Officer, OCFO

J. Revision History

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<tr>
<th>Date</th>
<th>Revision</th>
<th>By whom</th>
<th>Revision description</th>
<th>Section(s) affected</th>
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<tr>
<td>4/30/2018</td>
<td>0</td>
<td>K. Jurgensen</td>
<td>Policy split out from Procurement of Goods and Services Policy</td>
<td>All</td>
<td>New policy</td>
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Document Information

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Source Requirements Documents

Contract 31, Clause I.114, DEAR 970.5244-1 Contractor Purchasing System (August 2009)

Implementing Documents

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