

<b>II. ADMINISTRATIVE SECTION</b>
<b>400. Subcontracts and Consultant Requirements</b>

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#### **401. General Information**

The *Network* allows Contractors to enter into subcontracts and consultant agreements in order to fulfill the SOW and services outlined in a timely manner. Contractors intending to utilize subcontractor(s) to meet the objectives in their SOW must comply with these guidelines.

Contractors are responsible for all performance requirements as outlined in their contract SOW, even if performance is carried out through subcontractors, mini-grants, or consultants.

#### **402. Funding Application Requirements for Subcontracts**

Prior written approval is required for all subcontracts and consultant agreements paid for with *Network* funds. The following information pertaining to each subcontractor or consultant should be submitted to the assigned CM when the Contractor submits its Funding Application Package (FAP) along with a [Subcontractor Agreement Form](#):

1. Subcontractor name (if known); List as "TBD" if not known.
2. Description of services or SOW.
3. Basis for costs (e.g., hourly or daily rate, # of hours/and or days to perform the deliverable).
4. Budget Justification.
5. Nine line item budget.

This information will be reviewed and approved during contract negotiations with the CM and PM.

If the subcontractor has not been determined, submit the information to the *Network* as soon as the agreement is negotiated with the Contractor, so that *Network* staff can review and approve the subcontract for compliance with USDA and CDPH regulations. As required by USDA, prior written authorization is required for all subcontracts.

#### **403. Agencies Exempt from Bidding Requirements**

Subcontracts performed by the following entities or for the service type listed below are exempt from the bidding and sole source justification requirements:

1. A local governmental entity or the federal government.
2. A State college or university from any State.
3. A Joint Powers Authority.
4. An auxiliary organization of a California State University or a community college.
5. A foundation organized to support the Board of Governors of a California Community College.
6. An auxiliary organization to Student Aid Commission established under Education Code 69522.
7. Entities of any type that will provide subvention aid or direct services to the public.
8. Entities and/or service types identified as exempt from advertising in State Administration Manual Section 1233 subsection 3.

#### **404. Key Elements Required in a Subcontract**

The following key elements must be included in the subcontract:

1. Name of the parties entering into the agreement.
2. Terms of the agreement.
3. Scope of services or work to be completed.
4. Maximum amount payable.
5. Cancellation clause.
6. Record retention clause.
7. Copy of the Exhibit D(F) for Federally-funded contracts, page 7, paragraph 5. "Subcontractor Requirements". [Exception: Regional contracts awarded to a "Regents of the University of California do not contain this exhibit.]
8. Information confidentiality and security requirements.
9. Information systems security requirements for projects.

#### **405. Contractor's Responsibilities**

The *Network* reserves the right to approve or disapprove the selection of subcontractors and with advanced written notice, require the substitution of subcontractors and require the Prime Contractor to terminate subcontracts entered into to support this agreement.

Upon receipt of a written notice from *Network* requiring substitution and/or termination of a subcontract, the Prime Contractor shall take steps to ensure the completion of any work in progress and select replacement, if applicable, within 30 calendar days, unless a longer period is negotiated.

The sole responsibility rests with the Prime Contractor to ensure that subcontractors used in the performance of the *Network* contract are paid in a timely manner. The timeliness of said payments may be affected by the timeliness of payments issued by the *Network* to the agency. Funds expended by a subcontractor prior to the Prime Contractor obtaining approval from the *Network* for the subcontract may not be reimbursable in the event that the *Network* should subsequently disapprove the proposed subcontract.

The Prime Contractor remains responsible for all performance requirements under this agreement even though the performance may be carried out by a subcontractor.

*Network* Contractors must include provisions in all subcontract agreements that require subcontractors to comply with all applicable terms and conditions as specified in the executed CDPH contract boilerplate language, specifically Exhibit D(F).

The Prime Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

- (Subcontractor's Name) agrees to maintain and preserve until three years after termination of (Agreement #) and final payment from the *Network*, to permit CDPH, USDA or any duly authorized representative to have access to, examine, or audit any pertinent books, documents, and records related to this subcontract and allow interviews of any employees who might reasonably have information related to such records.

Unless otherwise agreed to in writing by the *Network*, the Prime Contractor is the subcontractor's sole point of contact for all matters related to the performance and payment under the contract.

Upon execution of any subcontract and/or consultant agreement, Contractors are required to submit a copy of the fully executed subcontract agreement and/or consultant agreement to the assigned CM. If invoices are received which contain subcontract line item expenses, and a copy of the fully executed agreement is not on file with the *Network*, invoices will not be processed until a copy of the subcontract agreement is submitted.

#### **406. Subcontracts**

If the fully executed contract was negotiated and approved with identified subcontractors, then those subcontractors are considered pre-approved and no further approvals are necessary.

For subcontractors that were identified as "To Be Determined" at the time the contract was executed, and the resulting subcontract award total exceeds \$5,000, obtaining a minimum of three bids or justifying a sole source award may be required. Please review the executed contract boilerplate language for specific Subcontract Requirements to determine if the bidding or sole source justification is required.

For any new subcontractors to be added to the contract, prior-approval from the PM is required. To request approval for additional subcontracts, send an e-mail request to the assigned PM and provide all the necessary information needed to evaluate the necessity or desirability of awarding additional subcontracts. Again, in many cases, obtaining at least three bids or justifying a sole source award may be required when securing subcontracts which exceed

\$5,000. Please review the executed contract boilerplate language for specific Subcontract Requirements.

Contractors must include provisions in all subcontract agreements that requires subcontractors to comply with all applicable terms and conditions as specified in the executed contract boilerplate language.

Upon execution of any subcontract agreement, submit a copy of the fully executed subcontract agreement to the assigned CM. If invoices are received which contain subcontract line item expenses, and a copy of the fully executed subcontract agreement is not on file with the *Network*, invoices will not be processed until a copy of the subcontract agreement is submitted.

#### **407. Consultants**

If the fully executed contract was negotiated and approved with identified consultants, then those consultants are considered pre-approved and no further approvals are necessary.

For Consultants that were identified as "To Be Determined" at the time the contract was executed, and the resulting Consultant Agreement exceeds \$5,000, obtaining a minimum of three bids or justifying a sole source award may be required. Please review the executed contract boilerplate for specific independent consultant requirements (found under Subcontract Requirements) to determine if the bidding or sole source justification is required.

For any new Consultants to be added to the contract, prior-approval from the assigned PM is required. To request approval for additional Consultants, send an e-mail request to the assigned PM and provide all the necessary information needed to evaluate the necessity or desirability of obtaining the Consultant. Again, in many cases, obtaining at least three bids or justifying a sole source award may be required when securing Consultant Agreements which exceed \$5,000. Please review the executed contract boilerplate for specific independent consultant requirements (found under Subcontract Requirements).

Upon execution of any Consultant Agreement, submit a copy of the fully executed consultant Agreement to the assigned CM. If no formal agreement form is required by the Contractor's organization for consultants, submit a letter from the consultant, on the consultant's letterhead, which includes a brief description of the scope of work to be completed, rate of pay, number of hours, and total amount payable. If invoices are received which contain consultant expenses, and a copy of the Consultant Agreement is not on file with the *Network*, the invoices will not be processed until a copy of the Consultant Agreement is submitted.