# EUROPEAN RESEARCHERS AND U.S. FEDERAL FUNDING: A DISCUSSION

Robert Andresen – University of Wisconsin-Madison
Jennifer Ponting – Harvard University
Nicolas Schulthess – ETH Zurich, University of Zurich

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# AGENDA

- Introduction

- The European Perspective on US Federal Funding

- Challenges during proposal submission and negotiation

- Challenges after the award is finalized

- Q&A

# EUROPEAN FUNDING VS. US FUNDING

|  | EU Projects | US Projects |
|---|:---:|:---:|
| Long tradition | ✓ | ✗ |
| Critical Mass of Project Participation | ✓ | ✗ |
| National Support Network | ✓ | ✗ |
| Contacts with the Funding Agency | ✓ | ✗ |
| Contacts with other Grants Offices dealing this type of funding | ✓ | ✓ |
| Cultural «Proximity» | ✓ | ✗ |

# RULES, LAWS AND REGULATIONS

- Your own national Laws

- Uniform Guidance, Code of Federal Regulations

- NIH Grants Policy Statement

- NSF Grant General Conditions

- ONR Grant Terms and Conditions

- ARO Agency Specific Grant Terms and Conditions

- DARPA Agency Specific Terms and Conditions

- Programme Announcement

- Prime Award Terms

- Subaward Terms

- Institutional Policies and Regulations

# HOW TO MATCH REGULATIONS WITH MINDSETS?

| Regulation | Comment | Recommendation / Risk | |
|------------|---------|----------------------|---|
| Fly America Act | Open sky agreement between US and Switzerland | Compliance ensured | ✓ |
| Gun Control | Swiss Federal Law about Gun possession | Negligible | ✓ |
| Data and Safety Monitoring | Existing Laws on Swiss Federal Level:<br>- Datenschutzgesetz (Data protection law)<br>- Humanforschungsgesetz (Human research law)<br>Existing Regulations on University Level<br>- Richtlinien für Integrität in der Forschung und gute wissenschaftliche Praxis (Guidelines for Integrity in Research and proper scientific conduct) | Assuming that compliance is ensured. To be sure, further investigation necessary | ✗ |
| Animal Welfare | Existing Laws on Swiss Federal Level:<br>- Federal Animal Welfare Act (TSchG)<br>- Federal Animal Welfare Ordinance (TSchV)<br>- Animal Experimentation Ordinance, TVV<br>- Containment Ordinance (ESV)<br>Existing Regulations on University Level<br>- ETH Zurich's policy on laboratory animal research | Compliance ensured | ✓ |

# CHALLENGES IN MANAGING US FUNDING

- FCOI training, disclosure

- Endless variety of subaward forms

- Constant monitoring of new regulations and implement changes (salary caps)

- Effort reporting

- Technical and financial Audits (programmatic audits)

- Cost transfer / budget shifting

- Allowable or non-allowable costs (Alcohol)

- F&A costs

- Export Controls

- Grant or Contract?

- Training of staff (central, pre- and post award, institutional, scientific)

- Monitoring of Subawardees

- Main Awardee vs Coordinator

# RAISE AWARENESS

Measures taken

- Engage in network activities (conference visits and staff exchanges)

- Create and institutionalise processes

- Mandatory project registration

- Check proposal documents and budget

- Request FCOI forms

- Kick-off meetings

- Take PI into responsibility
  - Confirm budget efforts
  - Provide Project content, institutional approval required
  - Applicable Regulations Check-list

# PROPOSAL SUBMISSION & NEGOTIATION

# MECHANISM OF FUNDING: SPONSOR TO AWARDEE

**GRANT**: Financial assistance for the conduct of research or other program as specified in an approved proposal.

**COOPERATIVE AGREEMENT**: Similar to grants, however sponsor has significant involvement in the project or research.

**CONTRACT**: A mechanism for procuring goods (creation of tangible products) or services.

Federal Statute: 31 USC §§6301 – 08

# MECHANISM OF FUNDING: AWARDEE TO THIRD PARTY

**SUBRECIPIENT:**  Entity that receives a subaward to carry out part of a Federal grant or contract.
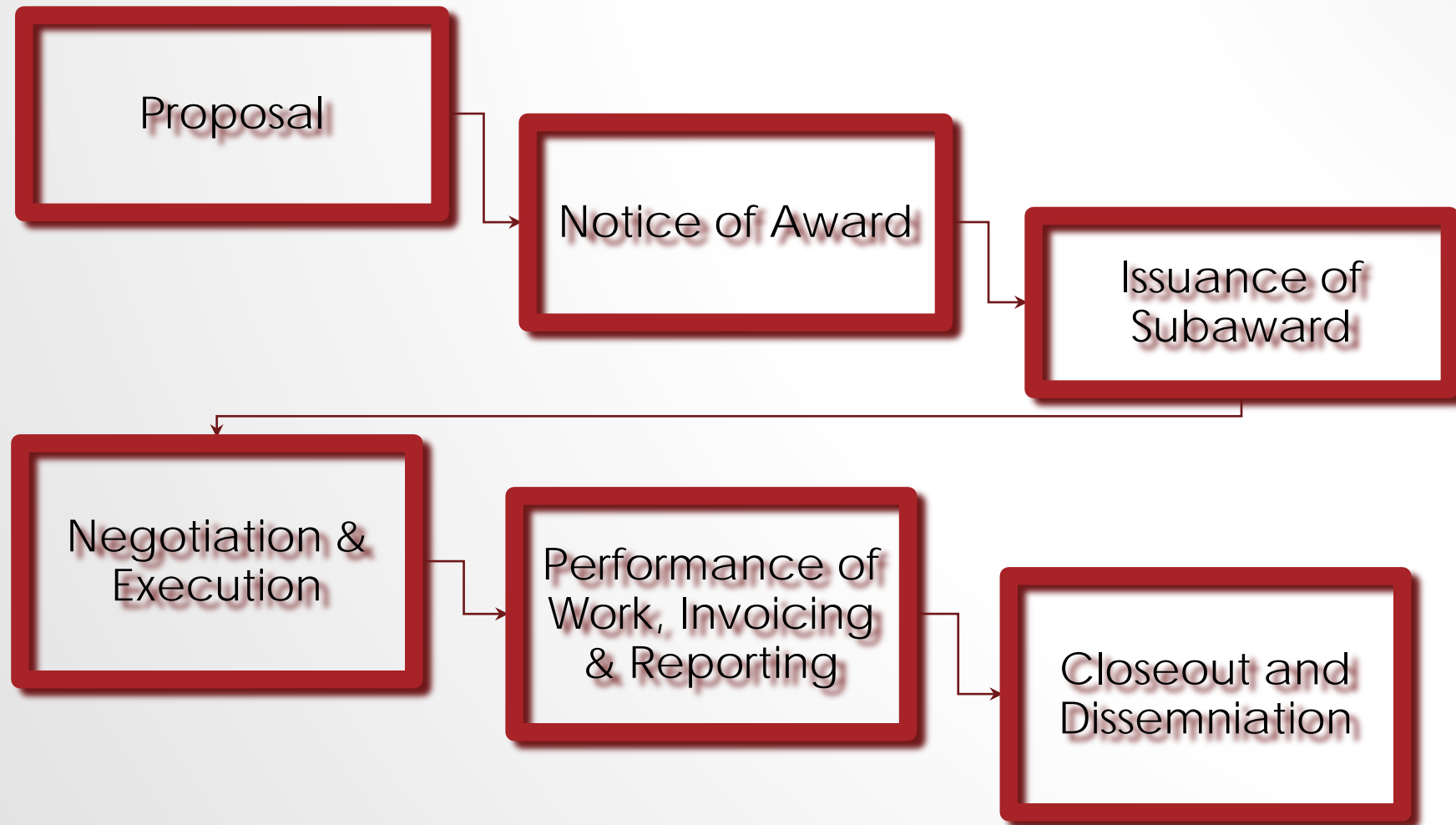
- Fixed Price vs cost Reimbursement
- Subgrant or Subcontract

**CONTRACTOR (VENDOR):** An entity that enters into a contract by which an prime awardee purchases property or services needed to carry out the project or program under a Federal award.

- Service or consulting agreement

NOTE: "…the *substance* of the relationship is more important than the *form* of the agreement…"

# MECHANISM OF FUNDING: SUBAGREEMENT PROCESS

Proposal

Notice of Award

Issuance of Subaward

Negotiation & Execution

Performance of Work, Invoicing & Reporting

Closeout and Dissemniation

# NEGOTIATION STRATEGY

- Common negotiation challenges and strategies to get to "Yes"

- Topics include:
  - Intellectual Property
  - Confidentiality
  - Indemnification
  - Use of Name
  - Governing Law
  - Publication
  - Authorized Representatives

# U.S. INSTITUTIONS' PRINCIPLES AND POLICIES

- Committed to :
  - openness in research
    - freedom of access to underlying data, processes, and final results.
  - performing fundamental, early stage research free from third party interference.

- For example, typically US institutions will not:
  - allow sponsor to control the project/select personnel
  - accept publication restrictions
  - conduct secret or classified research

# AFTER THE AWARD IS MADE…

Suggestions for Managing U.S. Funding

# UNIFORM GUIDANCE   (2 CFR 200)

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements

- Applicability (2 CFR 200.201)
  - Grant Agreements
  - Cooperative Agreements
  - Procurement Contracts (under the Federal Acquisition Regulations)

- Non-Federal entities must comply with requirements regardless of whether the non-Federal entity is a recipient or subrecipient of a Federal award.

# SUBRECIPIENT MONITORING (2 CFR 200.331 (B))

- Evaluation of each subrecipient' s risk of non-compliance to determine appropriate monitoring.

- Capacity Review and Risk Assessment
  - Prior Experience
  - Recent Audits
  - Suspension or Debarment
  - Questionnaire on Systems and Controls

# COMMON RISK MITIGATION TOOLS

- Request Additional Supporting Documentation

- Increased Financial Reporting Requirements

- Additional Training and Technical Assistance

- On-site Audits

- Fixed Price Contracts (Harder to issue under the U.G.)

# COMMON AUDIT FINDINGS

- Documenting Salary

- Allocability Methodology

- Travel

- Purchases near the end date of the award

QUESTION & ANSWER PERIOD

# THANK YOU

Nicolas Schulthess
EU GrantsAccess
nicolas.schulthess@sl.ethz.ch
www.grantsaccess.ethz.ch

Jennifer Ponting
Director, Pre-Award Services
Harvard University
jennifer_ponting@harvard.edu

Robert Andresen
Director of Research Financial Services
University of Wisconsin-Madison
randresen@rsp.wisc.edu