

Subrecipient vs Contractor Determination

OU is required by Federal guidelines to determine whether an entity is a sub-recipient or a contractor. It is very important that we get the classification correct as the requirements for monitoring and the method of charging F&A differ based on the distinction. A subrecipient is for the purpose of carrying out a portion of the award and creates an assistance relationship. A contractor is for the purpose of obtaining goods and services and creates a procurement relationship with the contractor.

Characteristics which support the classification as a subrecipient are:

- Determines who is eligible to receive assistance.
- Has its performance measured in relation to whether objectives of the program were met?
- Has responsibility for decision making.
- Is responsible for adherence to applicable program requirements.
- Uses the funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services.
- A principal investigator is identified.
- Typically, salary commitment is in the form of effort (i.e. calendar months, FTE, etc.)
- Proposal requires statement of work, budget, budget justification and official organization commitment letter.
- Subrecipient is entitled to Facilities and Administrative costs as allowed by the prime award.
- Publication of results are expected.
- Potential for patentable or copyrightable technology.

The Offices of Research Administration/Services are responsible for the negotiation of all subrecipient contracts.

Characteristics indicative of a vendor/contractor are:

- Provides the goods and services within normal business operations.
- Provides similar goods or services to many different purchasers.
- Normally operates in a competitive environment.
- Provides goods or services that are ancillary to the operation of the program.
- Person(s) conducting the work is not necessarily identified.
- No publication or involvement in publication is anticipated.
- Little or no independent decision-making involved in the design or conduct of project.
- The vendor commits to deliverable goods or services which if not satisfactorily completed may result in non-payment or replacement.

In determining proper classification, the relative importance of an individual's work to an award or project must not be a factor. Individuals engaged as contractors may be just as critical to the successful performance of work as subrecipients. Classification decisions must be based on the substance of the working relationship rather than the form of the agreement. The use of an Independent Contractor Agreement (ICA) template, by itself, does not establish appropriate classification; all engagements must be reviewed to ensure they are correctly classified in accordance with applicable policy and requirements.