**Subrecipient vs. Contractor**

**Guidelines for Sponsored Program**

**Overview**

Award recipients may receive assistance throughout the operation of the awarded projects from subrecipients and/or contractors. The roles of each entity are determined per Office of Management and Budget (OMB) Uniform Guidance as described below:

- A subrecipient is involved in the substantive activities of the awarded project to accomplish the program’s purposes and serves as a co-investigator. A subrecipient must comply with the terms and conditions of the grant award.
- A contractor provides services and goods to the program within their normal business operations to benefit the grant recipient. A contractor is not subject to Federal program compliance requirements.

**Subrecipient and Contractor Determination**

Section 200.330 of the OMB Uniform Guidance provides guidance for determining whether an individual in a Federal assistance award may be classified as a subrecipient or a contractor.

Use the information below to determine whether a grant payment expected to be made to a project participant constitutes a Federal award or a payment for services and goods:

<table>
<thead>
<tr>
<th>Subrecipient characteristics:</th>
<th>Contractor characteristics:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research program or project is within the research objectives of the entity.</td>
<td>Provides similar services and goods to many different purchasers, including those in non-academic fields.</td>
</tr>
<tr>
<td>Determines who is eligible to receive Federal financial assistance.</td>
<td>Operates in a competitive environment.</td>
</tr>
<tr>
<td>Has its performance measured against whether the objectives of the program are met.</td>
<td>Provides services or goods that are ancillary to the operation of the program.</td>
</tr>
<tr>
<td>Has responsibility for programmatic decision-making.</td>
<td>Has not significantly participated in the design of the research itself, but is implementing the research plan of the NVCC investigator.</td>
</tr>
<tr>
<td>Has responsibility for adherence to applicable program compliance requirements.</td>
<td>Is not directly responsible to the sponsor for the research or for determining research results.</td>
</tr>
<tr>
<td>Uses funds to carry out a program of the organization as compared to providing services and goods for a program of the pass-through entity.</td>
<td>Has no employment relationship with NVCC, either academic or administrative in nature.</td>
</tr>
</tbody>
</table>
Why is it important?

The nature of the legal relationship determines whether or not an entity is a subrecipient or a contractor. Neither the dollar amount of the engagement nor the associated overhead is a determining factor. *The OMB Uniform Guidance advises that the substance of the relationship is more important than the form of the agreement.* Thus, it is important to carefully review the nature of services to be provided and an appropriate determination as part of the proposal budget review process to eliminate post-award issues, including:

- Delays in processing requisitions for purchased services budgeted as subcontracts;
- Obtaining sponsor prior approval for unbudgeted subcontracts.
- Meeting audit and compliance requirements with for-profit organization where a contractor relationship should exist;

How to comply

The subrecipient vs. contractor agreement checklist is intended to assist in establishing whether an external entity is a subrecipient or a contractor. There may be unusual circumstances or exceptions to the listed characteristics. Therefore, each situation must be evaluated on a case-by-case basis. A recipient should exercise its judgment when determining whether a particular entity is appropriately characterized as a subrecipient or a contractor or should evaluate the activities the entity will be expected to perform on the project against the criteria enumerated above.

Additional Resources

For additional information and guidance on identifying and selecting, subrecipients and contractors, please refer to the following resources:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, [OMB Uniform Guidance](#)
- Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit and Commercial Organizations, [15 CFR Part 14](#)
- Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, [15 CFR Part 24](#)
Subrecipient vs. Contractor
Checklist for Sponsored Program

Name of the Subrecipient / Contractor Organization: _________________________________

Contract Grant Project #: _________________________________

Funding Agency: _________________________________

Answer these questions to determine how a provider should be paid, as a contractor or subrecipient. See below for clarification on specific questions.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the organization provide the proposed goods/services within its normal business operations?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Does the organization provide similar goods or services to many different purchasers?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Does the organization operate in a competitive environment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Are the proposed goods or services ancillary to the performance of NOVA’s sponsored program?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Are the organization’s personnel named and identified as having key roles in NOVA’s proposal?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Is the organization’s performance measured against the objectives of the sponsored program?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Does the organization have responsibility for programmatic decision making?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Will the organization use the proposed funds to carry out a program of its own, as compared to providing goods or services for a NOVA program?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Clarification of Questions 1 - 8

1. Answer "**Yes**" if the organization provides the same services or products as part of its daily business operations.
   Answer "**No**" if the organization is developing a unique service or product for NOVA.

2. Answer "**Yes**" if the organization sells the same services or products to any customer, or if the organization is simply running lab tests, fabricating equipment, or developing plans to NOVA specifications.
   Answer "**No**" if the organization has to develop or design something unique based on project objectives.

3. Answer “**Yes**” if other sources are readily available. They compete with others who can provide a similar service.
   Answer “**No**” if the organization provides a unique resource.

4. Answer “**Yes**” if the organization provides elements incidental to the work (e.g., if they are providing “skilled hands” but not interpretation in developing programmatic conclusions).
5. Answer "Yes" if the proposal includes any of the following for the organization's portion of the project: separate budget; facility and resource description; project site information; roles and responsibilities; scope of work.

6. Answer "Yes" if the organization's performance will be measured against the objectives of the primary project.

7. Answer “Yes” if the organization conducts an independent research project; is responsible for designing the research and determining how to carry out the requested activities. 
   Answer “No” if the organization simply implements the research project of the NOVA investigator.

8. Answer “Yes” if the funds issued to the organization will be dedicated to completing the research project. 
   Answer "No" if the funds will contribute to the general profit or operating funds of the organization.

How to use the Checklist

A preponderance of “Yes” answers to questions 1 - 4 and “No” answers to questions 5 - 8 signify that a contractor relationship is more appropriate. Subsequently, more “No” answers to questions 1 - 4 and “Yes” answers to questions 5 – 8 indicate a subrecipient relationship is more appropriate. If you have questions left unanswered by this checklist regarding subrecipients, please contact the Budget Office for more information.

Relationship determined to be (Check one):  ☐ Subrecipient  ☐ Contractor

Preparer’s name

Preparer’s signature