

Subrecipient versus Contractor

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.

If a subrecipient is performing work on an OU award, a **Subrecipient Cover Page** will need to be prepared and forwarded to the Office of Research Services for contract preparation.

Characteristics indicative of a 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.

It's important to remember that importance to the award, doesn't enter into the determination. A

contractor can be just as important to the work being done. And remember that the substance of the relationship is more important than the form of the agreement. Just because a contract is written on an ICA form, doesn't mean we shouldn't be making sure it is classified correctly.