

Subaward vs. Procurement or Consultant

It is not always clear when NCSU should issue an entity a subaward to a “subrecipient” or a procurement contract to a “vendor”. For assistance in making these determinations, follow the governing regulation OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations. In order to remain consistent, NCSU has adopted this guidance to determine the status of a subrecipient versus a vendor for all sponsored projects, no matter the funding type (federal, state, or industry funding).

A “subrecipient” is an organization that expends funds received from a pass-through entity to carry out a sponsored project. A subrecipient does not include an individual that is a beneficiary of such a program. Under a subaward, a subrecipient generally has a specific scope of work to conduct in conjunction with the proposed project.

Under OMB A-133, Section B210b “*Federal Award*”, an organization is considered to be a subrecipient of an award when it:

1. determines who is eligible to receive what Federal financial assistance;

2. has its performance measured against whether the objectives of the program are met;
3. has responsibility for programmatic decision making;
4. has responsibility for adherence to applicable program compliance requirements; and
5. uses the funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

Other indications that an organization should be deemed a subrecipient include when:

- The organization is contributing to the scholarly/scientific conduct of the project as described in a statement of work for the organization (programmatic involvement);
- The conduct of the organization's portion of the project requires use of the discretion and unique expertise of the organization;
- The subrecipient's principal investigator may be a co-author on publications or may seek patent protection for inventions; and
- Title to intellectual property created by subrecipient is normally retained by the subrecipient.

In contrast, a "vendor" is a dealer, distributor, merchant or other seller providing goods or services that are necessary for conducting a federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the federal program.

A Consultant is an expert advisor who is paid for his/her time at a fixed rate of compensation (hourly or daily and includes travel, expenses and overhead) specified in the consultant agreement. A consultant can be an individual or a company. They must use their own equipment and materials. Be careful for individuals who work full time and consult on the side; they can not use the equipment or facilities at their full time employer for consulting purposes.

An organization is considered a vendor under OMB A-133, Section B210c "*Payment for Goods and Services*" when it:

1. provides goods and services within normal business operations;
2. provides similar goods and services to many different purchasers;
3. operates in a competitive environment;
4. provides goods or services that are ancillary (contribute) to the operation of the program; and
5. is not subject to compliance requirements of the program.

OMB A-133, Section B210d, provides guidance in the *Use of Judgment in Making a Determination* that states that there may be unusual circumstances or exceptions to the above listed characteristics. **It is not expected that all of the characteristics will be present, more than likely only a few will be, so use your judgment to determine whether an entity is a subrecipient or vendor. When making the decision remember that the substance of the relationship is more important than the form of the agreement.**

It is important to note that the presence of one or more of the above characteristics that describe a subaward versus a vendor does not necessarily indicate that a particular type of relationship exists; however, a preponderance of certain features may very well lead to the conclusion that the transaction represents a particular relationship. Remember, when making the decision, the substance of the relationship is most important.

For additional information on subaward collaborations and vendors/consultant services, go to [Consultants and Subawards](#).