

## Subrecipient vs. Contractor

When an organization outside the University participates in a sponsored project, they do so as either a subrecipient or a contractor through a legally-binding agreement. Classifying an organization as either a subrecipient or a contractor is essential for:

- Ensuring compliance with procurement regulations;
- Building a budget that appropriately calculates Facilities and Administrative costs;
- Passing appropriate compliance requirements to organizations;
- Appropriately monitoring performance and accepting requests for payment; and
- Adequately enforcing audit requirements.

This determination must be made in accordance with 200 CFR: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which prescribes the following definitions in Section 200.330: Subrecipient and Contractor Determinations.

**(a) *Subrecipients.*** A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

**(b) *Contractors.*** A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

**(c) *Use of judgment in making determination.*** In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.