

SUBAWARD VS CONTRACTOR/CONSULTANT DETERMINATION

Subaward subrecipients are entities that will contribute to the programmatic portion of the project. Their performance will be measured against whether the objectives of the project are being met. Subrecipients ARE subject to project compliance. Therefore, subrecipients must adhere to the University's awarded terms and conditions. Subrecipients should provide a detailed budget similar to UCLA's budgeted categories (i.e. salary, fringe benefits, travel, equipment, materials & supplies, consultants, indirect costs, etc.).

An organization is considered a Subaward subrecipient when:

- Given to colleges and universities, other institutions and organization;
- A defined portion of the UCLA statement's intellectually significant activity is assigned to another entity (the subrecipient) to fulfill;
- There is an identified principal investigator for the subrecipient who has responsibility for making programmatic decisions;
- Work is generally performed by the subrecipient's personnel using their resources, usually at their site;
- The subrecipient takes full responsibility, including intellectual leadership, for the portion of UCLA's work statement that they will undertake;
- The award terms and conditions UCLA has accepted from our funding agency are "flowed down" to the subrecipient, who must also agree to comply with them (e.g., audit requirements, restrictions on re-budgeting, human and animal subjects' approvals, conflict of interest, clean air and water, etc.).
- Has its performance measured against whether the objectives of the program are met;
- 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 is expected to author or 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.
- Will need animal and/or human subject approval for its work;
- Provides cost sharing or matching funds;
- Will use the funds to carry out a program for a public purpose, as opposed to providing goods or services for the benefit of the pass-through entity (i.e. UCLA).

Entities that include these characteristics are responsible for adherence to applicable program requirements specified in the Award.

**All of the characteristics listed above may not be present in all cases. Therefore, judgment must be used in classifying the agreement as either a subaward or a procurement contract. In determining whether an agreement constitutes a subaward or procurement contract, the substance of the relationship is more important than the form of the agreement.*

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Consultants/Contractor on a sponsored project are individuals or entities that provide services within normal business operations to many different customers. These services are secondary to the operation of the project. For example, a project may need to hire an evaluator, in order to receive an unbiased analysis of the project's results.

An organization is considered a consultant when:

- Given to independent contractors (individuals) or consulting organization for professional services;
- Provides similar goods or services to many different purchasers;
- Tasks are specific, well-defined and of limited scope;
- Is to perform a series of repetitive tests or activities requiring little or no discretionary judgment (e.g. entity performs a test on data we provide to them and gives us the results to analyze.)
- provides goods and services within normal business operations (e.g. entity regularly sells the goods or services as part of their routine business operations, usually at a fixed price rate);
- operates in a competitive environment;
- services are primarily advisory in nature and address a clearly delineated problem;
- services are short-term;
- the University does not control either the manner or performance of the result of the service.
- Has to show proof of \$1 million general liability insurance coverage, business automotive, general aggregate, etc. The Insurance certificate will need to list "UC Regents" as an additional insured under the GL coverage and Business Auto.

Entities that include these characteristics are NOT subject to compliance requirements of the program as a result of the agreement, though similar requirements may apply for other reasons.

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