

## Checklist to Determine Subrecipient or Contractor Classification

**OBJECTIVE:** This form is used to provide assistance in making an accurate determination on the relationship an entity has with our organization.

Each organization involved in the proposal should have a form completed by the PI and submitted to ORS (with draft statement of work) prior to final budget approval. When the relationship remains unclear, this form may provide assistance in making an accurate determination.

### DEFINITIONS FROM UNIFORM GUIDANCE (2 CFR, PART 200)

Contract: [https://www.ecfr.gov/current/title-2/part-200#p-200.1\(Contract\)](https://www.ecfr.gov/current/title-2/part-200#p-200.1(Contract))

Subrecipient: <https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/xml/CFR-2014-title2-vol1-sec200-93.xml>

Contractor: [https://www.ecfr.gov/current/title-2/part-200#p-200.1\(Contractor\)](https://www.ecfr.gov/current/title-2/part-200#p-200.1(Contractor))

**INSTRUCTIONS:** Review options one through three below to determine how the outside entity's work will relate to the project. The section with the greatest number of matching characteristics indicates the *likely* type of relationship the entity will have with the University. Based on the relationship, the PI shall mark the box in the final determination section that they believe applies (Subrecipient, Contractor, or Consultant). On occasion, it may be possible an entity could fall into multiple areas. In these situations, the substance of the relationship should be given greater consideration than the form of agreement and Section 4 should be used to provide documentation on the use of judgement in determining the proper relationship classification.

NAME OF OUTSIDE ENTITY:

**Option 1 – SUBRECIPIENT (Subcontractor)**

**Description:** 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 entity as a subrecipient include when the recipient:

1. Has responsibility for internal **programmatic input** and design of the project (is involved in specific aims) – performs a substantive portion of the proposed Statement of Work in the Prime Contract.
2. Will contribute substantively to the scholarly and scientific conduct of the project (reports, publishing results).
3. Has a budget they control; is responsible for adhering to applicable Federal programmatic compliance requirements.
4. Potential for patentable or copyrightable technology to be created through project; Retains intellectual property and copyright to the work produced by the Subcontractor's personnel.
5. Will provide an identified investigator, Statement of Work, a Budget, a Budget Justification, an Official Letter of Commitment, and an Indirect Cost Agreement.

**Option 2 – CONTRACTOR/VENDOR**

**Description:** A contract is for the purpose of obtaining goods and services and creates a procurement relationship with the contractor.

Characteristics which support the classification of the entity as a contractor/vendor include when the recipient:

1. Provides similar **goods and services** to multiple customers as part of their routine business operations.
2. Competes for customers with other like providers.
3. Is often issued a Purchase Order based on a request sent by an administering unit to the Procurement Office.
4. Does not retain intellectual property or copyright to the deliverables.
5. Proof of cost can be in the form of a quote, a catalog, or internet site.

**Option 3 – CONSULTANT**

**Description:** A Consultant may be an individual or a commercial entity and is a **type of Vendor** paid through a Purchase Order issued by the Procurement Office.

Characteristics which support the classification of the entity as a contractor or vendor include when the recipient:

1. Is a Consulting Firm/entity whose regular business activity is to provide services similar to those proposed under the current project; An Individual Consultant is a non-OU employee hired to provide technical expertise in support of a sponsored research project.
2. Competes for customers with other like providers.
3. Is issued a Purchase Order based on a request sent by an administering unit to the Procurement Office.
4. Consultant's services are on a "work for hire" basis and all intellectual property or copyrightable rights are assigned to OU.
5. Consultant's fee is based on an hourly or daily rate which is provided as a Quote or letter, and explained in a Consultant rate proposal.

As a general rule, the activities performed by a non-OU faculty member who is named as a consultant in a proposal must fall **outside** of the individual's normal academic duties and **cannot** make use of his/her institutional facilities, personnel, or students. If these criteria are not met, then the faculty member's home institution should appear as a Subcontractor in the OU Proposal rather than an individual Consultant.

**FINAL DETERMINATION:**

SUBRECIPIENT

CONTRACTOR

CONSULTANT

**OPTIONAL - SECTION 4 - USE OF JUDGMENT** (use only when the determination cannot clearly be made using the above criteria)

**Description:** In determining whether an agreement between OU and another 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 OU must use judgment in classifying each agreement as a subaward or a procurement contract.

**Explanation of Use of Judgment Determination**

(why it is believed an organization should be treated as a subcontract or contract outside of the above characteristics):

By signing this form, I acknowledge and agree that if the project is awarded and it is later determined by the agency or ORS/REFs that the subrecipient does not qualify, the budget must be revised without any additional funds to include the associated IDC for the vendor/consultant.

Prepared By (Print):

Prepared By (Signed):

ORS Check (initials):

Date: