

**Office of Sponsored Programs Guidance:
Subawards, Purchased Services, and Consultant Services**

Rev. 05.03.2018

Determining whether an external individual or organization collaborating on an ECU sponsored project should be engaged as a subrecipient, a contractor (vendor), or a consultant can be a confusing task and one in which a degree of judgment is often needed. The decision is significant because it determines the allocation of project responsibilities, influences the appropriate application of indirect cost rates, identifies applicable compliance requirements, specifies the internal business process and type of legal agreement required, identifies the type and level of monitoring of the collaborator's work that will be required, and governs audit requirements.

This Guidance is designed to facilitate the categorization of external collaborators into three major groups—subrecipient, contractor (vendor), and consultant—in accordance with Federal regulations, generally accepted sponsored project administration practice, and North Carolina procurement regulations.

Subrecipient Relationship

The following characteristics generally indicate a subrecipient relationship:

- The entity participates in a creative way in conceptualizing and/or designing the overall project
- The entity conducts an intellectually significant portion of the overall programmatic effort
- The entity uses the funds to support ECU in conducting a project for a public purpose
- The entity develops its own statement of work (SOW) and budget
- The entity formally commits cost-share to the project
- The entity names a PI/PD who will work collaboratively with the ECU PI/PD and will share responsibility for project decisions and results
- The entity has authority to make independent administrative and programmatic decisions and to control the methods of its work
- If there are program participants or beneficiaries, the entity determines who is eligible to participate in or receive assistance through the project
- The entity's performance is measured against outcome objectives, as set forth in the entity's SOW, that contribute directly to ECU's outcome objectives for the overall project
- The entity's personnel have the right, in accordance with academic standards, to publish results of their work and/or to serve as co-authors with ECU personnel
- The entity has the option to retain rights to data and/or intellectual property it produces/develops
- The entity does not routinely provide similar goods and services to other entities as a part of its normal business operations
- The entity provides similar goods and services to a limited number of purchasers
- The entity normally does not operate in a competitive environment

A subaward is not a procurement action; it is a pass through of sponsor funds from ECU to a collaborating organization that will play a significant role in the sponsored project. At the time of ECU's proposal development, potential subrecipients should submit the following to ECU's Principal Investigator/Project Director (PI/PD):

- A completed Subaward Commitment Form, signed by the subrecipient's Authorized Organizational Representative;

- A detailed statement of work for the subrecipient's portion of the project;
- A budget that specifies salary, fringe, supplies, and other direct costs, and appropriate F&A costs consistent with the subrecipient's negotiated indirect cost rate; and
- A budget justification.

Upon receipt of award from the prime sponsoring agency, the ECU Office of Sponsored Programs (OSP) will enter into a subaward agreement with the collaborating entity, incorporating its statement of work and budget and incorporating terms and conditions from the prime award that are applicable to the subrecipient. The PI/PD plays a significant role in monitoring the progress of the subrecipients on its scope of work and the subrecipient's expenditure of funds during the conduct of the sponsored project.

Contractor (Vendor) Relationship

The following characteristics generally indicate a contractor (vendor) relationship:

- The entity provides little or no contribution to the conceptualization and/or design of the overall project
- The entity's intellectual contribution is limited and does not constitute a significant contribution to the overall programmatic effort
- The entity provides a good or service to ECU that is secondary to the central purpose of ECU's project
- ECU specifies the work that is to be done and will request a price quote or estimated cost (with budget) from the entity
- The entity does not commit cost-share to the project (note that price discounts are not considered cost-share)
- The entity's personnel are not designated as investigators on ECU's project and do not share responsibility for project decisions and results
- The entity performs work in a manner that ECU specifies, requiring little or no independent decision-making by the entity (includes implementing standard testing procedures and ECU-specified protocols)
- The entity plays no role in determining participant or beneficiary eligibility
- The entity's performance is measured by completion of the specific deliverables or objectives that may be measurable but that do not contribute directly to ECU's outcome objectives for the overall project
- The entity's personnel do not meet academic standards for co-authorship, although the entity's contribution may be acknowledged in publications
- ECU owns all products resulting from the entity's work and/or rights to any IP developed during the conduct of the project
- The entity routinely provides similar goods and services to other entities as a part of its normal business operations
- The entity provides similar goods and services to many different purchasers
- The entity normally operates in a competitive environment (even if it is not-for-profit)

A contractor (vendor) relationship is initiated through a procurement process. Procurements are made through ECU's Department of Materials Management under applicable State of North Carolina procurement regulations. Because needed goods and/or services often may be purchased from numerous contractors/vendors, sole source relationships may be prohibited or may be subject to specific conditions and procedural requirements. PI/PDs planning a purchase of goods or services from a preferred external entity should consult with Materials Management during proposal development regarding the allowability of sole sourcing prior to requesting a statement of work and quote from the external entity for inclusion in ECU's proposal.

The attached **Subrecipient vs. Contractor (Vendor) Relationship for Sponsored Projects at ECU** checklist identifies the characteristics of subrecipients and contractors (vendors). This checklist should be used during the pre-award project planning stage to ensure the appropriate classification of the relationship with an external entity based on its anticipated contribution to the project and appropriate budgeting of project funds to support the work of that external entity.

Consultant Relationship

A consultant is a type of contractor (vendor). For the purposes of this guidance, a consultant is an individual who possesses special knowledge or skills and acts under self-employment (i.e., as an independent contractor as defined by the Internal Revenue Service) to provide that expertise to a client for a fee. Consultant agreements are initiated by Materials Management. Consultant agreements are used by Materials Management to engage individuals who have some special expertise needed for the sponsored project, although consulting agreements may be issued to companies or other entities. In addition to being generally described by the contractor (vendor) characteristics noted above, the following characteristics further delineate a consultant relationship:

- The consultant, either an individual or employees of a firm, is/are not an employee(s) of ECU
- The consultant is not acting in an employee/employer relationship with ECU as defined by the IRS (i.e., the consultant determines how the work will be accomplished, works independently, maintains his/her own office or facilities, is compensated for deliverables rather than time worked, etc.).
- The consultant possesses a high level of expertise to assist with one or only a few very well-defined tasks of the sponsored project (e.g., developing a marketing plan or evaluating a project)
- ECU expects to own the results of the consultant's work, which may include raw data, databases, and reports
- ECU expects to retain rights to any intellectual property resulting from the project, including that which results directly from the consultant's work
- If the project involves human research participants (for example, in direct data collection, use of identifiable private information, or interaction for project evaluation), the consultant may be required to enter into an "Unaffiliated Investigator" agreement with ECU's IRB.

Because consultant agreements are procurements, North Carolina procurement regulations apply. Depending on the nature of the expertise needed, a request to retain a consultant may require competitive bidding through the Materials Management process. For instance, a contract for an evaluator for a teacher preparation program may be subject to bidding, as there are numerous individuals and firms who have expertise in this area. On the other hand, a sole source procurement may be defensible for training services from an individual who has developed and perfected a unique scientific process that is difficult to replicate but is crucial to success of ECU's sponsored project. PI/PDs planning to retain a consultant on a sponsored project are advised to discuss their plans, especially if sole source is expected/desired, with Materials Management during proposal development.

Subrecipient vs. Contractor (Vendor) Relationship for Sponsored Projects at ECU

PI/PD: _____

Prime Sponsor: _____

Project Title: _____

At proposal development, select the most accurate characteristic in the pairs of characteristics in each line below that describes the nature of the relationship of the entity that will be receiving sponsored project funds from ECU. If neither characteristic is applicable or if the characteristic cannot be accurately determined, leave the response blank. A preponderance of checks in the left-hand column suggests a subrecipient relationship; a preponderance in the right-hand column implies a contractor (vendor) relationship. If the difference in the number of checks in the two columns is less than three, please contact the Office of Sponsored Programs (OSP) for assistance in determining the relationship. OSP will review the determination prior to proposal submission and again at award receipt to ensure that the 2 CFR 200.230 is consistently applied.

| SUBRECIPIENT CHARACTERISTICS | | CONTRACTOR (VENDOR) CHARACTERISTICS |
|---|--|--|
| The entity will participate in a creative way in conceptualizing and/or designing the overall project. | <input type="checkbox"/> or <input type="checkbox"/> | The entity will make little or no contribution to the conceptualization and/or design of the overall project. |
| The entity will conduct an intellectually significant portion of the overall programmatic effort. | <input type="checkbox"/> or <input type="checkbox"/> | The entity's intellectual contribution is limited and does not constitute a significant contribution to the overall programmatic effort. |
| The entity will use the funds to support ECU in conducting a project for a public purpose. | <input type="checkbox"/> or <input type="checkbox"/> | The entity will provide a good or service to ECU that is secondary to the central purpose of ECU's project. |
| The entity will develop its own statement of work (SOW) and budget. | <input type="checkbox"/> or <input type="checkbox"/> | ECU will specify the work that is to be done and will request a price quote or estimated cost (with budget) from the entity. |
| The entity will formally commit cost-share to the project. | <input type="checkbox"/> or <input type="checkbox"/> | The entity will not commit cost-share to the project. (Note: Price discounts are not considered cost-share.) |
| The entity will name a PI/PD who will work collaboratively with the ECU PI/PD and will share responsibility for project decisions and results. | <input type="checkbox"/> or <input type="checkbox"/> | The entity's personnel will not be designated as investigators on ECU's project and will not share responsibility for project decisions and results. |
| The entity will have authority to make independent administrative and programmatic decisions and to control the methods of its work. | <input type="checkbox"/> or <input type="checkbox"/> | The entity will perform work in a manner that ECU specifies, requiring little or no independent decision-making by the entity (includes implementing standard testing procedures and ECU-specified protocols). |
| The entity will determine who is eligible to participate in or receive assistance through the project. | <input type="checkbox"/> or <input type="checkbox"/> | There will be program participants or beneficiaries, but the entity will play no role in determining participant or beneficiary eligibility. |
| The entity's performance will be measured against outcome objectives, as set forth in the entity's SOW, that contribute directly to ECU's outcome objectives for the overall project. | <input type="checkbox"/> or <input type="checkbox"/> | The entity's performance will be measured by completion of the specific deliverables or objectives that may be measurable but that do not contribute directly to ECU's outcome objectives for the overall project. |
| The entity's personnel will have the right, in accordance with academic standards, to publish results of their work and/or to serve as co-authors with ECU personnel. | <input type="checkbox"/> or <input type="checkbox"/> | The entity's personnel will not meet academic standards for co-authorship, although the entity's contribution may be acknowledged in publications. |
| The entity will have the option to retain rights to data and/or intellectual property it produces/develops. | <input type="checkbox"/> or <input type="checkbox"/> | ECU will own all products resulting from the entity's work and/or rights to any IP developed during the conduct of the project. |
| The entity does not routinely provide similar goods and services to other entities as a part of its normal business operations. | <input type="checkbox"/> or <input type="checkbox"/> | The entity routinely provides similar goods and services to other entities as a part of its normal business operations. |
| The entity provides similar goods and services to a limited number of purchasers. | <input type="checkbox"/> or <input type="checkbox"/> | The entity provides similar goods and services to many different purchasers. |
| The entity normally does not operate in a competitive environment. | <input type="checkbox"/> or <input type="checkbox"/> | The entity normally operates in a competitive environment (even if it is not-for-profit). |
| Total Number of Checks Favoring Subrecipient Relationship = | = | = Total Number of Checks Favoring Contractor (Vendor) Relationship |