

## **Subrecipient, Vendor or Consultant**

It can be somewhat difficult to determine whether to pass Sponsor funds to an outside entity by issuing a subcontract to a **subrecipient** or a procurement contract to a **vendor**. OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*, provides helpful guidance. Specifically, Section B210b considers an organization to be a **subrecipient** when the following criteria are present:

1. It determines who is eligible to receive what Federal financial assistance;
2. It has its performance measured against whether the objectives of the Federal program are met;
3. It has responsibility for programmatic decision making;
4. It has responsibility for adherence to applicable Federal program compliance requirements ( *i.e.*, flow-down terms and conditions of the prime award, human and animal subject requirements and applicable OMB Circulars); and
5. It uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

While these are required factors, they are not the only ones to consider. When making the distinction to award a subcontract, a Principal Investigator must also keep in mind:

1. Whether the organization is contributing to the scholarly and scientific aspects of the project described in a mutually agreed upon statement of work;
2. Whether the organization's portion of the work requires the use of discretion and unique expertise;
3. Whether the organization's principal investigator will be identified as a co-author in any resulting publications; and
4. Whether the organization's principal investigator will seek to own any intellectual property developed under the project.

Furthermore, the Principal Investigator must perform all required subrecipient monitoring responsibilities outlined in Policy 4009.

In contrast to a subrecipient, a vendor is one who provides goods or services for a fee, but not as an employee of the hiring entity. Consultants are experts outside the university who provide their professional services for a fee. They are more appropriately treated as vendors. OMB Circular A-133 Section B210c identifies **vendors** as:

1. Providing goods and services within their normal business operations;
2. Providing similar goods or services to many different purchasers;
3. Operating in a competitive environment;
4. Providing goods or services that are ancillary to the operation of the Federal program; and
5. Not subject to the compliance requirements of the Federal program.

One restriction under Policy 4009 is that subcontracts may not be issued to individuals. If a receiving entity is a private individual or a sole-practitioner, their services must be procured through the Office of Purchasing as purchased services, rather than through OSP as a subrecipient.

If there are any questions concerning this determination, please contact OSP for assistance.