Subaward vs. Consultant or Procurement

On occasion, it is difficult to determine whether certain outside services essential to a grant project should be treated as a subrecipient or as a consultant. For assistance in making these determinations, Clemson has developed guidance to establish the status of a subrecipient versus a consultant for all sponsored projects, regardless of the funding type (federal, state, or industry funding). This guidance is informed from OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.

A “subrecipient” is a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. These costs are proposed when another university or organization is doing a substantial amount of the proposed work. If a proposal includes a subaward budget, the subrecipient must provide the following prior to proposal submission:

1. a scope of work with period of performance and a list of project personnel;
2. a detailed budget which conforms to the funding agency’s budget requirements and restrictions, and accurately reflects the costs of completing the scope of work;
3. a letter of commitment, signed by the subrecipient’s authorized organizational representative, and;
4. a copy of the subrecipients’ negotiated F&A rate agreement.

Under OMB A-133, Section B.210(b), Federal Award, an organization is deemed to be a subrecipient of an award when it:

1. determines who is eligible to receive what Federal financial assistance;
2. has its performance measured against whether the objectives of the program are met;
3. has responsibility for programmatic decision making;
4. has responsibility for adherence to applicable program compliance requirements; and
5. uses the funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

Other factors that signify an organization should be considered a subrecipient include:

1. the organization is contributing to the scholarly/scientific conduct of the project as described in a scope of work for the organization (programmatic involvement);
2. the subrecipient’s principal investigator may be a co-author on publications;
3. the subrecipient’s contribution to the project requires facilities, skills or expertise unique to the organization.

The proposal treats the subaward as a single line item (included both direct costs and F&A) in Clemson’s budget in the SUBCON category.

A “consultant” or “vendor” is a supplier, dealer, merchant or other seller providing goods or services that are necessary to carry out a funded research project. A consultant can be an individual or a company, who provides professional advice or services, and is reimbursed for his/her time at a fixed rate of compensation (hourly or daily and includes travel, expenses and overhead). This fixed rate of compensation is specified in the consultant agreement. Federal agencies often establish a maximum

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daily rate of pay for consultants (specific dollar amounts vary). They must use their own equipment and materials. **Be careful for individuals who work full time and consult on the side; they cannot use the equipment or facilities at their full time employer for consulting purposes.**

Please have supporting documentation when the proposal is submitted for signatures. If consultants are proposed but not named and documented in the proposal, then services must be procured through the competitive bid process.

According to OMB A-133, Section B. 210 (c), **Payment for Goods and Services**, an organization is considered a vendor (consultant) when it:

1. provides goods and services within normal business operations;
2. provides similar goods and services to many different purchasers;
3. operates in a competitive environment;
4. provides goods or services that are ancillary (contribute) to the operation of the program; and
5. is not subject to compliance requirements of the program.

**Consultant package contains:**

Service explanation - what they are going to do, and the total fee associated with the service performed should be provided by the consultant. This should be on letterhead, and should contain a written copy of the consultant’s compensation rate; travel expense reimbursement and other fees. Please refer to the University’s [procurement webpage](#) for additional information.

The consultant should be named in the proposal, and in the budget narrative section. As indicated above, if consultants are proposed but not named and documented in the proposal, then services must be procured through the competitive bid process.

The proposal treats the consultant as part of the other direct costs line item (included both direct costs and F&A) in Clemson’s budget in the OTHER category.

OMB A-133, Section B. 210 (d), provides guidance in the **Use of Judgment in Making a Determination** that states that “there may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor. “

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