

SUBRECIPIENT VS CONTRACTOR DETERMINATION

		<u>FEDERAL LANGUAGE</u>	<u>MODIFIED DESCRIPTION</u>
<u>Subrecipient</u>		<p>§200.330 (a) (formerly A-133.210(b))</p>	
		<p>(a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:</p>	<p>A subaward is the transfer of a portion of a sponsored award to a Subrecipient (Sub) for the purpose of the Sub contributing programmatic effort on the project.</p>
		<p>1. Determines who is eligible to receive federal financial assistance.</p>	<p>1. Sub has the authority to issue a subaward/subcontract to a 3rd party.</p>
		<p>2. Has its performance measured against whether the objectives of the Federal program are met.</p>	<p>2. Unlike a Contractor who only has to provide the required goods or services to be evaluated successfully, a Sub’s performance is evaluated based on how well its work helped to meet the objectives of the project.</p>
		<p>3. Has responsibility for making programmatic decision making.</p>	<p>3. A Sub takes full responsibility, including intellectual leadership, for the portion of UO’s Statement of Work (“SOW”) that it will undertake. In other words, UO assigns a defined portion of the SOW’s intellectually significant activity to the Sub to fulfill.</p>
		<p>4. Has responsibility for adherence to applicable Federal program compliance requirements.</p>	<p>4. The Sponsor’s Terms and Conditions applicable to the UO “flow down” to the Sub, who must agree to comply and be capable of complying with them (e.g. audit/conflicts of interest/IRB and IACUC).</p>
	<p>5. Uses Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.</p>	<p>5. Work performed benefits the public purpose rather than the pass-through entity’s purpose.</p>	

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		<u>FEDERAL LANGUAGE</u>	<u>MODIFIED DESCRIPTION</u>
<u>Contractor</u>		<p>§200.330 (b) (formerly A-133.210(c))</p>	
		<p>(b) Contractors <i>A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor.</i> Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving Federal funds:</p>	<p>A procurement action is the purchase of goods/service with no transfer of programmatic effort from a Professional Service/Contractor (a dealer, distributor, merchant, or other seller providing goods or services).</p>
		<p>1. Provides the goods or service within normal business operations.</p>	<p>1. A Contractor is a business selling either <i>a product or goods</i> (e.g. widgets) or <i>services</i> (e.g. routine soil testing). Under this definition, the professional services of a consultant could be treated as Contractor costs if they also meet items 2-5 below.</p>
		<p>2. Provides similar goods or services to many different purchasers.</p>	<p>2. A Contractor sells its goods or services to many different purchasers.</p>
		<p>3. Operates in a competitive environment.</p>	<p>3. A Contractor competes with other Contractors selling similar goods or services.</p>
		<p>4. Provides goods or services that are ancillary to the operation of the Federal program.</p>	<p>4. A Contractor provides a good or a service that might be necessary to the success of the sponsored project. Contractors do not make programmatic decisions regarding the scope of work or their performance. Contractors are not critical to the intellectual purpose of the Statement of Work, e.g. widgets or routine soil testing.</p>
	<p>5. Is not subject to compliance requirements of the Federal program, though similar requirements may apply for other reasons.</p>	<p>5. A Contractor is subject to less constrained federal compliance requirements, and is NOT subject to federal program-specific programmatic compliance requirements.</p>	