

# Subrecipient vs. Vendor Guidance

## How to distinguish between a Subcontract and a Service Contract

*A service contract is appropriate if the answers are “yes” to most of the following questions*

---

- The contract is to an individual or sole proprietor. An individual cannot be a Subrecipient because: Individuals are not legal entities. The federal government funds to an organization; it does not fund individuals. The knowledge of an individual is considered personal.
- The vendor does not have a PI.
- The contract is for off-the-shelf services or specialized services (i.e., testing service, expert opinion, survey, etc.) where the vendor customarily provides such services on a commercial basis, usually at a fixed price or on an hourly rate.
- The vendor provides similar kinds of goods and/or services within its normal business operations to a range of different customers.
- The vendor operates in a competitive environment.
- The vendor is a university and it customarily handles such transactions internally with "recharge rates" or externally through "service agreements".
- The goods and/or services to be purchased are ancillary to UCLA's sponsored project.
- The vendor is not subject to the compliance requirements of UCLA's sponsor.
- The vendor's SOW does not reflect a significant part of the research or vendor's work will not result in patentable or copyrightable technology or products that would be owned by the vendor.
- The vendor is a professional consultant or vendor's SOW is advising UCLA personnel.
- The vendor is a professor at another school who is acting as a "consultant" in that school's view (and that school will not accept a subcontract for the work the professor is doing.)
- The vendor is unlikely to be an "inventor" because it performs work at UCLA's direction.
- The collaboration is not substantial enough for vendor to be deemed an inventor or joint-inventor.
- The vendor does not have "programmatic decision-making" responsibility.
- The vendor is providing equipment, fabrication of equipment, or components of fabricated equipment. However, a subrecipient's SOW may include fabrication of specialized equipment to be used for the UCLA SOW as a project-related asset or as a deliverable to the sponsor. It depends in part on the purpose of the sponsor's award, UCLA's SOW, and whether the subrecipient is providing intellectually significant contributions to the development of the equipment.
- The vendor is conducting a survey using de-identified data, and annual IRB approval is not required.
- The vendor performs a test on data or material UCLA provides to it and gives UCLA the results to analyze or provides professional services in analyzing the results. NOTE: if the entity provides

professional expertise to contribute to generalizable knowledge in new ways, the vendor could be a subrecipient.

- The services are routine in nature and follow established or previously invented/discovered procedures.

---

***A subcontract is appropriate if the answers are “yes” to most of the following questions***

---

1. Does the entity’s SOW represent an intellectually significant and clearly separable portion of the programmatic effort of the overall project?
2. Does the entity have responsibility for programmatic decision making?
3. Could the entity’s work result in intellectual property being developed or publishable results (including co-authorship)?
4. Will the entity need animal and/or human subjects approval for its SOW?

---

***Applying appropriate indirect cost rate to your proposal budget***

---

- **Subcontract** -- The indirect cost rate is calculated on the first \$25,000 of each subcontract.
- **Service Contract** -- The indirect cost rate is calculated on the total amount of the goods and/or services.

*According to the **Federal Assistance Law Division**, it is: misclassification can result in disallowed costs and unnecessary audits. Improper distribution of funds to outside entities could lead to disapproval of its procurement system, more frequent audits, or perhaps even loss of an award.*