Learning Objectives

- Subrecipient defined and risks identified
- Contractor defined and risks identified
- Qualifications of subrecipient versus contractor
- Updated Subrecipient versus Contractor Guidance Tool (Appendix A/B)
- What if my Contractor works at another University? (Appendix C)
- Case Studies
Subrecipients
How is Subrecipient defined?

A subrecipient is an organization to which we “pass through” prime sponsor funds for collaboration on a research project.

A formal agreement establishes the working relationship between the pass-through entity and the subrecipient. The subrecipient completes substantive, programmatic or significant portion of the work.

This differs from work with a Contractor who only provides standard goods or services.
Subrecipient Qualifications

- Has **substantive, programmatic** participation in a sponsored project
- Involved with study design
- Key in directing and conducting the research while operating independently
- Given some flexibility on how to conduct their portion of the proposed research
- Publications may be created or co-authored at the entity
- Subject to compliance requirements, including IACUC, IRB, cost share, etc.
- Must identify a Consortium PI to manage the project at their entity
Potential risks of classifying a subrecipient as a contractor

- At application stage, indirect cost rates will be inappropriately applied, potentially awarding UNC more F&A than is federally allowable
- At time of subaward initiation, federal compliance requirements and flow down provisions are not properly addressed
- Increased risk of audit findings:
  - Expenditures that could be considered unallowable
  - Subrecipient monitoring assessments would be missed
Contractor
How is Contractor defined?

A Contractor is an individual or company who provides professional advice or services for a fee, but normally is not engaged as an employee of the recipient institution.

You may have heard a contractor referred to as a vendor, supplier or independent consultant/contractor.
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<th>Contractor Qualifications</th>
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<td>Entities hired to provide specialized services or ancillary goods</td>
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<td>Provides goods and services to many different entities including non-academic entities</td>
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<td>Little or no independence on decision-making involving the design or conduct of the research</td>
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<td>Not directly responsible for research results to the sponsor</td>
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<td>The proposal/quote typically only details the types of services/goods provided and the costs</td>
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<td>Entity’s employees will not be considered co-authors nor will the work result in products that will be owned by the company</td>
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<td>Independent contractors proposing consulting services should not have any employee-employer relationship with the University, and should not be using another University’s resources without permission</td>
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Potential risks of classifying a contractor as a subrecipient

- Indirect costs may be miscalculated leading to under-requesting funds at application stage, and if awarded would constitute departmental rebudgeting to cover indirect costs
- Audit Risk:
  - Misclassification itself is an audit risk
  - Poses an audit risk to the contractor as they may not have the appropriate infrastructure (financial, personnel, etc.) in place to do the work proposed
Subrecipient vs. Contractor Guidance Tool
How is the guidance tool laid out?

- The “why” behind Subrecipient versus Contractor
- Subrecipient and Contractor Definition
- Subrecipient and Contractor Qualifications
- Subrecipient/Contractor Determination:
  - Appendix A - Extent of involvement of Subrecipient and Contractor in Project
  - Appendix B - Subagreement Determination Questionnaire
  - Appendix C - Contractor from another Institution of Higher Education (IHE)
### A. Subrecipient v. Contractor Determination Matrix per Uniform Guidance §200.331

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<th>Subrecipient</th>
<th>Contractor</th>
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<td>• Determines who is eligible to receive what Federal assistance;</td>
<td>• Provides the goods and services within normal business operations;</td>
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<td>• Has its performance measured in relation to whether objectives of a Federal program were met;</td>
<td>• Provides similar goods or services to many different purchasers;</td>
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<tr>
<td>• Has responsibility for programmatic decision-making;</td>
<td>• Normally operates in a competitive environment;</td>
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<tr>
<td>• Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and</td>
<td>• Provides goods or services that are ancillary to the operation of the Federal program; and</td>
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<tr>
<td>• In accordance with its agreement, uses the 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.</td>
<td>• Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.</td>
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Subrecipient v. Contractor Tool

Appendix B

B. SUBRECIPIENT V. CONTRACTOR DETERMINATION QUESTIONNAIRE

If question 1 is yes, then it is a subrecipient regardless of any other answers. More "Yes" answers for questions 2-5 and more "No" answers to questions 6-9 may signify that a contractor relationship is more appropriate. Subsequently, more "No" answers to questions 1-4 and more "Yes" answers to questions 5-9 may indicate a subrecipient relationship is more appropriate. Please contact SPO or OSP for additional assistance.

Answer these questions to determine how a provider may be paid, as a contractor or subrecipient:

1. Will the organization be publishing or publishing with UNC?

2. Does the organization provide the proposed goods/services within its normal business operations?
   Answer “Yes” if the organization provides the same services or products as part of its daily business operations. Answer “No” if the organization is developing a unique service or product for the University.

3. Does the organization provide similar goods or services to many different purchasers?
   Answer “Yes” if the organization sells the same services or products to any customer, or if the organization is simply running lab tests, fabricating equipment, or developing plans to the University specifications.
   Answer “No” if the organization must develop or design something unique based on project objectives.

4. Does the organization operate in a competitive environment?
   Answer “Yes” if other sources are readily available. They compete with others who can provide a similar service.
   Answer “No” if the organization provides a unique resource.

5. Are the proposed goods or services ancillary to the performance of the UNC’s sponsored program?
   Answer “yes” if the organization provides elements incidental to the work (e.g., if they are providing “skilled hands” but not interpretation in developing programmatic conclusions).
Subrecipient v. Contractor Tool
Appendix B

6. Are the organization’s personnel named and identified as having key roles in the UNC’s proposal? Answer “Yes” if the proposal includes any of the following for the organization’s portion of the project: separate budget; facility and resource description; project site information; roles and responsibilities; scope of work.

7. Is the organization’s performance measured against the objectives of the sponsored program? Answer “Yes” if the organization’s performance will be measured against the objectives of the primary project.

8. Does the organization have responsibility for programmatic decision making? Answer “Yes” if the organization works independently from the University: provides their own tools and equipment; solicits work from more than one customer; and directs their own efforts.

9. Will the organization use the proposed funds to carry out a program of its own, as compared to providing goods or services for UNC program? Answer “Yes” if the funds issued to the organization will be dedicated to completing the project. Answer “No” if the funds will contribute to the general profit or operating funds of the organization.
What is required when a contractor works at another institution of higher education?

- **Authorized Representative certification statement** is required when a contractor chooses to use their own Institutional letterhead, Institutional email address, or if proposed as a contractor with Institutional credentials which indicates that the consultant may be using their Institutional resources.

- Submitted to OSP at time of RAMSeS IPF submission, if known at proposal time.
C. **Authorized Representative Certification Example**

The Authorized Representative certification statement is required when an independent consultant/contractor chooses to use their own Institutional letterhead and email address or proposed in the budget justification as being associated with an IHE’s credentials. An example of the certification is below:

[Date]

Office of Sponsored Programs  
The University of North Carolina at Chapel Hill  
104 Airport Drive, Suite 2200, CB1350 Chapel Hill, NC 27599-1350

Subject: Independent Consultant Certification Statement

Dear UNC-CH’s Office of Sponsored Programs
As an Authorized Representative, I hereby certify that [Name of Consultant] may serve as a consultant on the project titled, “[Project Title],” and will/will not be using institutional resources in performing their portion of proposed consulting work. This engagement does not constitute itself as a subrecipient relationship.

Sincerely,
________________________[Signature]
[Name of Authorized Representative]
[Title of Authorized Representative]
Why should I use the Guidance & Tools?

- Assists in the determination of subrecipient versus contractor at time of application ensuring appropriate application of indirect costs
- Upon award, ensures the appropriate agreements will be able to be put in place in a timely manner
- Ensures that the budget will be loaded in ConnectCarolina appropriately so that payments are made seamlessly
- Easily accessible on OSP's website
Case Studies
Case Study #1

Dr. Smith plans on submitting an application for federal funding. It has been determined that they need to add a community-based partner (CBP) to do a significant portion of the scope of work within their community. The PI at the CBP will be co-authoring with Dr. Smith and UNC will be paying the CBP an effort-based budget with supplies, etc. Dr. Smith determines that it would be best to bring the partner in as a contractor due to financial constraints of an already tight budget.

Answer the following questions:
• Should the partner be considered a contractor?
• Why or why not?
Should the partner be considered a contractor?
No. They should be considered a subrecipient.

Why?
• Uniform Guidance defines the appropriate relationship between a subrecipient and contractor.
  • The partner is taking a large portion of the Scope of Work
  • The partner and UNC will be publishing together
  • The partner is receiving funding based on salaries and other expenses
Dr. Jones proposed Computing Inc. as a subrecipient. Upon award, you learn Computing Inc. is really David Foster, an individual software engineer being paid $75,000 for his portion of the project. David Foster will be redesigning the computer software he designed in the past for Dr. Jones. David Foster contracts services to other clients and maintains their software programs, as well.

- Should David Foster aka Computing, Inc. be a contractor or subrecipient?
- Why or why not?
Should Computing Inc. aka David Foster be considered a contractor or subrecipient?

- **Contractor**

Why or why not?

- Provides the same specialized services for other entities
- David Foster is an individual not a company
  - Would qualify as an independent contractor
  - May not be able to meet federal terms that would need flowed down in a subcontract
Dr. Joe proposed the company SubjectFind as a subrecipient on a contract and the submission received a limited review. Upon award, OSP realizes that SubjectFind is a consulting firm that routinely develops research surveys and recruits study subjects to complete those surveys. In the Letter of Support, the company proposed a fixed amount payment.

• Should SubjectFind be a subrecipient?
• Why or why not?
• Is this case study a firm example or does “it depend?”
• What should I do to make sure I am proposing or reviewing the entity correctly?
Should SubjectFind be considered a subrecipient?

• In this case, the answer is no.

Why or why not?

• SubjectFind is NOT a subrecipient because they are a consulting firm that provides professional advice or services for a fee. SubjectFind is performing a service by developing surveys, recruiting and interviewing study subjects for the survey portion of the work.

  • **Hint:** Search the internet for the business at time of proposal to see if their website states they are a consulting firm or participates in consulting activities.

• In the budget justification and letter of support, compensation is expressed as an hourly rate, daily rate, or a fixed amount for the services provided. UNC does not issue fixed amount subcontracts without agency prior approval.
Is this case study a firm example of a consultant relationship or does “it depend?”

• **The answer is “IT DEPENDS”**

Example: Institutions of Higher Education (IHE) are classified as subrecipients in most situations. Be aware that there are “spin-off’s” at Institutions of Higher Education and they are not always classified as a subrecipient. A good example is NORC at the University of Chicago. NORC has been engaged in a consultant/vendor relationships at UNC in the past and not been considered a subrecipient based upon the services they were providing.

*Why and what should I do to make sure I am proposing or reviewing the entity correctly?*

• Do your research and ask lots of questions.
• Look at the Letter of Support/Intent to see if payment terms are outlined
• Use the internet to research the company, read through the scope of work
• Talk to the PI or research team to assist in making these determinations, or
• TALK to SPO and OSP. We are here to help make those determinations.
Poll Questions
Which of these is a characteristic of a subrecipient?

a) Provide the same products or services for their business customers
b) No independence in how they complete the activities being purchased
c) Not responsible for research results
d) Involved with study design
Which of these is another term for contractor?

a) Supplier  
b) Vendor   
c) Consultant  
d) Independent Contractor  
e) All of the above
Why is it a concern that a contractor who works at another University use their University email address and/or their University letterhead?

a) The contractor’s University should approve the employee to be able to use University resources, if doing the work at the contractor’s University
b) There may be potential Financial Conflict of Interest issues
c) Depending on the work being done, a subcontract may be the appropriate mechanism
d) All the above
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- **Cindy Hoffmeier**, Pre-Award Manager, Lineberger Comprehensive Cancer Center
  - cindy_hoffmeier@unc.edu
References

• Subrecipient v. Contractor Guidance
• Subrecipient v Contractor Determination Questionnaire
• Subrecipient v. Contractor Certification Example
• OSP Website
• Subagreement Website
Questions?