

# Subrecipient vs Contractor Determinations

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## Agenda

- Federal Guidance (the boring yet important background)
- Indicators for both
  - Subrecipients
  - Contractors / Vendors
- Additional considerations
- Why do we care?
- Case Study
- Summary

Other upcoming items

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## Subrecipient



**VS**

## Contactor / Vendor



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## Relevant Uniform Guidance Sections

- § 200.1 Definitions

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-A/subject-group-ECFR2a6a0087862fd2c/section-200.1>

- § 200.331 Subrecipient and contractor determinations

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR031321e29ac5bbd/section-200.331>

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## Funding instruments



- A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient.
- 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.

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## Indicators of a Subrecipient



Characteristics which support the classification of the non-Federal entity as a subrecipient include when that entity:

- Has its performance measured in relation to whether objectives of a Federal program were met
- Has responsibility for programmatic decision-making
- Is responsible for adherence to applicable Federal program requirements specified in the Federal award

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## Indicators of a Contractor (Vendor)



Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- Provides the goods and services within normal business operations
- Provides similar goods or services to many different purchasers
- Normally operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the Federal program

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## Additional Considerations



- The substance of the relationship is more important than the form of the agreement.
- All the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.
- The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with § 200.331.

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## Considerations continued...



- A note on CONSULTANTS: Who is a Consultant? An individual who provides professional advice or services for a fee, but normally not as an employee of the engaging party. They often help fill in smaller gaps by, for example, supplying software, providing technical assistance or training, or setting up equipment.
- Subrecipient or Vendor: Consultants are typically treated as a Contractor/Vendor – they do not receive a Subaward unless their participation meets the requirements under 2 CFR 200.331

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## Why do we care?



- We need to get the lower tier partner in the right “Bucket” at proposal stage.
- Misclassification can have a negative impact on our budget.
  - For Contractors/Vendors UNMC charges our full F&A rate on the entire amount of the contract.
  - For Subrecipients UNMC is only allowed to charge our F&A on the first \$25,000 of the subaward.
- Audits
  - Annual Single (A-133) Audit
  - Programmatic Audit

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## Relevant Uniform Guidance Sections continued...



- § 200.501 Audit Requirements
  - Subparagraph (f) Subrecipients and Contractors
  - Subparagraph (g) Compliance responsibility for contractors

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F/subject-group-ECFRfd0932e473d10ba/section-200.501>
  
- § 200.518 Major program determination
 

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F/subject-group-ECFRa73e47c9a286e6/section-200.518>

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## Case Study #1



### Prime HRSA Grant to UNMC

PI to work with several small non-profits to develop community input to develop plan for community response to a particular chronic disease.

**Community Non Profit (CNP):** a non profit focused on the particular chronic disease which conducts education, prevention, research, and treatment.

**Nature of Services to Be Rendered:** Representative from CNP will participate as a key member of the Work Plan for Quality Improvement.

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## Case Study #1

### Work to include:

- providing guidance and expertise on the development of the Work Plan
- attending and participating in monthly work group
- dedicating time outside of the work group calls to work on action items to move the project forward
- Identify and work with two community members suffering from the chronic disease to serve as key community members
- Prepare and provide deliverables for submission to PI for inclusion to annual HRSA report.

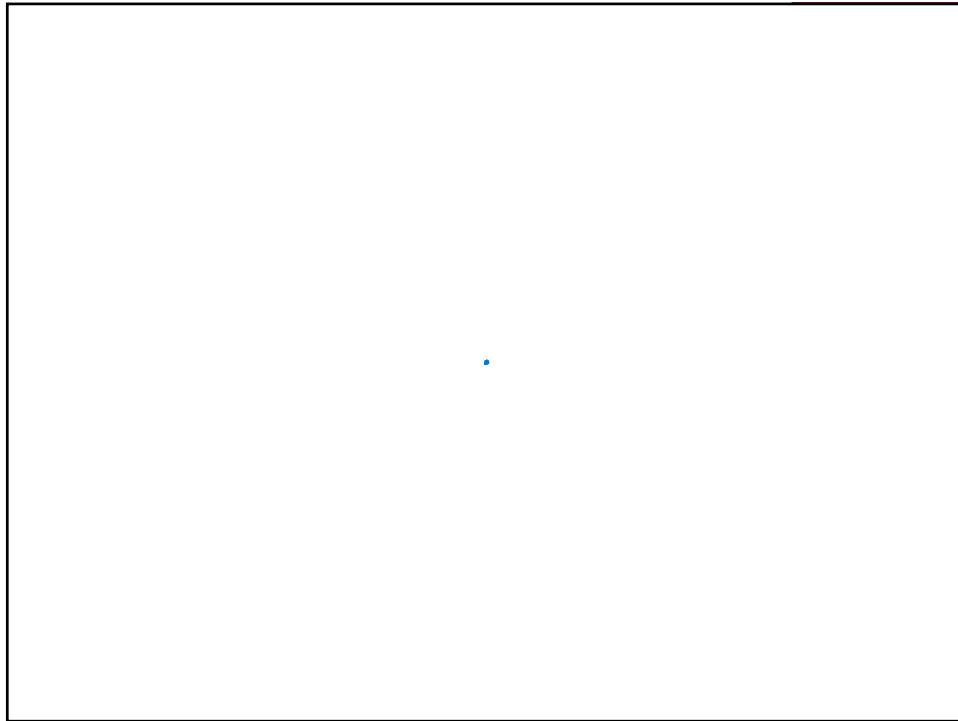
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## Poll Question #1


**In this Case Study – would Community Non-Profit be considered a:**

- Subrecipient
- Vendor
- I need more information

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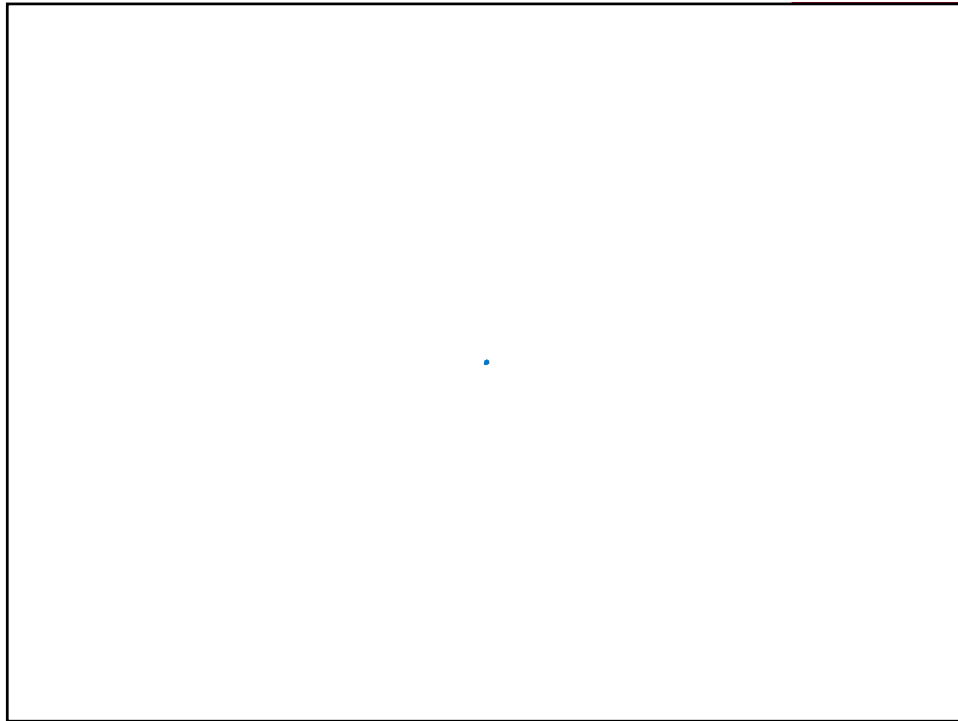
## Poll Question #2

**CNP is considered a Subrecipient for which of the following reasons:**


- Has its performance measured in relation to whether objectives of a Federal program were met
- Has responsibility for programmatic decision-making
- Is responsible for adherence to applicable Federal program requirements specified in the Federal award
- All of the Above

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## Case Study #2

**Prime NIH Grant to UNMC**

PI needs DEXA scans for pediatric subjects, but the University's affiliated hospital does not have the specific DEXA scan needed to perform in-house.

**Omaha Community Hospital (OCH):** a full service hospital with a radiology department housing the specific type of DEXA machine.

**Nature of services to be rendered:** Radiology services at OCH will conduct scan and provide a copy of the scan to UNMC PI for review.

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## Poll Question #3

**In this Case Study – would Omaha Community Hospital be considered a:**

- Subrecipient
- Vendor
- I need more information

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## Poll Question #4

**Omaha Community Hospital is being treated as a Vendor for which reasons:**

- Provides the goods and services within normal business operations.
- Provides similar goods or services to many different purchasers.
- Normally operates in a competitive environment.
- Provides goods or services that are ancillary to the operation of the Federal program.
- All of the above

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## Useful Resources

SPA Subcontracts-out page

<https://www.unmc.edu/spa/subcontracts/subcontracts-out/index.html>

SPA Proposal Stage guidance (including links to forms)

<https://www.unmc.edu/spa/subcontracts/subcontracts-out/proposal-stage.html>

UNMC Subrecipient Policy

[https://wiki.unmc.edu/index.php?title=Subrecipient\\_Policy](https://wiki.unmc.edu/index.php?title=Subrecipient_Policy)

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## Summary / Q&A

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## Upcoming Items

- Effective 10/5 NIH no longer require DMS cost estimate in a single line item/cost category in the budget. DMS costs will now be in their germane budget categories but to be estimated and explained in budget justification
  - <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-23-161.html>
- Internal Research Administration ListServ (?)
- Research Matters – VCR newsletter (Every Thursday)
- In the future training / session to be joint sessions with the campus Research Admin community bringing other unit's perspectives and issues to the table (not just SPA)

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