



Determining Whether a Sponsored-Project Agreement Is a Contract or Subaward

I. Purpose

This Standard Operating Procedure (SOP) establishes a consistent process for determining whether an agreement with an external organization or individual supporting a WSSU-sponsored project should be treated as:

1. a subaward/subrecipient relationship; or
2. a procurement/independent contractor relationship.

The determination must be based on the substance of the relationship, not the title of the agreement. This is particularly important for federally funded awards because federal requirements require a case-by-case determination of whether a party receiving federal funds is a subrecipient or contractor.

This SOP incorporates the principles reflected in the UNC System Contracts & Grants Business Process Standards, WSSU's Office of Sponsored Programs Standard Operating Procedures, and WSSU Purchasing procedures.

II. Scope

This SOP applies to sponsored-project funds administered by WSSU when an external party will receive funds to perform work, provide services, or contribute to a sponsored project. It applies to agreements funded by federal, state, local, nonprofit, foundation, corporate, and other external sponsors, subject to the terms of the applicable award.

This SOP does not replace requirements contained in:

- the prime award or funding agreement;
- the sponsor's applicable terms and conditions;
- federal regulations;
- North Carolina procurement requirements;
- UNC System policies and standards;
- WSSU policies and regulations; or
- specific requirements of Purchasing Services, C&G, OSP, or Legal Affairs.

Where requirements conflict, the more restrictive applicable requirement should be followed unless the University office responsible determines otherwise. WSSU's OSP SOP expressly states that University or State policy governs where it is more restrictive than the sponsor's policy.

III. Definitions

Contract / Procurement Agreement

A contract is an agreement through which WSSU obtains goods or services for the University's use in carrying out a sponsored project.

The UNC System Contracts & Grants Business Process Standards describe a subcontract as an agreement for procurement of goods and/or services necessary for completion of an award project. While the WSSU's Purchasing Manual uses a broader institutional definition of contract: any document that legally binds the University to another party, including agreements that may be called an affiliation agreement, memorandum of understanding, terms and conditions, letter of agreement, purchase order, or other name.

The term contract therefore refers to the procurement relationship with a contractor/vendor, not merely the legal form of the document.

Contractor / Independent Contractor

An external party that provides goods or services to WSSU primarily for WSSU's use or benefit in carrying out the sponsored project.

Characteristics supporting a contractor relationship include that the entity:

- provides goods or services as part of its normal business operations;
- provides similar goods or services to multiple purchasers;
- normally operates in a competitive environment;
- provides goods or services ancillary to implementation of the sponsored program; and
- is not subject to federal program compliance requirements as a result of the agreement, although similar requirements may apply for other reasons.

Subaward

An agreement under which WSSU passes through a portion of a sponsored award to another organization to perform a substantive portion of the project.

The UNC System defines a subaward as an agreement under which the University enlists another organization, the subrecipient, to provide a portion of the outlined scope of work or services to a University-sponsored project.

Subrecipient

An organization receiving a subaward that carries out a portion of the sponsored project's programmatic work and assumes responsibility for accomplishing applicable project objectives and complying with applicable award requirements.

Characteristics supporting a subrecipient relationship include that the organization:

- determines who is eligible to receive financial assistance, when applicable;
- has its performance measured against achievement of sponsored-project objectives;

- has responsibility for programmatic decision-making;
- has responsibility for applicable sponsored-project compliance requirements; and
- uses the funds to carry out its own portion of the project rather than simply providing goods or services for WSSU's benefit. any terms, acronyms, or concepts that may need clarification.

IV. Roles and Responsibilities

Principal Investigator

The PI is responsible for:

- accurately describing the proposed external-party work;
- identifying the external party during proposal development;
- confirming that the proposed work is consistent with the approved scope and budget;
- providing the required statement of work and budget information;
- initiating the classification process;
- monitoring contractor deliverables or subrecipient performance, as applicable; and
- promptly notifying OSP/C&G of changes.

WSSU identifies PI responsibility for compliance with sponsor regulations, University policies, fiscal-agent policies, staffing and performance, allowable expenditures, and closeout requirements.

Office of Sponsored Programs

OSP is responsible for:

- providing pre-award guidance;
- assisting with classification;
- reviewing proposed subrecipients;
- coordinating proposal and award compliance; and
- maintaining sponsored-program procedures.

WSSU identifies OSP as the initial point of contact for proposals and sponsored projects and assigns OSP responsibility for institutional oversight and regulatory compliance.

Contracts & Grants

C&G is responsible for:

- post-award financial review;
- award administration;
- financial review of subawards;
- appropriate account and payment administration; and
- supporting subrecipient monitoring and closeout.

WSSU's Contracts & Grants function reviews sponsored-project transactions for allocability, reasonableness, timeliness, and compliance with award budgets and sponsor requirements.

Purchasing Services

Purchasing is responsible for procurement and contract processing when the relationship is classified as a contractor/procurement relationship.

WSSU Purchasing reviews contracts for applicable procurement and legal requirements and routes contracts for appropriate institutional approval.

Office of Legal Affairs

Legal Affairs reviews agreements when required by WSSU policy, contract terms, deviations from approved templates, risk considerations, or other legal requirements.

V. Procedure Steps

Decision Standard

Use the following primary question:

Is WSSU purchasing a good or service for its own use, or is WSSU providing a portion of the sponsored award to another organization so that the organization can carry out part of the sponsored project?

If the answer is primarily:

"WSSU is purchasing a good or service."

→ **Treat as a contract/procurement relationship.**

"The external organization is carrying out a substantive portion of the sponsored project."

→ **Treat as a subaward/subrecipient relationship.**

Contract Versus Subaward Decision Matrix

Factor	Contract / Contractor	Subaward / Subrecipient
Primary purpose	Obtain goods or services for WSSU	Carry out a portion of the sponsored project
Relationship	Procurement	Federal/sponsored-project assistance
Programmatic responsibility	Primarily WSSU	Shared or assigned substantive responsibility to subrecipient
Performance measured against	Contract specifications/deliverables	Sponsored-project objectives
Programmatic decision-making	Generally WSSU	Subrecipient has responsibility for programmatic decisions
Federal program requirements	Generally not imposed because of the agreement	Applicable federal/sponsor requirements flow down
Normal business activity	Contractor normally provides the service commercially	Subrecipient performs project activities as part of its organizational mission
Multiple purchasers	Often provides similar services to many customers	May perform a unique portion of the sponsored project
Competition	Normally operates in a competitive procurement environment	Selection is generally based on scientific/programmatic considerations, subject to applicable requirements
Typical payment	Payment for goods, services, milestones, or deliverables	Reimbursement/payment for allowable costs and performance of the approved scope
Typical examples	Evaluator, software provider, laboratory service, consultant, equipment/service provider	University conducting research, nonprofit implementing a project component, research institution performing an identified portion of the scope
Primary WSSU office	Purchasing, with OSP/C&G involvement as appropriate	OSP/C&G/Post-Award

The matrix summarizes the characteristics identified in the UNC System standards and 2 CFR § 200.331.

Mandatory Classification Process

Step 1 — Identify the funding source

Before classifying the relationship, the PI or designated administrator must identify:

- sponsor
- funding source
- applicable sponsor-specific requirements
- approved budget category
- approved scope of work

If the activity is not associated with a sponsored project, route the transaction through the University's ordinary contracting and purchasing process.

Step 2 — Review the proposed scope of work

The PI must obtain and review a sufficiently detailed statement of work.

Ask:

1. Is the external party performing a defined portion of the overall sponsored-project scope?
2. Will the external party make substantive programmatic or technical decisions?
3. Will its performance be evaluated based on achievement of project objectives?
4. Will the external party be responsible for complying with sponsored-program requirements?
5. Is the external party instead providing a defined good, service, or deliverable to WSSU?

WSSU's pre-award subrecipient procedures require a subrecipient statement of work to contain sufficient detail regarding the technical and programmatic work to be accomplished by the subrecipient.

Step 3 — Complete the classification questions

The PI and OSP/Post-Award Administrator should answer each question below.

Subaward indicators

Check all that apply:

- The external organization will perform a substantive portion of the sponsored project's scope.
- The external organization's performance will be measured against sponsored-project objectives.
- The external organization will have responsibility for programmatic decision-making.
- The external organization will be responsible for applicable sponsor/federal program requirements
- The external organization will conduct activities that constitute its own portion of the sponsored project.
- The proposed work is more appropriately characterized as financial assistance than as a purchase of goods or services.
- The organization requires a detailed project-specific statement of work rather than a conventional commercial service specification.

Contract indicators

Check all that apply:

- WSSU is purchasing a good or service for its own use.
- The provider performs the service as part of its normal business operations.
- The provider offers similar services to multiple customers.
- The provider normally operates in a competitive commercial environment.
- The service is ancillary to the sponsored project's implementation.
- Payment is principally for a defined good, service, deliverable, or milestone.
- The provider will not assume substantive responsibility for achieving the sponsored project's programmatic objectives.
- The provider is not responsible for applicable federal program requirements because of the agreement.

The factors above are based principally on 2 CFR § 200.331 and the UNC System's corresponding subaward criteria.

Classification Rules

Rule 1 — Substantive project work generally indicates a subaward

Rule 2 — Ordinary commercial services generally indicate a contract

Rule 3 — Deliverables alone do not determine classification

Rule 4 — Payment method does not determine classification

Rule 5 — The agreement title does not determine classification

An agreement labeled "subcontract" is not necessarily a subaward. Conversely, a document labeled "contract" may legally implement a subaward.

The key question is why the payment is being made and what responsibility the external party assumes because Federal guidance expressly requires classification based on substance rather than form.

Required Documentation

For every sponsored-project external-party relationship, the file must contain documentation sufficient to support the classification decision.

At a minimum, document:

1. name of external organization;
2. sponsor and award number;
3. project title;
4. proposed amount;
5. period of performance;
6. statement of work;
7. classification as contractor or subrecipient;
8. rationale supporting the classification;
9. applicable procurement/competition documentation, if a contractor;
10. subrecipient documentation and risk/monitoring documentation, if a subrecipient; and
11. required approvals.

For proposed subrecipients, WSSU's OSP procedures call for documentation including an entity profile, letter of intent, project-specific statement of work, budget, budget justification, and other sponsor-required materials.

Procedure for Contracts / Independent Contractors

When the determination is **contractor**, the PI or designated administrator must:

1. Confirm that the proposed service is included in or allowable under the sponsored-project budget.
2. Confirm that funds are available.
3. Determine whether the procurement is subject to applicable North Carolina and WSSU purchasing requirements.
4. Complete the required independent contractor certification, when applicable.
5. Submit the required subrecipient form (SF) to OSP
6. Obtain Purchasing and/or Legal Affairs review as required.
7. Obtain all required institutional signatures before work begins.
8. Establish a purchase order when required.
9. Process invoices in accordance with WSSU procedures.
10. Retain documentation supporting the procurement, agreement, receipt of services, and payment.

WSSU's current policy requires an Independent Contractor Certification Form for independent contracts and routes the resulting contract request through Purchasing. It also requires a purchase order for the full contract amount after execution.

WSSU's Purchasing Manual further states that services should not be rendered before the contract has been fully executed and approved, and that the fully executed contract is attached to the requisition for issuance of a purchase order.

Procedure for Subawards

When the determination is subrecipient, the PI and OSP/Post-Award Administrator must:

1. Confirm that the subrecipient is included in the approved proposal/budget or obtain required sponsor approval.
2. Obtain a detailed subrecipient statement of work.
3. Obtain the subrecipient budget and budget justification.
4. Obtain required subrecipient institutional documentation.
5. Complete required eligibility and risk reviews.
6. Confirm debarment/exclusion status.
7. Confirm required financial conflict-of-interest information.
8. Prepare the subaward agreement.
9. Ensure applicable sponsor and federal requirements are incorporated.
10. Obtain required C&G, OSP, Legal, and institutional approvals.
11. Execute the agreement before the subrecipient begins work, unless an authorized exception applies.
12. Establish appropriate monitoring procedures.
13. Review subrecipient invoices and progress reports for consistency with the approved scope and budget.
14. Document monitoring and corrective actions.
15. Complete subaward closeout.

WSSU's pre-award procedure specifically requires verification of the entity's role as subrecipient or contractor, collection of subrecipient documentation, review of the statement of work, budget and justification, and compliance review.

The UNC System standards likewise identify subrecipient eligibility and debarment verification as part of award administration. y-step instructions. Use bullet points or numbering for clarity. Include decision points, forms, systems used, etc.

VI. Related Documents/References

This SOP should be read together with the current versions of the following authorities:

1. 2 CFR § 200.331 — Subrecipient and Contractor Determinations. Federal regulations require case-by-case classification and emphasize substance over form.
2. UNC System Contracts & Grants Business Process Standards. The UNC System standards define a subaward and subcontract and identify the characteristics supporting a subrecipient relationship.
3. WSSU Office of Sponsored Programs Standard Operating Procedures. The SOP includes separate procedures for pre-award subrecipient review, establishing an independent contract, and establishing a subaward contract.
4. WSSU Purchasing Procedures Manual. The manual establishes WSSU's institutional contract definition and contract review, approval, execution, and purchasing requirements.
5. WSSU Contracts & Grants Resources. WSSU identifies Contracts & Grants as responsible for administration of sponsored-project financial activity and provides subrecipient and post-award resources.

VII. Recordkeeping Requirements

The classification decision and supporting documentation must be retained in the applicable sponsored-project records.

The file should allow an auditor or reviewer to determine:

- what work the external party was expected to perform;
- why WSSU classified the relationship as a contract or subaward;
- who reviewed the classification;
- what agreement was executed;
- what funding was authorized;
- how performance was monitored; and
- how payments were approved.

WSSU's post-award processes require sponsored-project documentation to be maintained through the award lifecycle and closeout.

Approving Authority:

History: