

## *Subaward Definitions*

**The decision as to what kind of agreement is necessary is driven strictly by the subrecipient's scope of work, not by the title of the agreement or the method of payment.**

### **Subagreement/Subcontract :**

**(account code 70750 for the first \$25,000 of each subcontract [70790 for foreign subcontracts]; account code 70760 for all expenditures over \$25,000 [70791 for foreign subcontracts])**

A document written under the authority of, and consistent with the terms and conditions of an award (a grant, contract or cooperative agreement), that transfers a portion of the research or substantive effort of the prime award to another institution or organization.

When a portion of the project is going to be carried out at another institution or organization (third parties), a subcontract or subagreement with the University is required in order to ensure compliance with sponsor requirements. The third party is required to provide the necessary resources to conduct the work, including providing an investigator at the work site to oversee the project activities. Costs normally associated with third party effort could include: labor, employee benefits, materials and supplies, travel, equipment, subcontracts, consultants, other direct costs, indirect costs, and non-construction activities. In the for-profit sector it is not uncommon to include costs such as labor overhead, material overhead, fees, general and administrative expense, and cost of money. Documentation from each subrecipient's authorizing official including an itemized budget, with justification, a statement of work to be performed, and qualifications to do that work should be incorporated into the proposal. Many federal agencies require a completed cover sheet and certain certifications signed by the institution's authorized official. Subcontracts may also require the prior written approval of the agency's grants officer.

The Office of Sponsored Programs (OSP) writes and executes subcontracts with other institutions. OSP will encumber the funds in the grant/contract account for projected expenses pending actual expenditure of the funds for subcontracts. The AU department for which the subcontract was written will be notified of the encumbrance number. The department is then responsible for monitoring the subcontractor's progress and processing the subcontractor's invoices for payment. OSP is responsible for issuing and closing out of subcontracts. Final close-out documentation, including final invoice, should be processed by OSP.

### **Professional Services Agreement (Independent Contractors):**

**(account code 70525; and others depending on the type of service provided)**

A Professional Services Contract (PSC) (form BO 55-20) is completed by the department when the services of firms or individuals outside the University are required to undertake a project requiring that individual's or organization's expertise; i.e., attorneys/legal fees, consultants, architects, speakers, performing artists/musicians, medical service/doctors, outside law enforcement/security. The contractor is responsible for accomplishing the work called for in the contract and will not be supervised or controlled by the University. The department is responsible for monitoring and processing of PSCs.

There are certain services for which an additional, more comprehensive contract is presented for processing. In those situations, the PSC is not intended to replace the detailed contract but rather to be used as an approval vehicle in addition to the detailed contract. In addition, in most cases where the intended cost of the service is projected to exceed \$7,500 in one fiscal year, a more detailed contract may be appropriate. In addition to the signatures required on the PSC, the more detailed contract must be approved and signed by PPS.

Contractors/consultants are independent contractors and not employees or agents of the University. These fees are a separate category of direct costs and are not listed as part of the personnel budget. Fees may be paid only to individuals not employed by the University who can provide special knowledge or advice necessary for the project. University employees who may be called on for special services should be listed in the salary section of the budget for an appropriate portion of their salary. Federal agencies generally prohibit the payment of consultant fees from grants or contracts to persons employed by the federal government in any capacity, unless specifically addressed or approved by the sponsor. Consultant fees normally include any charges associated with the consultant's services, such as travel and subsistence.

**Service/Trade Agreements (Vendors):**  
(account code depends on product purchased/service provided)

The department completes a purchase order (PO) for the procurement of supplies, and expendable materials and services. Examples of trade services would include: equipment maintenance, repair agreements, computer time, plumbers, electricians, repair & maintenance providers/jobbers, roofers, tree trimmers, auto mechanics, construction-related activities, security systems/ Wackenhut/Pinkerton.

**Honorariums:**  
(account code 70500)

An Honorarium is a payment given when the payment of fees is not legally or traditionally required. Payment is limited to guest speakers and other official guests of the University. It may **not** be used to pay professional services.

When an honorarium is paid, the lump sum payment includes all travel expenses and fees. No additional requests for reimbursement of travel expenses can be submitted. A travel voucher is completed including: 1) the guest's name; 2) the guest's vendor number; 3) the guests title or position; 4) the purpose of the visit; 5) date of the visit; 6) amount of the honorarium; 7) mailing address; 8) copy of any agreements or correspondence with which the visitor confirms this information.

**Other Contractual:**  
(account code depends on product purchased/service provided)

There are other examples of "Other Contractual" agreements, such as for annual consortium dues or cooperative agreements with other states to pay the salary of a regional liaison, that cannot be clearly defined and will be reviewed as received.

For questions concerning the financial management of externally funded projects, refer to the Contracts & Grants Accounting Financial Policies and Procedures web site at:  
[http://www.auburn.edu/administration/iss/business\\_office/policy\\_manual/congrant.htm](http://www.auburn.edu/administration/iss/business_office/policy_manual/congrant.htm)

Or the Procurement & Payment Services (PPS) web site at:  
[http://www.auburn.edu/administration/business\\_office/pps](http://www.auburn.edu/administration/business_office/pps)

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## **Employee or Independent Contractor?**

The traditional tests to determine whether a worker is an employee or independent contractor involve the concept of control: Are the services of the worker subject to the Taxpayer's will and control over what must be done and how it must be done? In *Revenue Ruling 87-41, 1987-1 CB 296*, the IRS developed 20 factors used to determine whether a worker is an independent contractor under the common law. Remember: the burden of proof is on the taxpayer; therefore, in general, at least 11 of these factors must show independent contractor status under the common law tests.

**For the following questions, a "yes" answer means the worker is an employee.**

1. Does the principal provide instructions to the worker about when, where, and how he or she is to perform the work?
2. Does the principal provide training to the worker?
3. Are the services provided by the worker integrated into the principal's business operations?
4. Must the services be rendered personally by the worker?
5. Does the principal hire, supervise and pay assistants to the worker?
6. Is there a continuing relationship between the principal and the worker?
7. Does the principal set the work hours and schedule?
8. Does the worker devote substantially full time to the business of the principal?
9. Is the work performed on the principal's premises?
10. Is the worker required to perform services in an order or sequence set by the principal?
11. Is the worker required to submit oral or written reports to the principal?
12. Is the worker paid by the hour, week, or month?
13. Does the principal have the right to discharge the worker at will?
14. Can the worker terminate his or her relationship with the principal any time he or she wishes without incurring liability to the principal?
15. Does the principal pay the business or traveling expenses of the worker?

**For the following questions, a "yes" answer means the worker is an independent contractor.**

16. Does the worker furnish significant tools, materials and equipment?
17. Does the worker have a significant investment in facilities?
18. Can the worker realize a profit or loss as a result of his or her services?
19. Does the worker provide services for more than one firm at a time?
20. Does the worker make his or her services available to the general public?