



### Subaward - Contract Determination Form

HJF PI:

HJF Proposal or Award #:

Project Name:

Lower-Tier Organization:

Requestor Name and Email:

**Purpose:** In making the determination of whether a Lower-Tier Agreement should be classified as a subaward or a contract, the substance of the relationship is more important than the form of the agreement. More information on the difference between a contractor and a subrecipient can be found in OMB [Uniform Guidance](#), Subpart D, Section 200.330. The following questions will be used as a tool to help identify the substance of the relationship. It is not expected that all characteristics will be present and judgment should be used in making the determination. **This determination ultimately rests with HJF and is based on the totality of factors and the unique situation of each collaborating site.** Questions? Ask the Subaward Team: [OSP\\_Subawards@hjf.org](mailto:OSP_Subawards@hjf.org)

**Determination of Classification as Subrecipient versus Contractor [Vendor] (see instructions Page 2):**

<input type="checkbox"/>	Entity will perform a substantive portion of the Prime award.	SOW attached (REQUIRED).
	Entity has responsibility for making programmatic decisions with regard to their SOW.	
	Entity's performance is measured against the objectives of the Prime award.	
	Entity will seek to publish or co-author the results.	
	Entity provides similar goods or services to many different buyers as part of their routine business.	
<input type="checkbox"/>	Entity may keep potentially patentable or copyrightable technology created in performance of the SOW.	

**Additional Information for Consideration:**

Explain any extenuating circumstances:

Entity is For-Profit

Data Transfer?

Material Transfer?

Fee Requested?

***I hereby certify that the information provided here is true and accurate to the best of my knowledge.***

PI Recommendation:

Subaward

Contract

RA: Concur

Non-concur

PI Signature

*(or designee)*

Date

Signature

Print Name

Research

Date

Administration

Signature

Print Name

# Subrecipient vs Contractor (Vendor) vs Consultant under an Assistance Agreement

Research projects generally include the need to enter into agreements with external entities (third parties), whether it is simply purchasing lab supplies or conducting a large scale multi-site clinical trial. The majority of transactions are easily categorized as either a collaborative subaward or a procurement of goods and/or services. Occasionally transactions fall in to a 'grey area' where it is not clear how to identify the correct funding mechanism.

Accurate classification of the relationship will help reduce delays in creating the agreement, ensure correct indirect cost budgeting, and clarify the need for intellectual property provisions.

The following guidelines are provided to assist you in the proper identification of these relationships when preparing proposals and requesting services.

1. A **SUBRECIPIENT** is distinguished from both a **contractor [vendor]** and a **consultant** in that a **Subrecipient**:
  - a. Performs a substantive portion (specific objectives) of the Prime award Statement of Work;
  - b. Has designated key personnel who work collaboratively with the HJF PI as a co-investigator(s);
  - c. Has authority to make administrative and programmatic decisions and control of the methods used;
  - d. Is responsible for assisting the HJF PI in meeting the goals of the project;
  - e. Is responsible for adhering to applicable prime award compliance requirements;
  - f. Retains intellectual property and copyright to the work produced by the **Subrecipient's** personnel; and
  - g. May co-author an article in a professional research journal.

[ORACLE Category: Subawards]

Note: HJF does not issue subawards to individual persons; only to a company or organization. When the recipient is a recruiting site under a sponsored **Clinical Trial** or **Clinical Research award**, it *may be* classified as **subaward** even if the relationship does not meet any other criteria that define the work as collaborative research. A subaward includes terms and conditions that enable HJF to monitor the recruiting site's compliance with the applicable human subjects research regulations and laws. These are generally fixed price based on patient capitation.

FOR MORE INFORMATION – SEE HJF GUIDE TO SERVICES  
<https://guide.hjf.org/grants/subawards.html/>

## Form 407 Instructions

**Please complete the form at the time a proposal is developed or when a lower tier relationship is under consideration.**

Questions can be directed to [OSP\\_Subawards@HJF.Org](mailto:OSP_Subawards@HJF.Org)

Choose (Y/N) the characteristics that most represent the role and expectations of the organization to be engaged by HJF.

Include a copy of the organization's Statement of Work (SOW).

Provide additional explanation of the situation if extenuating circumstances should be considered.

Note if the organization:

1. is a for-profit company;
2. will transfer data;
3. will transfer material(s); or
4. will charge a fee on top of their actual costs.

PI should select "Subaward" or "Contract" based on their understanding of the relationship per the guidelines provided.

If working on a proposal, please submit Form 407 with supporting documentation to your HJF Preaward Team POC.

If this is a post-award action, please attach Form 407, SOW, budget and justification (or quote), and any other supporting documents to the requisition in Oracle.

2. A **CONTRACTOR [Vendor]** is issued a Contract and/or Purchase Order based on a request received by HJF for the purchase of goods and services, including “Professional Services” or “Consulting Services.”
  - a. A **Contractor** provides similar goods and services to multiple customers as part of their routine business operations (work for hire);
  - b. A **Contractor** competes for customers with other like providers;
  - c. A **Contractor** does not retain intellectual property or copyright to the deliverables;
  - d. Cost sharing is not required of a **Contractor**;
  - e. Joint authorship of publications is not sought by **Contractors**; and
  - f. The general terms of the Prime Award do not flow down to the **Contractor**.

**[ORACLE Category(s): Service Agreements or Vendor Contracts]**

3. A **CONSULTANT** may be an individual and is a type of Contractor paid through a Consulting Agreement and/or Purchase Order.
  - a. A **Consultant’s** deliverable may be intermittent throughout the project, may not be clearly defined, and similar work is performed by that Consultant commercially on a routine basis;
  - b. A **Consultant** is not subject to the compliance requirements of the Prime Award;
  - c. A **Consultant’s** fee may be based on an hourly or daily rate which is provided and explained in a Consultant rate proposal;
  - d. A **Consultant’s** services are on a “work for hire” basis and all intellectual property or copyrightable rights are assigned to HJF by the **Consultant**.

A **Consultant** is a non-HJF employee tasked with providing subject matter or technical expertise in support of a sponsored research project. **As a general rule, the activities performed by a university faculty member who is named as an individual Consultant in a proposal must fall outside of the individual’s normal academic duties. They cannot make use of his/her institutional facilities, personnel or students.** IF THESE CRITERIA ARE NOT MET, then the faculty member’s home institution should appear as a **Subrecipient** in the HJF Proposal rather than listing the faculty member as an individual **Consultant**.

**[ORACLE Category: Consulting Services, USE Form 404 and Form 409]**