

IOWA DEPARTMENT OF JUSTICE

**ATTORNEY GENERAL
BRENN A BIRD**



Chapter 15 Procurement of Professional Services

Professional service subcontracts must be developed and implemented whenever the subrecipient uses grant funds to pay for direct services for clients that the subrecipient's staff will not provide.

Contractor and Consultant Agreements

When an agency determines it is appropriate to pay another entity for goods or services using federal grant funding, the agency must have contractual documents in place prior to entering into a relationship with the entity.

First, the program must decide what type of contracting relationship exists based on the nature of the agreement and the criteria in the Uniform Requirements. [See 2 CFR §200.330, section 200.22 and section 200.92.](#) (After opening the link search for 200.330).

Subrecipient: You have a subrecipient relationship with another entity when the entity:

1. Has the ability or authority to determine who is eligible to receive assistance;
2. Has its performance measured against whether the objectives of the state/federal program are met;
3. Has responsibility for programmatic decision-making
4. Has responsibility for adherence to applicable state/federal program compliance responsibilities;
5. Uses grant funding to carry out a program of the organization rather than just providing goods and services.

***All subrecipient relationships must be pre-approved prior to a program entering into a contract.**

Contractor: Contractors are also called vendors. Contractors provide goods and services within normal business operations; provide similar goods and services to different purchasers; operate in a competitive environment; provide goods and services that are ancillary to the operation of the grant funded program; and are not subject to compliance requirements.

Professional Services: Professional services are unique, technical or infrequent functions performed by an outside contractor (vendor), qualified by education, experience or technical skills and abilities. Examples of professional services include but are not limited to, laboratory analysis, project evaluation, marketing, auditing, translation/interpretation and website development.

Consultants: Consultants are experts or people who hold special knowledge or skills, or who give professional or legal advice. Consultants are hired on a contractual basis and are not employees of your agency.

Types of Agreements

Subaward

A subaward is an award provided by a pass-through entity to a subrecipient to carry out a project. The award document from the Attorney General's Office to an agency is a first tier subaward. If an agency awards a portion of its subaward to another entity to do programmatic work, that entity is a second tier subrecipient. Subawards do not include payments to contractors or individuals. A subaward may be any form of legal agreement and is considered a contract. Subawards must include scope of work, budget, reporting requirements and federal pass through requirements and certified assurances. Subawards require the use of the [Subcontract Monitoring Form](#). Prior approval is required prior to issuing a subaward. The subaward must be included in your program budget and detailed in your budget justification. If you wish to add a subaward to your project after your budget is approved, you must obtain prior approval via a [budget modification request](#).

Contracts

A contract is a legal instrument by which an agency purchases goods or services needed to carry out the funded project. The Attorney General's office requires programs to use professional fee-for-service contracts for direct services to clients such as counseling services, legal services, etc. when these services are not provided by program staff. Vendor contracts are used to purchase goods and services NOT directly linked to client services, such as lawn care services, copier agreements, cleaning contracts, etc. Vendor contracts and professional fee-for-service contracts do not require a detailed budget; however, they are to include costs aligned to tasks, services or deliverables. Subrecipients are required to provide oversight of vendor contracts and fee-for-service contracts. However, the use of the [Subcontract Monitoring Form](#) is not required.

Subrecipients must adhere to their procurement policies when securing professional services. For more information concerning non-profit competitive bidding for professional services go to [Not-for-Profit Agency Record Keeping Document](#).

Subrecipients using subcontracted professional services must be in compliance with all IRS requirements.

Subrecipients are accountable for the work and performance of their contractors and subrecipients. Subrecipients must keep a file, on-site, that includes the original professional service subcontract and approved budget information.

Subrecipients should enter subawards and contracts in the contractual services budget line and provide detailed budget justification for these costs on the budget justification form.

Consultant Rates of Payment

Consultant rates of payment are to be reasonable and consistent with fees for similar services in the market place. The consultant rate maximum limit is \$650 per day or \$81.25 per hour. This does not mean the rate can or should be the maximum limit for all consultants. Rates should be established on a case-by-case basis and must be reasonable and allowable. Consultant rates should be consistent with current market value for the service. The consultant rate agreement file must contain a justification of the agreed upon rate, the contract, copies of invoices and copies of work performed.

If a grantee wishes to exceed the maximum daily rate allowed (excluding travel and travel-related costs – see [Chapter XI – Travel, Conferences, Meetings](#) for consultants, prior written authorization is required. The term daily rate refers to an eight-hour day. An eight-hour day may include preparation, evaluation, and travel time in addition to the time required for actual performance. Please note, however, this does not mean the rate can exceed the maximum daily rate allowed. If a consultant's rates are greater than the maximum rates allowed no portion of the consultant's fees can be paid with federal funds, not even the portion that meets the federal standards.

Independent Consultants: The rate of compensation for these individuals must be reasonable and consistent with that paid for similar services in the market place. Compensation may include the value or the cost of fringe benefits. Resources to determine current market value include:

- Current salary & fringe benefits for similar work
- Competitive contract bids
- [The Bureau of Labor Statistics Wage Data by Area and Occupational website](#)

Oversight of a Professional Services Contract (Subcontract)

[Programmatic Monitoring](#)
[Fiscal Monitoring](#)

Your agency must have a process for approving, revising, and monitoring external funds (subawards and contracts). Monitoring policies should clearly address both program and fiscal monitoring of professional services subcontracts.

The [Subcontract Monitoring Form](#) should be used to record appropriate test work and conclusions and retained as evidence of monitoring a grant-funded subaward. Subaward monitoring must be conducted by the agency within 6 months of the subcontract start date and then again periodically for multi-year Project-Based Professional Service Subcontracts. The completed form should be retained in the grant file and available for inspection.

State agencies should follow and use state and internal monitoring policies and forms.

Programmatic Monitoring

Determines if service delivery is consistent with subaward provisions. Programmatic monitoring may include any or all of the following:

- Verify the work being sub-awarded is satisfactorily being completed by reviewing reports and other materials, as well as maintaining contact with the sub-awardee;
- Interviewing direct services staff and others to determine if the services are being performed according to the contract, and/or
- Conducting on-site reviews to check the nature and quality of the services being provided.

Fiscal Monitoring

Examines the subrecipient's financial records and procedures as they pertain to the sub-award. Fiscal monitoring may include any or all of the following:

- Reviewing invoices submitted to the subrecipient agency;
- Comparing the sub-award budget to the actual costs;
- Obtaining reasonable documentation that services billed were actually delivered according to the sub-award; and/or comparing invoices with supporting documentation to determine costs were allowable.

