

# Policy on Subcontracts

## BACKGROUND

A subcontract is a contract awarded to another institution by the primary recipient (prime) of a contract or grant. It is also known as a subaward, subagreement, or consortium agreement. Subcontracting part of the research provides access to more resources and expertise than in single-investigator or institution projects. Federal agencies are increasingly interested in funding collaborative projects, and we expect to see more subcontracts in the future. This document aims to help faculty understand when a subcontract is appropriate and what is required to prepare and to administer university-issued subcontracts.

## DEFINITIONS

*Prime Sponsor:* the awarding agency and initial source of funding

*Prime recipient:* the primary awardee or legal entity receiving a grant, contract, or cooperative agreement from the awarding agency

*Subcontractor:* the legal entity to which a subcontract is made; accountable to the prime recipient for the use of the funds provided; synonyms include subrecipient, subawardee, and subgrantee

*Subcontract (subaward or consortium agreement):* definition from 2 CFR Part 215 (formerly OMB A-110) “**Subaward** means an award of financial assistance...made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services ...”

*Consultant Services Agreement:* agreement for goods or services provided by a private individual or business; also known as personal services contract and independent contractor agreement

*Statement of Work/Deliverables:* the description of the work or tasks and/or the expected deliverables to be accomplished during the period of the subaward

## POLICY

On all new proposals, a determination must be made about the role of any non-Wake Forest University personnel. Will they be Co-Principal Investigators? Are they performing substantive work or merely providing ancillary services? Where will this work be performed? Depending on the answers to these questions, the external personnel may be a consultant or a subcontractor. To assist in determining which relationship is more appropriate, see appendix A.

If the Principal Investigator (PI) decides to have entities outside of Wake Forest University carry out a discrete part of the research, the collaborating institution or individual should be identified at the proposal stage, when possible. Regardless of whether they are designated subcontractors or consultants, they will be asked to provide a budget and justification, institutional authorization or letter of support, and other information to be included in the proposal, as applicable. Costs for

the collaborator or consultant should be included as either a subcontract or consultant line item in Wake Forest University's budget to the sponsor.

OMB A-110 section 25(c) (8) states that under a federal award, a prime recipient must obtain approval before transferring programmatic effort to another entity. It also makes clear that inclusion of a subaward in the awarded budget constitutes prior approval, so once an award is made to a proposal that includes information about a planned collaboration, no further action concerning the subcontractor is needed. However, if the subcontractor is not a part of the awarded proposal, then prior approval to the subcontract may be necessary. The National Institutes of Health waives this prior approval requirement, unless the subcontractor is a foreign entity. The PI should work with the Office of Research and Sponsored Programs (ORSP) to secure prior approval.

When there are reasonable indications that an award is going to be made, ORSP will contact the subcontractor to prenegotiate the terms and conditions of the subcontract. WFU uses the Non-FDP Subaward Agreement Form whenever possible (see [http://www.thefdp.org/Subawards\\_Forms.html](http://www.thefdp.org/Subawards_Forms.html)). The WFU PI and the subcontracted PI are responsible for preparing the Statement of Work, which must be consistent with the prime award. It should include the work to be accomplished, a specific timetable, and defined deliverables. Subcontracts will generally be issued for one year at a time.

As soon as possible after full execution of the prime award, ORSP will prepare the final subcontract document with all appendices and attachments. The Director or Assistant Director is responsible for ensuring that the subcontract is accurate, complete, and compliant with the prime award. The Legal Department may be consulted to review the final draft of any subcontract. The PI will be consulted and/or asked to review the final subcontract, before it is sent to the collaborating institution.

ORSP will check the list of debarred and suspended (excluded) parties (EPLS) on the web (<http://epls.arnet.gov/>) and the Specially Designated Nationals List (SDN; <http://www.treas.gov/offices/enforcement/ofac/sdn/index.shtml>). Individuals on the list of EPLS are not permitted to receive Federal contracts or assistance. As a result, WFU will not be able to issue a subcontract to this individual/institution regardless of the type of award (Federal, private, etc.). By law, people and institutions in the U.S. are not allowed to deal with individuals/institutions on the SDN list. If a potential subcontractor is found on this list, ORSP may need to contact the Office of Foreign Assets Control's hotline.

Once the subcontract is finalized, ORSP will mail two unsigned copies of the subaward to the subcontractor. An audit certification form will be sent with the final version of the subcontract. It must be signed and sent back with a copy of the fully executed subcontract.

Upon receipt of the signed contracts from the subcontractor, the Director or Assistant Director will sign and send one fully executed original to the subcontracting institution. ORSP will prepare a separate folder for each subcontract. All subcontractor-related correspondence is part of that folder. After the project ends, the subcontract folder will be combined with the project file and maintained by ORSP for the required retention period.

ORSP should receive invoices at the intervals stated in the subcontract. It will check the amounts invoiced against the amount remaining on the subcontract then contact the PI and arrange for invoice approval. If the PI indicates performance concerns, the subcontracting institution will be consulted, and the invoice may be held until all concerns are resolved. Invoices are forwarded to the Grant Manager for approval and payment processing. All subcontractors must submit a final invoice 60 days before the prime award end date, so WFU can include the subcontract costs in its final financial report to the prime sponsor.

Any changes, including the performance period, amount funded, or scope of work, by the prime recipient require a modification or amendment to the subcontract. All modifications should be in writing and sent to the appropriate contacts for review and acceptance.

In lieu of requesting a paper copy, ORSP will check the A-133 audits of all subcontracts online at <http://harvester.census.gov/sac/> annually. If any exceptions are noted in the audit, ORSP will request the subrecipient's response to the audit findings. If the finding was material, or the response was not acceptable to the subrecipient's auditor, the prime sponsor may be contacted for guidance.

Appendix A – Subcontract versus Consultant

Appendix B – Roles and responsibilities

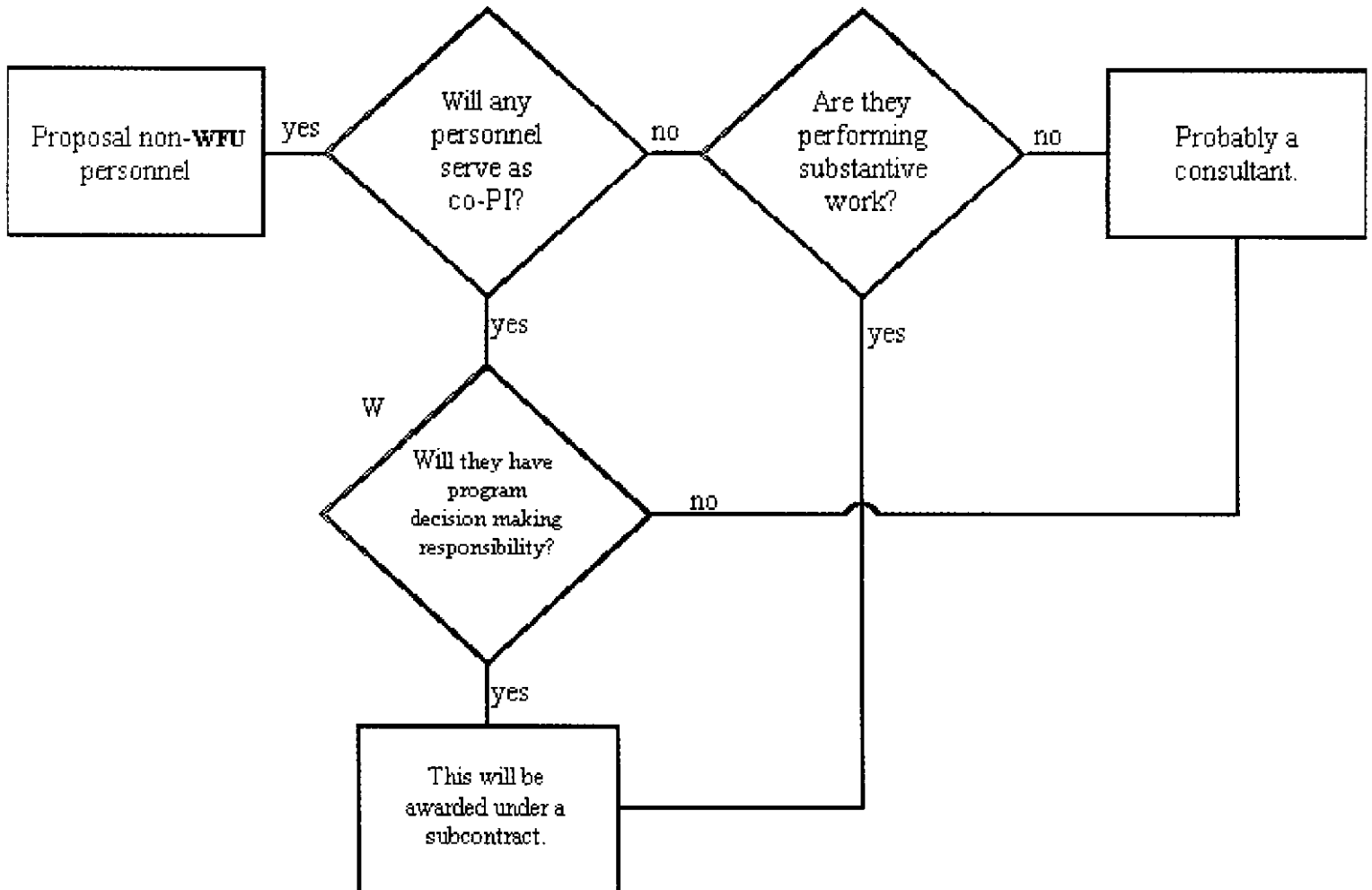
## REFERENCES

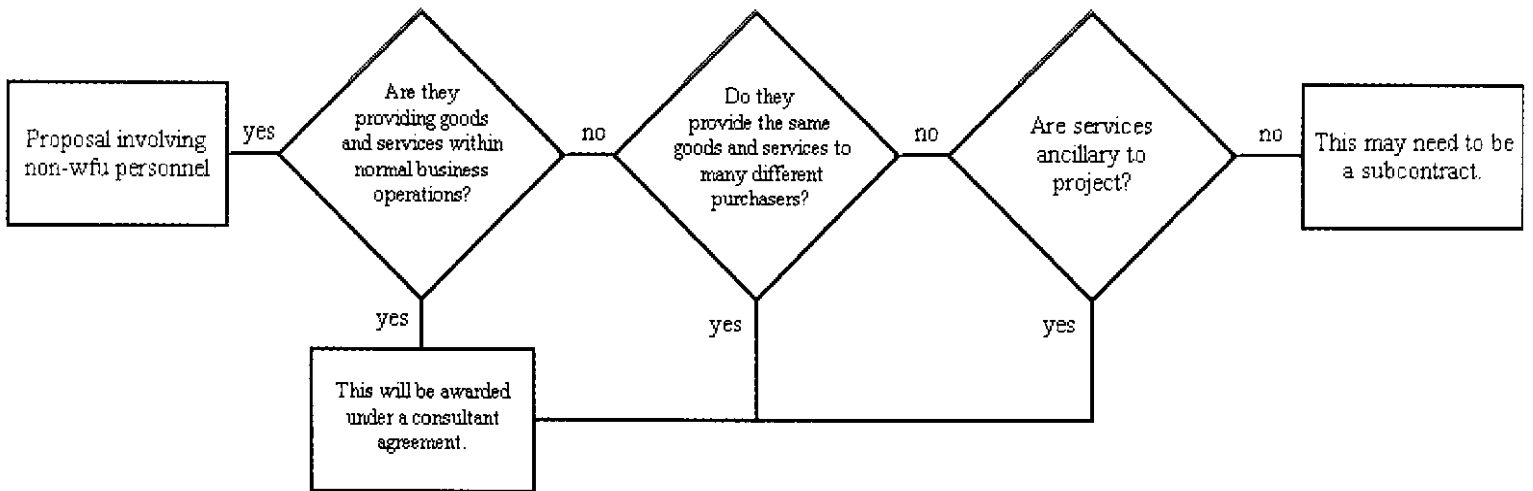
***OMB A-110: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.*** (see <http://www.whitehouse.gov/omb/circulars/a110/a110.html>)

And

***OMB A-133: Audits of Institutions of Higher Education and Other Non-Profit Organization*** (see <http://www.whitehouse.gov/omb/circulars/a133/a133.html>)

**Appendix A**  
**Subcontract versus Consultant Flowcharts**





**Appendix B**  
**Wake Forest University**  
**Subcontract Roles & Responsibilities Matrix**

	Roles and Responsibilities	PI	ORSP	Subcontractor PI	Subcontractor OSP
1	Request sponsor approval to transfer performance of substantive programmatic work to a third party	X	X		
2	Develop subcontractor's budget	X		X	X
3	Develop subcontractor's statement of work	X		X	X
4	Review lists of Excluded Parties and Specially Designated Nationals to verify subcontractor is not debarred, suspended, or otherwise restricted from receiving federal funds		X		
5	Subcontractor A-133 audit certification		X		X
6	Prepare, negotiate, and sign subcontract agreement		X		X
7	Review and approve subcontractor's invoices	X	X		
8	Maintain subcontract files		X		
9	Prepare and submit reports as outlined in the subcontract terms			X	
10	Monitor subcontractor performance and completion of statement of work	X			
11	Check subcontractor's A-133 audit annually		X		