

## ***POLICY***

### **Subawardees, Contractors, Consultants**

Topic: <b>Sponsored Awards Admin &amp; Mgmt</b>	Category: <b>Subawards</b>	Policy No: <b>5.70.05</b>	Effective Date: <b>12/26/14</b>	Page No: <b>1 of 2</b>
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**Purpose:** To distinguish between when it is appropriate for Boyce Thompson Institute for Plant Research (BTI) to use a subawardee, contractor, and/or consultant on sponsored research award, per OMB 2 CFR Part 200.330.

- Policy:**
1. A **subawardee** is distinguished from both a contractor and a consultant in that a subawardee:
    - Performs a substantive portion of the proposed Statement of Work incorporated into the Prime Award/Contract;
    - Has responsibility for internal programmatic decision-making and design;
    - Is responsible for assisting the Prime Recipient in meeting the goals of the project;
    - Is responsible for adhering to applicable federal programmatic compliance requirements;
    - Retains intellectual property and copyright to the work produced by the Subcontractor's personnel; may co-author an article in a professional research journal.
    - BTI does not issue subawards to individual persons; only to a company or organization.
  2. A **contractor** provides similar goods and services to multiple customers as part of their routine business operations.
    - A contractor competes for customers with other like providers.
    - A contractor does not retain intellectual property or copyright to the deliverables.
    - Cost sharing is not required of a contractor.
    - Joint authorship of publications is not sought by a contractor.
    - The general terms of the Prime Contract do not flow down to the contractor.
  3. A **consultant** may be an individual or a commercial entity.
    - A consultant's deliverable may be intermittent throughout the project, is not clearly defined and similar other work is performed by that consultant commercially on a routine basis.
    - A consultant's deliverables do not ordinarily generate patentable or copyrightable results of an original or substantive nature.
    - A consultant is not subject to the compliance requirements of the Prime Contract.

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- A consultant's fee is based on an hourly or daily rate which is provided and explained in a consultant rate proposal.
- A consultant's services are on a "work for hire" basis and all intellectual property or copyrightable rights are assigned to BTI by the consultant.
- A consulting firm is a commercial entity whose regular business activity is to provide services similar to those proposed under the current project.
- An individual consultant is a non-BTI employee hired to provide technical expertise in support of a sponsored research project. As a general rule, the activities performed by a non-BTI employee who is named as an individual consultant in a proposal must fall outside of the individual's normal academic duties and 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 subcontractor in the BTI proposal rather than an individual consultant.