



## Sub-award or Fee for Service: Know the Difference for Your SBIR/STTR Proposal

Whether they're preparing an SBIR/STTR proposal for the April 5 NIH deadline or for another agency, one of the most confusing issues that companies face in preparing their project budgets is whether a relationship with an external organization should be a sub-award or a fee-for-service. It's common in an SBIR, and required for an STTR, to have a sub-award to a non-profit research institution. In addition to a formal sub-award, there are other relationships the small business might have with outside entities.

Why do you care? Because these relationships are dealt with very differently in the proposal and in subsequent management of project funds. This is something you need to know in order to correctly fill in the application forms, and then to effectively (and legally!) manage the award.

Below are the official definitions, followed by a list of bullet points that will help you decide if a relationship should be a sub-award or a fee for service.

### **Sub-award** (also called a consortium agreement)

A sub-award is an agreement between the recipient of a prime award (grant or contract) and another organization (educational institution or other entity) in support of a sponsored project in which any substantive programmatic activity is carried out by the other organization, which is a separate legal entity, administratively independent of the prime award recipient. The involvement of the sub-awardee organization is that of actually performing a portion of the programmatic activity, as opposed to simply providing a routine service to the prime award recipient.

The following factors indicate a sub-award. The other organization:

- has (some) responsibility for programmatic decision making
- contributes to the scholarly/scientific conduct of the project as described in the statement of work for the prime award
- uses the funding to carry out its own program, as compared to simply providing goods or services to the small business
- provides matching funds or cost sharing
- conduct of the work requires considerable discretionary judgment and the unique expertise of the other organization
- performance is measured against the objectives of the main (prime) award
- investigator would be considered as a co-author of publications resulting from the work performed under the main award

### **Fee for Service**

A fee for service agreement is an agreement between the recipient of a prime award (grant or contract)

and another organization (educational institution or other entity) in support of a sponsored project in which the other organization merely provides a routine service for the prime award recipient.

The following factors indicate a fee for service agreement. The other organization:

- provides a routine service (e.g., equipment fabrication or repair, data processing, performing routine analytical testing services, etc.)
- provides the goods or services as part of its normal business operations
- provides similar goods or services to many different purchasers
- operates in a competitive environment (i.e., competes with others who can provide a similar service)
- provides services of a repetitive nature or goods of a commonly available kind
- provides the service in support of the prime award recipient's project (rather than the organization's own project)
- assumes the risk if performance is more costly or time consuming than expected

As is often the case, there are some gray areas, and some nuances to this process, but this gives you the basics covering most cases. As always, BBCetc is here to help!

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