

What is the difference between a subsidy and a contract?

OMB Circular A-133 sets the standard and the criteria for what constitutes a subsidy payment and what constitutes a contractor payment. The Ohio Department of Education applies these standards equally to state and Federal funds administered by the Department.

Subsidy Payment

A subsidy payment is made to an entity which assists their operations in providing a program to beneficiaries of their entity's services. All subsidy payments must meet the following criteria:

Characteristics indicative of a Federal award received by a subrecipient are when the organization:

- (1) Determines who is eligible to receive what Federal financial assistance;
- (2) Has its performance measured against whether the objectives of the Federal program are met;
- (3) Has responsibility for programmatic decision making;
- (4) Has responsibility for adherence to applicable Federal program compliance requirements; and
- (5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

Cite: OMB Circular A-133 §__.210 (b)

Contractor Payment

A contractor payment is made to an entity that provides services or goods directly to the payer organization. All contractor payments must meet the following criteria:

Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program.

Cite: OMB Circular A-133 §__.210 (c)

Critical Note

There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

Cite: OMB Circular A-133 §__.210 (d)

If there is uncertainty about which type of payment should be made, please ask John Childs, Executive Director (Accounts) or Jeff Jordan, Associate Director (Grants Management) before proceeding.

Is It a Subsidy or a Contractor?

1. ODE wants to purchase a large amount of office supplies for use by ODE staff.

Subsidy or Contractor

Rationale: Purchase would be from an office supply merchant who does the work in their everyday course of business. Thus, this meets the standard for a contractor. Note: No official contract may have been written for this transaction, unless prescribed by the Ohio Revised Code.

2. ODE reviews proposals from many school districts for a new method of teaching students to read. The Department picks 2 districts that will receive funds. The districts will administer the program by creating a budget, submitting cash requests and final expenditure reports. Further, the district will decide who will benefit and participate in the program.

Subsidy or Contractor

Rationale: School district determines eligibility for participants and has success measured against predetermined criteria. The benefits of the program are not directly related to ODE's participation.

3. ODE wants to put on a seminar at a local hotel, but due to state law, is unable to complete the arrangements for the seminar. To facilitate its completion, an ESC is requested to put together materials and arrange speakers for the Department's symposium.

Subsidy or Contractor

Rationale: ODE is responsible for making the seminar occur and has used an outside source to provide this service. Further, the work does not benefit the ESC in operating their programs or completing their mission. The ESC is only serving as a conduit to get work done for the Department. Finally, any organization could do this work; an ESC has no special training to facilitate this seminar.

4. ODE needs additional staff to administer a grant, but is unable to get additional PCNs assigned. To alleviate the staffing burden, an administrator on loan is assigned by a district to be present at ODE's offices, take direction from ODE management and work exclusively on the grant project. In exchange, the district receives a project from the grant to pay for the administrator's salary, fringe benefits and other necessary costs. The district must complete a project budget and final expenditure report to document the finances of the project.

Subsidy or Contractor

Rationale: ODE is responsible for managing the grant and determining programmatic outcomes. The district is not getting any benefit from the program or its operations. The relationship is one of the district providing services for ODE. Further, because the person takes direction from ODE staff and works in ODE office space, a de facto employee/employer relationship may exist, with applicable IRS and federal regulation consequences.

5. ODE sets up an agreement with a state university to run a pilot demonstration project for early childhood learning methods. The agreement states what deliverables are required to fulfill the project terms and designates a subset of children that should be reviewed. The university is required to submit a budget, final expenditure report and programmatic outcomes report to the Department to verify the amounts spent in support of the project and to report program achievements.

Subsidy or Contractor

Rationale: The university is truly a partner with ODE to determine the results of the project. Additionally, the university has a vested interest in the operation of the program and has set deliverables to meet. ODE would evaluate the outcomes of that grant and determine whether additional funding may be awarded at a later date.