

**Office of Sponsored Programs
Guidance for Consulting on Sponsored Projects**

I. How do I distinguish between a subrecipient, a contractor/vendor, or a consultant on a sponsored project? Each situation is unique and must be reviewed and carefully considered. The guidance provided below may assist you in differentiating between Subrecipient, Contractor/Vendor, or Consultant.

Final determination to be made in consultation with Office of Sponsored Programs.

Element	Subrecipient	Contractor/Vendor	Consultant
Project / Scope of Work / Design	Collaborates with WKU on project design or development	Defined by WKU PI	
Proposal	Contributes subrecipient components and collaborates on overall proposal as needed	Does not work on proposal	Advises only, but not as WKU employee
Work Performance	Substantive programmatic work	Incidental to overall project (e.g., "skilled hands/minds")	Expert advice, review or services; subject matter expert
Goods / Services	Not applicable	Provides similar goods/services to others as part of their business	Provides similar services to others
Decision Making	Controls method and results of their portion of the project in consultation with WKU PI	Makes no project decisions	
Compliance	Must comply with prime award terms	Must comply with WKU contacts/agreements as applicable. Not subject to prime sponsor award terms, similar requirements may apply for other reasons	
Performance Measurement	Measured against meeting the project objectives	Tied specifically to contract deliverables, not project objectives	Not responsible for overall progress or outcome of project
Publications	May create or co-author publications	Does not typically create or co-author project publications	
Intellectual Property (IP)	IP rights detailed in subaward agreement	IP not typically created by contractor/vendor	IP owned by WKU

Table above is an adoption of information provided at <https://www.washington.edu/research/faq/subrecipient-vendor-consultant/>

II. Definitions

- **Sponsored Projects:** Grants, contracts, and cooperative agreements related to research, scholarship, creative activity, public outreach, service, training and education (hereinafter termed “agreements”) entered into by units of WKU, and faculty and staff acting as employees of WKU are sponsored projects.
- **Institutional Base Salary:** Institutional Base Salary (IBS) is the annual compensation paid by the University for an employee’s assigned duties, which can include, but are not limited to teaching, research, service, and professional development.
- **Extra-University Consulting:** Extra-University consulting is professional advice or services provided by an individual employee to an individual, agency, or firm (entity other than Western Kentucky University or subunit thereof) for a salary or fee. Such activity must be disclosed to the University by completing an Outside Employment and External Consulting Approval Form. This form can be found at: <https://intranet.wku.edu/php/prod/wkuforms/source/WKUFORMSlist.php>. Extra-university consulting activity will not normally involve the use of University material, equipment, or services; neither shall the name or image of the University be used in any manner to suggest institutional endorsement. Professional assignments/activities that involve the use of other University personnel, facilities, material, or equipment should be performed on a contractual basis through the Office of Sponsored Programs (grant, contract, fee for service agreement, etc.) rather than on an individual consulting basis. Please refer to the Faculty Handbook for additional guidance on extra-university consulting (Outside Employment and Consultation policy description, Section II.W. of the Faculty Handbook).
- **Intra-University Consulting:** Intra-University consulting involves professional advice or services, as described above, that are provided by an employee of a grantee institution. Intra-University consulting by an employee is assumed to be undertaken as an obligation requiring no compensation in addition to **Institutional Base Salary** (IBS). It is the policy of Western Kentucky University that incidental internal consulting is normally considered to be included in the base pay of faculty, professional non-faculty, executive, administrative, and managerial personnel. Federal regulations and sponsor policies prevent the university from charging extra compensation payments (i.e., compensation at a rate in excess of an employee’s IBS) on sponsored projects. Additional or supplemental compensation is allowable on an externally funded project rarely, and only in exceptional situations. Professional assignments/activities that involve the use of other University personnel, facilities, material, or equipment should be performed on a contractual basis through the Office of Sponsored Programs (grant, contract, fee for service agreement, etc.) rather than on an individual consulting basis.

III. Policy: Under Federal regulation 2 CFR Part 200 (see below) and institutional policy, additional or supplemental compensation for Intra-university consulting on sponsored projects is allowable rarely, and only in exceptional situations when all of the following circumstances exist:

- Services are performed in addition to those associated with the person’s salaried employment, and normal duties/responsibilities can still be met without reassignment to others.
- Services are provided to an external entity or across departmental lines.
- Services are approved in the sponsored agreement or award notice, or approved in writing by the sponsoring agency.

- Prior approval of the university is obtained in writing through established administrative channels.
- There is no apparent or actual conflict of interest or commitment.
In those exceptional cases in which supplemental compensation for intra-university consulting is approved in writing by the sponsoring agency and the university, the salary charges must be commensurate with the IBS rate of pay and the amount of additional work performed.

Once extra- and intra-University consulting activities on sponsored projects are approved, the employee should obtain continued approval, in writing, no less than every two years, for the duration of the activity.

Under no circumstances may an individual be paid as a consultant and an employee under the same grant.

One (1) day per week (up to 4 working days per calendar month) outside of normal effort is allowed for approved extra- and intra-University consulting activities during the individual's contract period. If the total consulting responsibilities exceed 20 percent effort over any single semester or contract year, the request will be denied, and if possible, should be performed on a contractual basis through the Office of Sponsored Programs (grant, contract, fee for service agreement, etc.) rather on an individual consulting basis.

Individuals holding an annual appointment less than 12 months who assume off-contract/summer term responsibilities with the University (teaching, externally-funded effort) may apply one day per week during the off-contract period for activities covered by this policy.

IV. Pertinent Federal Regulations

Federally-Sponsored Projects

2 CFR Part 200.430 - Compensation - personal services

(h3) Intra-Institution of Higher Education (IHE) consulting.

Intra-IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the HHS awarding agency.

(h4) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met:

- (i) The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.

(ii) The non-Federal entity establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. This may be described in appointment letters or other documentations.

(iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See paragraph (h)(2) [*OMB Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards*](#)

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-Federal entity.

(v) The total salaries charged to Federal awards including extra service pay are subject to the Standards of Documentation as described in paragraph (i) of this section.

Non-Federally Sponsored Projects

Federal regulations also address intra-institutional consulting for non-federal awards, which must be treated in a manner consistent with federal awards.

Regulations (2 CFR Part 200, Uniform Guidance) state:

Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements as above [see 2 CFR Part 200 for additional details]

(i) The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.

Related Policies: Outside Employment and Consultation Policy description, Section II.W. Faculty Handbook; Policy 1.2092/2.2092 Faculty Workload and Compensation