

This document is intended to help a recipient of federal funds make a judgment as to whether each agreement it makes, for the disbursement of federal program funds, casts the entity receiving the funds in the role of a subrecipient or a contractor. Based on 2 CFR Chapter I, Chapter II, Part 200 et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), issued by the U.S. Office of Management and Budget (OMB) on December 26, 2013, and effective for non-federal entities on December 26, 2014, the following information is intended for use by all non-federal entities.

Important Terms:

Recipient: A non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term recipient does not include subrecipients. (See 2 CFR 200.86 of the Uniform Guidance.)

Subrecipient: A non-federal entity that receives a subaward for the purpose of carrying out part of a federal award. The subaward creates a federal assistance relationship with the subrecipient. (See 2 CFR 200.93 & .330 (a) of the Uniform Guidance.)

Contractor: A non-federal entity that receives a contract for the purpose of providing goods and services for the awarding non-federal entity's own use. The contract creates a procurement relationship with the contractor. The Uniform Guidance replaced the term "Vendor" with "Contractor." (See 2 CFR 200.22 & .330 (b) of the Uniform Guidance.)

Instructions: The "Characteristics" column in this checklist is based on language in the Uniform Guidance. The column lists characteristics that support the classification of a non-federal entity as a subrecipient or contractor. Since all of the characteristics listed may not be present in all cases, the Uniform Guidance recognizes that the recipient "...must use judgment in classifying each agreement as a subaward or a procurement contract." (2 CFR 200.330 (c).) In the "Explanations" column, DHHS provides additional information to assist in answering the questions under "Characteristics." Answer each question by checking "yes" or "no" where indicated. Based on responses to the questions, a key provided at the end of each section will help in making a judgment as to whether a subrecipient or contractor relationship exists. White space is provided in between the "Characteristics" column and the "Explanation" column so that users can tailor this checklist to accommodate the unique aspects of various programs or jurisdictions.

Note: One check in a subrecipient box does not necessarily mean the entity is a subrecipient. A judgment should be based on the totality of responses.

Yes No

Does the entity qualify as a non-profit organization (501C3)?

Yes No

Is the entity a governmental organization?

Budget Acct./Prog. _____

Entity receiving funds _____

Funding Source(s) _____

Notes:

CHARACTERISTICS

Decision Making Authority

200.330 a. 1 Determines who is eligible to receive what Federal assistance;

Yes No

a. Does the entity determine who is eligible to participate in the federal program?

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200.330 a.3 Has responsibility for programmatic decision making;

Yes No

a. Does the entity have the ability to make decisions about how services will be delivered to participants, in accordance with federal programmatic requirements?

OR

200.330 b.4 Provides goods or services that are ancillary to the operation of the Federal program;

Yes No

b. Does the entity provide goods or services for the recipient's own use?

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b. Does the entity provide services designated by the recipient to serve the recipient's participants without regard to specific federal programmatic requirements?

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If you selected "yes" to EITHER item a, this is an indicator of a subrecipient relationship. If you selected "yes" to EITHER item b, this is an indicator of a contractor relationship.

Subrecipient Contractor

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Nature of Award

200.330 a. 2 Has its performance measured in relation to whether objectives of a federal program were met;

Yes No

a. Are the scope of work (or portion, if applicable) and terms and conditions of the agreement the same for the entity as they are for the recipient that received the federal funds?

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a. Is the entity carrying out completion of the goal of the grant (or part, if applicable) as stated in the federal award?

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OR

200.330 b.5 Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Yes No

b. Does the recipient develop the scope of work and terms and conditions of the agreement to meet the recipient's needs?

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If you selected "yes" to EITHER item a, this is an indicator of a subrecipient relationship. If you selected "yes" to item b, this is an indicator of a contractor relationship.

Subrecipient Contractor

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EXPLANATIONS

If the entity determines whether a participant meets a federal program's eligibility requirements for assistance, it is most likely a subrecipient.

A contractor may provide services to clients in a program after eligibility has been determined by the recipient.

If the entity has authority to make decisions regarding the delivery of service, operations, or types of assistance provided within the terms of the agreement, it is typically a subrecipient.

If the entity provides goods or services directly to the recipient or to program participants at the direction of the recipient and does not make programmatic decisions or adhere to program requirements, it is typically a contractor.

EXPLANATIONS

If the entity is providing a service for the recipient to meet the goal of the grant, it is a contractor; if the entity is providing a service that carries out a goal within the scope of the grant, it is a subrecipient. When a grant program contains multiple goals, it is possible for the recipient to complete part of the goals and for the entity to perform another part.

If the scope of the agreement is per the federal program terms/guidance, the entity is a subrecipient. A subrecipient may also provide programmatic or progress reports to ensure compliance with federal program requirements.

Conversely, if the scope of the agreement is per the recipient's terms and not federal program guidance, and if the recipient's oversight is governed only by the contract terms and conditions, it is a contractor.

200.330 a.4 Is responsible for adherence to applicable Federal program requirements specified in the Federal award;

a. Funding to the entity depends on the entity's ability to best meet the objectives of the award. Although performance is measured against federal award objectives, the entity assumes little risk if the objectives are not met.

Yes No

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OR

200.330 b.5 Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

b. The entity assumes financial risk if they fail to deliver the goods or services agreed upon.

Yes No

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If you selected "yes" to item **a**, this is an indicator of a subrecipient relationship. If you selected "yes" to item **b**, this is an indicator of a contractor relationship.

Subrecipient Contractor

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If the funding is given to the entity with a purpose of completing the goal of the grant, the recipient will be required to ensure the entity adheres to federal grant program guidance. The recipient will also be required to monitor the activities of the entity per Uniform Guidance section 200.331. The entity assumes little risk should federal grant guidance not be met. The risk falls with the recipient.

Criteria for Selection

200.330 a.5 In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

a. Does the entity demonstrate a financial or public need for funding to carry out a project or provide a service?

Yes No

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a. Will the entity be contributing match or other non-Federal funding in support of the award?

Yes No

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a. Will the entity be reimbursed for only actual costs incurred?

Yes No

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OR

200.330 b.3 Normally operates in a competitive environment;

b. Were procurement policies applied in the selection of the entity?

Yes No

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b. Was the entity's proposed price a factor in the selection process?

Yes No

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b. Will the entity derive a profit from the agreement?

Yes No

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If you selected "yes" to **ANY** item **a**, this is an indicator of a subrecipient relationship. If you selected "yes" to **ANY** item **b**, this is an indicator of a contractor relationship.

Subrecipient Contractor

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If the entity was chosen because it has the best widgets or service for the price, it has a contractor relationship with the recipient. Typically, a procurement method is followed, such as a competitive bid or RFP process. In this type of agreement, the entity usually makes a profit by delivering this good or service to the recipient. Payments to contractors are typically made based on contract terms.

Conversely, if the entity was chosen because it was already providing a service within the guidelines of the grant program and wants to partner with the recipient to expand the delivery or assist in meeting the goal of the grant, it may be a subrecipient. Typically, the entity may not make a profit and may provide its own non-federal funding as match or cost sharing. The entity may have been chosen through an application process or an announcement of funding, as opposed to the procurement process described above. Payment to a subrecipient is generally based on actual expenses unless awarded on a fixed amount subaward (2 CFR 200.332). It is typical of subrecipients to submit budgets, financial reports, or copies of invoices to the recipient, to document activity.

200.330 b.1 Provides the goods and services within normal business operations;

Yes No

b. Is the entity's normal business to provide the goods or services being purchased in the agreement?

200.330 b.2 Provides similar goods or services to many different purchasers;

Yes No

b. Does the entity provide the same goods or services to other organizations?

If you selected "no" to **EITHER** item, it is an indicator of a subrecipient relationship. If you selected "yes" to **BOTH** items, it is an indicator of a contractor relationship.

Subrecipient Contractor

Determination

EXPLANATIONS

Subrecipient Contractor

Review all the entries and make an overall determination of the relationship. **Check the appropriate box in this section.**

Determined by _____

(enter name of person initially making decision)

(date)

Approved by _____

Rachel Asherwood, QA

(enter name of person reviewing)

(date)

Based on the relationship determined above, see additional guidance on requirements governing agreements.

Section 200.331 - "Requirements for pass-through entities," for subrecipient agreements,

Section 200.317 through 200.326 - "Procurement Standards," for contractor agreements.
