## Contractor or Subrecipient Relationship Determination Checklist

(To satisfy requirement of section 200.331 in OMB 2 CFR Chapter I, Chapter II, Part 200 et al Uniform Guidance)

This document is intended to be used as a tool to help State agencies comply with 2 CFR 200.331 in making case by case subrecipient or contractor determinations for all State agency agreements or contracts involved in the disbursement of Federal program funds.

The checklist will also be applied to non-federally funded agreements to be able to determine recipient or contractor relationship. For the purposes of this document, recipient as it relates to non-federally funded agreements, will be an entity who directly receives an award from a state agency to carry out an activity under a state program or non-federal/private program. A subrecipient determination on a non-federally funded agreement would make the entity a subrecipient.

### Definitions
- **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. (2 CFR 200.86)
- **Subrecipient:** A non-Federal entity that receives a subaward from a pass-through entity to carry out all or a portion of a Federal award. This relationship creates a Federal assistance relationship with the subrecipient. (2 CFR 200.93)
- **Pass-through entity:** A non-Federal entity that provides a subaward to a subrecipient to carry out part of the Federal program. For the purposes of this checklist the State agency is the pass-through entity.
- **Contractor:** A legal instrument by which a non-Federal entity purchases property of services needed to carry out the project of program under a Federal award. (2 CFR 200.22)
- **Entity:** For the purposes of this checklist, Entity includes any business, government, organization, individual, etc. in which a State agency has a contract or agreement with.

### DIRECTIONS
Please complete the following checklist. Each section contains characteristics of subrecipients and contractors. Mark the box under “Yes” or “No” next to the question under each characteristic in the sections below. Mark the “Subrecipient” or “Contractor” box to the best of your determination in the blue box at the bottom of each section. One subrecipient check does not necessarily make the entity a subrecipient nor does one contractor check make it a contractor.

If you need assistance in determining the relationship, please contact your internal control officer.

#### Nature of Award

- **200.331 a.2** Has its performance measured in relation to whether objectives of a Federal program were met.
  - a. Is the scope of work (or part, if applicable), and terms and conditions of the agreement the same for the entity as they are for the State agency receiving the Federal funds?
  - b. Is the entity carrying out completion of the mission of the grant (or part, if applicable) as stated in the Federal award?

- **200.331 a.4** Is responsible for adherence to applicable Federal Program requirements specified in the Federal award.
  - a. Is the entity responsible for performing any Federal grant requirements?
  - b. Does the funding to the entity depend on its ability to best meet the objectives of the award?

#### Characteristics

<table>
<thead>
<tr>
<th>Decision Making Authority</th>
<th>Explanations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>200.331 a.1</strong> Determines who is eligible to receive what Federal assistance.</td>
<td>If the entity determines whether a participant meets a Federal program’s eligibility requirements for assistance, they are most likely a subrecipient.</td>
</tr>
<tr>
<td>a. Does the entity determine who is eligible to participate in the Federal program?</td>
<td>Yes No</td>
</tr>
<tr>
<td><strong>200.331 a.3</strong> Has responsibility for programmatic decision-making.</td>
<td>A contractor may provide services to clients in a program after eligibility has been determined by the State agency.</td>
</tr>
<tr>
<td>a. Does the entity have the ability to make decisions about how services will be delivered to participants, in accordance with Federal programmatic requirements?</td>
<td>Yes No</td>
</tr>
<tr>
<td><strong>200.331 b.4</strong> Provides Goods or Services that are ancillary to the operation of the Federal program.</td>
<td>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, they are typically a subrecipient.</td>
</tr>
<tr>
<td>b. Does the entity provide goods or services for the State agency’s own use?</td>
<td>Yes No</td>
</tr>
<tr>
<td>A “Yes” answer to item a. questions is an indicator of a subrecipient relationship. A “Yes” answer to item b. questions is an indicator of a contractor relationship.</td>
<td>Subrecipient Contractor</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nature of Award</th>
<th>Explanations</th>
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<tr>
<td><strong>200.331 a.2</strong> Has its performance measured in relation to whether objectives of a Federal program were met.</td>
<td>If the entity is providing a service for the State agency to meet the goal of the grant, it is typically a contractor; if the entity is providing a service that carries out a goal within the scope of the grant, it is typically a subrecipient. When a grant contains multiple goals, it is possible for the State agency to complete part, and for a subrecipient to perform another part.</td>
</tr>
<tr>
<td>a. Is the scope of work (or part, if applicable), and terms and conditions of the agreement the same for the entity as they are for the State agency receiving the Federal funds?</td>
<td>Yes No</td>
</tr>
<tr>
<td><strong>200.331 a.4</strong> Is responsible for adherence to applicable Federal Program requirements specified in the Federal award.</td>
<td>If the scope of the agreement incorporates Federal program terms and guidance, it is typically a subrecipient. A subrecipient may also provide programmatic, or progress reports to ensure compliance with Federal program requirements.</td>
</tr>
<tr>
<td>a. Is the entity responsible for performing any Federal grant requirements?</td>
<td>Yes No</td>
</tr>
<tr>
<td><strong>200.331 b.5</strong> Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.</td>
<td>If the funding is given to the entity with a purpose of completing the goal of the grant, the State agency is required to ensure the entity adheres to Federal grant program guidance.</td>
</tr>
</tbody>
</table>

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**State Agency:**

**Program Name:**

**Name of Entity receiving funds:**

**RFP number (if applicable):**

**Funding Source(s):**

**Contract / Agreement Number:**

**CFDA #:**

Will the agreement be funded by Federal funds?

- Yes
- No

Is the agreement a renewal of expired agreement?

- Yes
- No

Is the agreement with another State agency?

- Yes
- No

Is the agreement with an Individual Beneficiary?

- Yes
- No

Is the entity carrying out completion of the mission of the grant (or part, if applicable) as stated in the Federal award?

- Yes
- No

Is responsible for adherence to applicable Federal Program requirements.

- Yes
- No

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

- Yes
- No

Nature of Award

- **200.331 a.2** Has its performance measured in relation to whether objectives of a Federal program were met.
  - a. Is the scope of work (or part, if applicable), and terms and conditions of the agreement the same for the entity as they are for the State agency receiving the Federal funds?
  - b. Is the entity carrying out completion of the mission of the grant (or part, if applicable) as stated in the Federal award?

- **200.331 a.4** Is responsible for adherence to applicable Federal Program requirements specified in the Federal award.
  - a. Is the entity responsible for performing any Federal grant requirements?
  - b. Does the funding to the entity depend on its ability to best meet the objectives of the award?

- **200.331 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.
**Contractor or Subrecipient Relationship Determination Checklist**

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If the scope of the agreement incorporates the state agency’s terms and not Federal program guidance, and if the state agency’s oversight is governed only by the agreement terms and conditions, it is typically a contractor.

### Criteria for Selection

**200.331 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.

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Does the entity demonstrate a public need for funding to carry out a project or provide a service?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Will the entity be reimbursed for only actual costs incurred?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Normal operating environment</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**200.331 b.1**

Normally operates in a competitive environment.

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Were State procurement policies applied in the selection of the entity?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Was the entity’s proposed price a factor in the selection process?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Will the entity derive a profit from the agreement?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**200.331 b.2**

Provides the goods and services within normal business operations.

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Is the entity’s normal business to provide the goods or services being purchased in the agreement?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Does the entity provide the same goods or services to other organizations?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Federal Program (Grant) Specific or Federal Awarding Agency Specific Guidance/Requirements (as it relates to subrecipients)**

<table>
<thead>
<tr>
<th>Federal Program (Grant) Specific or Federal Awarding Agency Specific Guidance/Requirements</th>
<th>N/A</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant specific requirements here - if any.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Other Indicating Factors (as it relates to subrecipients or contractor determinations)**

<table>
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<th>Question</th>
<th>Yes</th>
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</table>

**Final Determination**

**Contractor or Subrecipient Relationship Determination Checklist**

If agreement is funded by federal funds and determined a subrecipient, then use the subrecipient agreement template.

If agreement is funded by state general or other funds and determined a subrecipient, then use the recipient agreement template.

Determined by: [enter name of person initially making decision]

Review / Approval: [enter name of person approving]

Remarks: [enter any additional remarks or justifications]

Note: One check in a subrecipient box does not necessarily mean the entity is a subrecipient nor does one check in a contractor box make it a contractor. A judgement should be based on a review of all indicator criteria above.

A "Yes" answer to item a. questions is an indicator of a subrecipient relationship

A "Yes" answer to item b. questions is an indicator of a contractor relationship

A "Yes" answer to item c. questions is an absolute indicator of a contractor relationship because a subrecipient is not prohibited from making a profit.

NOTE: A "Yes" to this question is not an absolute indicator of a contractor relationship. Can be a contractor if Federal Program (Grant) Specific or Federal Awarding Agency Specific Guidance/Requirements (as it relates to subrecipients) allows.

If the Federal grant award has any grant specific criteria relating to subrecipients or contractor determination, please enter to the left.

If the Federal awarding agency has any specific criteria relating to subrecipients or contractor determination, please enter to the left.

Insert any unique indicating factors not covered above to the left and make determination.

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

Many agreements or contracts will contain both contractor and subrecipient indicators. Please justify and document your final determination to the left.

Each heading has a hyperlink to the specific section referenced.

**Section 200.317 through 200.327 - "Procurement Standards"**, for contractor agreements.

Based on the relationship determined above, Subrecipient or Contractor, see additional guidance for the requirements governing the agreement.

Section 200.317 - "Requirements for pass-through entities", for subrecipient agreements