

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)

In addition to grant specific requirements, all State agencies who receive Federal grants are required to comply with 2 CFR Chapter I, Chapter II, Part 200, et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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-federal funds, 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-federal funded agreement would make the entity a recipient.

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)

For the purpose of this checklist the State agency is the Recipient.

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)

Contract: 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)

Contractor: An entity that receives a contract (2 CFR 200.22)

Pass-through entity: A non-Federal entity that provides a subaward to a subrecipient to carry our part of the Federal program. For the purposes of this checklist the State agency is the pass-through entity

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.

State Agency _____	Program Name _____	CFDA # _____
Name of Entity receiving funds _____	Contract / Agreement Number _____	
Funding Source(s) _____	RFP number (if applicable) _____	

	Yes	No	
Will the agreement be funded by Federal funds?	<input type="checkbox"/>	<input type="checkbox"/>	If No, federal guidance does not apply however checklist assists agency in agreement relationship.
Is the agreement with another State agency?	<input type="checkbox"/>	<input type="checkbox"/>	If Yes, stop here. Other State agencies aren't considered subrecipients of the State.
Is the agreement a "renewal" of expired agreement?	<input type="checkbox"/>	<input type="checkbox"/>	If Yes, stop here. File original checklist determination with current agreement.
Is the agreement with an Individual Beneficiary?	<input type="checkbox"/>	<input type="checkbox"/>	Description: A beneficiary is an individual that stands to benefit from the performance of the grant activities. Beneficiaries are the interest for whom the grant project is undertaken. For example, a beneficiary may be an entitlement recipient, an attendee at a grant-funded conference, or an individual daycare provider receiving a child care quality grant. Typically, there is little to no expectation for performance from beneficiaries. If Yes, stop here and use agency specific agreement template.

Characteristics	Explanations				
Decision Making Authority					
200.331 a.1 Determines who is eligible to receive what Federal assistance.	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">If the entity determines whether a participant meets a Federal program's eligibility requirements for assistance, they are most likely a subrecipient.</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">A contractor may provide services to clients in a program after eligibility has been determined by the State agency.</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">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.</div> <div style="border: 1px solid black; padding: 5px;">If the entity provides goods or services directly to the State agency or to program participants at the direction of the State agency and does not make programmatic decisions or adhere to program requirements, they are typically a contractor.</div>				
a. Does the entity determine who is eligible to participate in the Federal program?					
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Yes</td> <td style="width: 50px; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<input type="checkbox"/>	<input type="checkbox"/>
Yes		No			
<input type="checkbox"/>		<input type="checkbox"/>			
200.331 a.3 Has responsibility for programmatic decision-making.					
a. Does the entity have the ability to make decisions about how services will be delivered to participants, in accordance with Federal programmatic requirements?					
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Yes</td> <td style="width: 50px; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input type="checkbox"/>	
Yes	No				
<input type="checkbox"/>	<input type="checkbox"/>				
200.331 b.4 Provides Goods or Services that are ancillary to the operation of the Federal program.					
b. Does the entity provide goods or services for the State agency's own use?					
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Yes</td> <td style="width: 50px; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input type="checkbox"/>	
Yes	No				
<input type="checkbox"/>	<input type="checkbox"/>				
b. Does the entity provide services designated by the State agency to serve its participants without regard to specific Federal programmatic requirements?					
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Yes</td> <td style="width: 50px; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input type="checkbox"/>	
Yes	No				
<input type="checkbox"/>	<input type="checkbox"/>				
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	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Subrecipient</td> <td style="width: 50px; text-align: center;">Contractor</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Subrecipient	Contractor	<input type="checkbox"/>	<input type="checkbox"/>
Subrecipient	Contractor				
<input type="checkbox"/>	<input type="checkbox"/>				

Nature of Award					
200.331 a.2 Has its performance measured in relation to whether objectives of a Federal program were met.	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">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.</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">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.</div> <div style="border: 1px solid black; padding: 5px;">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.</div>				
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?					
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Yes</td> <td style="width: 50px; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<input type="checkbox"/>	<input type="checkbox"/>
Yes		No			
<input type="checkbox"/>		<input type="checkbox"/>			
a. Is the entity carrying out completion of the mission of the grant (or part, if applicable) as Stated in the Federal award?					
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Yes</td> <td style="width: 50px; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input type="checkbox"/>	
Yes	No				
<input type="checkbox"/>	<input type="checkbox"/>				
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?					
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Yes</td> <td style="width: 50px; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input type="checkbox"/>	
Yes	No				
<input type="checkbox"/>	<input type="checkbox"/>				
a. Does the funding to the entity depend on its ability to best meet the objectives of the award?					
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center;">Yes</td> <td style="width: 50px; text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input type="checkbox"/>	
Yes	No				
<input type="checkbox"/>	<input type="checkbox"/>				
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.	<div style="border: 1px solid black; padding: 5px;">If the scope of the agreement incorporates the State agency's...</div>				

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)

b. Does the State agency develop the scope of work and terms and conditions of the agreement to meet the State agency's needs?	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
A "Yes" answer to item a. questions is an indicator of a subrecipient relationship				Subrecipient	Contractor
A "Yes" answer to item b. questions is an indicator of a contractor relationship					

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.					
a. Does the entity demonstrate a public need for funding to carry out a project or provide a service?	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
a. Will the entity be contributing match or other non-Federal funding in support of the award?	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
a. Will the entity be reimbursed for only actual costs incurred?	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
200.331 b.3 Normally operates in a competitive environment.					
b. Were State procurement policies applied in the selection of the entity?	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
b. Was the entity's proposed price a factor in the selection process?	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
b. Will the entity derive a profit from the agreement? <small>NOTE: A "Yes" to this question is not an absolute indicator of a contractor because a subrecipient is not prohibited from making a profit.</small>	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
A "Yes" answer to item a. questions is an indicator of a subrecipient relationship				Subrecipient	Contractor
A "Yes" answer to item b. questions is an indicator of a contractor relationship					

If the entity is chosen because it is already providing a service within the guidelines of the grant program and want to partner with the State agency to expand the delivery or assist in meeting the goal of your grant, it may be a subrecipient. Although a subrecipient is not prohibited from making a profit, typically, a subrecipient does not make a profit and may provide its own non-Federal funding as match or cost sharing. A subrecipient is normally chosen through an application process or an announcement of funding, as opposed to the procurement process described below. Payment to a subrecipient is generally based on actual expenses unless awarded on a fixed amount sub award (2CFR 200.333). It is typical of subrecipients to submit budgets, financial reports, or copies of invoices to the State agency to document activity.

If the entity was chosen because they have the best widgets for the price, it typically has a contractor relationship. Usually, 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 State agency.

Entity's Business Environment					
200.331 b.1 Provides the goods and services within normal business operations.					
b. Is the entity's normal business to provide the goods or services being purchased in the agreement?	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
200.331 b.2 Provides similar goods or services to many different purchasers.					
b. Does the entity provide the same goods or services to other organizations?	Yes	No			
	<input type="checkbox"/>	<input type="checkbox"/>			
A "No" answer to EITHER question is an indicator of a subrecipient relationship				Subrecipient	Contractor
A "Yes" answer to BOTH questions is an indicator of a contractor relationship					

A contractor normally provides goods and services to the public in a competitive environment and those goods and services are normally available to others for purchase.

A subrecipient normally operates in a less competitive environment and the goods or services provided are normally "unique" in nature and available on a limited basis.

Federal Program (Grant) Specific or Federal Awarding Agency Specific Guidance/Requirements (as it relates to subrecipients)					
(Insert CFR) (Type grant specific requirements here - if any. Else check the "N/A" box)	N/A	Yes	No		
(Type grant specific requirement question here - if any)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
(Insert CFR) (Type Federal agency specific requirements here if any. Else check the "N/A" box)	N/A	Yes	No	Subrecipient	Contractor
(Type Federal agency specific requirement question here - if any)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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.

Other Indicating Factors (as it relates to subrecipients or contractor determinations)					
(Type unique indicator question here - if any)	N/A	Yes	No		
(Type unique indicator question here - if any)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Subrecipient	Contractor

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

Final Determination					
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.					
	Subrecipient	Contractor			
JUSTIFICATION: _____ _____ _____ _____					

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.

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 _____ (date) _____
(enter name of person initially making decision)

Review / Approval _____ (date) _____
(enter name of person approving)

Comments _____

Each heading has a hyperlink to the specific section referenced.
Based on the relationship determined above, Subrecipient or Contractor, see additional guidance for the requirements governing the agreement.
[Section 200.332 - "Requirements for pass-through entities", for subrecipient agreements](#)
[Section 200.317 through 200.327 - "Procurement Standards", for contractor agreements](#)