

SUBRECIPIENT AND CONTRACTOR DETERMINATION CHECKLIST

Subrecipient/Contract or Organization Name: _____	PTA: _____
Prepared by: _____	Date: _____

CFR §200.300 Subrecipient and Contractor determinations

(a) *General:* An auditee may be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a contractor would not be considered federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a federal award or a payment for goods and services.

SUBRECIPIENT (check YES or NO for each statement)

(b) *Federal Award:* Characteristics indicative of a federal award received by a subrecipient are when the organization:

5 <input type="checkbox"/> Yes <input type="checkbox"/> No	1. Determines who is eligible to receive what federal financial assistance.
6 <input type="checkbox"/> Yes <input type="checkbox"/> No	2. Has its performance measured against whether the objectives of the federal program are met.
7 <input type="checkbox"/> Yes <input type="checkbox"/> No	3. Has responsibility for programmatic decision-making.
8 <input type="checkbox"/> Yes <input type="checkbox"/> No	4. Has responsibility for adherence to applicable federal program compliance requirements.
9 <input type="checkbox"/> Yes <input type="checkbox"/> No	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.

CONTRACTOR (check YES, NO or N/A for each statement)

(c) *Payment for goods and services:*

10 <input type="checkbox"/> Yes <input type="checkbox"/> No	1. Provides the goods and services within a normal business operation.
11 <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	2. Provides similar goods and services within normal business operation.
12 <input type="checkbox"/> Yes <input type="checkbox"/> No	3. Operates in a competitive environment
13 <input type="checkbox"/> Yes <input type="checkbox"/> No	4. Provides goods or services that are ancillary to the operation of the federal program
14 <input type="checkbox"/> Yes <input type="checkbox"/> No	5. Is not subject to compliance requirements of the federal program.

(d) *Use of judgment in making determination.* There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or contractor 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 contractor.

Determination (Check one): <input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor _____
By: _____ Date: _____

GUIDE FOR COMPLETING THE CHECKLIST

Purpose of checklist:

The checklist determines the relationship between the **George Washington University** and the organization proposed for the award of a contract, grant or purchase order. The PI or department administrator must complete this checklist prior to entering into a relationship with another entity. Principal investigators and department administrators are responsible for seeking advice from OVPR when determining whether an entity that will assist with research under a sponsored project represents a subrecipient or a contractor.

Please note that not all of these characteristics will be present in every case. The same definitions are also applicable to non-federal awards.

Subrecipient and contractor determinations:

Subrecipients:

A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-federal entity as a subrecipient include when the non-Federal entity:

A subrecipient relationship is appropriate when:

- Substantive, programmatic work or an important or significant portion of the research program or project is being undertaken by the other entity.
- The research program or project is within the research objectives of the entity.
- The entity participates in a creative way in designing and/or conducting the research.
- The entity retains some element of programmatic control and discretion over how the work is carried out.
- The entity commits to a good faith effort to complete the design or conduct of the research.
- The entity makes independent decisions regarding how to implement the requested activities.
- A principal investigator has been identified at the entity and functions as a "Co-Investigator".
- There is the expectation that the entity will retain ownership rights in potentially patentable or copyrightable technology or products that it produces in the course of fulfilling its scope of work.
- Publications may be created or co-authored at the entity.
- The entity provides cost sharing or matching funds for which it is not reimbursed by GW.
- The entity regards itself, and/or is regarded by GW as "engaged in research" involving human subjects under the Common Rule and therefore requires approval for its interactions with human subjects.

Subagreements should have a detailed scope of work and a budget that specifies salary, fringe, supplies, and other direct costs, as well as appropriate F&A costs consistent with the subrecipient's indirect cost rate. Terms and conditions from a prime award are typically imposed on the subrecipient to the same degree that they are imposed on GW as the prime recipient.

Contractors:

A contract is for the purpose of obtaining goods and services for the non-federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-federal entity and a contractor are when the contractor:

A contractor relationship (including that of an individual acting as a contractor of consulting services) is appropriate when:

- The entity is providing specified services in support of the research program.
- The entity has not significantly participated in the design of the research itself, but is implementing the research plan of the GW investigator.
- The entity is not directly responsible to the sponsor for the research or for determining research results.
- The entity markets its services to a range of customers, including those in non-academic fields.
- Little or no independent decision-making is involved in the design and conduct of the research work being completed.
- The agreement only specifies the type of goods/services provided and the associated costs.
- The entity commits to deliverable goods or services which if not satisfactorily completed will result in nonpayment or requirement to redo deliverables.
- The entity does not expect to have its employees or executives credited as co-authors on papers that emerge from the research.

- The expectation is that the work will not result in patentable or copyrightable technology or products that would be owned by the entity.
- In the case of an individual contractor of consulting services, the person has no employment relationship with Harvard, either academic or administrative in nature.

It is the responsibility of the principal investigator to determine whether the price is competitive and reasonable for agreements with both subrecipients and contractors. In either case; however, the agreed-upon cost is not relevant in determining whether the relationship is that of subrecipient or contractor. It is required by federal grant terms and conditions and by good business practices that competitive bids are sought for goods and services from multiple contractors, whenever possible and when the cost exceeds \$5,000. Sole source contractor relationships may be prohibited by the conditions of the prime award, and if allowed, are typically subject to specific conditions and procedural requirements.

This document offers clarification about the distinction between subrecipient and contractor agreement only. There is a separate procedures regarding consulting. In order to qualify as an individual contractor of consulting services, a person must not be in any employment relationship with GW, and must meet the requirements for a consultant (as opposed to an employee) see [link 20 factor test].