



SUBRECIPIENT VS. CONTRACTOR DETERMINATION CHECKLIST

TO BE COMPLETED FOR EACH SUB-ENTITY FUNDED FROM
A FEDERAL GRANT AWARDED TO HILLSBOROUGH COUNTY

The *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (2 C.F.R. §200) (a.k.a. Uniform Guidance or UG) provides additional specific guidance related to subrecipient and contractor determinations (200.330) and requirements for pass-through entities to issue, monitor and manage subawards (200.331).

The Uniform Guidance clarifies that it is a pass-through entity's responsibility to make case-by-case determinations on whether the role of a sub-entity is a subrecipient or a contractor. The federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with the requirements of §200.330.

This checklist is the documentation tool for Hillsborough County personnel to make such determination and shall be kept with the subaward files. Along with the following checklist items, it is incumbent upon the reviewer to recognize that *the substance* of the relationship is more important than *the form of the agreement* when making this determination. i.e. If the nature, substance, and dynamics of the relationship between the County and sub-entity is such that potential influence may be placed upon the sub-entity to perform in a certain manner, or to provide additional services outside of the subaward, then that relationship would be considered that of a subrecipient. Contact the grants management office if you would like to discuss one-on-one or have any extenuating circumstances you wish to discuss.

SUB-ENTITY INFORMATION

Name of Organization: _____

Type of Organization: _____

Choose from the following:

- Non-profit
- For-profit
- University of College
- Local government: City, County-internal and County-external, Constitutional Officer (identify), or Water Management District

Federal Awarding Agency: _____

Funding Source of Origin: _____

Agreement/Project Title: _____

Catalog of Federal Domestic Assistance (CFDA) Number: _____

Contract/Grant/Agreement Number: _____



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SUBRECIPIENT CHARACTERISTICS (check all statements that apply)

A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. Subaward means an award provided by the County to a sub-entity for said entity to carry out part of a federal award received by the County. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the County considers a contract (§200.92 Subaward).

Characteristics that support the classification of the sub-entity as a subrecipient include:

- | Yes | No | N/A | |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Determines assistance eligibility of individuals as part of subaward performance; |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Performance measured relative to objectives of the federal program being met; |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Responsible for programmatic decision making for managing its part of the award; |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. Federal program requirements specified in the federal award flow-down; and |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. Uses the federal funds to carry out a program for a public purpose, as opposed to providing goods or services for the benefit of the County (as an entity). |

CONTRACTOR CHARACTERISTICS (check all statements that apply)

A contract is for the purpose of obtaining goods and services for use by the County (as an entity) and creates a procurement relationship with the contractor. Contract means a legal instrument by which the County purchases property or services needed to carry out the project or program under a federal award (§200.22 Contract). The term does not include a legal instrument, even if the County considers it a contract, when the substance of the transaction meets the definition of a federal award or subaward (see above).

Characteristics that support a procurement relationship between the County and a contractor include:

- | Yes | No | N/A | |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Sub-entity provides the goods and services as part of it's normal business operations; |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Provides similar goods or services to many different purchasers; |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Normally operates in a competitive environment with other like vendors; |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. Provides goods or services that are secondary support to the programmatic activities or operation of the federal program; and |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. Is not subject to flow-down compliance requirements of the federal program as a result of the procurement contract (though similar requirements may apply for other reasons). |

DETERMINATION OF RELATIONSHIP: SUBRECIPIENT CONTRACTOR

DETERMINATION MADE BY: _____ DATE: _____

KEEP THIS DOCUMENT IN THE PRIME FEDERAL AWARD FILE FOR DOCUMENTATION PURPOSES



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SUPPLEMENTAL INFORMATION INCLUDING EXAMPLES OF CHARACTERISTICS

SUBRECIPIENT

1. Determines assistance eligibility of individuals as part of subaward performance. For example:
 - a. Organization determines whether a potential customer meets a program's eligibility requirements for assistance under that program.
2. Performance measured relative to objectives of the federal program being met. For example:
 - a. Awarding entity holds the organization responsible for meeting performance targets that are tied to program objectives.
 - b. Awarding entity holds the organization responsible for meeting expenditure targets to maximize the use of program funding.
 - c. Awarding entity requires organization to submit regular oral or written progress reports and/or explanations of variance relating to program objectives and/or fund maximization.
 - d. Awarding entity may sanction the organization if program objectives are not met.
 - e. Organization must submit a comprehensive closeout package at the end of the agreement.
3. Responsible for programmatic decision making for managing its part of the award. For example:
 - a. Organization has latitude to make decisions within terms of agreement.
 - b. Organization makes policy decisions governing how it carries out a program.
 - c. Organization makes operational decisions governing how it carries out a program.
 - d. Organization makes decisions regarding the appropriate assistance for a particular customer.
4. Federal program requirements specified in the federal award flow-down. For example:
 - a. Awarding entity holds the organization responsible for compliance with applicable program statutes, regulations, rules, policies (including local policies) and guidance.
 - b. Organization receives technical assistance or training from the awarding entity relating to program requirements.
 - c. Awarding entity monitors the organization for compliance with applicable program requirements.
5. Uses the federal funds to carry out a program for a public purpose, as opposed to providing goods or services for the benefit of the County (as an entity). For example:
 - a. Organization performs all or a portion of the scope of work or objectives of the award received by the awarding entity.
 - b. Organization's role require more than dealing, distributing or selling goods or services that support a program.
 - c. Awarding entity identifies the organization's programmatic involvement as a separate scope of work and budget that must be approved by the awarding entity.



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CONTRACTOR

1. Sub-entity provides the goods and services as part of it's normal business operations. For example:
 - a. Organization exists for the purpose of providing a particular goods or services.
 - b. Organization receives little, if any, instruction from the awarding entity as to how the organization goes about producing the goods or services.
 - c. Organization generally receives payment after delivery of a particular good or service.
 - d. Organization invoices awarding entity in the organization's normal way and is not required to submit a comprehensive closeout package at the end of the agreement.
 - e. Organization assumes the risk if cost of performance increases or requires more time than expected.
 - f. Organization has its performance measured against whether it meets specific contract deliverables, rather than a program's performance outcomes.
2. Provides similar goods or services to many different entities. For example:
 - a. Organization provides similar goods or services to a number of entities in addition to the awarding entity.
 - b. Services provided are of a repetitive nature.
 - c. Goods provided are commonly available.
3. Normally operates in a competitive environment with other like vendors. For example:
 - a. Organization competes with other organizations to provide a similar good or service.
4. Provides goods or services that are secondary support to the programmatic activities or operation of the federal program. For example:
 - a. Organization aids or supports the program in a subsidiary capacity.
 - b. Organization provides a good or service (in a manner that does not create a subrecipient relationship) which enables the awarding entity to carry out a program.
 - c. Organization provides a particular good or service that enables the awarding entity to operate, e.g., office supplies, janitorial services, equipment, staff development, printing, travel, etc.
5. Is not subject to flow-down compliance requirements of the federal program as a result of the procurement contract (though similar requirements may apply for other reasons). For example:
 - a. Organization is not responsible for compliance with applicable program statues, regulations, rules, policies or guidance.
 - b. Awarding entity does not provide the organization with technical assistance or training with regard to program requirements.
 - c. Awarding entity does not monitor the organization for compliance with program requirements.