



## DETERMINING IF THE ENTITY RECEIVING FUNDS HAS A CONTRACTOR OR SUBRECIPIENT RELATIONSHIP

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
FINANCE  
SFN 71 (5-2025)

This document is meant to help HHS sections decide whether the agreements it makes, for the disbursement of federal, state, or other program funds, casts the entity in the role of subrecipient or contractor. It's based on federal guidelines issued by the U.S. Office of Management and Budget in December 2013, which became effective for non-federal entities in December 2014. The information provided is for all non-federal organizations.

### Important Terms:

**Recipient (HHS):** This is an organization that gets federal, state, or other funding directly from an agency to do a specific activity as part of a federal, state, or other program. A recipient does not include any subrecipients.

**Subrecipient:** This is an organization that gets a portion of federal, state, or other funding (called a subaward) to help carry out part of a program. This subaward establishes a federal, state, or other assistance relationship with the subrecipient. This determination results in a **Grant Agreement**.

**Contractor:** This is an organization that gets a contract to provide goods and services for the use of the organization that awarded the contract. This contract sets up a purchasing relationship with the contractor. The term "Vendor" has been changed to "Contractor" in the guidelines. This determination results in a **Purchase of Service Contract**.

**Instructions:** The "Characteristics" in this checklist is based on guidelines from the 2 CFR PART 200 Uniform Guidance. It lists traits that help determine whether an organization is a subrecipient or a contractor. Not all traits will apply in every case, so the guidelines state that the recipient must use their judgment to decide if each agreement is a subaward or a contract.

In the "Explanations", we offer extra details to help you answer the questions in the "Characteristics". For each question, check "yes" or "no" as directed. Based on your answers, a guide at the end of each section will help you figure out if a subrecipient or contractor relationship exists.

There's comments space so you can customize this checklist for different programs or situations.

**Note:** Just checking one box for subrecipient doesn't automatically mean the organization is a subrecipient. You should consider all your answers to make a final judgment. **Remember that a Subrecipient = Grant and Contractor = Purchase of Service.**

Each program will determine its workflow for completing the document and will make the final determination. The final approver on the form will be the Assistant CFO or CFO within Finance. The individual listed on the "Determined By" line will serve as the primary contact for any questions.

ND Health and Human Services treats all funding the same when considering the determination, regardless of the funding source.



# DETERMINING IF THE ENTITY RECEIVING FUNDS HAS A CONTRACTOR OR SUBRECIPIENT RELATIONSHIP

DEPARTMENT OF HEALTH AND HUMANS SERVICES

FINANCE

SFN 71 (5-2025)

Contract Number	Organization Name
-----------------	-------------------

## CHARACTERISTICS

Decision Making Authority	Explanations
200.331 a. 1 Determine who is eligible to receive what Federal, State or Other assistance;	If the entity is responsible for deciding whether someone qualifies for a federal, state or other program, they are most likely acting as a subrecipient.
a. Does the entity determine who is eligible to participate in the federal, state or other program? <input type="checkbox"/> Yes <input type="checkbox"/> No	
200.331 a. 3 Has responsibility for programmatic decision making;	A contractor might provide services to people in a program, but only after the recipient has already determined who is eligible.
a. Does the entity have the ability to make decisions about how services will be delivered to participants, in accordance with federal, state or other programmatic requirements? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>OR</b>	
200.331 b. 4 Provides goods or services that are ancillary to the implementation of the Federal, State or Other Program;	If the entity has the power to make decisions about how services are provided or what kind of help is given under the agreement, they are usually considered a subrecipient.
b. Does the entity provide goods or services for the recipient's own use? <input type="checkbox"/> Yes <input type="checkbox"/> No	
b. Does the entity provide services designated by the recipient to serve the recipient's participants without regard to specific federal, state or other programmatic requirements? <input type="checkbox"/> Yes <input type="checkbox"/> No	If the entity is only providing goods or services as directed by the recipient and isn't making decisions about how the program is run or following the program's rules, it's usually considered a contractor.
If you selected "yes" to <b>EITHER</b> item <b>a</b> , this is an indicator of a subrecipient relationship. <input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor	
If you selected "yes" to <b>EITHER</b> item <b>b</b> , this is an indicator of a contractor relationship.	
Comments	

Nature of Award	Explanations
200.331 a. 2 Has its performance measured in relation to whether the objectives of a Federal, State or Other Program were met;	If the entity is providing a service to help the recipient meet their own goals for the grant, it's considered a contractor. But if the entity is providing services to achieve a goal that's part of the grant itself, it's considered a subrecipient. In cases where the grant has multiple goals, the recipient might work on some goals while the entity works on others.
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, state or other funds? <input type="checkbox"/> Yes <input type="checkbox"/> No	
a. Is the entity carrying out completion of the goal of the grant (or part, if applicable) as stated in the federal, state or other award? <input type="checkbox"/> Yes <input type="checkbox"/> No	If the agreement follows the rules and guidelines of the federal, state or other program, the entity is considered a subrecipient. A subrecipient may also need to provide reports on the program or its progress to show they are following the federal, state or other program's requirements.
<b>OR</b>	
200.331 b. 5 Is not subject to compliance requirements of the Federal, State or Other Program as a result of the agreement. However, similar requirements may apply for other reasons.	If the agreement follows the recipient's own rules instead of the federal, state or other program's guidelines, and the recipient oversees the work based only on the terms of the contract, the entity is considered a contractor.
b. Does the recipient develop the scope of work and terms and conditions of the agreement to meet the recipient's needs? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If you selected "yes" to <b>EITHER</b> item <b>a</b> , this is an indicator of a subrecipient relationship. <input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor If you selected "yes" to item <b>b</b> , this is an indicator of a contractor relationship.	
Comments	

Award Risk	Explanations
200.331 a. 4 Is responsible for adherence to applicable Federal, State or Other program requirements specified in the Federal, State or Other award;	If the entity is given funding to achieve the goals of the grant, the recipient (the one giving the funding) is responsible for making sure the entity follows federal, state or other grant rules. The recipient also has to monitor the entity's activities as required by federal, state or other guidelines. If the entity doesn't meet the federal, state or other guidelines, most of the risk falls on the recipient, not the entity.
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, state or other award objectives, the entity assumes little risk if the objectives are not met. <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>OR</b>	If the recipient tells the entity exactly what tasks to do, like providing specific goods or services, the responsibility to meet the terms of the agreement falls on the entity. In this case, the entity doesn't have to follow federal, state or other grant rules, only the terms set in the agreement with the recipient.
200.331 b. 5 Is not subject to compliance requirements of the Federal, State or Other 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. <input type="checkbox"/> Yes <input type="checkbox"/> No	
If you selected "yes" to item <b>a</b> , this is an indicator of a subrecipient relationship. <input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor If you selected "yes" to item <b>b</b> , this is an indicator of a contractor relationship.	
Comments	

Criteria for Selection	Explanations
200.331 a. 5 Implements 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.	If the entity was chosen because they offer the best product or service at the right price, they are considered a contractor. Usually, this is done through a competitive process, like bidding or an RFP. The entity typically makes a profit by delivering the goods or services to the recipient, and payments to contractors are made based on the terms of the contract.
a. Does the entity demonstrate a financial or public need for funding to carry out a project or provide a service? <input type="checkbox"/> Yes <input type="checkbox"/> No	
a. Will the entity be contributing match or other non-Federal funding in support of the award? <input type="checkbox"/> Yes <input type="checkbox"/> No	
a. Will the entity be reimbursed for only actual costs incurred? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>OR</b>	Conversely, if an entity was picked because it already provides services that fit the grant program and wants to work with the recipient to improve these services or help achieve the grant's goals, it might be considered a subrecipient. Usually, this entity doesn't make a profit and may use its own non-federal funds to match or share costs. It could have been selected through an application or funding announcement instead of the usual purchasing process. Payments to a subrecipient are usually based on actual costs, unless they have a fixed amount set for the subaward. Subrecipients often need to provide budgets, financial reports, or invoices to the main recipient to show what they've done.
200.331 b. 3 Normally operates in a competitive environment;	
b. Were procurement policies applied in the selection of the entity? <input type="checkbox"/> Yes <input type="checkbox"/> No	
b. Was the entity's proposed price a factor in the selection process? <input type="checkbox"/> Yes <input type="checkbox"/> No	
b. Will the entity derive a profit from the agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If you selected "yes" to <b>ANY</b> item <b>a</b> , this is an indicator of a subrecipient relationship. If you selected "yes" to <b>ANY</b> item <b>b</b> , this is an indicator of a contractor relationship.	
<input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor	
Comments	

Entity's Business Environment	Explanations
200.331 b. 1 Provides the goods and services within normal business operations;	If a federal, state or other program provides funding to modify public buildings for handicapped accessibility and the recipient provides funding to an entity to update the entity's building, per the terms of the award, then a subrecipient relationship exists.
b. Is the entity's normal business to provide the goods or services being purchased in the agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No	
200.331 b. 2 Provides similar goods or services to many different purchasers;	Conversely, if the recipient hires an entity to update their own building to be handicapped accessible, then a contractor relationship exists.
b. Does the entity provide the same goods or services to other organizations? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If you selected "no" to <b>EITHER</b> item, this is an indicator of a subrecipient relationship. If you selected "yes" to <b>BOTH</b> items, this is an indicator of a contractor relationship.	
<input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor	
Comments	

Name of Person Initially Making Decision	Title	
Signature		Date

Name of Approving CFO or Assistant CFO	Title	
Signature		Date