

# Subrecipient vs. Contractor Determination

Under the Uniform Guidance the term “vendor” was replaced with “contractor.” When the university provides funds from a federal award to a non-federal entity, the non-federal entity receiving these funds is classified as a subrecipient or a contractor based on the nature of the agreement and characteristics described in 2 CFR § 200.330.

Subrecipient vs. contractor determination must be made and documented at the proposal stage using the [Checklist for Determination of Subrecipient or Contractor](#).

- University must use subrecipient’s negotiated F&A rate or provide a 10% MTDC “de minimis” rate (or another negotiated rate with the subrecipient).
- Fixed amount subawards require written prior approval from the federal agency.

## Definitions:

- **Contractor** – Contractor means an entity that receives a contract. A contract is a legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. (Uniform Guidance § 200.22, § 200.23)
- **Subaward** – Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. 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 pass-through entity considers a contract (Uniform Guidance § 200.92)
- **Subrecipient** – Subrecipient means a non-federal entity that receives a subaward from a pass-through entity to carry out a part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (Uniform Guidance § 200.93)

## The University of Memphis

### CHECKLIST FOR DETERMINATION OF SUBRECIPIENT OR CONTRACTOR

NAME OF OUTSIDE ENTITY: \_\_\_\_\_

UM PRINCIPAL INVESTIGATOR: \_\_\_\_\_

AWARDING AGENCY: \_\_\_\_\_

AWARD NUMBER: \_\_\_\_\_

#### **INSTRUCTIONS:**

- > Complete Sections 1 & 2 below by checking all characteristics applicable to the outside entity.
- > Check the appropriate box in Section 3. (The section with the greatest number of checks indicates the most likely type of relationship. The substance of the relationship is more important than the form of the agreement.)
- > Sign and date the completed form and upload to the Cayuse proposal record.

#### **SECTION 1 – SUBRECIPIENT (2 CFR §200.330 (a))**

- Determines who is eligible to receive what Federal assistance;
- Has its performance measured in relation to whether objectives of a Federal program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable Federal program requirements specified in the Federal award;
- 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 pass-through entity (UM);
- Usually retains title to intellectual property created during the research project; and
- May produce publications related to the research project.

#### **SECTION 2 – CONTRACTOR (2 CFR §200.330 (b))**

- Provides the goods and services within normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services for the sponsored project that are ancillary [of minor significance] to the operation of the Federal program;
- Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons;
- Does not possess ownership of intellectual property created during the research project; and
- Does not produce publications related to the research project.

**SECTION 3 – RELATIONSHIP DETERMINED TO BE**  **SUBRECIPIENT**  **CONTRACTOR.**

#### **SIGNATURES:**

\_\_\_\_\_  
OSP

\_\_\_\_\_  
Date