



**Georgia Department
of Human Services**

Federal Subrecipient and Contractor Determination Instructions

Instructions:

This checklist **must** be used as it relates to contracts, agreements, grant funds and/or purchase requisitions that are funded by federal funds and to provide documentation of compliance with the Office of Management and Budget (OMB), **2CFR200 Uniform Guidance**.

Definitions:

Contractor: an individual, business or entity that provides goods and services within normal business operations, similar goods or services to many different purchasers, in a competitive environment, these goods or services are ancillary to the operation of the Federal program and ***is not*** subject to Federal program compliance requirements.

Federal awarding agency: Federal agency (e.g. Health and Human Services, Dept. of Agriculture, etc.) that has awarded funds to a non-federal entity (e.g. DHS) to carry-out program requirements and ***are*** subject to federal programmatic compliance requirements.

Federal program: Any federal aid, benefits or funds is defined as a federal program and funded by a Federal agency (e.g. Health and Human Services, Dept. of Agriculture, etc.) that is guided by federal rules and regulations.

Non-federal Entity: DHS or DHS Division.

Provider: the individual or business that will contract or already contracts with DHS.

Program: the core agency program functions or any special program of the agency.

Subrecipient: a non-federal entity that receives Federal awarded funds from a pass-through entity (e.g. DHS) to carry out a Federal program; but does not include an individual that is a beneficiary of such program.

Who will have to complete this checklist?

- Programmatic Officer/Manager and/or
- Program Contract Liaisons

Subrecipient and Contractor Determination Tips:

Does the payment from DHS/Divisions/Programs require the provider to perform according to specific rules or to perform a specific mission (Subrecipient) or was it simply a payment for the purchase of goods and services (Contractor)? If you know the answer to these questions, you can also make the determination.

Consider the substance of the relationship more strongly than the contract/agreement and exercise professional judgement in making the determination.

Additional information to help determine whether a provider is a subrecipient or a contractor can be located in the **Federal Office of Management and Budget Circular (OMB) 2CFR200.330**.

Never use the contractor determination to circumvent the subrecipient monitoring requirements. This information is subject to federal audits and incorrect findings may lead to a negative audit result.



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Steps to distinguish between Subrecipient and Contractor

1. Consider each question in the Criteria section.
2. Use your professional judgement about the program.
3. Use the guidance that has been provided.
4. After reading all the questions in each section, then answer “YES” or “NO” if the provider is a Subrecipient or Contractor.

Provider/Program/Service Name:			CFDA Number:	
Prepared by:			Date:	
Determination: (Check One)	Subrecipient	Contractor	Contract/Purchase Order Numbers: (please provide all the numbers that apply to this provider)	
Program Director Approval*			Signature:	
Contract Review:			Signature:	

***Approval certifies agreement with the determination**

Subrecipient		
<p>A non-federal entity that receives Federal awarded funds from a pass-through entity (e.g. DHS) to carry out a Federal program; but does not include an individual that is a beneficiary of such program. The subrecipient may determine who is eligible, their performance is measured, and has responsibility for programmatic decision making, adherence to applicable Federal program requirements and uses the Federal funds to carry out a program for public purposes.</p>		
<p><i>All of the characteristics listed below may not be present in all cases. In determining whether an agreement between a pass-through entity (DHS) and another non-federal entity should be a subrecipient or contractor, the substance of the relationship is more important than the form of the agreement.</i></p>		
<p>If you answer “Yes” to any or all of the criteria below, STOP! The provider is a Subrecipient.</p>		
Response	Criteria-Subrecipient	Guidance
Yes No	1. Provider determines who is eligible to receive Federal assistance.	If the Provider performs the assessment or makes the decision for which applicants are eligible according to eligibility guidelines provided by the Program.
Yes No	2. Provider has its performance measured against whether the objectives of the Federal program are met?	If the Provider's performance must meet measurements or goals set by the Federal Program and these achievements are reported to a Federal Agency by the DHS Program.



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Yes No	3. Has the responsibility for programmatic decision making.	If the Provider makes its own operational decisions governing how it carries out the program and /or makes its own assessment of what services a client needs within the program.
Yes No	4. Provider has responsibility for following and achieving applicable Federal program compliance requirements?	If the Provider must follow specific Federal program compliance requirements during the course of conducting and completing the project. Is the provider held responsible for compliance and monitored according to applicable program requirements.
Yes No	5. Provider uses Federal funds to carry out a program for public purposes.	If the Provider uses funds to administer its program(s) and will contribute to the general profit or operating funds of the provider.
If none of the criteria above is applicable to the provider, continue to Contractor section below.		
Contractor		
An individual, business or entity to provide goods and services within normal business operations, similar goods or services to many different purchasers, competitive environment, the goods or services that are ancillary to the operation of the Federal program and is not subject to Federal program compliance requirements.		
If you answer "Yes" to any or all of the criteria below, STOP! The provider is a Contractor.		
Response	Criteria-Contractor	Guidance
Yes No	1. The Provider provides the goods and services within a normal business operation.	If the Provider sells the same services or products to other companies or Agencies.
Yes No	2. The Provider sells goods or services to many different entities/purchasers.	If the Provider sells the same services or products to other customers or if the Provider simply tailors a component of its good or service that it normally sells to other customers to meet program specifications.
Yes No	3. The Provider operates in a competitive environment.	Does the Provider operate in a competitive environment (i.e. Where there is more than one Provider who provides the same or similar goods or services required by the program)?
Yes No	4. The Provider sells goods or services that may support DHS/Program's general needs but are not necessary for the Federal program to operate.	Does the Provider deliver goods or services that are for the indirect benefit or use by the Program to support the operation of the federal program (i.e. office supplies, temporary staff, etc.).
Yes No	5. The provider, does not have to meet Federal Program requirements to receive funds.	If the Provider provides a product or service that does not require that specific Federal program compliance must be adhered to during the completion of a project.