**Subrecipient vs. Contractor**

**Decision Tree**

Are funds being paid to an organization or business (entity) rather than to an individual?

No \_\_\_\_

Yes\_\_\_\_

CONTRACTOR - Process through Purchasing using an Employer ID# (EIN) or as a Consultant using a Social Security number

Is the entity contributing to the scholarly and/or scientific conduct of the project?

No \_\_\_\_

Yes \_\_\_\_

Does the entity’s portion of the project require use of discretion and unique expertise or does the entity have responsibility for programmatic decision making?

CONTRACTOR - Process through Purchasing

Yes\_\_\_\_

No \_\_\_\_

Does the entity provide similar goods or services that are within their normal business operations to many different purchasers?

CONTRACTOR - Process through Purchasing

Yes \_\_\_\_

No\_\_\_\_

Must the RF Project Director verify the entity’s satisfactory performance before payment is made?

CONTRACTOR - Process through Purchasing

Yes\_\_\_\_

No \_\_\_\_

SUBRECIPIENT - should be paid via a subaward agreement

CONTRACTOR - Process through Purchasing

Final decision: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Reviewer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Subrecipient/Contractor Relationship - Guidelines**

**Definitions**

2 CFR Part 200 provides these definitions which may help identify a, subrecipient and a contractor:

*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.

*Contract* means 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. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

*Contractor* means an entity that receives a contract as defined above*.*

*Pass-Through Entity* means a non-federal entity that provides a subaward to a Subrecipient to carry out part of a federal program.

*Recipient* means a non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program.

*Subrecipient* means a non-federal entity that receives a subaward received from a pass-through entity to carry out part of a federal program, but does not include an individual that is a beneficiary of such a program. A Subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

 **Characteristics**

The substance of the relationship is more important than the form of the agreement when determining if an entity is a subrecipient or a contractor. Judgment should be used in making the determination, because there may be unusual circumstances or exceptions to the general characteristics of each entity. As outlined in 2 CFR Part 200.330 *Subrecipient and contractor determinations*:

A *subrecipient* is characterized as an entity that:

* Determines who is eligible to receive what federal assistance.
* has its performance measured in relation to whether the objectives of the federal program are met.
* has responsibility for programmatic decision making.
* must comply with applicable federal program requirements specified in the federal award.
* uses the awarded federal funds to carry out the program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

A *contractor* is characterized as an entity that:

* provides goods and services that are within its normal business operations.
* provides similar goods and services to many different purchasers.
* normally operates in a competitive environment.
* provides goods and services that are ancillary 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.