



# Office of Research

## Sub-recipient vs. Contractor Determination form

Name of External Entity:

Principal Investigator:

UTSA Proposal ID:

**OBJECTIVE:** Generally, the determination of the relationship with an entity is verified through the institutional review of the proposal narrative, budget justification, and other related proposal documents, as well as through discussions with key personnel prior to proposal submission. When the relationship remains unclear, this form may provide assistance in making an accurate determination.

**DEFINITIONS FROM UNIFORM GUIDANCE (2 CFR, PART 200):**

**Subrecipient:**

*§200.93 Subrecipient means a non-Federal entity that receives a subaward 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 program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding*

**Contractor:**

*§200.23 Contractor means an entity that receives a contract as defined in §200.22 Contract.  
§200.22 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.*

**INSTRUCTIONS:** Complete sections one and two of the checklist by marking all characteristics that apply to the outside entity. The section with the greatest number of marked characteristics indicates the likely type of relationship the entity will have with the University. On occasion there may be exceptions to the type of relationship indicated by the completed checklist. In these situations, the substance of the relationship should be given greater consideration than the form of agreement between the University and the outside entity. Section 3 should be used to provide documentation on the use of judgment in determining the proper relationship classification.

### **PART I. - PRINCIPAL INVESTIGATOR TO COMPLETE**

#### **SECTION 1 - SUBRECIPIENT**

**Description:** *A subaward is for the purpose of carrying out a portion of an award and creates an assistance relationship with the subrecipient. Characteristics which support the classification of the entity as a subrecipient include:*

- 1. Entity contributes to intellectual leadership of the project (i.e. participates in project design, directs portion of work)
- 2. Entity is responsible for and authorized to make programmatic decisions
- 3. Entity is responsible for adherence to the applicable project compliance requirements
- 3. Entity’s personnel are identified as having key roles in the project (e.g. Co-PIs)
- 4. Entity has its performance measured by whether or not its planned contribution to UTSA’s prime project has been achieved
- 5. Entity may independently publish results of their portion of the work, or serve as a co-author on UTSA’s project results
- 6. Entity may provide cost-sharing for the project

*Entities that include these characteristics are responsible for adherence to applicable program*

requirements specified in the award.

## **SECTION 2 - CONTRACTOR**

**Description:** A contract is for the purpose of obtaining goods and services for the non-Federal entity's (UTSA's) own use and creates a procurement relationship with the contractor (or vendor). Characteristics which support the classification of the relationship as one for procurement from a contractor (or vendor) are:

- 1. Entity has no significant involvement in the project design or plans
- 2. Entity has no decision-making in the design or conduct of the work being done, i.e. entity performing work or task at the direction of UTSA or following instructions provided by other party
- 3. Entity's personnel are not individually identified or listed as key personnel on proposal
- 4. Entity provides the goods/services in its normal business operations and markets its services to a variety of customers
- 5. Entity's involvement in the project consists only of provision of a service or product which may be included in business operation reports rather than scientific articles
- 6. Entity will not provide cost sharing

*Entities that include these characteristics are not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons*

## **SECTION 3 - INITIAL DETERMINATION:**

**SUBRECIPIENT**

**CONTRACTOR**

**Submitted By (Signature):**

**Date:**

**PART II. – RESEARCH ADMINISTRATOR TO COMPLETE**

**SECTION 4 - USE OF JUDGMENT**

(use only when the determination cannot clearly be made using Part I Criteria)

***Description:*** *In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.*

*Explanation on Use of Judgement Determination:*

**SECTION 5- FINAL DETERMINATION:**

**SUBRECIPIENT**

**CONTRACTOR**

**Prepared By:**

**Date:**

## GUIDE FOR COMPLETING THE CHECKLIST

### Purpose of checklist

The checklist determines the relationship between UTSA and the organization proposed for the award of a contract, grant or purchase order. The PI or administrator must complete this checklist prior to entering into a relationship with another entity. Principal investigators and administrators are responsible for seeking advice from REDKE when determining whether an entity that will assist with research under a sponsored project represents a subrecipient or a contractor. Please note that not all of these characteristics will be present in every case. The same definitions are also applicable to non-federal awards.

**Subrecipients:** A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-federal entity as a subrecipient include when the non-Federal entity:

*A subrecipient relationship is appropriate when:*

- Substantive, programmatic work or an important or significant portion of the research program or project is being undertaken by the other entity.
- The research program or project is within the research objectives of the entity.
- The entity participates in a creative way in designing and/or conducting the research.
- The entity retains some element of programmatic control and discretion over how the work is carried out.
- The entity commits to a good faith effort to complete the design or conduct of the research.
- The entity makes independent decisions regarding how to implement the requested activities.
- A principal investigator has been identified at the entity and functions as a “Co-Investigator”.
- There is the expectation that the entity will retain ownership rights in potentially patentable or copyrightable technology or products that it produces in the course of fulfilling its scope of work.
- Publications may be created or co-authored at the entity.
- The entity provides cost sharing or matching funds for which it is not reimbursed by UTSA.
- The entity regards itself, and/or is regarded by UTSA as “engaged in research” involving human subjects under the Common Rule and therefore requires approval for its interactions with human subjects.

Subagreements should have a detailed scope of work and a budget that specifies salary, fringe, supplies, and other direct costs, as well as appropriate F&A costs consistent with the subrecipient’s indirect cost rate. Terms and conditions from a prime award are typically imposed on the subrecipient to the same degree that they are imposed on GW as the prime recipient.

**Contractors:** A contract is for the purpose of obtaining goods and services for the non-federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-federal entity and a contractor are when the contractor:

*A contractor relationship (including that of an individual acting as a contractor of consulting services) is appropriate when:*

- The entity is providing specified services in support of the research program.
- The entity has not significantly participated in the design of the research itself, but is implementing the research plan of the UTSA investigator.
- The entity is not directly responsible to the sponsor for the research or for determining research results.
- The entity markets its services to a range of customers, including those in non-academic fields.
- Little or no independent decision-making is involved in the design and conduct of the research work being completed.
- The agreement only specifies the type of goods/services provided and the associated costs.
- The entity commits to deliverable goods or services which if not satisfactorily completed will result in nonpayment or requirement to redo deliverables.
- The entity does not expect to have its employees or executives credited as co-authors on papers that emerge from the research
- The expectation is that the work will not result in patentable or copyrightable technology or products that would be owned by the entity.
- In the case of an individual contractor of consulting services, the person has no employment relationship with UTSA, either academic or administrative in nature.

