

Principal Investigator: \_\_\_\_\_

Proposal Number: \_\_\_\_\_

### Checklist to Determine Subrecipient or Contractor Classification

**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.

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

### **SECTION 1 - SUBRECIPIENT**

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

- 1. Determines who is eligible to receive what Federal assistance;
- 2. Has its performance measured in relation to whether objectives of a Federal program were met;
- 3. Has responsibility for programmatic decision making;
- 4. In accordance with its agreement, uses the Federal funds to carry out 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.

*Entities that include these characteristics are responsible for adherence to applicable Federal program requirements specified in the Federal award.*

## SECTION 2 - CONTRACTOR

**Description** : 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. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- 1. Provides the goods and services within normal business operations;
- 2. Provides similar goods or services to many different purchasers;
- 3. Normally operates in a competitive environment;
- 4. Provides goods or services that are ancillary to the operation of the Federal program.

*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*

FINAL DETERMINATION:

SUBRECIPIENT  CONTRACTOR

**OPTIONAL - SECTION 3 - USE OF JUDGMENT** (use only when the determination cannot clearly be made using the above 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 of Use of Judgment Determination:*

Prepared By: \_\_\_\_\_

Date: \_\_\_\_\_

## What category does your proposed agreement fall into?

### **Subrecipient (aka subaward/subcontract)**

**An entity that has agreed to work in collaboration with the UTRGV PI to perform a substantive portion of the programmatic effort on an award.**

Works collaboratively with the UTRGV PI as a co-investigator at another entity to which funds are being passed. Has authority to make administrative and programmatic decisions and to control the method and results of work. Has responsibility to meet all applicable sponsor requirements. Has performance measured against meeting the program objectives. Are designated senior/key personnel in the proposal-may be a Co-PI. Uses sponsor funds to carry out a program rather than provide a good or a service. Has responsibility for the end results of the research effort. Services are complex and require a scope of work and budget, billing requirements, and a deliverable schedule. The entity's statement of work may represent an intellectually significant portion of the programmatic decision making. The entity's work results may involve intellectual property and/or may lead to publications. Needs animal and/or human subjects' approvals for its independent portion of the work. Requires a separate budget and budget justification in the application.

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### **Vendor (aka contractor)**

**An individual, business, or other entity which supplies products or services to the University.**

Provides similar goods or services to different purchasers. Does not make program decisions or take actions that impact a program's overall success or failure. Is not subject to sponsor compliance regulations. Goods and services are ancillary to the program. Provides goods or services as part of their normal business operations. Competes with comparable entities to provide the same goods and/or services. Is not responsible for research results. There is no scope of work. Goods and services are billed according to the vendor/contractor's established rates. The goods and services are secondary to the central purpose of the project. No potential for patentable or copyrightable technology to be created through projects from activities of the entity. Performs services only (no analysis or discretionary judgment) No one individual providing goods and services is identified.

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### **Consultant**

**An individual or business whose expertise is required to perform the project. Services are temporary and special or highly technical.** An individual or business outside the project who confers with the PI regarding research objectives. Does not develop the objectives of the project. Is not responsible for the overall outcome of the project. Is not responsible in designing or developing the research. Is not responsible for conducting the research. Is not responsible for reporting the research. Is not essential toward the shape, direction, and completion of the project. Receives a fee for their services not a salary. Provides similar services to other organizations. Does not serve as senior personnel – e.g., Co-Investigator, Principal Investigator, etc. Will not use university resources. Provides its own work area, tools, materials, and supplies. UTRGV defines the scope of work. Consultant determines how to accomplish the work. Is not considered an employee of the University and therefore is not eligible for workers compensation, liability coverage, or unemployment Payment is based upon completion of specific work, rather than time worked