



Subaward - Contract Determination Form

HJF PI: Enter full name

HJF Proposal or Award #: For preaward actions, proposal number may be added by SI POC if not known by Requestor.

Project Name: Enter name from the PRIME award

Lower-Tier Organization: Enter full name

Requestor Name and Email: Enter full name and email address of HJF POC (not the Lower-Tier Organization)

SOW: A determination can NOT be made without a Statement of Work (SOW) from the Lower-Tier Organization. Preference is for HJF's SOW template, however the proposed entity's form and/or components within the proposal may be used as long with any additional information requested by HJF to help assess the relationship.

Determination of Classification as Subrecipient versus Contractor:

Y/N Entity will perform a substantive part of the Prime award. Reviewer should see specific objectives or tasks in the Prime proposal/award assigned to the Lower-Tier Organization. The need for animal and/or human subjects approvals for its independent portion of the work is also a positive indicator.

Y/N Entity has responsibility for making programmatic decisions with regard to their SOW. Subrecipients often develop the SOW with the Prime and have SME in the area addressed so one see evidence that the end result is agreed upon, but the path is left up to the subrecipient (they develop their own protocols, etc). Contractors do not have that discretion and are to follow the instructions given to them by the Prime.

Y/N Entity's personnel are identified as having a key role in HJF's proposal or approved SOW. Subrecipients often have key personnel; contractors typically do not.

Y/N Entity's performance is measured against the objectives of the Prime award. Is the entity serving as a co-investigator, responsible for the end results of the research effort equally with the prime award principal investigator?

Y/N Entity will seek to publish or co-author the results. Choose "Yes" if the entity indicates the work results may lead to publications. Contracts are work-for-hire and the results are owned by HJF so they would not publish. Exceptions can happen and are handled under research contracts where the entity will look to publish on a tangential matter (ie. a university publishes on how they processed a sample, but is not involved with the prime researcher's analysis of those samples as part of the award objective).

Y/N Entity will provide goods or services to HJF as part of their routine business. Reviewer should note whether the effort is in line with the entity's stated business operations, competes with comparable entities to provide the same goods and/or services, and whether they bill according to pre-established rates.

Y/N Entity may keep potentially patentable or copyrightable technology created in performance of the SOW. The entity's SOW may represent an intellectually significant portion of the programmatic decision making. Do they state work results may involve intellectual property (IP) and they intend to hold the IP resulting from the effort? Contractors will not hold IP rights.

Additional Information for Consideration:

Explain any extenuating circumstances: Along with the checklist items, it is incumbent upon the reviewer to recognize that the substance of the relationship is more important than the form of the agreement when making this determination. If the nature, substance and dynamics of the relationship between the Prime PI and sub-entity is such that the potential influence may be placed upon the sub-entity to perform in a certain manner, or to provide additional services outside of the agreement, then that relationship would be considered that of a subrecipient. One-on-one discussions should take place regarding extenuating circumstances.

Entity is For-Profit Y/N – For-profit companies often have difficulty with subaward requirements so this element needs to be identified clearly and quickly so that additional vetting can take place by SI and OSP during preaward, and by OSP for post-award additions. Subrecipients MUST be able to comply with flow down clauses. If the organization indicates it does not have the capacity or willingness to comply and their reason explained in the extenuating circumstances section.

Data Transfer? Y/N – Assists pre- and post-award teams with quick identification of additional vetting needs by other business units (ie. GIS, Regulatory Affairs, Compliance)

Material Transfer? Y/N - Assists pre- and post-award teams with quick identification of additional vetting needs by other business units (ie. Tech Transfer, Regulatory Affairs)

Fee Requested? Y/N – Red Flag limiting factor: Fees are not allowed on subawards. If the entity insists on a fee then the agreement MUST be a contract. The fact a fee is requested is an indicator the entity may be higher risk due to limited understanding of the UG and flow down clauses; further vetting is recommended.

I hereby certify that the information provided here is true and accurate to the best of my knowledge.

PI Recommendation: Choose “Subaward” or “Contract,” sign and date

Research Administration: (May also be preaward POC) Choose “Concur” or “Non-concur,” sign and date

CONVERSATIONS REGARDING THE FINAL DETERMINATION SHOULD BE MADE PRIOR TO A “NON-CONCUR” ACTION.