

Federal Funding Accountability and Transparency Act (FFATA) Subaward and Executive Compensation Decision Tree

The purpose of this Decision Tree is to provide a tool to State agencies in instances where it is difficult to distinguish whether a subaward and executive compensation data meet the FFATA reporting requirements.

Definitions and Guidance

The FFATA Sub-award Reporting System (FSRS) is used to collect subaward and executive compensation data. "Subawards," for the purposes of FFATA reporting, are defined as either subcontracts or subgrants. A "subcontract," means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs. A "subgrant" means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that:

- A. the prime recipient awards to an eligible subrecipient; or
- B. subrecipient at one tier awards to a subrecipient at the next lower tier.

Subgrant subrecipient determinations:

2 CFR §200.331 Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) *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 definition for *Subaward* in §200.1 of this part. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (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) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) 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.

(b) *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 the definition of

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contract in §200.1 of this part. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- (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; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) Use of judgment in making determination. 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.

Reporting Subawards	
Is the subcontract or subgrant greater than or equal to \$30,000 or does the amount increase a previous initial award to an amount greater than or equal to \$30,000?	If no, then FFATA reporting is not required.
If yes, then	
Is the subaward provided to an individual person (i.e. unrelated to any business or nonprofit organization he or she may own or operate in his or her name)?	If yes, then FFATA reporting is not required.
If no, then	
The subaward obligation is required to be reported on FSRs.	

Please contact the Office of the State Controller/Internal Audit Division if you are still unsure of whether to report a subaward (obligation). 207-626-8420

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Reporting Executive Compensation	
In the preceding fiscal year did the subawardee receive 80 percent or more of its annual gross revenue in Federal awards?	If no, then the 5 most highly compensated executives' compensation is not required to be reported.
If yes, then	
In the preceding fiscal year did the subawardee receive \$25 million or more in annual gross revenues (in aggregate) from Federal procurement contracts (and subcontracts) and/or Federal financial assistance (subawards) that are subject to the Transparency Act?	If no, then the 5 most highly compensated executives' compensation is not required to be reported.
If yes, then	
Does the public have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986? (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm .)	If yes, then the 5 most highly compensated executives' compensation is not required to be reported.
If no, then	
You are required to report the compensation of the entity's five most highly compensated executives.	

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