

# 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 (obligation/disbursement/reimbursement/allotment) must be reported as a subaward and/or when it is questionable as to whether Executive Compensation must be reported.

## Definitions

**Federal Financial Assistance subject to FFATA (2 CFR Part 170.320):** “Assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, loans, loan guarantees, subsidies, insurance, food commodities, and direct appropriation.

*Does not include:*

- 1) *Technical assistance, which provides services in lieu of money;*
- 2) *A transfer of title to Federally owned property provided in lieu of money, even if called a grant.*
- 3) *Any classified award; or*
- 4) *Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5)”*

**Subaward (§170.325 Appendix A. (e.3)):** “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 you as the recipient award to an eligible subrecipient. The term does not include the procurement of property and services needed to carry out the project or program.”

**Obligation (2 CFR §215.2 (t)):** “...the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.” An obligation does not need to be encumbered. For example, obligations could be: reimbursement; and/or, estimated encumbered or non-encumbered food allotment amounts (list not all-inclusive).

## Reporting Subawards

Is the subaward (obligation) amount greater than 25,000 or does the amount increase a previous obligation to an amount greater than \$25,000?	If no, then FFATA reporting is <b>not</b> required.
If yes, then	
Is the subaward provided to a “natural” person?	If yes, then FFATA reporting is <b>not</b> required.
If no, then	
Is the subaward classified (contact OSC if you are unsure what this means)?	If yes, then FFATA reporting is <b>not</b> required.
If no, then	
Does the subawardee fit the definition of a subrecipient? See page 3 of this document	If no, then FFATA reporting is <b>not</b> required.
If yes, 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	
Does the subawardee receive \$25 million or more in annual gross revenues (in aggregate) from Federal procurement contracts (and subcontracts) <b>and/or</b> 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. <b>STOP HERE</b>
If yes, then	
Did the subawardee receive more than 80% of all revenue from federal awards in the preceding fiscal year?	If no, then the 5 most highly compensated executives' compensation is NOT required to be reported. <b>STOP HERE</b>
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?	If yes, then the 5 most highly compensated executives' compensation is NOT required to be reported. <b>STOP HERE</b>
If no, then	
You are required to report the compensation of the entity's five most highly compensated executives.	

Please contact the Office of the State Controller/Internal Audit Division if you are still unsure of the reporting requirements. 207-626-8420

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## OMB Circular A-133

### § \_\_.210 Subrecipient and vendor determinations.

(a) General. An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

(b) Federal award. Characteristics indicative of a Federal award received by a subrecipient are when the organization:

- (1) Determines who is eligible to receive what Federal financial assistance;
- (2) Has its performance measured against whether the objectives of the Federal program are met;
- (3) Has responsibility for programmatic decision making;
- (4) Has responsibility for adherence to applicable Federal program compliance requirements; and
- (5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

(c) Payment for goods and services. Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) 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.

(d) Use of judgment in making determination. There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

(e) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract, and post-award audits.

(f) Compliance responsibility for vendors. In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.