SECTION 15 - SUBRECIPIENT VS. CONTRACTOR DETERMINATION

(Applies to all funding streams and procurement actions)

15.1 Purpose

This section establishes procedures for determining whether an external entity is classified as a:

- **Subrecipient**, or
- **Contractor**

This determination shall be made in accordance with:

- 2 CFR §200.331 (Subrecipient and Contractor Determinations)

Proper classification is critical because it determines:

- Applicable monitoring requirements
- Required contract clauses
- Risk assessment obligations
- Reporting responsibilities
- Audit requirements

Misclassification may result in audit findings or questioned costs.

15.2 Subrecipient Characteristics

An entity is considered a **subrecipient** when it:

- Receives a subaward to carry out part of a federal program.
- Determines participant eligibility.
- Has responsibility for programmatic decision-making.
- Uses federal funds to carry out a portion of the program.
- Is measured against program objectives.
- Has responsibility for adherence to federal program requirements.

Subrecipients are subject to:

- Risk assessment
- Subrecipient monitoring (Section 5)
- Subaward agreement with required federal flow-down provisions
- Single Audit requirements (if threshold met)

15.3 Contractor Characteristics

An entity is considered a **contractor** when it:

- Provides goods or services within normal business operations.
- Provides similar goods or services to multiple purchasers.
- Operates in a competitive environment.
- Is not responsible for programmatic decision-making.
- Is not subject to federal program compliance requirements beyond contract terms.

Contractors are subject to:

- Procurement standards (Section 10)
- Contract administration requirements
- Invoice review procedures

Contractors are not subject to subrecipient monitoring requirements.

15.4 Determination Procedure

Prior to issuing an agreement:

1. Program Manager identifies nature of service.
2. Finance Manager evaluates relationship characteristics.
3. Determination documented using Subrecipient vs Contractor Checklist.
4. Executive Director approves classification.
5. Appropriate agreement template used:
    - Subaward Agreement
    - Professional Services Contract

- Vendor Contract

Determination must be documented in procurement file.

15.5 Risk Assessment for Subrecipients

If classified as a subrecipient:

NRMRWDACB must:

- Conduct pre-award risk assessment.
- Review prior audit findings.
- Evaluate financial stability.
- Determine monitoring frequency.
- Impose special conditions if necessary.

Risk level shall determine invoice review depth (see Section 5).

15.6 Documentation Requirements

Procurement file must include:

☐ Classification checklist
☐ Justification narrative
☐ Executive Director approval
☐ Appropriate agreement template
☐ Risk assessment (if subrecipient)

15.7 Ongoing Review

If scope of work changes:

- Classification must be re-evaluated.
- Documentation updated.
- Agreement modified if necessary.

15.8 Internal Control Statement

Proper classification ensures:

Correct agreement type → Correct monitoring → Correct audit treatment → Reduced compliance risk

This satisfies 2 CFR §200.331 requirements.