

# Subrecipient Audit - Repeat Finding Guidance

## First Instance

- Per [2 CFR §200.521](#) Management decision:
  - The pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.
  - The management decision must clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given.
- Subrecipient will check-in with agency quarterly to report on progress or any issues encountered, and prepare documentation to show what changes have been and will be made relating to the finding including, but not limited to:
  - Process/procedure documents
  - Internal control implementation documentation
  - Report on current progress made to corrective action plan
- Agency should review subrecipient monitoring plan to determine if additional monitoring is needed. (See [Subrecipient Monitoring Guide](#))
- Agency will appear and report to the State Board of Internal Control (“SBIC”) on the findings.
- SBIC may recommend remedies for noncompliance per [2 CFR § 200.208 and 200.339](#).

## Second Instance

- Complete the “First Instance” steps above
- Agency will meet with subrecipient management team and Statewide Internal Control Officer to discuss an action plan that identifies the reason(s) for the subrecipient’s failure to correct the finding and details how the subrecipient plans to mitigate future findings.
- Agency will appear and report to SBIC on the findings.
- SBIC may recommend remedies for noncompliance per [2 CFR § 200.208 and 200.339](#).

## Third Instance

- Complete the above “First Instance” steps again
- Agency will appear and report to SBIC on the findings.
- SBIC may recommend remedies for noncompliance per [2 CFR § 200.208 and 200.339](#) including that subrecipient management appear and report to SBIC on the findings and the changes subrecipient has made and will make to correct the findings.

**Note:** These guidelines are subject to change at the discretion of the State Board of Internal Control. Decisions made by the Board may be impacted by the qualitative and/or quantitative materiality of the audit findings, and those instances may escalate any action taken.

**DELETE ALL INSTRUCTIONS IN ITALICS BEFORE SIGNING AGREEMENT**

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF \_\_\_\_\_  
DIVISION OF \_\_\_\_\_**

**Sub-Recipient Agreement  
Between**

State of South Dakota  
Department of  
DIVISION OF

Pierre SD 57501

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Referred to as Sub-Recipient

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Referred to as State

The State and Sub-Recipient hereby enter into this agreement (the “Agreement” hereinafter) for a grant award of Federal financial assistance to Sub-Recipient.

A. **REQUIRED AUDIT PROVISIONS FOR GRANT AWARDS** *Each of the paragraphs in Section A must be included. Paragraphs 6 and 9 require agencies to insert specific agency or grant requirements.*

**1. FEDERAL AWARD IDENTIFICATION**

Information for the Federal Award Identification, as described in **2 CFR 200.332(a)** may be inserted below or may be included in an attached Exhibit A and, if attached, is incorporated herein. In the event of a change in the award or funding source, the information inserted below or included in Exhibit A may change. Sub-Recipient’s consent shall not be required for the change in award or funding source and the change shall not be subject to the requirements for an amendment to this Agreement. In the event of a change, the State will provide updated information at least annually.

*The reference to “Exhibit A” in the above paragraph should be changed if the information is included somewhere other than a document titled “Exhibit A”. See the instructions to Exhibit A.*

- a. Sub-recipient’s name (which must match the name associated with its DUNS number):
- b. Sub-Recipient’s DUNS number and unique entity identifier:
- c. Federal Award Identification Number (FAIN):
- d. Federal Award Date:
- e. Sub-award Period of Performance:
- f. Amount of federal funds obligated to the Sub-Recipient by this agreement:
- g. Total amount of federal funds obligated to the Sub-Recipient:
- h. Total amount of the federal award committed to the Sub-Recipient:
- i. The federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA), is as follows:

- j. Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:
- k. CFDA No(s) and Name(s):
- l. Is the grant award for research and development (R&D)? YES \_\_\_ NO \_\_\_
- m. Indirect Cost Rate for federal award:

2. PERIOD OF PERFORMANCE OF THIS AGREEMENT:

This agreement shall be effective on June 1, 2016 and will end on May 31, 2017, unless sooner terminated pursuant to the terms hereof.

3. SCOPE OF WORK AND PERFORMANCE PROVISIONS (add an addendum if needed; if an addendum is used it is incorporated herein):

- A. The Sub-Recipient will undertake and complete the work or performance described as :
- B. If the State will undertake or complete any work or performance under this Agreement it is described as follows:

4. BASIS FOR SUBAWARD AMOUNTS:

This grant is made for the purpose of . *Insert the name of the grant/program or a brief description of its purpose.*

Amount provided by State/Grantor is	\$
Amount matched by Sub-Recipient	\$
Total Grant Amount	\$

5. RISK ASSESSMENTS, MONITORING AND REMEDIES

Risk assessments will be ongoing throughout the project period. Sub-Recipient agrees to allow the State to monitor Sub-Recipient to ensure compliance with program requirements, to identify any deficiencies in the administration and performance of the award and to facilitate the same. At the discretion of the State, monitoring may include but is not limited to the following: On-site visits, follow-up, document and/or desk reviews, third-party evaluations, virtual monitoring, technical assistance and informal monitoring such as email and telephone interviews. As appropriate, the cooperative audit resolution process may be applied.

Sub-Recipient agrees to comply with ongoing risk assessments, to facilitate the monitoring process, and further, Sub-Recipient understands and agrees that the requirements and conditions under the grant award may change as a result of the risk assessment/monitoring process.

In the event of noncompliance or failure to perform under the grant award, the State has the authority to apply remedies, including but not limited to: temporary withholding payments, disallowances, suspension or termination of the federal award, suspension of other federal awards received by Sub-Recipient, debarment, or other remedies including civil and/or criminal penalties as appropriate.

6. RETENTION AND INSPECTION OF RECORDS: *Revise the number of years for the retention period or other retention/inspection requirements as necessary per federal award requirements*

The Sub-Recipient agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, and statistical, fiscal, and other information records necessary for reporting and accountability required by the State. The Sub-Recipient shall retain such records for a period of three years after the date of the submission of the final expenditure report.

If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. The three year retention period may be extended upon written notice by the State. Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition. When records are transferred to or maintained by the Federal awarding agency or the State, the three-year retention requirement is not applicable to the Sub-Recipient. In the event Sub-Recipient must report program income after the period of performance, the retention period for the records pertaining to the earning of the program income starts from the end of Sub-Recipient's fiscal year in which the program income is earned. In the event the documents and their supporting records consist of indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable, the following applies: (1) If submitted for negotiation - If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the State) to form the basis for negotiation of the rate, then the three -year retention period for its supporting records starts from the date of such submission. (2) If not submitted for negotiation - If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the State) for negotiation purposes, then the three-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the Sub-Recipient's fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

The State, through any authorized representative, shall have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Agreement and shall have access to personnel of the Sub-Recipient for purposes of interview and discussion related to the records, books, papers and documents. State Proprietary Information, which shall include all information disclosed to the Sub-Recipient by the State, shall be retained in Sub-Recipient's secondary and backup systems and shall remain fully subject to the obligations of confidentiality stated herein until such information is erased or destroyed in accordance with Sub-Recipient's established record retention policies.

All payments to the Sub-Recipient by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment under this Agreement shall be returned to the State within thirty days after written notification to the Sub-Recipient.

7. AUDIT REQUIREMENTS:

If Sub-Recipient expends \$750,000 or more in federal awards during the Sub-Recipient's fiscal year, the Sub-Recipient must have an audit conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, by an auditor approved by the Auditor General to perform the audit. On continuing audit engagements, the Auditor General's approval should be obtained annually. Approval of an auditor must be obtained by forwarding a copy of the audit engagement letter to:

Department of Legislative Audit  
A-133 Coordinator  
427 South Chapelle  
% 500 East Capitol  
Pierre, SD 57501-5070

If the Sub-Recipient expends less than \$750,000 during any Sub-Recipient fiscal year, the State may perform a more limited program or performance audit related to the completion of the Agreement objects, the eligibility of services or costs, and adherence to Agreement provisions.

Audits shall be completed and filed with the Department of Legislative Audit by the end of the \_\_\_\_ month following end of the fiscal year being audited.

*THE NUMBER OF MONTHS CAN BE ANYTHING 9 MONTHS OR LESS AS APPROPRIATE IN THE GIVEN SITUATION-DELETE THIS INSTRUCTION*

For either an entity-wide, independent financial audit or an audit under 2 CFR Part 200 Subpart F, the Sub-Recipient shall resolve all interim audit findings to the satisfaction of the auditor. The Sub-Recipient shall facilitate and aid any such reviews, examinations, agreed upon procedures etc., the State or its contractor(s) may perform.

Failure to complete audit(s) as required, including resolving interim audit findings, will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and/or awards may be suspended, until the audit is completely resolved.

The Sub-Recipient shall be responsible for payment of any and all audit exceptions which are identified by the State. The State may conduct an agreed upon procedures engagement as an audit strategy. The Sub-Recipient may be responsible for payment of any and all questioned costs, as defined in 2 C.F.R. 200.84, at the discretion of the State.

Notwithstanding any other condition of the Agreement, the cooperative audit resolution process applies, as appropriate. The books and records of the Sub-Recipient must be made available if needed and upon request at the Sub-Recipient's regular place of business for audit by personnel authorized by the State. The State and/or federal agency has the right to return to audit the program during performance under the grant or after close-out, and at any time during the record retention period, and to conduct recovery audits including the recovery of funds, as appropriate.

If applicable, Sub-Recipient agrees to comply in full with the administrative requirements and cost principles as outlined in OMB uniform administrative requirements, cost principles, and audit requirements for federal awards – 2CFR Part 200 (Uniform Administrative Requirements).

## 8. SUB-RECIPIENT ATTESTATION

By signing this Agreement, Sub-Recipient attests to the following requirements as set forth in SDCL § 1-56-10:

- (A) A conflict of interest policy is enforced within the recipient's or sub-recipient's organization;
- (B) The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or sub-recipient's website;
- (C) An effective internal control system is employed by the recipient's or sub-recipient's organization; and
- (D) If applicable, the recipient or sub-recipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the recipient's or sub-recipient's website.

Sub-Recipient further represents that any and all concerns or issues it had in complying with the foregoing attestations were provided to the State and resolved to their satisfaction prior to signing this Agreement.

If Sub-recipient is a non-state agency they agree to disclose to the State, in writing, any conflicts of interest that exist under the Sub-recipient's conflict of interest policy. The State will publically post any disclosed conflicts of interest along with the corresponding grant agreement on the OpenSD website.

In the event of a significant change in the conflict of interest policy, sub-recipient agrees to provide immediate notice of such change to the State, and provide a copy of the new conflict of interest policy. Sub-recipient understands that any change in the conflict of interest policy may result in a change in their monitoring or other performance requirements under the grant and expressly agrees to comply with those changes and to facilitate any additional monitoring as required by the State.

## 9. CLOSEOUT

*[TO ALL AGENCIES: 2 C.F.R 200.332(a)(6) requires the grant agreement to contain “Appropriate terms and conditions concerning closeout of the sub-award.” The following language is only an example and the Agency should determine the required closeout language applicable to the specific grant. As appropriate use the following language, modify the following paragraphs to reflect appropriate closeout requirements or attach the appropriate closeout language as an Attachment hereto and incorporate such Attachment herein. This instruction should be deleted from the grant form before use.]*

- a. For purposes of this Agreement, “Date of Completion” shall mean the date when the Agreement expires pursuant to its terms or is terminated in accordance with paragraph \_\_\_\_\_.
- b. The Sub-Recipient shall submit a final financial report to the State. Within the limits of the Agreement amount, the State may make upward or downward cost adjustments on the basis of the information contained in the report. Agreement obligations will remain in force until all final reports are reviewed and approved by the State.
- c. The Sub-Recipient, along with the final financial report, will refund to the State any unexpended funds or unobligated (unencumbered) cash advances.
- d. All outstanding obligations (encumbered funds) which have not been paid out as of the Date of Completion must be liquidated prior to the submission of the final report.
- e. Whether or not audits were conducted during the Agreement term, a final financial and compliance audit may be initiated up to three years after the date the State approves the final financial report.
- f. If either the final financial report or the final audit discloses an overpayment to the Sub-Recipient, the State may, at its option, either require the Sub-Recipient to repay the overpayment to the State or deduct the amount of overpayment from monies due the Sub-Recipient under this Agreement or under any other agreement between the Sub-Recipient and the State.
- g. The Sub-Recipient shall provide, along with the final financial report, a written accounting of property acquired with Agreement funds or received from the State.

## B. STANDARD CLAUSES *Each of the following clauses should be included but may be modified as needed.*

### 10. ASSURANCE REQUIREMENTS:

The Sub-Recipient agrees to abide by all applicable provisions of the following: Byrd Anti Lobbying Amendment (31 USC 1352), Debarment and Suspension (Executive Orders 12549 and 12689 and 2 C.F.R. 180), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity as amended by Executive Order 11375 and implementing regulations at 41 C.F.R. part 60, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996 as amended, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013 and American Recovery and Reinvestment Act of 2009, as applicable; and any other nondiscrimination provision in the specific statute(s) under which application for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply to the award.

### 11. COST PRINCIPLES:

If applicable, Sub-Recipient agrees to comply in full with the administrative requirements and cost principles as outlined in OMB uniform administrative requirements, cost principles, and audit requirements for federal awards – 2CFR Part 200 (Uniform Administrative Requirements).

### 12. TERMINATION:

This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Sub-Recipient breaches any of the terms or conditions hereof, this agreement may be terminated by the State for cause at any time, with or without notice. Upon termination of this agreement, all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination.

13. FUNDING:

This contract depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

14. ASSIGNMENT AND AMENDMENT:

This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

15. CONTROLLING LAW:

This Contract shall be governed by and construed in accordance with the laws of the State of South Dakota, without regard to any conflicts of law principles, decisional law, or statutory provision which would require or permit the application of another jurisdiction's substantive law. Venue for any lawsuit pertaining to or affecting this Agreement shall be in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

16. SUPERCESSION:

All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

17. SEVERABILITY:

In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement, which shall remain in full force and effect.

18. NOTICE:

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and by the Sub-Recipient, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

19. SUBCONTRACTORS/SUB-SUB-RECIPIENTS:

The Sub-Recipient will not use subcontractors or other sub-recipients to perform work under this Agreement without the express prior written consent from the State. The State reserves the right to complete a risk assessment on any proposed sub-contractor or sub-recipient and to reject any person or entity presenting insufficient skills or inappropriate behavior.

The Sub-Recipient will include provisions in its subcontracts or sub-grants requiring its subcontractors and sub-recipients to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Sub-Recipient will cause its subcontractors, sub-recipients, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance. The State, at its option, may require the vetting of any subcontractors and sub-recipients. The Sub-Recipient is required to assist in this process as needed.

20. STATE'S RIGHT TO REJECT

The State reserves the right to reject any person or entity from performing the work or services contemplated by this Agreement, who present insufficient skills or inappropriate behavior.

21. CONFLICT OF INTEREST:

Sub-Recipient agrees to establish safeguards to prohibit any employee or other person from using their position for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain as contemplated by SDCL 5-18A-17 through 5-18A-17.6. Any potential conflict of interest must be disclosed in writing and approved, in writing, by the State. In the event of a conflict of interest, the Sub-Recipient expressly agrees to be bound by the conflict of interest resolution process set forth in SDCL § 5-18A-17 through 5-18A-17.6.

22. TERMS:

By accepting this Agreement, the Sub-Recipient assumes certain administrative and financial responsibilities. Failure to adhere to these responsibilities without prior written approval by the State shall be a violation of the terms of this Agreement, and the Agreement shall be subject to termination.

23. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

Sub-Recipient certifies, by signing this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or any state or local government department or agency. Sub-Recipient further agrees that it will immediately notify the State if during the term of this Agreement it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

C. AGENCY OR GRANT SPECIFIC CLAUSES *(Add, delete or modify clauses as necessary or appropriate to accomplish specific Agency or Grant requirements.)*

24. This agreement is the result of request for proposal process, RFP # \_\_\_\_\_

25. Does this agreement involve Protected Health Information (PHI)? YES ( ) NO ( X )

If PHI is involved, a Business Associate Agreement must be attached and is fully incorporated herein as part of the agreement (refer to attachment) .

26. PROPERTY MANAGEMENT STANDARDS:

The Sub-Recipient agrees to observe Federal Government uniform standards governing the utilization of property whose cost was charged to a project supported by a Federal grant.

27. TECHNICAL ASSISTANCE:

The State agrees to provide technical assistance regarding the State's rules, regulations and policies to the Sub-Recipient and to assist in the correction of problem areas identified by the State's monitoring activities.

28. LICENSING AND STANDARD COMPLIANCE:

The Sub-Recipient agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this agreement. The Sub-Recipient will maintain effective internal controls in managing the federal award. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Sub-Recipient's failure to ensure the safety of all individuals served is assumed entirely by the Sub-Recipient.

29. WORK PRODUCT:



Sub-Recipient hereby acknowledges and agrees that all reports, plans, specifications, technical data, drawings, software system programs and documentation, procedures, files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, state proprietary information, state data, end user data, Personal Health Information as defined in 45 CFR 160.103, and all information contained therein provided to the State by the Sub-Recipient in connection with its performance of service under this Agreement shall belong to and is the property of the State and will not be used in any way by the Sub-Recipient without the written consent of the State.

Paper, reports, forms software programs, source code(s) and other materials which are a part of the work under this Agreement will not be copyrighted without written approval of the State. In the unlikely event that any copyright does not fully belong to the State, the State none the less reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and otherwise use, and to authorize others to use, any such work for government purposes.

Sub-Recipient agrees to return all information received from the State to State's custody upon the end of the term of this contract, unless otherwise agreed in a writing signed by both parties.

30. IT STANDARDS:

Any software or hardware provided under this agreement will comply with state standards which can be found at <http://bit.sd.gov/standards/>.

31. HOLD HARMLESS:

The Sub-Recipient agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder. This section does not require the Sub-Recipient to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

32. INSURANCE:

Before beginning work under this Agreement, the Sub-Recipient shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. The Sub-Recipient, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits listed below. In the event of a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Sub-Recipient agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Sub-Recipient shall furnish copies of insurance policies if requested by the State.

A. Commercial General Liability Insurance:

The Sub-Recipient shall maintain occurrence-based commercial general liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance:

The Sub-Recipient shall maintain business automobile liability insurance or an equivalent form with a limit of not less than \$500,000 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.

C. Worker's Compensation Insurance:

The Sub-Recipient shall procure and maintain Workers' Compensation and employers' liability insurance as required by South Dakota law.

D. Professional Liability Insurance:

The Sub-Recipient agrees to procure and maintain professional liability insurance with limit not less than \$1,000,000.

33. CONFIDENTIALITY OF INFORMATION:

For the purpose of the sub-paragraph, "State Proprietary Information" shall include all information disclosed to the Sub-Recipient by the State. Sub-Recipient acknowledges that it shall have a duty to not disclose any State Proprietary Information to any third person for any reason without the express written permission of a State officer or employee with authority to authorize the disclosure. Sub-Recipient shall not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this contract; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this contract; (iii) make State Proprietary Information available to any of its employees, officers, agents or consultants except those who have agreed to obligations of confidentiality at least as strict as those set out in this contract and who have a need to know such information. Sub-Recipient is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. Sub-Recipient shall protect confidentiality of the State's information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced. State Proprietary Information shall not include information that (i) was in the public domain at the time it was disclosed to Sub-Recipient; (ii) was known to Sub-Recipient without restriction at the time of disclosure from the State; (iii) that is disclosed with the prior written approval of State's officers or employees having authority to disclose such information; (iv) was independently developed by Sub-Recipient without the benefit or influence of the State's information; (v) becomes known to Sub-Recipient without restriction from a source not connected to the State of South Dakota. State's Proprietary Information shall include names, social security numbers, employer numbers, addresses and all other data about applicants, employers or other clients to whom the State provides services of any kind. Sub-Recipient understands that this information is confidential and protected under applicable State law at SDCL 1-27-1.5, modified by SDCL 1-27-1.6, SDCL 28-1-29, SDCL 28-1-32, and SDCL 28-1-68 as applicable federal regulation and agrees to immediately notify the State of the information disclosure, either intentionally or inadvertently. The parties mutually agree that neither of them shall disclose the contents of the agreement except as required by applicable law or as necessary to carry out the terms of the agreement or to enforce that party's rights under this agreement. Sub-Recipient acknowledges that the State and its agencies are public entities and thus are bound by South Dakota open meetings and open records laws. It is therefore not a breach of this agreement for the State to take any action that the State reasonably believes is necessary to comply with the South Dakota open records or open meetings laws, including but not limited to posting this Agreement on the State's website. If work assignment performed in the course of this Agreement required security requirements or clearance, the Sub-Recipient will be required to undergo investigation.

Sub-recipient acknowledges that the State shares general information, including performance information, about Sub-recipient among and between other State agencies upon request of such agencies for the purpose of making determinations of the risk involved with potential, subsequent grant awards and for other purposes. Sub-recipient expressly consents and agrees to such uses by the State.

34. *When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").*
35. *Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).*
36. *If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or sub-recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.*

D. AUTHORIZED SIGNATURES:

In witness hereto, the parties signify their agreement by affixing their signatures hereto.

_____	_____
Sub-Recipient Signature	Date
_____	_____
State - INSERT TITLE	Date
_____	_____
State - INSERT TITLE	Date
_____	_____
State- Cabinet Secretary	Date

**State Agency Coding:**

CFDA#	_____	_____	_____	_____
Company	_____	_____	_____	_____
Account	_____	_____	_____	_____
Center Req	_____	_____	_____	_____
Center User	_____	_____	_____	_____
Dollar Total	_____	_____	_____	_____
	_____	_____	_____	_____

State Program Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_

State Fiscal Contact Person Contract Accountant  
Phone 605 773- \_\_\_\_\_

Sub-Recipient Program Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_

Sub-Recipient Fiscal Email Address \_\_\_\_\_

Sub-Recipient Fiscal Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_

Sub-Recipient Fiscal Email Address \_\_\_\_\_

\_\_\_\_\_

## REGARDING EXHIBIT A

*The attached sample Exhibit A includes the same information as in Paragraph A.1. of the Agreement – the information to meet the requirements set forth in 2 CFR 200.332(a). All state agencies must include the information in Paragraph A.1. or in an attachment/supplement to the Agreement; however, it is not necessary to do both. In the event that the information is included in a document that is referred to other than as “Exhibit A”, the references to “Exhibit A” in the beginning paragraph of Paragraph A.1 of the Agreement should be modified. Additionally, the Agency may use various programs to generate the exhibit/document such as Word or Excel. Regardless of the method of inclusion, THE REQUIREMENTS SET FORTH ARE MANDATORY and must not be modified*

## **Exhibit A**

### **FEDERAL AWARD IDENTIFICATION**

Sub-recipient's name (which must match the name associated with its unique entity identifier):

- a. Sub-recipient's name (which must match the name associated with its DUNS number):
- b. Sub-Recipient's DUNS number and unique entity identifier:
- c. Federal Award Identification Number (FAIN):
- d. Federal Award Date:
- e. Sub-award Period of Performance:
- f. Amount of federal funds obligated to the Sub-Recipient by this agreement:
- g. Total amount of federal funds obligated to the Sub-Recipient:
- h. Total amount of the federal award committed to the Sub-Recipient:
- i. The federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA), is as follows:
- j. Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:
- k. CFDA No(s) and Name(s):
- l. Is the grant award for research and development (R&D)? YES \_\_\_ NO \_\_\_
- m. Indirect Cost Rate for federal award:

## Subrecipient Monitoring Guide

The purpose of this subrecipient monitoring guide is to accomplish the following:

1. Ensure state agencies develop sufficient monitoring plans and methods to have proper oversight of subrecipient entities receiving pass-through awards.
2. Define types of subrecipient monitoring.
3. Assist state agency personnel responsible for monitoring awards in selecting the proper monitoring for pass-through awards.
4. Provide tools and suggestions that could be included by the state agency in the monitoring process.

**Note:** State agencies may add additional processes and references to monitoring forms and tools to this guide to meet agency and grant specific monitoring needs.

### Uniform Guidance Requirements Related to Monitoring (2 CFR Chapter I, Chapter II, Part 200 et al.):

#### **200.332 d.1-3**

**(d)** Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

**(1)** Reviewing financial and performance reports required by the pass-through entity.

**(2)** Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

**(3)** Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by § 200.521 Management decision.

#### **200.332 e.1-3**

**(e)** Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

**(1)** Providing subrecipients with training and technical assistance on program-related matters; and

**(2)** Performing on-site reviews of the subrecipient's program operations;

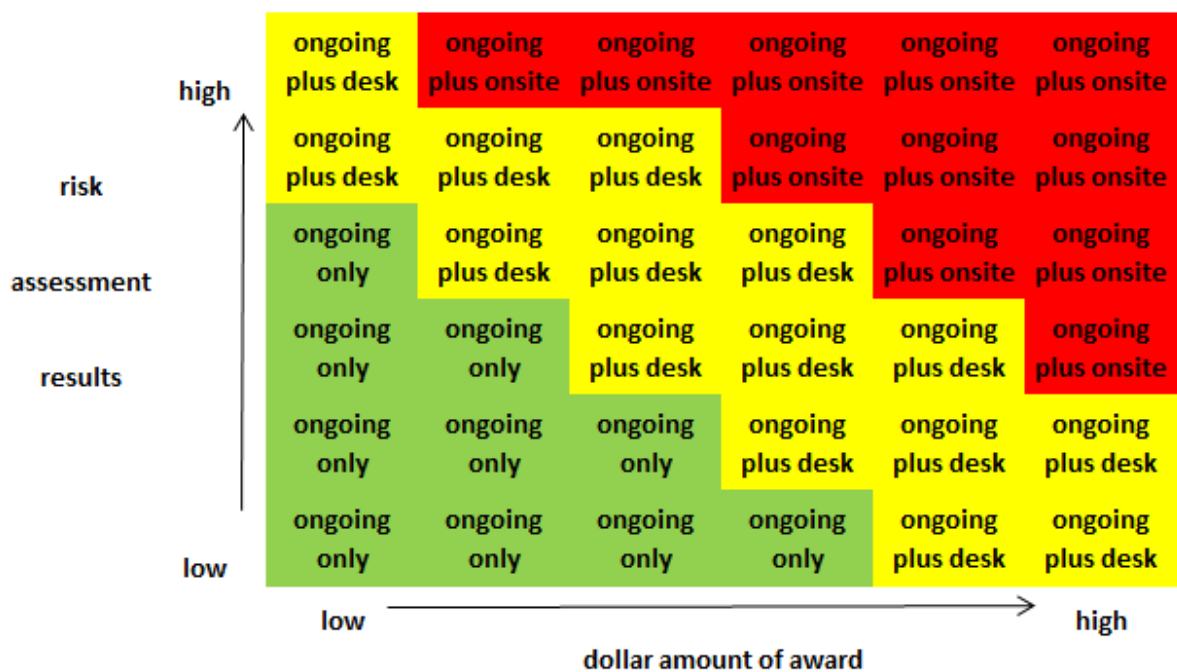
**(3)** Arranging for agreed-upon-procedures engagements as described in § 200.425 Audit services.

1. Each state agency should develop a subrecipient monitoring plan that addresses the following:
  - a. Identify state agency staff responsible to carry out the monitoring plan and monitoring tasks.
    - i. Determine how many resources (staff time) are available to complete monitoring within your agency.
    - ii. Determine how much staff time each type of monitoring will take to complete.
    - iii. Focus resources on the higher areas of risk. For example, if your agency has the resources to complete 5 onsite visits per year and 10 desk reviews, then the awards the agency sees as the highest risk should be the awards reviewed accordingly.
    - iv. Develop a plan to complete the scheduled reviews.
    - v. Develop a method to track the progress to ensure all scheduled desk and onsite reviews are completed.

- b. Determine the frequency of monitoring.
- c. Consider thresholds for risk and dollar amount.
  - i. Risk level should be determined by the state agency on a pre-award risk assessment form.
  - ii. Dollar amount classifications, such as, high, medium, or low, are encouraged to be established by each state agency. Methods for determining levels should be described.
  - iii. The type of monitoring utilized should depend on risk, but also take into consideration the dollar amount and past performance or experience with the entity, if applicable, and agency resources available to perform reviews.

Monitoring types have been identified as Ongoing, Desk Review (Offsite), and Onsite. Descriptions and details about each type can be found on the following pages.

The chart is an illustration to reflect how the monitoring plan should be developed weighing risk and dollar amount:



**\*\*Ongoing monitoring will occur throughout the period of performance for all subrecipient awards, however, desk reviews and onsite reviews should be added on awards with medium or high levels of risk or dollar amount, or when the need is identified with ongoing monitoring.**

## Ongoing Monitoring

**Definition:** The continuous process of reviewing invoices and documentation by programmatic and financial staff, providing training and technical assistance, and reviewing performance and financial reports throughout the period of performance.

Ongoing monitoring may include the following elements:

1. Invoices and supporting documentation is reviewed by programmatic and financial staff.
  - a. Ensure costs claimed are allowable (2 CFR 200.403), reasonable (2 CFR 200.404), and allocable (2 CFR 200.405):
    - i. Are necessary and reasonable for the performance of both the subrecipient agreement and the Federal award.
    - ii. Are allocated and consistent with the benefit received.
    - iii. Meet the requirements of the Uniform Guidance and the Federal award.
    - iv. Are consistent with policies and procedures of the subrecipient.
    - v. Are identified as direct or indirect and applied consistently.
    - vi. Are in accordance with GAAP.
    - vii. Are not used to meet cost sharing or matching requirements of any other federally financed program.
    - viii. Ordinary and necessary for operation or performance.
    - ix. Comparable to other similar cost rates for the geographical area.
    - x. Procurement method was followed or similar bids or quotes were obtained.
    - xi. Fall within the established practices and policies of the subrecipient.
    - xii. Goods or services involved can be assigned to a specific project or cost objective.
    - xiii. Indirect Cost rates are calculated correctly.
    - xiv. Costs are not charged to the project due to budget restrictions or limitations of other Federal awards.
    - xv. Represent actual costs and not budgeted or projected amounts.
  - b. Direct cost allocation principles. Cost should be allocated to projects based on the proportional benefit, provided that benefit can be determined without undue effort or cost.
2. The subrecipient has proper written policies in place and follows them for:
  - a. Financial Management (2 CFR 200.302)
    - i. Federal awards are tracked separately and can be identified in the subrecipient's accounting records (2 CFR 200.302 b.1).
    - ii. Cash Management (2 CFR 200.302 b.6)
  - b. Travel policy (2 CFR 200.475 a.)
    - i. Costs are reasonable and consistent with entity's established travel policy. If no policy is kept, they must be consistent with rates under 5 USC 5701-11 or 48 CFR 31.205-46(a).
  - c. Procurement policy (2 CFR 200.318)
    - i. Ensure proper method of procurement utilized (2 CFR 200.320).
      1. Require quotes to ensure procurement policies are followed.
    - ii. Require debarment search results for purchases exceeding \$25,000.
    - iii. Track any equipment that costs over \$5,000 (2 CFR 200.313 i).
  - d. Compensation (2 CFR 200.430)



- i. Require time and effort documentation for the reimbursement of personnel expenses.
            1. Records should support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one funding objective.
3. Provide training and technical assistance throughout the period of performance (2 CFR 200.332 e.1).
  - a. Educate subrecipients on grant guidelines and Uniform Guidance requirements.
  - b. Host workshops prior to or throughout the period of performance to educate subrecipients.
  - c. Invite subrecipients to training or webinars pertinent to the subaward.
4. Review performance and financial reports (2 CFR 200.329).
  - a. Ensure performance goals are being achieved.
  - b. Ensure reports are submitted on time.
  - c. Ensure reports are in line with award objectives.
  - d. Ensure performance reports are complete and reasonable.
  - e. Performance reports should include:
    - i. Comparison of actual accomplishments to the objectives established by the federal award;
    - ii. Calculation of the cost related to units of accomplishment;
    - iii. Reasons why established goals were not met;
    - iv. Explanations, if applicable, of high unit costs or cost overruns;
    - v. Significant developments, problems, delays, and adverse conditions; and/or
    - vi. Favorable developments.
  - f. Review Eligibility
    - i. Were participants eligible under the applicable eligibility guidelines?
    - ii. Were participant benefits properly discontinued when the period of eligibility expired?
    - iii. Were program benefits calculated in accordance with program requirements?
5. Award Closeout (2 CFR 200.344)
  - a. Review final expenses throughout the period of performance including any final required financial reports.
  - b. Review required programmatic/performance/technical reports and ensure required objectives were achieved to a satisfactory level.
  - c. Document the review of all required closeout documentation.
  - d. Ensure final invoices have been received, processed, and paid.
  - e. Ensure any funds required to be returned for overpayment or improper payments have been received.
  - f. Ensure any issues or discrepancies with financial information are reconciled.
  - g. Notify the subrecipient by mail or e-mail the project has been successfully completed.
    - i. Communicate the award for the performance period is final and closed.
    - ii. Communicate any best practices for future federal awards.

## Desk Review (offsite) Monitoring

Definition: When state agency program and financial staff perform a remote review of financial records and analysis of financial and programmatic information, either together or separately. Financial and programmatic data is reviewed by the state agency in their office and may consist of communication by e-mail, mail, teleconference, or video conference.

Desk Review monitoring may include the following elements:

1. Pre-Monitoring work
  - a. Obtain a copy of the subrecipient agreement on file.
  - b. Obtain copies of items collected in ongoing monitoring, such as, vouchers, invoices, monthly reports, and other back-up documentation for payments made to the subrecipient.
  - c. Review federal grant award notice, terms and conditions, programmatic requirements, and compliance supplement for any additional financial and programmatic requirements.
  - d. Review files/notes from prior monitoring.
  - e. Determine if program and financial monitoring will be done together or separately.
    - i. Program staff and financial staff should share information collected during ongoing monitoring.
    - ii. Program staff and financial staff should communicate any special conditions or unique situations associated with the agreement.
    - iii. Program staff and financial staff should determine which areas of monitoring each office will review.
  - f. Notify the subrecipient of the upcoming desk review.
    - i. The state agency should inform the subrecipient they will be monitoring the subrecipient remotely to satisfy the federal monitoring requirement. Communication can be done by mail or e-mail.
    - ii. The state agency should send a form/questionnaire along with the notification for the subrecipient to complete in order to collect required data.
    - iii. Data collected could include items such as:
      1. Definition from the subrecipient of their structure, identification of governing board and key personnel handling management and operational duties.
      2. Copies of policies for programmatic and financial management as required in 2 CFR 200.301 and 2 CFR 200.302 and any additional CFR requirements for the funds being passed through.
      3. Conflict of Interest policy as required in SDCL 1-56-10 and 2 CFR 200.112.
      4. Procurement policies as required in 2 CFR 200.317-200.330.
      5. If the subrecipient passes through any of these dollars to a subrecipient of their entity, and the policies as required in 2 CFR 200.332.
      6. Sample general ledger information.
        - a. List of all transactions for the current agreement or invoicing period.
        - b. Select sample transactions and review source documentation.
      7. Sample of time keeping records and methods of recording time across multiple federal awards (2 CFR 200.430).
      8. Plan, data, or documentation on how the subrecipient is carrying out the program objectives of the agreement (2 CFR 200.329).

9. If they met the requirement for a single audit, review single audit information. If they didn't meet the requirement of a single audit, however obtained an independent audit or financial review, then review that information.
10. Copies of travel policy.
11. Budget development and monitoring process.
12. Copies of equipment and inventory as required in 2 CFR 200.313.
  - a. Policy;
  - b. Inventory and Property records; and
  - c. Disposal records.

2. Monitoring Review of information collected

- a. Collect all pre-visit data, copy of agreement, payments, and other documentation to be reviewed.
- b. Schedule a meeting of state agency staff to review the information submitted by the subrecipient in response to the request.
- c. Have an analysis tool or checklist for all staff members to make notes as the information from the subrecipient is reviewed.
- d. The tool or checklist could contain items such as:
  - i. Policies/procedures for the following areas:
    1. Programmatic performance and method by which program objectives are measured as required in 2 CFR 200.329.
      - a. Performance reports should include:
        - i. Comparison of actual accomplishments to the objectives established by the award;
        - ii. The reasons why established goals were not met, if appropriate;
        - iii. Additional pertinent information, such as, analysis and explanation of cost overruns or high unit costs;
        - iv. Significant developments, problems, delays, or adverse conditions; and/or
        - v. Favorable developments.
      - b. Review Eligibility
        - i. Were participants eligible under the applicable eligibility guidelines?
        - ii. Were participant benefits properly discontinued when the period of eligibility expired?
        - iii. Were program benefits calculated in accordance with program requirements?
    2. Mandatory Written Policies/Procedures
      - a. Conflict of Interest (2 CFR 200.112) (2 CFR SDCL 1-56-10)
      - b. Accounting Policy / Cash Management (2 CFR 200.302)
      - c. Travel policy (2 CFR 200.475 a.)
      - d. Procurement (2 CFR 200.317 through 200.327)
        - i. Methods of Procurement (2 CFR 200.320)
        - ii. Equipment definition, inventory, and disposition (2 CFR 200.313)
      - e. Time distribution records (2 CFR 200.430)
      - f. Internal controls (2 CFR 200.303)
  - ii. Governing board members and meeting minutes.

- iii. Key personnel performing duties and segregation of duties.
- iv. Audit information supplied.
- v. General ledger listing.
- vi. Sample of payable and receivable source documentation.
- vii. Time keeping records.
- viii. Subrecipient policies if the subrecipient of the state passes the federal dollars to another subrecipient.
- ix. Determine if the conditions of the award are being met.
- e. State agency will follow up with the subrecipient following the meeting for:
  - i. Missing information originally requested;
  - ii. Explanations for areas where the state agency is unclear about what the subrecipient provided; and
  - iii. Additional items needed as a result of the review.
- f. Collect second requested items.
- g. Schedule a meeting of state agency staff to have a second review following the collection of additional information.
- h. Steps 2.e through 2.g should be repeated until the state agency feels all information has been collected and thoroughly reviewed.

### 3. Final Analysis

- a. Upon completion of the desk review, state agency staff involved in the monitoring should:
  - i. Decide course of action to address any issues of non-compliance.
  - ii. Decide on additional monitoring, if needed.
  - iii. Develop a plan of action if additional monitoring is needed.
  - iv. Consider taking enforcement action described in **2 CFR 200.339**.
  - v. Management decisions may be issued for audit findings as described in 2 CFR 200.521.
  - vi. Consider whether the state agencies records or financial reports need to be adjusted.
- b. Send the subrecipient notice the monitoring has been completed.
  - i. Include corrective action plan for areas of noncompliance;
  - ii. Include recommendations for areas where performance can be improved; and/or
  - iii. Communicate additional monitoring planned, if applicable.
- c. Assemble a monitoring file and compile all documentation for the monitoring visit and retain in accordance with the state/federal guidance on records retention.

## Onsite Monitoring

Definition: When state agency program and financial staff perform an onsite review including review of financial records and analysis of financial and programmatic information, either together or separately, with key personnel of the subrecipient, in person, at the location of the subrecipient .

Onsite monitoring may include the following elements:

### 1. Pre-Visit work

- a. Obtain a copy of the subrecipient agreement on file.
- b. Obtain copies of items collected in ongoing monitoring, such as, vouchers, invoices, monthly reports, and other back-up documentation for payments made to the subrecipient.
- c. Review federal grant award notice, terms and conditions, programmatic requirements and compliance supplement for any additional financial and programmatic requirements.
- d. Review files/notes from prior monitoring.
- e. Review the Risk Assessment completed prior to the agreement.
- f. Determine if program and financial monitoring will be done together or separately.
  - i. Program staff and financial staff should share information collected in ongoing monitoring.
  - ii. Program staff and financial staff should communicate any special conditions or unique situations associated with the agreement.
  - iii. Program staff and financial staff should determine which areas of the monitoring each office will review.
- g. Notify the subrecipient of the upcoming monitoring visit.
  - i. The state agency should inform the subrecipient they will be onsite for the visit at the subrecipient's location. Communication can be done by mail or e-mail.
  - ii. The state agency should provide some dates for the subrecipient to select which one best fits their schedule.
  - iii. The state agency should send a form/questionnaire along with the notification for the subrecipient to complete in order to collect some data before the visit.
  - iv. Data collected pre-visit could include items such as:
    1. Definition from the subrecipient of their structure, identification of governing board and key personnel handling management and operational duties.
    2. Copies of policies for programmatic and financial management as required in 2 CFR 200.301 and 2 CFR 200.302 and any additional CFR requirements for the funds being passed through.
    3. Conflict of Interest policy as required in SDCL 1-56-1 and 2 CFR 200.112.
    4. Procurement policies as required in 2 CFR 200.317-200.330.
    5. Whether the subrecipient passes through any of these dollars to a subrecipient of their entity and the policies as required in 2 CFR 200.332.
    6. Sample general ledger information.
      - a. Detail list of all transactions for the current agreement or invoicing period.
      - b. Select sample transactions and review source documentation.

7. Sample of time keeping records and methods of recording time across multiple federal awards as required in 2 CFR 200.430.
  8. Plan, data, or documentation on how the subrecipient is carrying out the program objectives of the agreement as required in 2 CFR 200.329.
    - a. Review Eligibility records
      - i. Were participants eligible under the applicable eligibility guidelines?
      - ii. Were participant benefits properly discontinued when the period of eligibility expired?
      - iii. Were program benefits calculated in accordance with program requirements?
  9. If they met the requirement for a single audit and provide single audit information. If they didn't meet the requirement and had a financial review done, provide copies of that review.
  10. Obtain copy of travel policy as required in 2 CFR 200.475 a.
  11. Internal controls for the award as required in 2 CFR 200.303.
  12. Budget development and monitoring process.
  13. Equipment and Inventory as required in 2 CFR 200.313.
    - a. Policy;
    - b. Inventory and Property records; and
    - c. Disposal records.
  - h. Have an internal meeting of all state agency staff who will be at the visit to review data collected pre-visit and plan the visit.
  - i. Request any information needed from the subrecipient that was missing from their original submission, or any new information as a result of the review meeting.
  - j. Prepare a set of interview questions to ask about program and financial management of federal grants, as well as, touch on the areas in the pre-visit data collected requiring additional explanation.
2. Monitoring Visit
- a. Attend the meeting with the subrecipient.
  - b. Bring along all pre-visit data, copies of contracts, payments, and other documentation needed.
  - c. Have the set of interview questions prepared to cover financial and programmatic areas of the agreement that could include:
    - i. Discuss the uniform guidance requirements of programmatic and financial performance.
    - ii. Discuss budget development and oversight.
    - iii. Interview key personnel about the segregation of duties, internal control procedures, and conflict of interest.
    - iv. Discuss answers provided by the subrecipient in the pre-visit data collection and clarification or additional explanation of areas that were unclear.
    - v. Discuss travel policy, reimbursement process, and limits on per diem and lodging.
    - vi. Discuss procurement policies, inventory procedures, equipment leases, and handling of capital assets.
    - vii. Discuss programmatic performance and how objectives are developed and monitored to ensure they are being met.
    - viii. Discuss areas with the subrecipient that could be deemed as high risk and ask them their plan to mitigate risk.

- ix. Discuss special conditions of the award and any situations unique to the federal funding.
- x. Offer best practices to improve the subrecipient's performance or financial management.
- xi. Offer guidance and solutions to issues of non-compliance with federal requirements or the terms and conditions of the subrecipient agreement.
- xii. Request additional documentation or follow-up, if needed, to complete the review.

3. Post monitoring work

- a. Collect any documentation or follow-up information that was requested at the onsite visit.
- b. State agency staff involved in the visit should have a post monitoring meeting to review all documentation and ensure all areas of the review were covered. They should also:
  - i. Decide course of action to address any issues of non-compliance;
  - ii. Decide on additional monitoring, if needed;
  - iii. Develop a plan of action if additional monitoring is needed;
  - iv. Consider taking enforcement action described in 2 CFR 200.339;
  - v. Management decisions may be issued for audit findings as described in 2 CFR 200.521; and
  - vi. Consider whether the state agencies records or financial reports need to be adjusted.
- c. Send the subrecipient notice the monitoring has been completed.
  - i. Include corrective action plan for areas of noncompliance;
  - ii. Include recommendations for areas where performance can be improved; and
  - iii. Communicate additional monitoring planned, if applicable.
- d. Assemble a monitoring file and compile all documentation for the monitoring visit and retain in accordance with the state/federal guidance on records retention.

## Contractor or Subrecipient Relationship Determination Checklist

*(To satisfy requirement of section 200.331 in OMB 2 CFR Chapter I, Chapter II, Part 200 et al Uniform Guidance)*

In addition to grant specific requirements, all State agencies who receive Federal grants are required to comply with 2 CFR Chapter I, Chapter II, Part 200, et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

This document is intended to be used as a tool to help State agencies comply with 2 CFR (200.331) in making case by case subrecipient or contractor determinations for ALL State agency agreements or contracts involved in the disbursement of Federal program funds.

The checklist will also be applied to non-federally funded agreements to be able to determine recipient or contractor relationship. For the purposes of this document, recipient as it relates to non-federal funds, will be an entity who directly receives an award from a state agency to carry out an activity under a state program or non-federal/private program. A subrecipient determination on a non-federal funded agreement would make the entity a recipient.

**Recipient:** A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients. (2 CFR 200.86)

For the purpose of this checklist the State agency is the Recipient.

**Subrecipient:** A non-Federal entity that receives a subaward from a pass-through entity to carry out all or a portion of a Federal award. This relationship creates a Federal assistance relationship with the subrecipient. (2 CFR 200.93)

**Contract:** A legal instrument by which a non-Federal entity purchases property of services needed to carry out the project of program under a Federal Award. (2 CFR 200.22)

**Contractor:** An entity that receives a contract (2 CFR 200.22)

**Pass-through entity:** A non-Federal entity that provides a subaward to a subrecipient to carry our part of the Federal program. For the purposes of this checklist the State agency is the pass-through entity

**Entity:** For the purposes of this checklist, Entity includes any business, government, organization, individual, etc. in which a State agency has a contract or agreement with.

**DIRECTIONS:** Please complete the following checklist. Each section contains characteristics of subrecipients and contractors. Mark the box under "Yes" or "No" next to the question under each characteristic in the sections below. Mark the "Subrecipient" or "Contractor" box to the best of your determination in the blue box at the bottom of each section. **One subrecipient check does not necessarily make the entity a subrecipient nor does one contractor check make it a contractor.**  
*If you need assistance in determining the relationship, please contact your internal control officer.*

State Agency _____	Program Name _____	CFDA # _____
Name of Entity receiving funds _____	Contract / Agreement Number _____	
Funding Source(s) _____	RFP number (if applicable) _____	

	Yes	No	
Will the agreement be funded by Federal funds?	<input type="checkbox"/>	<input type="checkbox"/>	If No, federal guidance does not apply however checklist assists agency in agreement relationship.
Is the agreement with another State agency?	<input type="checkbox"/>	<input type="checkbox"/>	If Yes, stop here. Other State agencies aren't considered subrecipients of the State.
Is the agreement a "renewal" of expired agreement?	<input type="checkbox"/>	<input type="checkbox"/>	If Yes, stop here. File original checklist determination with current agreement.
Is the agreement with an Individual Beneficiary?	<input type="checkbox"/>	<input type="checkbox"/>	Description: A beneficiary is an individual that stands to benefit from the performance of the grant activities. Beneficiaries are the interest for whom the grant project is undertaken. For example, a beneficiary may be an entitlement recipient, an attendee at a grant-funded conference, or an individual daycare provider receiving a child care quality grant. Typically, there is little to no expectation for performance from beneficiaries. If Yes, stop here and use agency specific agreement template.

Characteristics	Explanations						
<b>Decision Making Authority</b>							
<b>200.331 a.1</b> Determines who is eligible to receive what Federal assistance.							
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> </tr> <tr> <td><b>a.</b> Does the entity determine who is eligible to participate in the Federal program?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<b>a.</b> Does the entity determine who is eligible to participate in the Federal program?	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">If the entity determines whether a participant meets a Federal program's eligibility requirements for assistance, they are most likely a subrecipient.</div>
	Yes	No					
<b>a.</b> Does the entity determine who is eligible to participate in the Federal program?	<input type="checkbox"/>	<input type="checkbox"/>					
<b>200.331 a.3</b> Has responsibility for programmatic decision-making.							
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> </tr> <tr> <td><b>a.</b> Does the entity have the ability to make decisions about how services will be delivered to participants, in accordance with Federal programmatic requirements?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<b>a.</b> Does the entity have the ability to make decisions about how services will be delivered to participants, in accordance with Federal programmatic requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">A contractor may provide services to clients in a program after eligibility has been determined by the State agency.</div>
	Yes	No					
<b>a.</b> Does the entity have the ability to make decisions about how services will be delivered to participants, in accordance with Federal programmatic requirements?	<input type="checkbox"/>	<input type="checkbox"/>					
<b>200.331 b.4</b> Provides Goods or Services that are ancillary to the operation of the Federal program.							
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> </tr> <tr> <td><b>b.</b> Does the entity provide goods or services for the State agency's own use?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<b>b.</b> Does the entity provide goods or services for the State agency's own use?	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">If the entity has authority to make decisions regarding the delivery of service, operations, or types of assistance provided within the terms of the agreement, they are typically a subrecipient.</div>
	Yes	No					
<b>b.</b> Does the entity provide goods or services for the State agency's own use?	<input type="checkbox"/>	<input type="checkbox"/>					
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> </tr> <tr> <td><b>b.</b> Does the entity provide services designated by the State agency to serve its participants without regard to specific Federal programmatic requirements?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<b>b.</b> Does the entity provide services designated by the State agency to serve its participants without regard to specific Federal programmatic requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">If the entity provides goods or services directly to the State agency or to program participants at the direction of the State agency and does not make programmatic decisions or adhere to program requirements, they are typically a contractor.</div>
	Yes	No					
<b>b.</b> Does the entity provide services designated by the State agency to serve its participants without regard to specific Federal programmatic requirements?	<input type="checkbox"/>	<input type="checkbox"/>					
<p><b>A "Yes" answer to item a. questions is an indicator of a subrecipient relationship</b></p> <p><b>A "Yes" answer to item b. questions is an indicator of a contractor relationship</b></p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center; border: 1px solid black;"><b>Subrecipient</b></td> <td style="width: 50%; text-align: center; border: 1px solid black;"><b>Contractor</b></td> </tr> </table>	<b>Subrecipient</b>	<b>Contractor</b>				
<b>Subrecipient</b>	<b>Contractor</b>						

Nature of Award	Explanations						
<b>200.331 a.2</b> Has its performance measured in relation to whether objectives of a Federal program were met.							
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> </tr> <tr> <td><b>a.</b> Is the scope of work (or part, if applicable), and terms and conditions of the agreement the same for the entity as they are for the State agency receiving the Federal funds?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<b>a.</b> Is the scope of work (or part, if applicable), and terms and conditions of the agreement the same for the entity as they are for the State agency receiving the Federal funds?	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">If the entity is providing a service for the State agency to meet the goal of the grant, it is typically a contractor; if the entity is providing a service that carries out a goal within the scope of the grant, it is typically a subrecipient. When a grant contains multiple goals, it is possible for the State agency to complete part, and for a subrecipient to perform another part.</div>
	Yes	No					
<b>a.</b> Is the scope of work (or part, if applicable), and terms and conditions of the agreement the same for the entity as they are for the State agency receiving the Federal funds?	<input type="checkbox"/>	<input type="checkbox"/>					
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> </tr> <tr> <td><b>a.</b> Is the entity carrying out completion of the mission of the grant (or part, if applicable) as Stated in the Federal award?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<b>a.</b> Is the entity carrying out completion of the mission of the grant (or part, if applicable) as Stated in the Federal award?	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">If the scope of the agreement incorporates Federal program terms and guidance, it is typically a subrecipient. A subrecipient may also provide programmatic or progress reports to ensure compliance with Federal program requirements.</div>
	Yes	No					
<b>a.</b> Is the entity carrying out completion of the mission of the grant (or part, if applicable) as Stated in the Federal award?	<input type="checkbox"/>	<input type="checkbox"/>					
<b>200.331 a.4</b> Is responsible for adherence to applicable Federal Program requirements specified in the Federal award.							
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> </tr> <tr> <td><b>a.</b> Is the entity responsible for performing any Federal grant requirements?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<b>a.</b> Is the entity responsible for performing any Federal grant requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">If the funding is given to the entity with a purpose of completing the goal of the grant, the State agency is required to ensure the entity adheres to Federal grant program guidance.</div>
	Yes	No					
<b>a.</b> Is the entity responsible for performing any Federal grant requirements?	<input type="checkbox"/>	<input type="checkbox"/>					
<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 40%;"></th> <th style="width: 10%; text-align: center;">Yes</th> <th style="width: 10%; text-align: center;">No</th> </tr> <tr> <td><b>a.</b> Does the funding to the entity depend on its ability to best meet the objectives of the award?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Yes	No	<b>a.</b> Does the funding to the entity depend on its ability to best meet the objectives of the award?	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">If the scope of the agreement incorporates the State agency's...</div>
	Yes	No					
<b>a.</b> Does the funding to the entity depend on its ability to best meet the objectives of the award?	<input type="checkbox"/>	<input type="checkbox"/>					
<b>200.331 b.5</b> Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.							



**Contractor or Subrecipient Relationship Determination Checklist**

*(To satisfy requirement of section 200.331 in OMB 2 CFR Chapter I, Chapter II, Part 200 et al Uniform Guidance)*

**b.** Does the State agency develop the scope of work and terms and conditions of the agreement to meet the State agency's needs?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If the scope of the agreement incorporates the State agency's terms and not Federal program guidance, and if the State agency's oversight is governed only by the agreement terms and conditions, it is typically a contractor.

A "Yes" answer to item **a.** questions is an indicator of a subrecipient relationship

A "Yes" answer to item **b.** questions is an indicator of a contractor relationship

Subrecipient

Contractor

DRAFT

## Contractor or Subrecipient Relationship Determination Checklist

(To satisfy requirement of section [200.331](#) in OMB 2 CFR Chapter I, Chapter II, Part 200 et al Uniform Guidance)

Criteria for Selection			
<a href="#">200.331 a.5</a>	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>a.</b>	Does the entity demonstrate a public need for funding to carry out a project or provide a service?	Yes No <input type="checkbox"/> <input type="checkbox"/>	If the entity is chosen because it is already providing a service within the guidelines of the grant program and want to partner with the State agency to expand the delivery or assist in meeting the goal of your grant, it may be a subrecipient. Although a subrecipient is not prohibited from making a profit, typically, a subrecipient does not make a profit and may provide its own non-Federal funding as match or cost sharing. A subrecipient is normally chosen through an application process or an announcement of funding, as opposed to the procurement process described below. Payment to a subrecipient is generally based on actual expenses unless awarded on a fixed amount sub award ( <a href="#">2CFR 200.333</a> ). It is typical of subrecipients to submit budgets, financial reports, or copies of invoices to the State agency to document activity.
<b>a.</b>	Will the entity be contributing match or other non-Federal funding in support of the award?	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>a.</b>	Will the entity be reimbursed for only actual costs incurred?	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<a href="#">200.331 b.3</a>	Normally operates in a competitive environment.		If the entity was chosen because they have the best widgets for the price, it typically has a contractor relationship. Usually, a procurement method is followed, such as a competitive bid or RFP process. In this type of agreement, the entity usually makes a profit by delivering this good or service to the State agency.
<b>b.</b>	Were State procurement policies applied in the selection of the entity?	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>b.</b>	Was the entity's proposed price a factor in the selection process?	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>b.</b>	Will the entity derive a profit from the agreement? <small>NOTE: A "Yes" to this question is not an absolute indicator of a contractor because a subrecipient is not prohibited from making a profit.</small>	Yes No <input type="checkbox"/> <input type="checkbox"/>	
A "Yes" answer to item <b>a.</b> questions is an indicator of a subrecipient relationship A "Yes" answer to item <b>b.</b> questions is an indicator of a contractor relationship		Subrecipient Contractor	

Entity's Business Environment			
<a href="#">200.331 b.1</a>	Provides the goods and services within normal business operations.		
<b>b.</b>	Is the entity's normal business to provide the goods or services being purchased in the agreement?	Yes No <input type="checkbox"/> <input type="checkbox"/>	A contractor normally provides goods and services to the public in a competitive environment and those goods and services are normally available to others for purchase.
<a href="#">200.331 b.2</a>	Provides similar goods or services to many different purchasers.		
<b>b.</b>	Does the entity provide the same goods or services to other organizations?	Yes No <input type="checkbox"/> <input type="checkbox"/>	A subrecipient normally operates in a less competitive environment and the goods or services provided are normally "unique" in nature and available on a limited basis.
A "No" answer to EITHER question is an indicator of a subrecipient relationship A "Yes" answer to BOTH questions is an indicator of a contractor relationship		Subrecipient Contractor	

Federal Program (Grant) Specific or Federal Awarding Agency Specific Guidance/Requirements (as it relates to subrecipients)					
	(Insert CFR) (Type grant specific requirements here - if any. Else check the "N/A" box)				
	(Type grant specific requirement question here - if any)	N/A	Yes	No	
	(Insert CFR) (Type Federal agency specific requirements here if any. Else check the "N/A" box)				
	(Type Federal agency specific requirement question here - if any)	N/A	Yes	No	Subrecipient Contractor
					If the Federal grant award has any grant specific criteria relating to subrecipients or contractor determination, please enter to the left.
					If the Federal awarding agency has any specific criteria relating to subrecipients or contractor determination, please enter to the left.

Other Indicating Factors (as it relates to subrecipients or contractor determinations)					
	(Type unique indicator question here - if any)				
	(Type unique indicator question here - if any)	N/A	Yes	No	Subrecipient Contractor
					Insert any unique indicating factors not covered above to the left and make determination.

Final Determination			
	Note: One check in a subrecipient box does not necessarily mean the entity is a subrecipient nor does one check in a contractor box make it a contractor. A judgement should be based on a review of all indicator criteria above.		
	JUSTIFICATION:	Subrecipient Contractor	Review all the indicators and make an overall determination of the relationship. Check the appropriate box in this section.
	_____		
	_____		Many agreements or contracts will contain both contractor and subrecipient indicators. Please justify and document your final determination to the left.
	_____		
	_____		

If agreement is funded by **federal funds** and determined a subrecipient, then use the **subrecipient agreement template**.  
If agreement is funded by **state general or other funds** and determined a subrecipient, then use the **recipient agreement template**.

Determined by \_\_\_\_\_ (date) \_\_\_\_\_  
(enter name of person initially making decision)

Review / Approval \_\_\_\_\_ (date) \_\_\_\_\_  
(enter name of person approving)

Comments \_\_\_\_\_

Each heading has a hyperlink to the specific section referenced.  
Based on the relationship determined above, Subrecipient or Contractor, see additional guidance for the requirements governing the agreement.  
[Section 200.332](#) - "Requirements for pass-through entities", for subrecipient agreements  
[Section 200.317 through 200.327](#) - "Procurement Standards", for contractor agreements