

The following resource provides Digital Equity Act Grant Program (DE Act Grant Program)¹ applicants and recipients with information on different types of agreements related to DE Act Grant Program management. For more information and guidance, applicants and recipients should refer to the DE Act Grant Programs [Notice of Funding Opportunities \(NOFOs\)](#) and [2 CFR 200; Subpart D](#).



DEFINITIONS

During application and implementation of DE Act Grant Programs, applicants and recipients may come across terms related to different types of grant agreements, such as those for subrecipients and subcontractors.

A **subrecipient**, per [2 CFR 200.1](#), is the recipient of a subaward for the purpose of carrying out a portion of the Federal award that creates a Federal financial assistance relationship with a subrecipient. For more information, please see [2 CFR 200.331](#).

A **subcontractor or contractor**, per [2 CFR 200.1](#), is a non-federal entity that receives a legal instrument (contract) to provide goods and services for recipient or subrecipient use. The contract creates a procurement relationship with the contractor and the recipient or subrecipient, please see [2 CFR 200.331](#).

SUBCONTRACTOR OR SUBRECIPIENT?

The following checklist will help DE Act Grant Program recipients determine if an entity relationship is a subcontractor, in accordance with 2 CFR 200.331(c).³



SUBCONTRACTOR CHECKLIST

Is the entity a subcontractor?

Does the entity provide goods and services within normal business operations?

Yes No

Does the entity provide similar goods or services to many different purchasers?

Yes No

Does the entity operate in competitive environments?

Yes No

Does the entity provide goods or services that are ancillary to the operation of the federally awarded program?

Yes No

*In accordance with [2 CFR 200.331\(c\)](#), if you selected “Yes” to **ANY** questions listed, this **MAY** be an indicator that the entity in question is a subcontractor; not a subrecipient.³*

Determination

¹ This document is intended solely to assist recipients in better understanding Digital Equity Act Grant Programs and the requirements set forth in the Notice of Funding Opportunities (NOFOs). This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the NOFOs. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFOs, shall prevail over any inconsistencies contained in this document.

² For the purposes of this document, “contractor” and “subcontractor” will be used interchangeably.

³ **2 CFR 200.331(c): Use of judgment in making determination.** In determining whether an agreement between a recipient and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed may not be present in all cases, and recipient must use judgment in classifying each agreement as a subaward or a procurement contract

The following checklist will help DE Act Grant Program recipients determine if an entity relationship is a subrecipient, in accordance with [2 CFR 200.331\(c\)](#).⁴



SUBRECIPIENT CHECKLIST

Is the entity a subrecipient?

Does the entity determine who is eligible to receive federal assistance under the program guidelines? Yes No

Does the entity measure its performance according to whether it achieved federal program objectives? Yes No

Is the entity responsible for making programmatic decisions? Yes No

Does the entity use federal funding to implement programs whose public purpose is specified in the Infrastructure Investment and Jobs Act, the authorizing statute for the Digital Equity Act Grant Program, as opposed to providing goods or services for the benefit of the award recipient? Yes No

Is the entity responsible for adherence to applicable Federal program requirements specified in the Federal award? Yes No

In accordance with [2 CFR 200.331\(c\)](#), if you selected “Yes” to ANY questions listed, this MAY be an indicator that the entity in question is a subrecipient; not a subcontractor.

Determination



SUBRECIPIENT REQUIREMENTS

Each DE Act Grant Program NOFO lists requirements that subrecipients must meet in order to receive grant funds. **DE Act Grant Program applicants and recipients are encouraged to closely review all guidelines and restrictions.**

Note: Failure to comply with these certification requirements may result in appropriate enforcement action in accordance with [2 CFR 200.339](#), up to and including termination under a Digital Equity Act Grant Program award.



ADDITIONAL QUESTIONS

For additional questions on grant agreements related to the DE Act Grant Programs, please contact your Federal Program Officer or email digitalequity@ntia.gov.

⁴ **2 CFR 200.331(c): Use of judgment in making determination.** In determining whether an agreement between a recipient and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed may not be present in all cases, and recipient must use judgment in classifying each agreement as a subaward or a procurement contract