**Section 7000.240 Subrecipient/Contractor Determinations**

a) An organization may concurrently receive State-issued awards as a grantee, a subgrantee (subrecipient), and a contractor, depending on the substance of the Grant Agreement, Cooperative Agreement, Intergovernmental Agreement between State agencies and awardees. A pass-through entity must make case-by-case determinations of whether the entity receiving the funds is a subrecipient or contractor.

1) Subrecipient

A subaward is to carry out a portion of a Grant Agreement and creates a State assistance relationship with the subrecipient. Characteristics that support the classification of the grantee as a subrecipient include the following:

A) Determines who is eligible to receive what State and federal pass-through assistance;

B) Has its performance measured based on whether the objectives of a State or federal pass-through program were met;

C) Has responsibility for programmatic decision making;

D) Is responsible for adherence to applicable State and federal pass-through program requirements specified in the State agency's rule; and

E) In accordance with its Grant Agreement, uses the State and federal pass-through funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for its own benefit.

2) Contractors

A contract is to obtain goods and services for the grantee's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the awardee and a contractor are when the contractor:

A) Provides the goods and services within normal business operations;

B) Provides similar goods or services to many different purchasers;

C) Normally operates in a competitive environment;

D) Provides goods or services that are ancillary to the operation of the State and federal pass-through program; and

E) Is not subject to compliance requirements of the State-issued award or federal pass-through program as a result of the agreement, though similar requirements may apply for other reasons.

3) Use of Judgment in Making Determination

A) In determining whether an agreement between a pass-through entity and another non-federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement.

B) Each of the characteristics listed in subsection (a)(1) may not be present in all cases. The pass-through entity must use judgment in classifying each agreement as a subaward/subgrant or a procurement contract.

b) The Recipient Checklist for Determining if the Entity Receiving Funds as a Contractor or Subrecipient Relationship must be used to document the subrecipient vs. contractor determination. The completed Checklist must be maintained for monitoring and audit purposes as evidence of the determination.

c) The Checklist is available on the GATA website (www.grants.illinois.gov).

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