



Agency for Workforce Innovation Financial Monitoring Update

Technical Assistance Topic: Subrecipient and Vendor Determinations

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**SUBRECIPIENT
AND
VENDOR
DETERMINATIONS
FOR
RECIPIENTS
AND
SUBRECIPIENTS
OF
FEDERAL FUNDS**



OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations

Pertinent Terms and Definitions

Federal Award

Federal award means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. It does not include procurement contracts, under grants or contracts, used to buy goods or services from vendors.

Federal Financial Assistance

Federal financial assistance means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance.

Pass-through Entity

Pass-through entity means a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.

Recipient

Recipient means a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program.

Subrecipient

Subrecipient means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

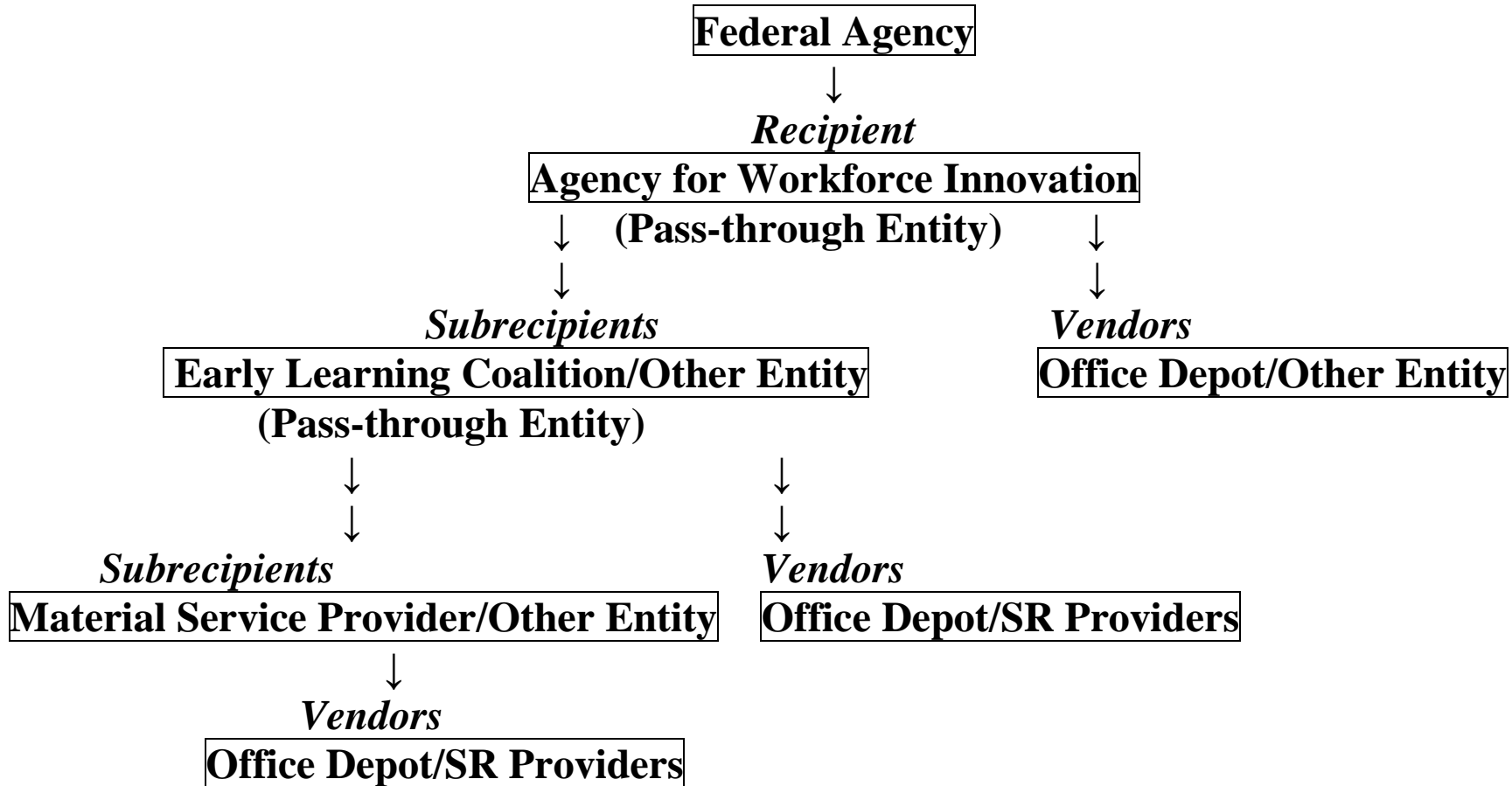


Vendor

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program.



FLOW OF FUNDS





Requirements

OMB Circular A-133, Section .210 Subrecipient and Vendor Determinations

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

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

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

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

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program.

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

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

(f) **Compliance responsibility for vendors.** In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such



that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance.

Importance of Making the Proper Determination

It is important to be aware that it is the *nature of the relationship* that determines whether or not an entity is a subrecipient or a vendor. The dollar amount of the subcontract is *not* a determining factor. A careful review of the nature of the services to be provided is critical to making the proper determination.

The classification should be made early in the procurement process. Early determination ensures that the appropriate procurement procedures are used and that the resulting agreement includes appropriate terms and conditions that ensures compliance with program requirements.

The following characteristics may be helpful in determining whether a subrecipient or vendor relationship exists.

The subrecipient:

1. Determines who is eligible to receive what federal financial assistance. For example:
 - a. The organization determines whether a provider/child meets program eligibility requirements for assistance under that program.
2. Has its performance measured against whether the objectives of the program are met. For example:
 - a. The coalition holds the organization responsible for meeting performance targets that are tied to program objectives.
 - b. The coalition holds the organization responsible for meeting expenditure targets to maximize the use of program funding.
 - c. The coalition requires the organization to submit regular oral or written progress reports and/or explanations of variance relating to program objectives and/or fund maximization.
 - d. The coalition may sanction the organization if program objectives are not met.
 - e. The organization must submit a comprehensive closeout package at the end of the agreement.
3. Has responsibility for programmatic decision making. For example:
 - a. The organization has latitude to make decisions within the terms of the agreement.
 - b. The organization makes policy decisions governing how it carries out a program.
 - c. The organization makes operational decisions governing how it carries out a program.
 - d. The organization makes decisions regarding the appropriate assistance for a provider/child.
4. Has responsibility for adherence to applicable program compliance requirements. For example:
 - a. The coalition holds the organization responsible for compliance with applicable program statutes, regulations, rules, policies (including local policies) and guidance.



- b. The organization receives technical assistance or training from the coalition relating to program requirements.
- c. The coalition monitors the organization for compliance with applicable program requirements.
5. Uses the funds to carry out a program of the organization as compared to providing goods or services for a program of the coalition. For example:
 - a. The organization performs all or a portion of the scope of work or objectives of the award received by the coalition.
 - b. The organization's role requires more than dealing, distributing or selling goods or services that support a program.
 - c. The coalition identifies the organization's programmatic involvement as a separate scope of work and budget that must be approved by the coalition.

The vendor:

1. Provides the goods and services within normal business operations. For example:
 - a. The organization exists for the purpose of providing particular goods or services.
 - b. The organization receives little, if any, instruction from the awarding entity as to how the organization goes about producing the goods or services.
 - c. The organization generally receives payment after delivery of a particular good or service.
 - d. The organization invoices the coalition in the organization's normal way and is not required to submit a comprehensive closeout package at the end of the agreement.
 - e. The organization assumes the risk if cost of performance increases or requires more time than expected.
 - f. The organization has its performance measured against whether it meets specific deliverables, rather than a program's performance outcomes.
2. Provides similar goods or services to many different purchasers. For example:
 - a. The organization provides similar goods or services to a number of entities in addition to the coalition.
 - b. The services provided are of a repetitive nature.
 - c. The goods provided are commonly available.
3. Operates in a competitive environment. For example:
 - a. The organization competes with other organizations to provide a similar good or service.
4. Provides goods and services that are ancillary to the operation of the program. For example:
 - a. The organization aids or supports the program in a subsidiary capacity.
 - b. The organization provides a good or service (in a manner that does not create a subrecipient relationship) which enables the coalition to carry out a program.
 - c. The organization provides a particular good or service that enables the coalition to operate, e.g. office supplies, janitorial services, equipment, staff development, printing, travel, etc.
5. Is not subject to compliance requirements of the program. For example:
 - a. The organization is not responsible for compliance with applicable program statutes, regulations, rules, policies or guidance.



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- b. The coalition does not provide the organization with technical assistance or training with regard to program requirements.
- c. The coalition does not monitor the organization for compliance with program requirements.



The following indicators may be helpful in determining whether a subrecipient or vendor relationship exists.

Factor	Vendor	Subrecipient
Activity ¹	Sell deliverables (goods/services)	Provide services
Assistance Arrangement	Buyer-seller	Financial assistance to operate a program
Closeout Package	Final invoice	Comprehensive
Control	Control is outcome focused	Control is on process
Development Costs	Absorbed	Controlled
Extent of Flexibility	Bound to adhere to specific contract terms	Latitude to make decision within terms of agreement
Federal Rules	N/A	Compliance
Payment Basis ²	Is paid for specific deliverables	Is paid for services whether expensed as a deliverable or not
Product	Specific outcomes	Operate a program
Performance Measured ³	Against the specific requirements of contract	Against the performance outcomes of the financial assistance award
Product Development	Develops product and delivers from inventory	Controls development
Public Policy	Contract specific clauses	Standard statement of assurances
Purpose of the Award	To provide specific goods or services	To carry out a program goal
Receipt of Funds	Number of items delivered	Costs incurred
Risk	Risk to vendor	Share risk with awarding agency
Type of Training Referral	Slotting on an individual referral basis	Filling a class-sized training program
Type of Market	For sale within normal business operation; existing product tailored to the program solicitation	Customized for specific program purposes
Type of Product	Provide specific product or service ancillary to the Federal program	Design a program to meet a broader goal such as performance outcomes

¹ There may be instances where it is possible to obtain the same type of services under either a vendor or a subrecipient award.

² Federal reform efforts are now shifting emphasis from paying for process to paying for results. Such performance- and-outcome-based payments are possible under both vendor and subrecipient awards.

³ Same as 2 above.



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Section 215.97, Florida Statutes – Florida Single Audit Act

Pertinent Terms and Definitions

State Project

State project means a state program that provides state financial assistance to a nonstate organization and that must be assigned a state project number identifier in the Catalog of State Financial Assistance.

State Financial Assistance

State financial assistance means state resources, not including federal financial assistance and state matching on federal programs, provided to a nonstate entity to carry out a state project. "State financial assistance" includes the types of state resources stated in the rules of the Department of Financial Services established in consultation with all state awarding agencies. State financial assistance may be provided directly by state awarding agencies or indirectly by nonstate entities. "State financial assistance" does not include procurement contracts used to buy goods or services from vendors and contracts to operate state-owned and contractor-operated facilities.

Nonstate Entity

Nonstate entity means a local governmental entity, nonprofit organization, or for-profit organization that receives state financial assistance.

Recipient

Recipient means a nonstate entity that receives state financial assistance directly from a state awarding agency.

Subrecipient

Subrecipient means a nonstate entity that receives state financial assistance through another nonstate entity.

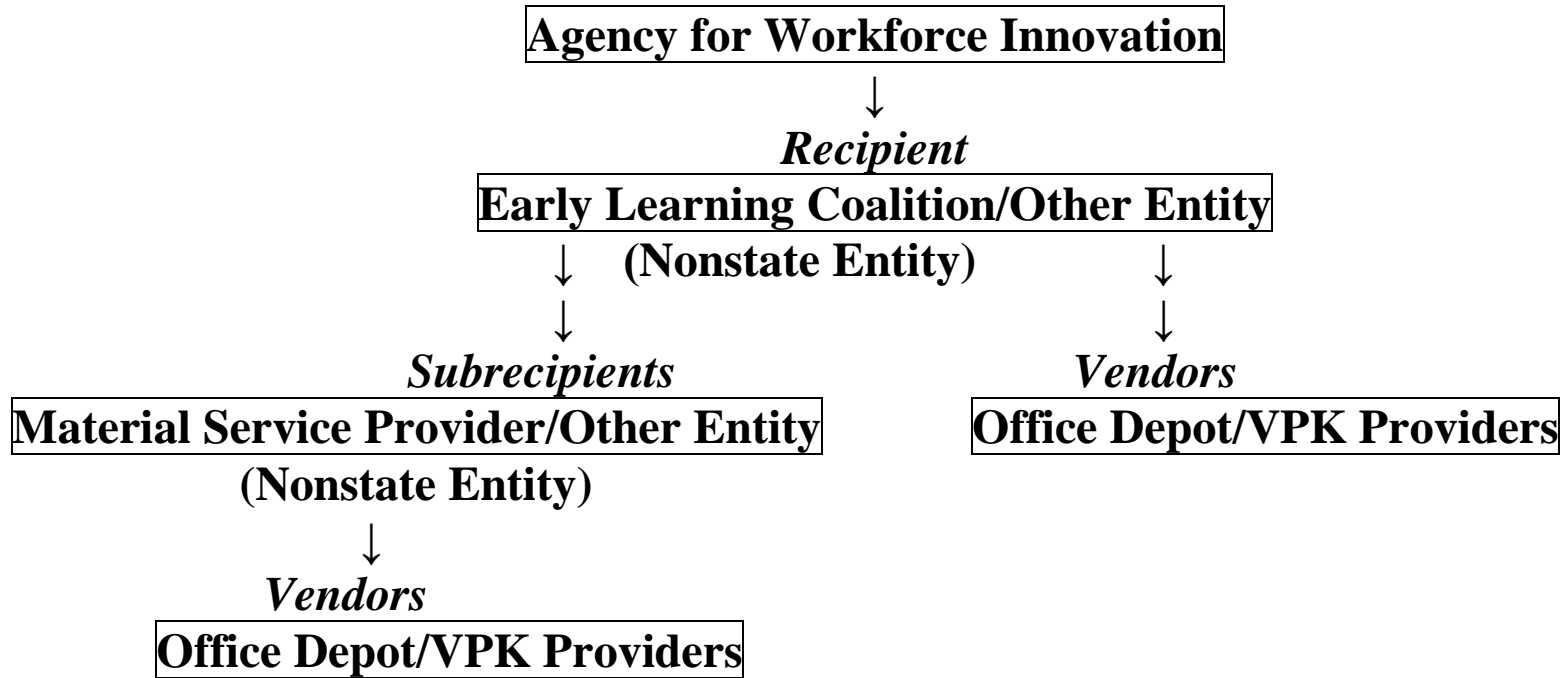


Vendor

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a state project. These goods or services may be for an organization's own use or for the use of beneficiaries of the state project.



FLOW OF FUNDS





Requirements

69I-5.006 Recipient/Subrecipient and Vendor Relationships.

- (1) State awards expended by a recipient/subrecipient are subject to audit under Section 215.97, F.S., the "Florida Single Audit Act". Procurement contracts used to buy goods and services from vendors are outside the scope of the Act.
- (2) The Florida Single Audit Act Checklist for Non-State Organizations – Recipient/Subrecipient vs. Vendor Determination (DFS-A2-NS) (Effective 7/05) shall be used to determine the applicability of the Florida Single Audit Act to non-state organizations. State agencies, recipients, and subrecipients that provide state financial assistance to non-state organizations shall complete this form and retain it in their records.
- (3) Whenever a non-state organization is determined to be a recipient or subrecipient of state or federal financial assistance, the standard audit language contained on Form DFS-A2-CL (Effective 7/05) must be included in the document that establishes the State's, recipient's, or subrecipient's relationship with the non-state entity.
- (4) Copies of Forms DFS-A2-NS and DFS-A2-CL, which are hereby incorporated by reference, may be obtained at the Department's website at www.fsaa.state.fl.us.

69I-5.004 Types of State Financial Assistance.

- (1) State financial assistance is financial assistance from state resources to non-state organizations to carry out a state project. It does not include federal financial assistance and state matching provided by state agencies for federal programs. State financial assistance shall be categorized by the following classes or types of financial assistance:
 - (a) Cooperative Agreements – Financial assistance transferred pursuant to written agreements between state agencies and recipients to carry out a public purpose. Cooperative agreements generally assume a substantial involvement between state agencies and recipients when carrying out the activities contemplated in the agreements.
 - (b) Direct Appropriations – Financial assistance appropriated to state agencies to be provided directly to specified non-state entities per legislative proviso to encourage or subsidize particular activities.
 - (c) Food Commodities – Financial assistance which provides for the sale or donation of food.
 - (d) Grants – Financial assistance transferred pursuant to written agreements between state agencies and recipients to carry out a public purpose. Generally, a substantial involvement is not expected between state agencies and recipients when carrying out the activities contemplated in the agreements.
 - (e) Insurance – Financial assistance provided to assure reimbursement for losses sustained under specified conditions.
 - (f) Investments – Financial assistance provided for investment in the development of particular activities or enterprises.
 - (g) Loans – Financial assistance provided through the lending of state monies for a specific period of time, with a reasonable expectation of repayment. Such loans may or may not require the payment of interest.
 - (h) Loan Guarantees – Financial assistance provided in which the state agency makes an arrangement to indemnify a lender against part or all of any defaults by those responsible for repayment of loans.



- (i) Property – Financial assistance provided for the sale, exchange, or donation of state real property, personal property, commodities, and other goods including land, buildings, and equipment.
- (j) Tax Credits – Financial assistance provided in the form of credits of state taxes for a public purpose authorized by state law.
- (k) Tax Refunds – Financial assistance provided in the form of refunds of state taxes for a public purpose authorized by state law.



FLORIDA SINGLE AUDIT ACT CHECKLIST FOR NON-STATE ORGANIZATIONS –
RECIPIENT/SUBRECIPIENT VS. VENDOR DETERMINATION

SAMPLE

This checklist and the standard contract audit language may be obtained electronically from the Department of Financial Services website: <https://apps.fldfs.com/fsaa/singleauditact.aspx>

If a Florida Single Audit Act State Project Determination Checklist has not been previously completed, please complete it now. (Applies only to State agencies)

This checklist must be used by State agencies to evaluate the applicability of the Florida Single Audit Act (FSAA) to non-state organizations after a state program has been determined (using the Florida Single Audit Act State Project Determination Checklist) to provide state financial assistance (i.e. is a State Project as defined in 215.97 (2), F.S.). This checklist assists in determining if the non-state organization is a vendor, recipient/subrecipient, or an exempt organization.

Recipients and subrecipients of state financial assistance must also use this checklist to evaluate the applicability of the FSAA to non-state organizations to which they provide State resources to assist in carrying out a State Project.

Name of Non-state Organization: _____

Type of Non-state Organization: _____

(i.e. nonprofit, for-profit, local government; if the non-state organization is a local government, please indicate the type of local government – municipality, county commission, constitutional officer, water management district, etc.)

Awarding Agency: _____

Title of State Project: _____

Catalog of State Financial Assistance (CSFA) Number: _____

Contract/Grant/Agreement Number: _____

PART A

<u>YES</u>	<u>NO</u>	
_____	_____	1. Is the non-state organization a district school board, charter school, community college, public university, government outside of Florida or a Federal agency?
_____	_____	2. Is the relationship with the non-state organization only to procure commodities (as defined in 287.012(5) F.S.)?
_____	_____	3. Does the relationship with the non-state organization consist of only Federal resources, State matching resources for Federal Programs or local matching resources for Federal Programs?
_____	_____	4. Does the relationship with the non-state organization consist of only State maintenance of effort (MOE) ¹ resources that meet all of the following criteria?
_____	_____	A. Do Federal Regulations specify the requirements for the use of the State MOE resources and are there no additional State requirements?
_____	_____	B. Do contracts contain sufficient language to identify the State MOE resources and the associated Federal Program?
_____	_____	C. Do A-133 audit requirements apply to the State MOE resources and do contracts stipulate that the State MOE resources should be tested in an A-133 audit in accordance with Federal Program requirements?
<p>¹ MOE refers to the Federal maintenance of effort/level of effort requirements as defined by OMB Circular A-133 Compliance Requirement G (Matching, Level of Effort, Earmarking).</p> <p>If any of 1-4 above is yes, the recipient/vendor relationship determination does not need to be completed because the FSAA is not applicable to the non-state organization.</p>		

SAMPLE



SAMPLE

PART B

Recipient/Vendor Relationship Determination:

The following should be analyzed for each relationship with a non-state organization where it has been determined that the state program provides state financial assistance (i.e. is a State Project) and the non-state organization is not exempt based on the questions above. This relationship may be evidenced by, but not limited to, a contract, agreement, or application.

<u>YES</u>	<u>NO</u>	
_____	_____	1. Does State law or legislative proviso create the non-state organization to carry out this State Project?
_____	_____	2. Is the non-state organization required to provide matching resources not related to a Federal Program?
_____	_____	3. Is the non-state organization required to meet or comply with specified State Project requirements in order to receive State resources? (State Project requirements include laws, rules, or guidelines specific to the State Project such as eligibility guidelines, specified types of jobs to be created, donation of specified assets, etc. Specified State Project requirements do not include procurement standards, general guidelines, or general laws/rules.)
_____	_____	4. Is the non-state organization required to make State Project decisions, which the State agency would otherwise make? (e.g. determine eligibility, provide case management, etc.)
_____	_____	5. Is the non-state organization's performance measured against whether State Project objectives are met? (e.g. number of jobs to be created, number of patients to be seen, number of disadvantaged citizens to be transported, etc. Performance measures may or may not be related to State performance-based budgeting.)

If **any** of the above is **yes**, there is a **recipient/subrecipient relationship** and the non-state organization **is** subject to the FSAA. Otherwise the non-state organization is a **vendor** and is **not** subject to the FSAA.

PART C

Based on your analysis of the responses above and discussions with appropriate agency personnel, state your conclusion regarding the non-state organization:

(Check one): **Recipient/Subrecipient:** _____ **Vendor:** _____ **Exempt Organization:** _____

Comments: _____

Print Name: _____ **Telephone Number:** _____

Title: _____

Signature: _____ **Date:** _____

Note it is the program personnel's responsibility to notify Finance and Accounting of which non-state organizations have been determined to be recipients and are receiving state financial assistance (i.e. disbursements must be coded as 7500 object code in FLAIR).

Note it is possible to have a contractual agreement with a non-state organization under Chapter 287, Florida Statutes, and still consider the non-state organization a recipient under the Florida Single Audit Act.

If a recipient/subrecipient relationship exists the standard contract audit language, including Exhibit 1 (DFS-A2-CL), must be included in the document that established the State's, recipient's, or subrecipient's relationship with the non-state organization.

Questions regarding the evaluation of a non-state organization or if it has been determined that the non-state organization is a recipient and a CSFA number has not been assigned, contact your FSAA State agency liaison or the Department of Financial Services, Bureau of Auditing at (850) 413-3060 or Suncom 293-3060. Reference may be made to Rule69I-5, FAC.

SAMPLE



WEBSITES

Federal Resources

OMB Circular A-133

<http://www.whitehouse.gov/omb/assets/omb/circulars/a133/a133.pdf>

Catalog of Federal Domestic Assistance (CFDA)

<https://www.cfda.gov/index?s=program&mode=list&tab=list>

State Fiscal Stabilization Fund (SFSF) - Government Services, Recovery Act - 84.397

Temporary Assistance for Needy Families (TANF) – 93.558

Social Services Block Grant (SSBG) – 93.667

Child Care and Development Block Grant (CCDF) – 93.575

Child Care Mandatory and Matching Funds of the Child Care and Development Fund – 93.596

ARRA – Child Care and Development Block Grant – 93.713

State Resources

Florida Single Audit Act

<https://apps.fldfs.com/fsaa/singleauditact.aspx>

Florida Administrative Code Chapter 69I-5 State Financial Assistance

<https://apps.fldfs.com/fsaa/rules.aspx>

Catalog of State Financial Assistance (CSFA)

<https://apps.fldfs.com/fsaa/catalog.aspx>

School Readiness Services – 75.005

Voluntary Prekindergarten Education Program (VPK) – 75.007

AWI Resources

GUIDANCE - Subrecipient and Vendor Determinations – Federal Funds

http://www.floridajobs.org/earlylearning/documents/063SubrecipAndVendorDeterminFederalFunds_072408.pdf

GUIDANCE - Subrecipient and Vendor Determinations – State Funds

http://www.floridajobs.org/earlylearning/documents/064SubrecipAndVendorDeterminStateFunds_072408.pdf