

# Coronavirus State Fiscal Recovery Fund (CSFRF)

## Subrecipient vs Beneficiary & Subaward vs *Contractors* Information Sheet

The Oregon Department of Administrative Services (DAS) has developed this information sheet to help answer questions from CSFRF Subrecipients (Recipient)<sup>1</sup> with respect to Subrecipients vs. Beneficiaries and Grant (Subaward) vs. Contract for subawards issued under the Coronavirus State Fiscal Recovery Funding (CSFRF)<sup>2</sup>.

Subrecipients vs. Beneficiaries	<p style="color: red; text-decoration: underline;"><b>What is the difference between Subrecipients vs. Beneficiaries?</b></p> <p>Subrecipient Definition <a href="#">Per Uniform Guidance</a>:</p> <ul style="list-style-type: none"> <li>(2 CFR 200.1) “Subrecipient” means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.</li> </ul> <p>Other characteristics which support the determination of Subrecipient (does not have to meet all of these to be a sub-recipient):</p> <ul style="list-style-type: none"> <li>The entity uses the Federal funds to carry out a program of the organization as opposed to providing goods or services.</li> <li>The entity determines who is eligible to receive the federal assistance</li> <li>The entity measures performance based on meeting objectives of the federal program.</li> <li>The entity is responsible for programmatic decision-making.</li> <li>The entity is responsible for ensuring Federal requirements outlined in the award are followed.</li> </ul> <p>Beneficiary:</p> <ul style="list-style-type: none"> <li>Beneficiary: A beneficiary is traditionally an individual who is the end user of the assistance (the individual needing the benefit). (Examples include recipients of scholarships, Medicaid claims/medical benefits, or housing/food assistance.) With CRF and ARPA SLFRF grants--businesses, non-profits, and educational institutions may also be beneficiaries of assistance. The SLFRF Compliance and Reporting Guidance indicates that “subrecipients do not include individuals and organizations that received SLFRF funds as end users to respond to the negative economic impacts of COVID-19 on these organizations”. The organizations would be beneficiaries in this case. The Single Audit Act and 2 CFR Part 200, Subpart F regarding audit requirements do not apply to beneficiaries</li> </ul>
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<sup>1</sup> DAS is the recipient of the federal funds and passes through funds to subrecipients through grant agreements. The grant agreements refer to the grantees as Recipients and to be consistent with the grant agreement we are referring to our subrecipients as Recipients in this procedure.

<sup>2</sup> The DAS CSFRF grant program is funded through the federal Coronavirus State and Local Fiscal Recovery Funds program. DAS administers only the State Fiscal Recovery Funds. The Local Fiscal Recovery Funds are received and managed by local governments. The federal government commonly refers to the CSLFRF program as the SLFRF program.

	<p>Other characteristics which support the determination of Beneficiary (does not have to meet all of these to be a beneficiary):</p> <ul style="list-style-type: none"> <li>• The beneficiary is an individual (<i>or organization for CORONAVIRUS grant funding</i>) receiving the funds as the end user/beneficiary of assistance.</li> <li>• Does not determine eligibility or compliance.</li> </ul>
<p>Grant (Subaward) vs. Contract</p>	<p><b><u>When should a grant (subaward) be used vs. a contract?</u></b></p> <p><u>Definition of Grant Agreement (2 CFR 200.1)</u>: means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with <a href="#">31 U.S.C. 6302, 6304</a>:</p> <p>(1) Is used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (see <a href="#">31 U.S.C. 6101(3)</a>); and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;</p> <p>(2) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.</p> <p>(3) Does not include an agreement that provides only:</p> <ul style="list-style-type: none"> <li>(i) Direct United States Government cash assistance to an individual;</li> <li>(ii) A subsidy;</li> <li>(iii) A loan;</li> <li>(vi) A loan guarantee; or</li> <li>(v) Insurance.</li> </ul> <p><u>Definition of Contract (2 CFR 200.1) means</u>, for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award. For additional information on subrecipient and contractor determinations, see <a href="#">§ 200.331</a>.</p> <p><b><u>Here is the information under 200.331 Subrecipient and Contractor Determinations</u></b></p> <p>The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.</p> <p>(a) <b><i>Subrecipients.</i></b> A subaward is for the purpose of <u>carrying out a portion of a Federal award</u> and creates a Federal assistance relationship with the subrecipient. See definition for <i>Subaward</i> in <a href="#">§ 200.1 of this part</a>. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:</p> <ul style="list-style-type: none"> <li>(1) Determines who is eligible to receive what Federal assistance;</li> <li>(2) Has its performance measured in relation to whether objectives of a Federal program were met;</li> <li>(3) Has responsibility for programmatic decision-making;</li> </ul>

	<p>(4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and</p> <p>(5) 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.</p> <p>(b) <b>Contractors.</b> A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See the definition of <i>contract</i> in <a href="#">§ 200.1 of this part</a>. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:</p> <ol style="list-style-type: none"> <li>(1) Provides the goods and services within normal business operations;</li> <li>(2) Provides similar goods or services to many different purchasers;</li> <li>(3) Normally operates in a competitive environment;</li> <li>(4) Provides goods or services that are ancillary to the operation of the Federal program; and</li> <li>(5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.</li> </ol> <p><b>Use of judgment in making determination.</b> 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. All the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.</p> <p><b>Other Considerations for Grant vs. Contract:</b></p> <ul style="list-style-type: none"> <li>• The main difference between a grant and a contract is the expectation the donor has of the agreement. In a contract, you agree on specific results and outcomes that your organization must achieve. If you do not achieve them, you might have to face repercussions. Contracts are normally used in the private sector when two parties make a deal about something that should be done. One party agrees to pay a certain amount of money and the other party agrees to do the task. A grant is based on similar premises, but it is understood that the organization executing the project or program cannot guarantee success. There will be certain rules on how the money can be spent and the grantee must do their best, but there will be no legal repercussions in case of failure. The grantee may not win a grant again if they cannot deliver on their proposal, but they will not be punished for their failure.</li> </ul>
<p>One Contract using funds from two different IAAs</p>	<p><b><u>Can one contract be used for a subrecipient who is receiving funding from two different CSFRF IAAs?</u></b></p> <ul style="list-style-type: none"> <li>• DAS does not know of any federal regulations or CSFRF program regulations that prohibit this. However, we would recommend developing separate contracts for the same entity that is receiving funds from different CSFRF IAAs. This seems like the approach to take in case there are problems that arise with the scope of the work identified for the subrecipient for each IAA project. Also, since the funding would be coming from two separate Federally CSFRF funded projects, having separate contracts with the Subrecipient would also be easier to track (and make clear) the expenses and reimbursements that were applied from each IAA project.</li> </ul>