



Background

The Navajo Nation (the "Nation") has approved various expenditure plans through legislations CJN-47-20, CJN-46-20, and CJY-67-20 which may contain transactions that need to be evaluated for a subrecipient vs. contractor relationship under the requirements of Code of Federal Regulations ("CFR") §200.330. Therefore, as each Division or Program is tasked with implementing the expenditure plan, they can use the below framework (taken from 2 CFR § 200.330) to properly classify the entity receiving Coronavirus Relief Funding ("CRF"). If the Nation determines that the relationship is a subrecipient, the entity shall adhere to the requirements of 2 CFR, Part 200, Uniform Guidance, and the federal Single Audit Act.

Classification

Contractor

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. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

1. Provides the goods and services within normal business operations;
2. Provides similar goods or services to many different purchasers;
3. Normally 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 the compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Subrecipient

A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

1. Determines who is eligible to receive what Federal assistance;
2. Has its performance measured in relation to whether objectives of a Federal program were met;
3. Has responsibility for programmatic decision making;
4. Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
5. In accordance with its agreement, uses the Federal funds to carry out a program for the public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity

Next steps

After determining whether the entity is a contractor or a subrecipient, the Nation will draft either a contract (for contractors) or a subrecipient agreement (for subrecipients) for the entity to review and sign before the disbursement of CRF. Entities determined to be a subrecipient will be subject to Uniform Guidance compliance requirements, as detailed on their respective contract or agreement. For questions on the classification between contractor and subrecipient, please contact the Office of the Controller-.