**Subrecipient or Vendor Determination Form**

**Purpose:** This is a dual purpose document, to be used during agreement development to determine if an entity should be classified as a subrecipient or a vendor or used during the course of an agreement, when a Recipient would like to reclassify a subrecipient to a vendor under the new ECAMS policies.

**Recipient Instructions:**

Using the definitions and characteristics of subrecipients and vendors below, please provide a statement explaining why an entity should be classified as a vendor or a subrecipient. If you’re classified as a vendor, you must certify the vendor was selected through a competitive process. If not competitively bid, please provide supporting documentation that the entity’s product or service was or will be offered/sold at a fair and reasonable price. Supporting documentation may include links to the vendor’s website showing products and pricing, written quotes from other entities bidding on the project, written record of verbal quotes (date, who made the call, entity name and phone number, price quoted), proof that a request for qualifications was advertised, or links to other vendors’ websites showing products/prices.

**Recipient’s Explanation:**

[INSERT HERE]

**CAM and Supervisor Instructions:**

Review the Recipient’s statement and determine if you concur with the classification. If you have questions about whether documentation establishes a competitive process or fair and reasonable price, please reach out to the Audits Team. For reclassifications, if approved, please forward this document to CGLfiles@energy.ca.gov per the Changes Chart.

CAM Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Supervisor Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_ Approved

\_\_ Not Approved

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**DEFINITIONS and CHARACTERISTICS**

A **subrecipient** is defined as an entity that receives grant funds directly from the Recipient and is entrusted by the Recipient to make decisions about how to conduct some of the grant’s activities.  A Subrecipient’s role involves discretion over grant activities and is not merely just selling goods or services.

Characteristics which support the classification of the entity as a subrecipient include when the entity:

1. Has its performance measured in relation to whether objectives of a CEC program were met;
2. Has responsibility for programmatic decision-making;
3. Is responsible for adherence to applicable CEC program requirements specified in the CEC award agreement;
4. In accordance with its agreement, uses the CEC 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 recipient or sub-recipient; or,
5. Provides match share funding contributions to the CEC-funded project.

A **sub-subrecipient**has the same meaning as a subrecipient except that it receives grant funds from a subrecipient.  There can also be further levels below of sub-subrecipients.

A **vendor** is defined as a person or entity that sells goods or services to the Recipient, Subrecipient, or any layer of Sub-Subrecipient, in exchange for some of the grant funds, and does not make decisions about how to perform the grant’s activities. The Vendor’s role is ministerial and does not involve discretion over grant activities. A vendor is an entity selected through a competitive process or is otherwise providing a product or service at a fair and reasonable price. Characteristics indicative of a procurement relationship between the recipient or subrecipient and a vendor are when the vendor:

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 CEC program; and
5. may not be subject to compliance with all of the requirements of the CEC program as a result of the agreement, though similar requirements may apply for other reasons.

**USE OF JUDGMENT IN MAKING DETERMINATION**

In determining whether an agreement between a recipient or subrecipient and another entity casts the latter as a subrecipient or a vendor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the Recipient must use judgment in classifying each agreement as a subaward or a procurement contract.

A recipient or subrecipient entity must make case-by-case determinations whether each agreement it makes for the disbursement of CEC program funds casts the party receiving the funds in the role of a subrecipient or a vendor. The CEC may supply and require recipients to comply with additional guidance to support these determinations. If there is a disagreement on whether an entity should be classified as a subrecipient or vendor, CEC retains ultimate discretion.