

§ 1627.3 Characteristics of subgrants.

(a) In determining whether an agreement between a recipient and another entity should be considered a subgrant or a procurement contract, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed in paragraph (b) of this section may not be present in all cases, and the recipient must use judgment in classifying each agreement as a subgrant or a procurement contract. The recipient must make case-by-case determinations whether each agreement that it makes with another entity constitutes a subgrant or a procurement contract.

(b) Characteristics that support the classification of the agreement as a subgrant include when the other entity:

- (1) Determines who is eligible to receive legal assistance under the recipient's LSC grant;
- (2) Has its performance measured in relation to whether objectives of the LSC grant were met;
- (3) Has responsibility for programmatic decision-making regarding the delivery of legal assistance under the recipient's LSC grant;
- (4) Is responsible for adherence to applicable LSC program requirements specified in the LSC grant award; and
- (5) In accordance with its agreement, uses the LSC funds or property or services acquired in whole or in part with LSC funds, to carry out a program for a public purpose specified in LSC's governing statutes and regulations, as opposed to providing goods or services for the benefit of the recipient.