

**10A NCAC 01A .1003 PURCHASE OF SERVICE VS. FINANCIAL ASSISTANCE**

- (a) Non-profit and for profit agencies that receive State or Federal financial assistance either directly from DHHS as a recipient or indirectly as a subrecipient through contractual agreements with local agencies funded by DHHS shall have a compliance audit performed in accordance with OMB Circular A-133; however, Circular A-133 does not apply to purchases of goods/services (vendors).
- (b) A recipient/subrecipient is distinguished from a vendor (purchase of service agreement) by the degree of responsibility assumed to meet the requirements of the program.
- (c) In a financial assistance arrangement, the recipient/subrecipient receives the funding to carry out or administer a program. A recipient/subrecipient may be responsible for determining who is eligible for participation in a program by applying pre-determined eligibility requirements. A vendor who reserves the right to reject a participant based on a criteria other than eligibility, does not become a recipient by exercising that right. A recipient/subrecipient is responsible for making programmatic decisions and its performance is measured against meeting the program's objectives. Normally, but not always, there is an interest in how program funds are expended. Although recipient/subrecipient generally have cost reimbursement grants/contracts it is possible for them to have a fee/rate per unit of service arrangement.
- (d) A vendor (purchase of services/goods) is measured against the terms of a contract. Goods must meet certain specifications and services are measured against certain quality standards. A vendor normally operates in a competitive environment and once a pre-determined unit price has been established in a contract, usually there is no interest in how the vendor expends funds in meeting the vendor's obligation under the terms of the contract.
- (e) In distinguishing between a purchase of service and financial assistance arrangement, the substance of the relationship is more important than the form of the agreement.
- (f) Reviewing a recipient/subrecipient's contractual requirements and answering the following questions shall give an indication of the type arrangement represented by the contract.

	Indication of	
	Financial Assistance	Purchase/Service
	Yes	No
1. Does the contract provider determine client eligibility?		
2. Does the contract provider authorize services on a client specific basis?		
3. Does the contract provider determine the appropriateness of the services to be provided?		
4. Does the contract provider provide administrative functions, such as:		
a. Program evaluation?		
b. Program planning?		
c. Monitoring?		
d. Develop program standards, procedures, and rules?		
5. Does the contract provider have responsibility for program compliance?		
6. Does the contract provider have to submit a cost report to satisfy a cost reimbursement arrangement?		
7. Does the contract provider have any obligation to the funding authority other than the delivery of the specified goods/services?		
	No	Yes
8. Does the contract provider operate in a competitive environment?		
9. Does the contract provider provide similar goods or services to many different purchasers?		
10. Does the contract provider provide the goods or services within normal business operations?		

The list in this Rule is not intended to be all inclusive; however, the answers to the questions shall offer guidance in distinguishing between a purchase of service or financial assistance arrangement. There may be other factors that would influence the decision on whether a contract is classified as either financial assistance or purchase of service and the decision shall only be made after weighing all factors relative to the contract. All factors will not carry the

same weight. As an illustration, if any of the answers to questions 1 through 5 are yes, the contract shall almost always be a financial assistance arrangement. However, regardless of the answers to the questions, they shall not contradict a determination/classification that has been/or may be made by the funding Federal authority.

The funding DHHS Division shall be available to assist, on a timely basis, its local counterparts in making the distinction in unique situations.

*History Note: Authority G.S. 143B-10(j)(2);  
Eff. June 1, 1995;  
Amended Eff. August 1, 2000;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 23, 2017.*