

Non-Exhaustive Resources for Procurement under 2 CFR Policy Requirements

This document is meant to serve as a guide and is not exhaustive, binding, or final. Recipients should refer to Treasury guidance and 2 CFR policy requirements as final.

Policy Requirements

Recipients of SFRF must use documented procurement procedures which conform to applicable Federal law and procurement standards covered in 2 CFR Part 200 Sections 200.317-200.326 and procedures which echo applicable State and local laws and regulations.

The following 2 CFR policy requirements apply to [21.027 assistance listing](#) for Coronavirus State and Local Fiscal Recovery Funds (CSLFRF), Coronavirus State Fiscal Recovery Fund (CSFRF) and Coronavirus Local Fiscal Recovery Fund (CLFRF):

- Subpart B, General provisions
- Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards
- Subpart D, Post Federal; Award Requirements
- Subpart E, Cost Principles
- Subpart F, Audit Requirements

****Additional requirements may be placed on awards are outlined in an executed terms and conditions agreement to accept the award.***

Key Principles

There are several guiding principles for developing your own effective compliance regimes:

- Recipients and subrecipients are responsible for ensuring the SLFRF award funds issued to them are not used for ineligible purposes, and that there is no fraud, waste, or abuse associated with their SLFRF award;
- SLFRF -funded projects are intended to respond to the COVID-19 public health emergency and meet urgent community needs. Swift and effective implementation is vital, and recipients must balance the need for an effective and rapid response with the necessity of maintaining a robust documentation and compliance regime;
- Treasury encourages recipients to use SLFRF-funded projects to advance shared interests and promote equitable delivery of government benefits and opportunities to underserved communities, as outlined in Executive Order 13985, On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; and
- Transparency of process and public accountability for proper use of SLFRF award funds are critical to upholding program integrity and trust in all levels of government. SLFRF award funds should be managed in a way that is consistent with Administration guidance per Memorandum M-21-20 and Memorandum M-20-21. ([Treasury Reporting and Compliance Guide, Page 4](#))

Procurement

Recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds, are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable. 2 CFR 200.317 (i) states that the non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. The Uniform Guidance establishes in 2 CFR 200.319 that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320, which allows for non-competitive procurements only in circumstances where at least one of the following conditions is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, or competition is determined inadequate. Recipients must have and use documented procurement procedures that are consistent with the standards outlined in 2 CFR 200.317 through 2 CFR 200.320. The Uniform Guidance requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred parties. Your organization must ensure adherence to all applicable local, State, and federal procurement laws and regulations. ([Treasury Reporting and Compliance Guide, P. 9](#))

2 CFR Part 200 Section 200.320 specifies five methods of procurements to be followed as illustrated in the table below¹:

Method	Aggregate Dollar Amount	Notes	Additional Notes
1. Micro-Purchase	*Not to exceed \$50,000²	No quotations required if the price is reasonable.	To extent practicable distribute equitably among qualified suppliers.
2. Small Purchase	Up to \$250,000 **	Rate quotations from an adequate number of qualified sources.	No cost or price analysis required

- ¹ See [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards \(“Uniform Guidance” or 2 CFR Part 200\)](#) and the [Compliance Supplement](#) for exceptions and details.

² Exceptions to this threshold can be found here <https://www.ecfr.gov/current/title-48/chapter-1/subchapter-A/part-2/subpart-2.1>

** Certain exemptions may apply. Recipients should consult the code of federal regulations <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1> for all thresholds and exemptions

3. Formal Procurement a. Sealed Bid	>\$250,000 **	Primarily construction projects-Firm fixed price contract.	Price is a major factor-formal process for bidding.
4. Formal Procurement b. Proposals	>\$250,000 **	A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids	RFP with evaluation methods for an adequate number of qualified sources.
5. Formal Procurement c. Non-Competitive (Sole-Source)	Available for procurements of any dollar amount	No competition/Must be authorized by the agency (or Pass-through entity)	Must meet specific circumstances including but not limited to the item is available only from a single source;

The five specified procurement methods must comply with:

- The organizations' documented procurement procedures
- The necessity of the purchase
- Open competition to the extent required
- The organization's conflict of interest policy
- Sufficient and proper documentation of the purchase

Micro Purchases means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold.

1. Micro-purchase threshold means \$10,000, except it means -

(1) For acquisitions of construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), \$2,000;

(2) For acquisitions of services subject to 41 U.S.C. chapter 67, Service Contract Labor Standards, \$2,500;

(3) For acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation; to facilitate defense against or recovery from cyber, nuclear, biological, chemical or radiological attack; to support a request from the Secretary of State or the Administrator of the United States Agency for International

Development to facilitate provision of international disaster assistance pursuant to [22 U.S.C. 2292](#) *et seq.*; or to support response to an emergency or major disaster ([42 U.S.C. 5122](#)), as described in 13.201(g)(1), except for construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction) ([41 U.S.C. 1903](#)) -

(i) \$20,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) \$35,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States; and

(4) For acquisitions of supplies or services from institutions of higher education ([20 U.S.C. 1001\(a\)](#)) or related or affiliated nonprofit entities, or from nonprofit research organizations or independent research institutes -

(i) \$10,000; or

(ii) A higher threshold, as determined appropriate by the head of the agency and consistent with clean audit findings under 31 U.S.C. chapter 75, Requirements for Single Audits; an internal institutional risk assessment; or State law.

2. **Small purchases** -

(i) **Small purchase procedures.** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) **Simplified acquisition thresholds.** The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

3. **Formal Procurement**

3a. Sealed bids. A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

- (i) In order for sealed bidding to be feasible, the following conditions should be present:
 - (A) A complete, adequate, and realistic specification or purchase description is available;
 - (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- (ii) If sealed bids are used, the following requirements apply:
 - (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
 - (B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
 - (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - (E) Any or all bids may be rejected if there is a sound documented reason.

3b. Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and

(iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

3c. Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see [paragraph \(a\)\(1\)](#) of this section);

(2) The item is available only from a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(5) After solicitation of a number of sources, competition is determined inadequate.

Recipients may consult the following for more resources on compliance with IFR and the final rule:

- [State Local Fiscal Recovery Compliance and Reporting Guide](#)
- [Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule and Final Rule](#)
- [Final Rule](#)
- [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards \(“Uniform Guidance” or 2 CFR Part 200\)](#)
- [Compliance Supplement](#)
- Please see the [Assistance Listing](#) in SAM.gov under assistance listing number (formerly known as CFDA number), 21.027 for more information.
- This document provides additional detail for subrecipient compliance and reporting responsibilities under the SFRF program, and should be read in concert with the Award Terms and Conditions, the authorizing statute, the [final rule](#), and other regulatory and statutory requirements, including regulatory requirements under the [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards \(“Uniform Guidance” or 2 CFR Part 200\)](#) and the [Compliance Supplement](#).