

Best Practices for Procurement

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What You Will Learn

- What requirements you must follow and document for procurement (purchasing) with federal funds.
- How to determine whether your procurement policy is compliant.
- What procurement thresholds are currently in effect and how to find updates.
- What are the conflict of interest requirements are for procurement.

Presenters

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Procurement Policy Objectives

YOU NEED A POLICY

Objectives of a procurement policy include:

1. Limiting purchases to **reasonable and necessary** items.
2. Minimizing the possibility of theft or misuse.
3. Controlling costs while ensuring quality.
4. Complying with federal, HHS and other regulations.
5. Identifying the nature, and program or supporting service of the purchase.



Procurement Policy Components

Key areas of the procurement policy include:

- Identifying responsibility for purchasing. This will vary based on your organization's size and complexity.
- Complying with Uniform Guidance and HHS regulations found at 2 CFR 200.317-327. These include purchasing only items necessary for performance under the award, and where appropriate analyzing lease versus purchase options, and documenting the basis for contractor selection when competitive bidding is used.
- The recent uniform guidance update confirms that this must be in writing.

Procurement Policy Components (cont'd.)

Key areas of the written procurement policy include:

- Avoiding conflicts of interest.
- Maintaining a whistleblower protection policy. (Employees uncover most errors, frauds and breaches.)
- Competitive proposals follow the RFP process.



Federal Acquisition Regulation

Micro-Purchase Threshold

Micro-purchase means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. *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](#))— (*continued*)

Federal Acquisition Regulation

Micro-Purchase Threshold cont'd.

- 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.

Reference: <https://222.ecfr.gov/current/title-48/part-2/subpart-2.1#p-2.101>

Federal Acquisition Regulation

Simplified Acquisition Threshold

Simplified acquisition threshold means the methods prescribed in part 13 for making purchases of supplies or services. *Simplified acquisition threshold* means \$250,000, except for—

- 1) 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](#)), ([41 U.S.C. 1903](#)), the term means—
 - i. \$800,000 for any contract to be awarded and performed, or purchase to be made, inside the United States; and
 - ii. \$1.5 million for any contract to be awarded and performed, or purchase to be made, outside the United States; and

Federal Acquisition Regulation

Simplified Acquisition Threshold cont'd.

- 2) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a humanitarian or peacekeeping operation ([10 U.S.C. 3015](#)) , the term means \$500,000 for any contract to be awarded and performed, or purchase to be made, outside the United States.

Reference <https://222.ecfr.gov/current/title-48/part-2/subpart-2.1#p-2.101>



Procurement Purchase Threshold

Board and State Limits

- Your board may set lower limits for their approval of items if they wish.
- State funds may also set a lower limit for approvals.



Procurement Thresholds

- Limits are updated for inflation periodically.
- CFR [41 U.S.C. 1908](#) requires that the FAR Council periodically adjust all statutory acquisition-related dollar thresholds in the FAR for inflation. This adjustment is calculated every 5 years, starting in October 2005, using the Consumer Price Index for All Urban Consumers.
- Based on this, we expect an adjustment in October 2025. HHS needs to confirm acceptance of these adjustments.
- However, the most recent updates were included in a memorandum from OMB, issued June 20, 2018 (memorandum M-18-18).

There are special requirements for equipment purchases!

- Any equipment purchase using federal grant funds must have prior approval, in writing, by your Program Officer. We have the request form in our resources for this presentation.
- Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.
- Equipment can only be used for grants program purposes, and must be inventoried and disposed of properly.

Procurement Procedures – Purchases over Simplified Acquisition Threshold

Purchases over Simplified Acquisition Threshold fall into three categories:

1. Sealed bid purchases over \$250,000, and
2. Competitive proposal purchases over \$250,000.
3. Non-competitive procurement, which can only be used if there is only one source for the purchase, competition was inadequate, or a written request for noncompetitive procurement was approved in advance.

Reference CFR 200.320 <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320>



Competitive proposals other than sealed bids

For sealed bid proposals over the Simplified Acquisition Threshold:

- Request proposals – publicize your request identifying all evaluation factors. Use government websites, newspapers, trade publications.
- Reach out to an adequate number of qualified sources ensuring transparency and fairness.
- Provide equal opportunity to bid and have written procedures for evaluating and selecting recipients, specified in the invitation to bid.
- Award to the lowest responsive and responsible bidder (one who can perform the contract). Price is a major factor. Document the decision.



Procurements over Simplified Acquisition Threshold other than by Sealed Bid

- Price or rate quotations must be solicited from an adequate number of qualified sources.
- The contract must be awarded to the responsible supplier whose proposal is most advantageous to the program.
- Price should be part of the consideration.
- Qualitative requirements should also be considered.
- Vendor contracts should include a statement that they have not been suspended or disbarred from doing business with any federal agency, or check the SAM.gov database)

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Other Procurement Provisions

- Procurement policies should also identify the limited exceptions to competitive bidding, such as when there is only a single source, or in case of emergency or urgent need, where health, safety or welfare is at risk, or where competition is determined to be inadequate.
- Agencies should also take affirmative steps to work with minority, veteran, and women-owned businesses, such as dividing requirements to permit participation by these organizations.
- The policy should express a preference for materials sourced in the US and goods made in the US.



General Procurement Standards Documentation

Uniform Administrative Requirements and Uniform Guidance provide procurement standards including:

- The recipient must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.
- You must maintain written standards of conduct covering conflicts of interest and governing the actions of employees engaged in the selection, award and administration of contracts.
- Periodically review and update your procurement policies to align with the latest federal guidelines.



General Procurement Standards

Conflict of Interest

- No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.
- A conflict of interest would arise when the employee, officer, agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.



General Procurement Standards

Conflict of Interest cont'd.

- The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value.
- The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.



General Procurement Standards

Reasonableness

- Procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.
- Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- The recipient is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

General Procurement Standards

Limiting Competition

No action should be taken to limit competition such as:

- Conflicts of interest
- Placing unreasonable requirements on firms in order for them to qualify,
- Requiring unnecessary experience or excessive bonding,
- Specifying a brand name, or
- Any arbitrary action in the procurement process.



General Procurement Standards

Selection

Recommendation and selection should be based on cost and the following criteria (as applicable):

- skill and experience of key personnel,
- experience providing products or services to the CIL,
- demonstrated commitment to the nonprofit sector,
- information received from vendor references,
- commitment to deadlines,
- to the extent possible, preference for products and services that conserve natural resources and protect the environment.



General Procurement Standards

Record-Keeping

- Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals will be excluded from competing for such procurements.
- All solicitations should include a clear and accurate description of the technical requirements for the material, product or service to be procured.
- Documentation for purchases should be sufficient for an independent person to determine what was purchased, and for what purpose.
- Documentation should be kept for 3 years (some fiscal items may be kept for 7 years) and should demonstrate the rationale for the method of procurement, the Vendor selection and basis for the contract price and verification that the contractor is not suspended or debarred.



General Procurement Standards

Construction

- Davis-Bacon prevailing wage requirements for construction contracts must be met if required by the federal award.
- When you are addressing construction costs you must look at the ADA regulations that apply as well as your own assessment of access which may exceed ADA.

Reference: Davis-Bacon Act, As Amended

<https://www.dol.gov/agencies/whd/government-contracts/prevaling-wage-resource-book/db-wage-determinations#DBA>

CIL Financial Management Resources

- Consider contacting IL T&TA Center or your ACL Program Officer for additional guidance.
- IL-NET Financial Management for CILs <http://www.ilru.org/topics/cil-financial-management>
 - If you do not find the material at this link, you can locate documents on ILRU.org by either using the link “CIL Financial Management” on the Browse by Topic navigation bar or by searching for “financial management.”
- The ACL website contains “Guidance for Centers for Independent Living Grantees” <https://acl.gov/programs/aging-and-disability-networks/centers-independent-living>
- General Procurement Standards <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318>



Final Thoughts

- Review the IL T&TA Center's sample procurement policy and determine whether your policy needs any updates.
- Your policy isn't a policy until your board adopts it and documents adoption.
- Your policy won't be followed unless individuals responsible for procurement are familiar with it. Schedule training and periodic training updates.
- A review will compare your compliance with your own policy as well as the regulations.



Evaluation

Thank you for participating in today's training.

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Contact Information

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 www.ILTTACenter.org

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Independent Living Training and Technical Assistance Center

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The IL T&TA Center provides **expert training and technical assistance** to Centers for Independent Living (CILs), State Independent Living Councils (SILCs), and Designated State Entities (DSEs).

The Center is operated by the University of Montana's **Rural Institute for Inclusive Communities**.

