



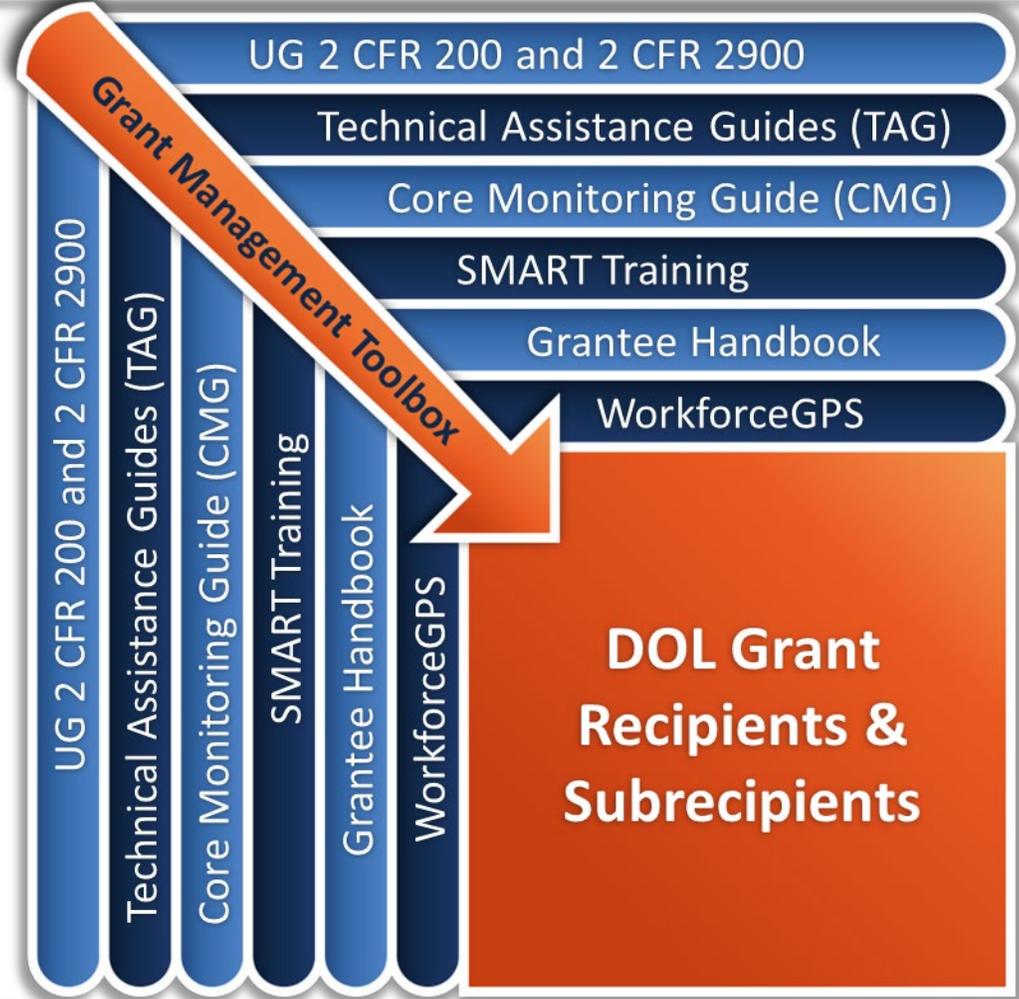
# Procurement and Contract Administration

## **SMART 3.0 Training**

June 2019



# Grant Management Toolbox



# ✔ Grant Management Toolbox References

[SMART Training](#)



SMART

[Core Monitoring Guide](#)



CMG

[Technical Assistance Guides](#)



TAG

[ETA Grantee Handbook](#)



Grantee  
Handbook

[WorkforceGPS Resources](#)



GPS

## ✓ Module Overview

- ✓ Laws, Rules, and Guidance
- ✓ Applicability of Procurement Standards
- ✓ General Procurement Standards
- ✓ Conflict of Interest
- ✓ Procurement Methods
- ✓ Procurement Process - 5 Phases
- ✓ Contract Elements



## ✓ Law, Regulations & Guidance

- ✓ Uniform Guidance Procurement Standards
  - ▶ [2 CFR 200.317-200.326](#)
- ✓ Workforce Innovation and Opportunity Act
  - ▶ [WIOA Sec. 121\(d\) and 183 \(a\)\(3\)](#)
  - ▶ [20 CFR 683.200\(c\)\(4\)](#) and [20 CFR 678.600-635](#)
- ✓ Competitive Selection of One-Stop Operators TEGL
  - ▶ [TEGL No. 15-16](#)
- ✓ FAQ's
  - ▶ [Uniform Guidance FAQs](#)
  - ▶ [WIOA One-Stop Operator Competition FAQs](#)





# Applicability of Procurement Standards

- ✓ Applicability to grants and cooperative agreements
- ✓ Contractor vs. subrecipient
- ✓ State vs. other non-Federal entities
- ✓ Profit provisions

## Applicability

- ✓ All portions of guidance apply to grants and cooperative agreements
- ✓ Applies to non-Federal entities that receive a grant, an agreement, or subaward
- ✓ States must follow the same policies and procedures it uses for procurements from its non-Federal funds

# Contracts

## ✓ Contract

- ▶ Does not include subawards
- ▶ Legal instrument used to purchase property or services needed either to carry out a project, program or for the entities own use and consumption.

## ✓ Contractor

- ▶ Entity that receives a contract
- ▶ Replaces the term “vendor”

## Subawards

- ✓ Subaward - Award provided by a pass-through entity (a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program) to a subrecipient
- ✓ Subrecipient
  - ▶ Non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program

# Subrecipient vs. Contractor

## Subrecipient

- ✓ Determines who is eligible to receive what Federal assistance
- ✓ Performance is measured by whether objectives of Federal program are met
- ✓ Has responsibility for programmatic decision making
- ✓ Responsible for adhering to applicable Federal program requirements
- ✓ Uses Federal funds to carry out a program for a public purpose
- ✓ Funded by a subaward

## Contractor

- ✓ Provides similar goods or services to many different purchasers
- ✓ Provides the goods and services within normal business operations
- ✓ Provides goods or services that are ancillary to the operation of the Federal program
- ✓ Not subject to the compliance requirements of the Federal program
- ✓ Provides goods and services for the non-Federal entity's own use, creating a procurement relationship
- ✓ Funded by a procurement contract

## ✓ Selection of Subrecipients

What guides the selection of subrecipients when a competitive procurement process is not required?

- ✓ Internal Controls System [2 CFR 200.303](#)
  - ▶ Written procedures
  - ▶ Conflict of interest provisions
- ✓ Service provider's track record [2 CFR 200.331\(b\)](#)
  - ▶ Past record of performance
  - ▶ Cost principles: reasonable costs
  - ▶ Past record of compliance
  - ▶ Audit and monitoring results
- ✓ Non-Federal entities must have a written method for conducting technical evaluations of the proposals and for selecting recipients [2 CFR 200.320\(d\)\(3\)](#)

*ETA recommends using a competitive procurement process when feasible*

# ✓ Procurement for Property and Services

Property

Supplies, equipment,  
building space,  
leases,

Curricula, and/or  
Intangible property

Services

Auditing services,  
consultation  
services, professional  
services,

IT services, training,  
temporary or HR  
staffing, and/or

Renovation or  
repairs of leased or  
owned real property

## ✓ Applicability

- ✓ **States** must follow the **same** policies and procedures that it uses for procurement with **non-Federal funds** [20 CFR 678.605\(b\)](#) and [2 CFR 200.317](#)
- ✓ **Other non-Federal entities** must adhere to Uniform Guidance Procurement Standards at [2 CFR 200.318-326](#)

## ✓ For-profit entities

WIOA specifically allows for non-Federal entities to enter into contracts and subawards with for-profit entities, for example:

- ✓ One-stop operators
- ✓ Service providers
- ✓ Eligible training providers
  - ▶ May earn a profit
    - › Fair and reasonable profit negotiated as separate item of cost

## ✓ Profit – Allowable?

### Uniform Guidance

- ✓ For all other programs, [2 CFR 200.400\(g\)](#) prohibits earning and retaining profit on Federal financial assistance unless expressly authorized by the terms and conditions of the Federal award.

### WIOA

- ✓ At [20 CFR 683.295](#) and programs authorized by WIOA under secs. [121\(d\)](#), [122\(a\)](#), and [134\(b\)](#) allows awardees of Federal financial assistance, such as one-stop operators, service providers, or Eligible Training Providers, to earn profit. The pass-through entity must follow [2 CFR 200.323](#) to assess reasonableness.

## ✓ For-Profit One-Stop Operators

- ✓ Entities selected and serving as one-stop operators are subrecipients of a Federal award and thus are required to follow the Uniform Guidance ([2 CFR part 200](#)) and DOL's exception ([2 CFR part 2900](#))
- ✓ In [20 CFR 683.295\(a\)\(2\)](#), ETA requires for-profit entities that are one-stop operators to follow [2 CFR 200.323](#) on earning and negotiating a profit.
- ✓ The entity conducting the competition must ensure that the entity's charges for profit are reasonable and fair.

## ✓ Profit or Incentive

- ✓ Negotiate as a separate element from price
  - ▶ When there is no price competition
  - ▶ In all cases where cost analysis is performed
- ✓ Profit considerations
  - ▶ Complexity of work performed
  - ▶ Risk borne by contractor
  - ▶ Contractor's investment
  - ▶ Amount of subcontracting
  - ▶ Quality of past performance
  - ▶ Industry profit rate in surrounding area for similar work
- ✓ Federal Acquisition Regulations (FAR) suggests less than 10 percent
- ✓ Department of Health and Human Services (HHS) limits profit to 8 percent

*CMG Indicator 2.d.4: Cost or Price Analysis*



## ✔ Profit or Incentive (cont.)

### **Governmental Entities**

- ✔ Awards with must be on a cost reimbursement basis,
  - ▶ Profit is not allowable under those agreements.

### **Non-profit organizations**

- ✔ Revenue in excess of costs
  - ▶ Must be treated as program income and used for allowable purposes under the award.
  - ▶ May not be retained by the organization as profit.

## Knowledge Check 1 – Questions

### True or False?

1. UG procurement standards apply to both contracts and subawards.
2. A **contract** is a legal instrument used to purchase goods or services needed to carry out the project or program.
3. All non-Federal entities must follow the UG procurement standards at [2 CFR 200.318-326](#).
4. Non-Federal entities must negotiate profit with for-profit One-stop operators as a separate item of cost when there is no price competition or when cost analysis is required.

## Knowledge Check 1 – Answers

1. UG procurement standards apply to both contracts and subawards. **False**
2. A **contract** is a legal instrument used to purchase goods or services needed to carry out the project or program. **True**
3. All non-Federal entities must follow the UG procurement standards at [2CFR 200.318-326](#). **False**
4. Non-Federal entities must negotiate profit with for-profit One-stop operators as a separate item of cost when there is no price competition or when cost analysis is required. **True**



# General Procurement Standards

- ✓ Written procurement policies and procedures
- ✓ Full and open competition
- ✓ Prohibitions
- ✓ Transparency and responsibilities
- ✓ Recordkeeping
- ✓ Special Conditions

# General Procurement Standards

## ✓ *Written Policies and Procedures*

**Non-Federal entities are required to have the following written procurement policies and procedures in place.**

- ✓ Contract administration system [2 CFR 200.318\(b\)](#)
  - ▶ Including procedures to ensure that sufficient records are maintained
- ✓ A written code of conduct for employees engaged in the award and administration of contracts [2 CFR 200.318\(c\)\(1-2\)](#)
- ✓ Procedures that avoid purchase of unnecessary or duplicate items, including analysis of lease versus purchase alternatives [2 CFR 200.318\(d\)](#)
- ✓ A process that promotes the use of intergovernmental agreements [2 CFR 200.318\(e\)](#)
- ✓ A process to ensure that purchases are made only to responsible contractors with the ability to perform successfully

# General Procurement Standards

## ✓ *Written Policies and Procedures (cont.)*

- ✓ Documentation of each of the significant steps followed in making an award.
- ✓ Mandatory disclosure of violations
- ✓ A settlement process whereby recipients and subrecipients are solely responsible for the settlement of all procurement actions, including those related to source evaluation, protests, claims, and disputes
- ✓ Protest procedures to handle disputes related to both award and administration of contracts
- ✓ Small, minority, women's, and labor surplus businesses: For procurement actions, the Uniform Guidance requires that all necessary affirmative steps be taken to assure that small, minority, women's, and labor surplus area businesses are used whenever possible [2 CFR 200.321](#)

## ✓ Small, Minority, Women's, Labor Surplus Area Businesses

**Must take all necessary affirmative steps to assure that small, minority, women's and labor surplus area firms are used whenever possible, to include:**

- ✓ Placing qualified businesses on solicitation lists
- ✓ Soliciting them whenever they are potential sources
- ✓ Dividing total requirements into smaller tasks or quantities when economically feasible
- ✓ Establishing delivery schedules to encourage their participation
- ✓ Using services of SBA and MBDA of Dept. of Commerce
- ✓ Requiring prime contractor to take these same steps

## General Procurement Standards

### **KEEP IN MIND** – Written Procurement and Purchasing Policies and Procedures must:

- ✓ Be sound, efficient, fair, and cost-effective
- ✓ Identify the different procurement methods
- ✓ Identify the phases or stages of a procurement process
- ✓ Outline history and recordkeeping requirements
- ✓ Define individuals with authority to initiate and approve actions
- ✓ Outline ethical practices

# General Procurement Standards

## ✓ *Full and Open Competition Restrictions*

- ✓ Placing unreasonable requirements on firms in order for them to qualify to do business
- ✓ Requiring unnecessary experience and excessive bonding
- ✓ Noncompetitive pricing practices between firms or between affiliated companies
- ✓ Noncompetitive contracts to consultants that are on retainer contracts
- ✓ Organizational conflicts of interest
- ✓ Specifying only a “brand name” product instead of allowing “an equal” product
- ✓ Any arbitrary action in the procurement process

# General Procurement Standards



## *Full and Open Competition*

- ✓ To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers.
- ✓ For small purchase procedures price or rate quotations must be obtained from an adequate number of qualified sources.
- ✓ Written procedures must allow for sufficient time for all phases of the procurement process to be carried out in a manner that does not unduly restrict competition.

# General Procurement Standards



## *Prohibited Restrictions*

- ✓ Geographic preferences;
  - ▶ Offerors and bidders may come from different zip codes and cities outside of the local area.
    - › However, one-stop operator must be located in the local area in order to carry out its functions and responsibilities as an operator.
- ✓ Outdated pre-qualified lists;
  - ▶ Pre-qualified lists are a result of a competitive procurement process. Review and updates to this list must be done frequently.
- ✓ Noncompetitive pricing practices;
  - ▶ Non-Federal entities cannot issue an RFP or IFB with no, or zero, funds

# General Procurement Standards

## ✓ *Transparency and Responsibility*

### ✓ Sunshine Provisions

- ▶ Requirement to make all information available to the public, auditors, and Federal reviewers. [WIOA secs. 107\(e\) and 101\(g\)](#)

### ✓ Responsible Entities

- ▶ Awards must be made only to responsible entities that possess the ability to successfully perform under the terms and conditions of the proposed procurement.
- ▶ Consideration must be given to the entity's integrity, compliance with public policy, record of past performance, and financial and technical resources. [2 CFR 200.318\(h\)](#)
- ▶ Entities must not be debarred, suspended, or otherwise excluded from or made ineligible for participation in Federal assistance programs or activities. [2 CFR 200.213](#)

# General Procurement Standards

## Recordkeeping

- ✓ Documentation must be retained for all phases of the competitive procurement process.
  - ▶ The Uniform Guidance at [2 CFR 200.318\(i\)](#) requires the maintenance of records sufficient to detail the history of procurement.
- ✓ In the case of the one-stop operator, WIOA regulations at [20 CFR 678.605\(d\)](#) require entities conducting the competition to prepare written documentation explaining the determination concerning the nature of the competitive process followed in the selection of the one-stop operator
  - ▶ Local or State Boards have to document carefully the decision to select or not select a proposal.

# General Procurement Standards

## ✓ Recordkeeping (cont.)

- ✓ Documentation is **key** to ensure that the procurement process is transparent and objective.
- ✓ Standards for documentation are **high** if the procurement results in a sole source selection.
- ✓ Procurement history file should contain, at a minimum:
  - ▶ All proposals/ bids received
  - ▶ Ratings of those proposals
  - ▶ Rationale for the method of procurement
  - ▶ Selection of agreement or contract type
  - ▶ Selection or rejection of proposals/bids
  - ▶ Appeals and disputes
  - ▶ And the basis for the contract price

# Special Considerations – Applicable to WIOA Procurements and Agreements

## General Requirements

- ✓ The local workforce investment plan must contain a description of the competitive process used to award grants and contracts under all programs funded under WIOA title I.
- ✓ The procurement requirements addressed in this presentation do not apply to the identification of Eligible Training Providers.

# Special Considerations – Applicable to WIOA Procurements and Agreements (cont.)

## ✓ WIOA Youth Service Providers

- ▶ When subrecipients or contractors are chosen to provide WIOA youth program services, they must be selected on a competitive basis. (ETA also encourages the use of competitive procurement processes to select all service providers.)

## ✓ One-Stop Operators

- ▶ Local WDBs are required by WIOA to use a competitive process for the selection of one-stop operators for the system.
- ▶ Local WDBs must support continuous improvement through the evaluation of one-stop operator performance.
- ▶ Re-competition of one-stop operators every four years is required.
- ▶ In situations in which the outcome of the competitive selection process is the selection of the Local WDB itself as the one-stop operator, the Governor and CEO must approve the selection.

## Knowledge Check 2 – Questions

### True or False?

1. All procurements should be conducted to promote full and open competition.
2. Local WDBs are required by WIOA to use a competitive process for the selection of one-stop operators and youth service providers.
3. ETA encourages the use of competitive procurement processes for the selection of all service providers.
4. Non-Federal entities may award sole-source contracts to consultants that are on retainer contracts.

## Knowledge Check 2 – Answers

1. All procurements should be conducted to promote full and open competition. **True**
2. Local WDBs are required by WIOA to use a competitive process for the selection of one-stop operators and youth service providers. **True**
3. ETA encourages the use of competitive procurement processes for the selection of all service providers. **True**
4. Non-Federal entities may award sole-source contracts to consultants that are on retainer contracts. **False**



# Conflict of Interest

- ✓ Conflict of Interest – WIOA
- ✓ Conflict of Interest – Uniform Guidance

## Conflict of Interest - WIOA

### [20 CFR 683.200\(c\)\(5\)](#)

In addition to the requirements at [2 CFR 200.318](#) which address codes of conduct and conflict of interest the following applies:

- ✓ (i) A State WDB member, Local WDB member, or WDB standing committee member **must neither cast a vote on, nor participate in any decision-making capacity**, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member of that member's immediate family."

## ✓ Conflict of Interest – WIOA (cont.)

### 20 CFR 683.200 (c)(5)

- ✓ ii) Neither membership on the State WDB, the Local WDB, or a WDB standing committee, nor the receipt of WIOA funds to provide training and related services, by itself, violates these conflict of interest provisions.
- ✓ (iii) In accordance with the requirements of 2 CFR 200.112, **recipients** of Federal awards **must disclose in writing** any potential conflict of interest to the Department. Subrecipients must disclose in writing any potential conflict of interest to the recipient of grant funds.

# ✔ Conflict of Interest – Uniform Guidance

- ✔ Written standards of conduct to:
  - ▶ Address conflict of interest, and
  - ▶ Governing the performance of its employees engaged in the selection, award and administration of contracts [2 CFR 200.318](#)



## ✔ Conflict of Interest – Uniform Guidance (first type)

- ✔ No employee, officer, or agent must 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.

## ✔ Conflict of Interest – Uniform Guidance (second type)

- ✔ Organizational conflict of interest [2 CFR 200.318\(c\)\(2\)](#)
  - ▶ Occurs because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization
  - ▶ If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must maintain written standards of conduct covering organizational conflicts of interest.

# ✔ Conflict of Interest – Uniform Guidance (Competition)

- ✔ Contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements [2 CFR 200.319](#)

## Conflict of Interest

A much overlooked, under-estimated, yet highly prevalent factor in the execution of any responsibility or activity, where an organization is subject to incompatible demands, opportunities, incentives, or responsibilities, etc.



# Procurement Methods

- ✓ Micro-Purchase
- ✓ Small Purchase
- ✓ Sealed Bids
- ✓ Competitive Proposals
- ✓ Noncompetitive Proposals

# ✓ Methods of Procurement – Overview

## 2 CFR 200.320 Methods of procurement to be followed

- ✓ Micro-purchase (< \$10,000 effective Oct. 1, 2018)
- ✓ Small Purchase procedures (purchases between \$10\* and \$250k\* effective Oct. 1, 2018)
- ✓ Sealed bids (<\$250k)
- ✓ Competitive Proposals (requests for proposals) and Sealed Bids (formal advertising such as IFBs)
- ✓ Non-Competitive Proposals (Sole Source)
- ✓ Professional or Qualifications Based Services

\*Subject to change. Thresholds are set by the Federal Acquisition Regulations ([FAR](#)) at [48 CFR Subpart 2.1](#) and [41 U.S.C 1908](#)

\*\* note that the threshold for micro-purchase and Simplified Acquisition thresholds have been updated, refer to link of [ETA memo](#) indicating this change.

## Micro-Purchases

- ✓ Acquisition of supplies or services not exceeding \$10,000 (adjusted for inflation - see Federal Acquisition Regulation at 48 CFR Subpart 2.1) in the aggregate.
- ✓ May be awarded without soliciting competitive quotations if price is reasonable.
- ✓ Distribute equitably among qualified suppliers to extent practicable.

## Small Purchases

- ✓ Informal procurement methods for securing services, supplies or other property.
- ✓ Cost is less than the Simplified Acquisition Threshold (SAT)
  - ▶ Adjusted for inflation at FAR at 48 CFR 2.1
  - ▶ Currently \$250,000 (increased from \$150,000)
- ✓ Price or rate quotations must be obtained from an adequate number of qualified sources.

## Sealed Bids

### Sealed Bids (formal advertising)

- ✓ Bids publicly solicited.
- ✓ Firm fixed price contract is awarded.
- ✓ Successful bid conforms to all material terms and conditions of the invitation for bids
  - ▶ And is lowest in price
- ✓ Preferred method for procuring construction.

# ✓ Competitive Proposals

## Requirements

- ✓ Publicize Request for Proposals (RFPs) and identify all evaluation factors
- ✓ Solicit from an adequate number of qualified sources
- ✓ Written method for evaluating and selecting proposals
- ✓ Contract awarded to responsible firm
  - ▶ Whose proposal is most advantageous
  - ▶ Price and other factors considered

# Competitive Proposals

## ✓ *Qualifications-based Procurement*

- ✓ Architectural/engineering (A/E) professional services.
- ✓ Qualifications evaluated and most qualified selected.
- ✓ Subject to negotiation of fair and reasonable compensation.



# Non-Competitive Proposals

## Sole-Source Selection:

- ✓ Non-federal entities may select a contractor through sole source selection if one or more of the following conditions apply [2 CFR 200.320\(f\)](#):
  - ▶ The item or service is available only from a single source
  - ▶ Public exigency or emergency
  - ▶ The Federal awarding agency expressly authorizes noncompetitive proposals in response to a written request
  - ▶ After solicitation of a number of sources, competition is determined inadequate

## Knowledge Check 3 – Questions

### True or False?

1. Non-Federal entities must have a written code of conduct for both personal and organizational conflicts of interest.
2. The threshold for micro-purchase is \$10,000.
3. The Simplified Acquisition Threshold for small purchase is between \$10,001 and \$150,000.
4. Non-federal entities may select a contractor through sole-source selection in case of public exigency or emergency.

## Knowledge Check 3 – Answers

1. Non-Federal entities must have a written code of conduct for both personal and organizational conflicts of interest. **True**
2. The threshold for micro-purchase is \$10,000. **True**
3. The Simplified Acquisition Threshold for small purchase is between \$10,001 and \$150,000. **False**
4. Non-Federal entities may select a contractor through sole-source selection in case of public exigency or emergency. **True**



# Competitive Procurement Process Phases

- ✓ Planning Phase
- ✓ Release and Evaluation Phase
- ✓ Negotiation and Selection Phase
- ✓ Implementation Phase
- ✓ Closeout Phase

# ✓ Phase 1: Planning

✓ Identify need and specify all parameters to be negotiated

Conduct market research

Establish parameters for timeframes and monies

Identify procurement method

Develop requirements

Develop procurement solicitation (e.g., RFP or IFB)

Develop factors for evaluation/scoring

Identify panel and signatory authority

## ✓ Phase 2: Release and Evaluation

✓ Publicize  
procurement  
solicitation

Prepare  
proposals/bids

Host bidders  
conference

Collect  
Proposals/Bids

Score or  
evaluate  
proposals

## ✓ Phase 2: Release and Evaluation (cont.)

**KEEP IN MIND** - Awards must be made only to **responsible entities** that possess the ability to successfully perform under the terms and conditions of the proposed procurement.

- ✓ When selecting the contractor, consider the following [2 CFR 200.318\(h\)](#):
  - ▶ Integrity
  - ▶ Compliance with public policy
  - ▶ Record of past performance
  - ▶ Financial stability
  - ▶ Financial and technical resources
  
- ✓ Entities must not be debarred, suspended or otherwise excluded from or made ineligible for participation in Federal programs/activities [2 CFR 200.213](#).

## ✓ Phase 3: Negotiation and Selection

✓ Negotiate performance levels

Negotiate fair and reasonable profit, if applicable

Negotiate payment details and frequency

Negotiate duration of contract, MOU or agreement and modification process

Obtain applicable authorized approval

Make offer and obtain acceptance

Execute contract, agreement, or MOU\*

## ✓ Phase 4: Implementation

### ✓ Conduct oversight and monitoring

- Use of monitoring tool/guide
- Contract administration

### Ensure timely invoices and payments

- Ensure contractors submit invoice timely to ensure accurate financial reporting
- Establish procedures to pay invoices timely to take advantage of any discounts for timely payment

### Monitor performance in accordance with performance and service deliverables

### Evaluate and approve contract or MOU modifications

## ✓ Phase 5: Closeout

- ✓ Reconcile costs and payments
  - Includes advances

Reconcile performance goals with actual performance

Ensure participant and financial records are secured and retained

- Safeguard personally identifiable information (PII)
- Record retention requirements apply

Prepare closeout documents



# Essential and Additional Elements of a Contract, Agreement or MOU



## Essential Elements

- ✓ **Offer:** A conditional promise made by the offeror to the offeree giving the offeree the ability to accept.
- ✓ **Acceptance:** An unconditional agreement with the terms of the offer.
- ✓ **Consideration:** the giving of something of value in return for something of value.
- ✓ **Authorized officials and purpose:** Persons authorized to enter into and sign legally binding agreements and must be on record as the signatory official. Signatures of both the offeror/bidder and offeree must be contained as part of the written contract. The purpose of the contract should be legal and authorized, and contract performance must occur during an authorized period of time.

## Additional Elements

A contract should be well organized and easily understood and should include:

Essential terms and conditions required by Federal and State/local statutes

Statement of Work (SOW)

Specific period of performance

Schedule/timetable of deliverables

Payment terms

Written contract (signed by both parties)

## ✓ Essential Terms and Conditions

- ✓ Either required by the State, local area, or the Federal agency as National, State, or local policy requirements
- ✓ Identify that the other party is a subrecipient of Federal funds
- ✓ Include terms that adhere to requirements found in:
  - ▶ WIOA
  - ▶ Uniform Guidance [2 CFR part 200](#)
  - ▶ OMB's approved exceptions for DOL [2 CFR part 2900](#)
  - ▶ Grant terms and conditions

## ✓ Statement of Work (SOW)

- ✓ The “heart of the agreement/contract/MOU”
- ✓ The SOW specifies the services to be performed. Should identify:
  - ▶ “What” they must do
    - › Schedule of deliverables, records to be maintained, and reports to be submitted
  - ▶ “When” – Period of performance, hours of operation, payment terms
  - ▶ “Where” - Identify grant performance locations
  - ▶ “How” – Budget and performance measures to reach satisfactory levels
  - ▶ “Who” - Participants to be served

## ✓ Specific Period of Performance

- ✓ The SOW specifies the period of performance or the start and end dates of the contract.
- ✓ Holds the contractor accountable for deadlines.



## Schedule of Deliverables

- ✓ May include an itemized list of program deliverables expected to be delivered.
- ✓ Coordinate with other service providers and partner programs.
- ✓ Having a schedule/timetable for delivery of services/products holds the contractor accountable for performance.

# ✓ Payment Terms

- ✓ Outlines:
  - ▶ Type – advance or reimbursement
  - ▶ Frequency
  - ▶ Submission of supporting documentation
  - ▶ Other payment-related information



## ✓ Written Contracts (signed by both parties)

- ✓ Signatures of the offeror and offeree must be contained as part of the written contract.
- ✓ Having written contracts prevents any misunderstanding as to the contract purpose, price, deliverables, period of performance, essential terms and conditions, method of billing and payment, etc.
- ✓ If authorized personnel for modifications/amendments to the contract are different than personnel who signed the original contract, those individuals need to be identified in the contract as well.

## Module Summary

- ✓ States must follow their own procurement procedures, whereas, all other non-Federal entities follow the Uniform Guidance procurement procedures at [2 CFR 200.317-326](#).
- ✓ For-profit entities are included in the definition of non-Federal entities for DOL programs by DOL exception [2 CFR 2900.2](#).
- ✓ Uniform Guidance procurement standards apply to contracts, however pass-through entities are encourage to use procurement standards when selecting subrecipients.
  - ▶ With the exception of one-stop operators, it is required to competitive procure these entities
- ✓ Procurement history files must be retained to ensure that the files are complete and contain the necessary disclosures, signatures, dates, and performance metrics.

# Core Monitoring Guide – Objective 2.d Procurement and Contract Administration

- ✓ **Indicator 2.d.1: Procurement Standards**
  - ▶ Does the grant recipient conduct procurement activities in a manner that promotes full and open competition and is not restrictive of competition?
- ✓ **Indicator 2.d.2: Competition**
  - ▶ What is the grant recipient's process for procurement activities?
- ✓ **Indicator 2.d.3: Methods of Procurement**
  - ▶ For the purchase of goods and/or services, did the grant recipient appropriately use one of the procurement methods outlined above?
- ✓ **Indicator 2.d.4: Cost or Price Analysis**
  - ▶ Are the amounts paid consistent with the terms of the agreement?
- ✓ **Indicator 2.d.5: Contract Administration**
  - ▶ Does the grant recipient have a boilerplate contract or subrecipient format?



# SMART Checklist

## Procurement, Contracts, and Leases

- For States only, ensure that it follows the same policies and procedures that it uses for procurement with non-Federal funds are used for Federal funds. For all other grant recipients, update documented policies and procedures to conform to applicable Federal laws and the procurement standards identified in the Uniform Guidance.
- Incorporate or develop policies on the expanded (real, apparent, and organizational) conflict of interest requirements found in the Uniform Guidance.
- Update or develop policies that are reflective of the methods of procurement contained in the Uniform Guidance and the requirements of the program that would include: a) micro-purchases; b) small purchases; c) sealed bids/ formal advertising; d) procurement by competitive proposals; e) noncompetitive purchases (sole source); and f) professional and/or qualifications-based services.
- Update cost or price analysis on all procurement action in excess of the Simplified Acquisition Threshold, include contract modifications. The method and degrees of analysis are dependent on the procurement situation and must include independent estimates prior to receiving bids or proposals.

## SMART Checklist (cont.)

- ❑ Update contract template (boilerplate) to ensure that it contains the essential elements and requirements of the grant, including the contract provisions found in the Uniform Guidance.
- ❑ Create or update policies on the procurement history file to ensure that the five (5) phases of a competitive procurement are recorded.
- ❑ Ensure that all contracts, agreements and MOUs that are considered legal binding agreements contain the essential elements of a contract.
- ❑ Train staff to properly distinguish or determine awards or agreements made between subrecipients versus contractors.
- ❑ Routinely examine and update conflict of interest of financial disclosure forms on file of persons involved in the procurement process.



# ✓ ETA and Uniform Guidance Resources

## ✓ Core Monitoring Guide

- ▶ *Objective 2.d Procurement and Contract Administration*

## ✓ Grant & Financial Management Technical Assistance Guide

- ▶ *Chapter 6: Procurement, Contracts, and Leases*

## ✓ TEGL 15-16: Competitive Selection of One-Stop Operators

## ✓ Department of Labor Exceptions 2 CFR Part 2900

## ✓ Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR Part 200

- ▶ *2 CFR 200.90*
- ▶ *2 CFR 200.112*
- ▶ *2 CFR 200.213*
- ▶ *2 CFR 200.317-326*
- ▶ *2 CFR 200.400*

## ✓ WIOA One-Stop Operator Description 20 CFR 678.600-635

## ✓ WIOA Administrative Provisions 20 CFR 683.200



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Handbook



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# ✓ Web Resources

- ✓ What is the best way to find your local American Job Center (AJC)?

- ▶ See DOL's [Service Locator](#)

- ✓ Want More Information?

- ▶ [DOLETA.gov/Grants](https://doleta.gov/grants)

- *Funding Opportunities*
- *How to Apply*
- *Manage Your Awarded Grant*
- *Resources and Information*
  - *ETA Grantee Handbook*
  - *Annual Grant Terms Template*
  - *Core Monitoring Guide*
  - *Technical Assistance Guides*
  - *Uniform Guidance Quick Reference Sheet*

- ✓ Want More Training?

- ▶ *Workforce GPS's [Grants Application and Management Community of Practice](#)*

- *Financial Reporting*
- *Subrecipient Management and Oversight*
- *Indirect Cost Rates*
- *Policies and Procedures*
- *Procurement and Performance-Based Contracts*
- *Capital Assets and More*

- ▶ [WorkforceGPS](#)



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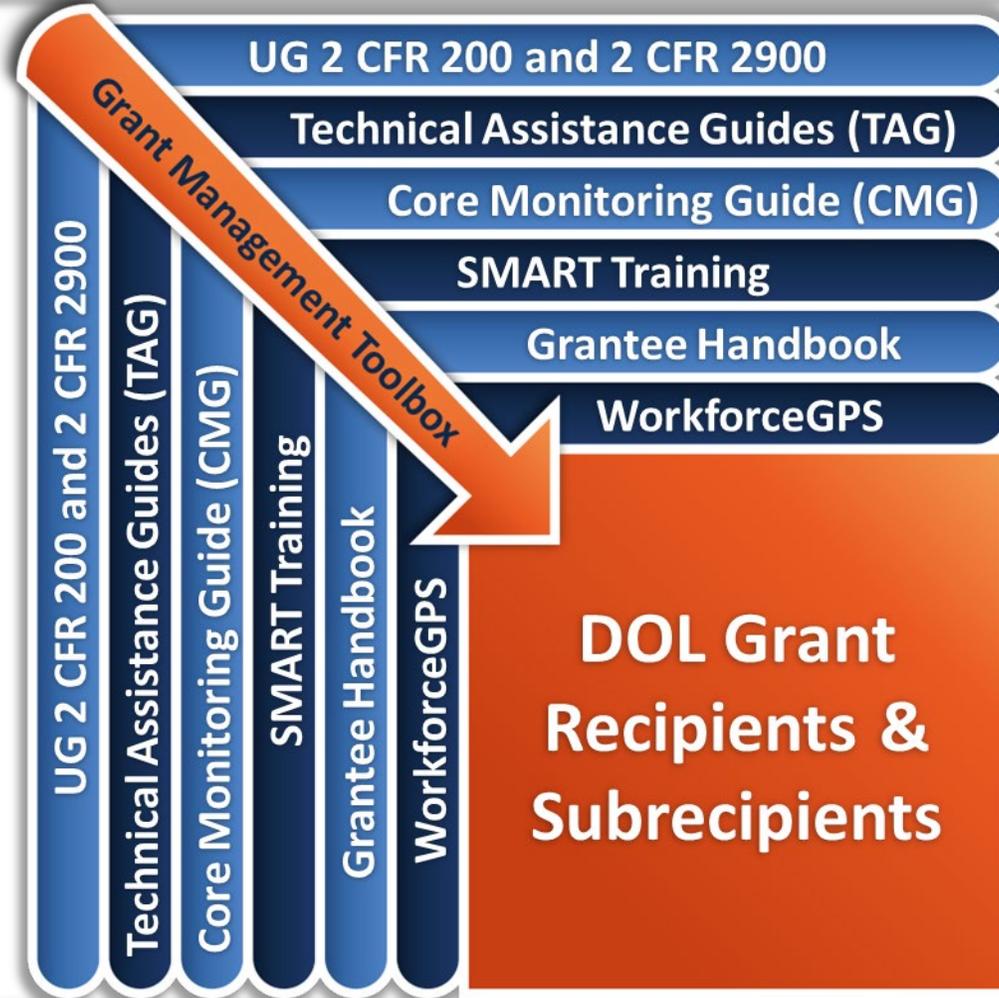
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✓ Remember the Grant Management Toolbox!



✓ Questions?



