

# Procurement Under the Uniform Guidance

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WIPFLI

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Presenter



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**Welcome**

Thank you for joining us!  
We hope today's training meets your expectations.

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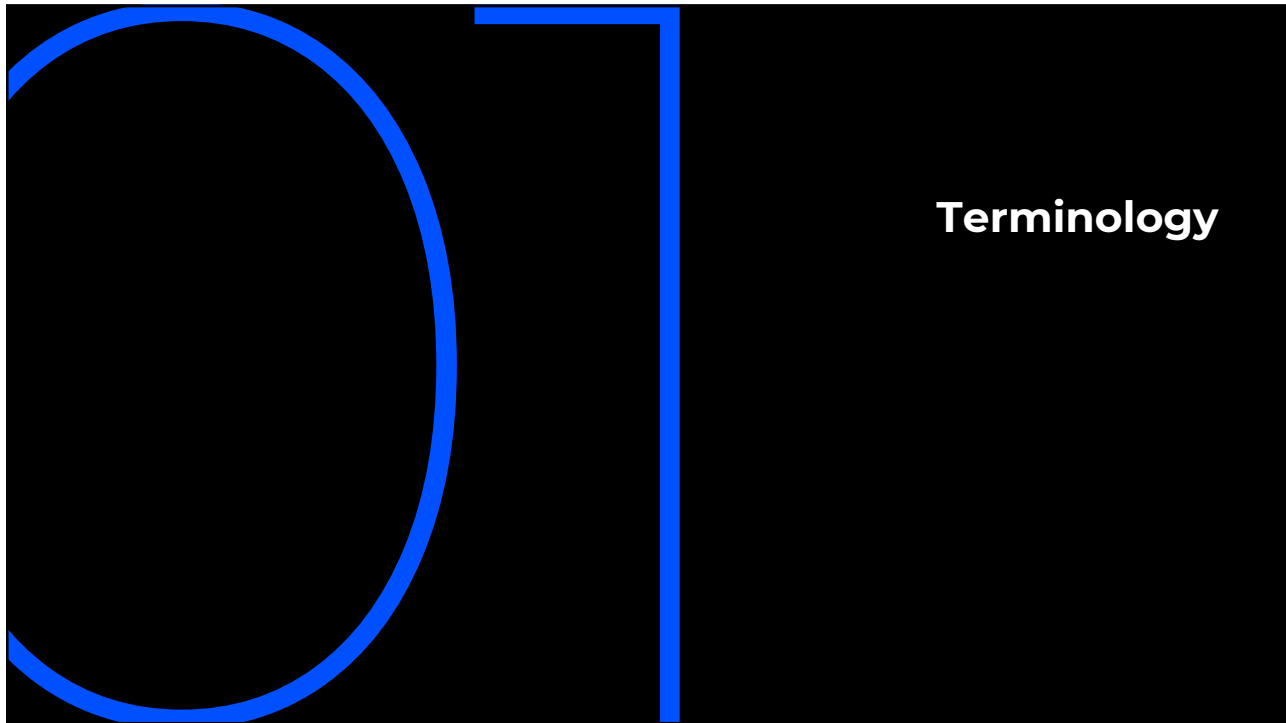
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## Agenda

Terminology	<b>01</b>
General procurement standards	<b>02</b>
Methods of procurement	<b>03</b>
Supplemental information	<b>04</b>

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## Introduction

### Procurement

Procurement is the acquisition of goods and/or services.

Proper procurement will result in goods/ services that are appropriate and procured at the best possible cost or price to meet the needs of the program in terms of quality and quantity, specifications, time and location.

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## 2 CFR 200.1 Definitions

**Contract** means, for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient conducts procurement transactions under a Federal award.

For additional information on subrecipient and contractor determinations, see §200.331. See also the definition of subaward.

**Contractor** means an entity that receives a contract.

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## 2 CFR 200.1 Definitions

**Micro-purchase** means an [individual procurement transaction](#) for supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold.

Micro-purchases comprise a subset of a recipient's or subrecipient's small purchases using informal procurement methods.

**Micro-purchase threshold** means the dollar amount at or below which a recipient or subrecipient may purchase property or services using micro-purchase procedures.

Generally, the micro-purchase threshold for procurement activities is not to exceed the amount set by the FAR at 48 CFR part 2, subpart 2.1, unless a higher threshold is requested by the recipient or subrecipient and approved by the cognizant agency for indirect costs.

[Micro-purchase threshold](#)  
[48 CFR 2.101](#)

[2 CFR 200.1](#)  
[“Cognizant agency for indirect costs”](#)

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## 2 CFR 200.1 Definitions

[48 CFR 2.101](#)  
“Simplified  
acquisition  
threshold”

**Simplified acquisition threshold** means the dollar amount below which a recipient or subrecipient may purchase property or services using small purchase methods.

Recipients and subrecipients adopt small purchase procedures to expedite the purchase of items [at or below](#) the simplified acquisition threshold (SAT). The SAT set in the FAR at 48 CFR part 2, subpart 2.1 is used for secondary procurement activities.

The [recipient or subrecipient is responsible for determining an appropriate SAT, based on internal controls, an evaluation of risk, and its documented procurement procedures.](#)

Recipients and subrecipients should also determine if local government purchasing laws apply.

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## 2 CFR 200.1 Definitions

Definitions provided to help explain difference between contracts & contractors and subawards & subrecipients.

**Subaward** means an award provided [by a pass-through entity to a subrecipient for the subrecipient to contribute to the goals and objectives of the project by carrying out part of a Federal award.](#)

It does not include payments to a contractor, beneficiary, or participant. A subaward may be provided through any form of legal agreement consistent with criteria in with §200.331, including an agreement the pass-through entity considers a contract.

**Subrecipient** means an [entity that receives a subaward from a pass-through entity to carry out part of a Federal award.](#) The term subrecipient does not include a beneficiary or participant. A subrecipient may also be a recipient of other Federal awards directly from a Federal agency.

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## 2 CFR 200.1 Definitions

**Pass-through entity** means a recipient or subrecipient that provides a subaward to a subrecipient (including lower tier subrecipients) to carry out part of a Federal program.

The authority of the pass-through entity under this part flows through the subaward agreement between the pass-through entity and subrecipient.

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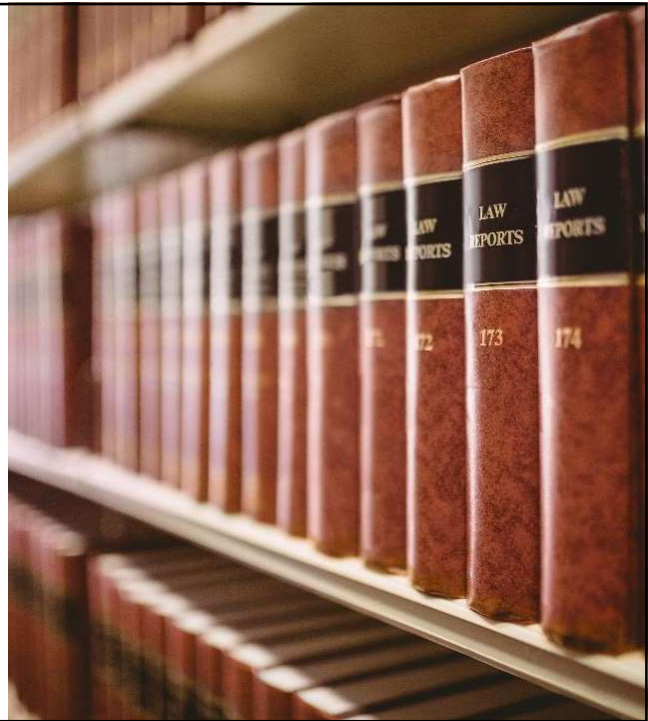
## 2 CFR 200.318 General procurement standards

### (a) Documented procurement procedures.

Must **maintain and use** documented procedures for procurement transactions under a Federal award or subaward, including acquisition of property or services.

Documented procurement procedures consistent with state, local, and tribal laws and regulations and the standards.

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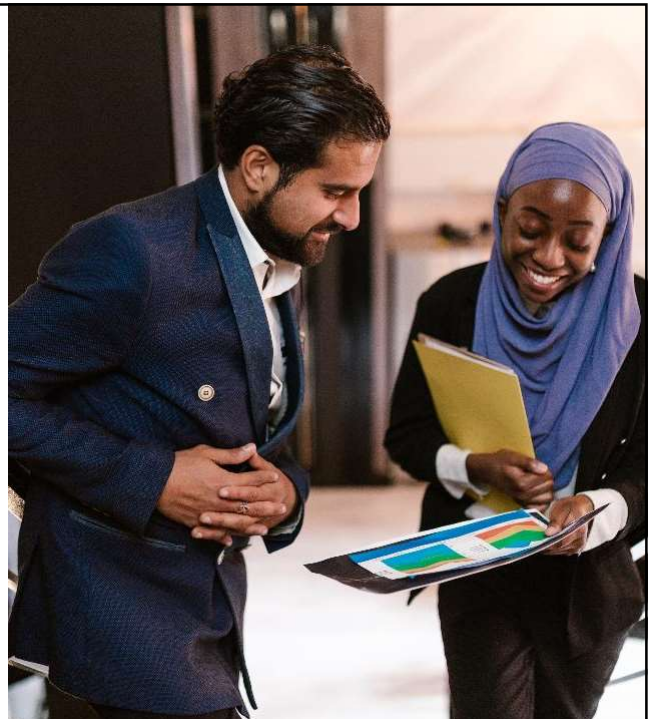
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## 2 CFR 200.318 General procurement standards

### (b) Oversight of contractors

Recipients and subrecipients **must maintain oversight** to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

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**2 CFR 200.318  
General  
procurement  
standards**

Conflict of interest  
and code of  
conduct- added  
board members

**(c) Conflicts of interest**

(1) Must **maintain written standards of conduct** covering real or apparent conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.

No employee, officer, agent, or board member with a real or apparent conflict of interest may participate in the selection, award, or administration of a contract supported by the Federal award.

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**2 CFR 200.318 General  
procurement standards**

**(c)(1) Conflicts of interest (cont.)**

A conflict of interest includes when the employee, officer, agent, or board member, any member of their immediate family, their partner, or an organization that employs or is about to employ any of the parties indicated herein, **has a financial or other interest in or a tangible personal benefit from an entity considered for a contract.**

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**2 CFR 200.318  
General  
procurement  
standards**

Conflict of interest  
and code of  
conduct- added  
board members

Nominal value  
should be defined  
in your policies

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**(c)(1) Conflicts of interest (cont.)**

An employee, officer, agent, and board member of the recipient or subrecipient **may neither solicit nor accept gratuities, favors, or anything of monetary value** from contractors.

However, the recipient or subrecipient **may set standards** for situations where the financial interest is not substantial, or a gift is an unsolicited item of **nominal value**.

The recipient's or subrecipient's standards of conduct **must also provide for disciplinary actions** to be applied for violations by its employees, officers, agents, or board members.

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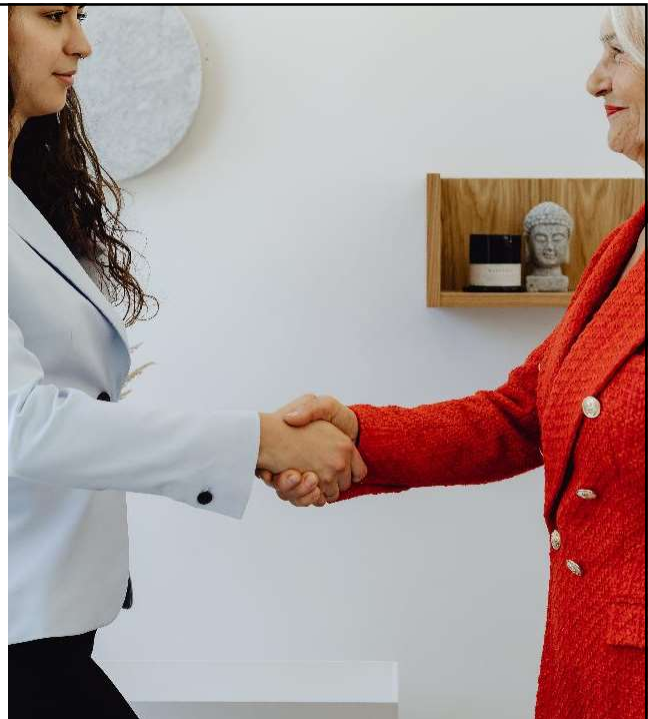
**2 CFR 200.318 General  
procurement standards**

**(c) Conflicts of interest (cont.)**

(2) If the recipient or subrecipient has a **parent, affiliate, or subsidiary organization that is not a State, local government, or Indian Tribe**, the recipient or subrecipient must also maintain written standards of conduct covering organizational conflicts of interest.

Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the recipient or subrecipient is **unable or appears to be unable to be impartial in conducting a procurement action** involving a related organization.

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**2 CFR 200.318  
General  
procurement  
standards**

**(d) Avoidance of unnecessary or duplicative items**

The recipient's or subrecipient's procedures must avoid the acquisition of unnecessary or duplicative items.

Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.

When appropriate, an analysis should be made between leasing and purchasing property or equipment to determine the most economical approach.

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**2 CFR 200.318  
General  
procurement  
standards**

**(f) Use of excess and surplus Federal property**

The recipient or subrecipient is encouraged to use excess and surplus Federal property instead of purchasing new equipment and property when it is feasible and reduces project costs.

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**2 CFR 200.318  
General  
procurement  
standards**

**(h) Responsible contractors**

Must award contracts only to responsible contractors that [possess the ability to perform successfully](#) under the terms and conditions of a proposed contract.

Consider [contractor integrity, public policy compliance, proper classification of employees, past performance record, and financial and technical resources](#).

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**2 CFR 200.318  
General  
procurement  
standards**

**(i) Procurement records**

[Must maintain records](#) sufficient to detail the history of each procurement transaction.

These records must include the rationale for the procurement method, contract type selection, contractor selection or rejection, and the basis for the contract price.

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**2 CFR 200.318  
General  
procurement  
standards**

**(k) Settlement of contractual and administrative issues**

The recipient or subrecipient is responsible for the settlement of all contractual and administrative issues arising out of its procurement transactions.

These issues include, but are not limited to, source evaluation, protests, disputes, and claims.

These standards do not relieve the recipient or subrecipient of any contractual responsibilities under its contracts. The Federal agency will not substitute its judgment for that of the recipient or subrecipient unless the matter is primarily a Federal concern.

The recipient or subrecipient must report violations of law to the Federal, State, or local authority with proper jurisdiction.

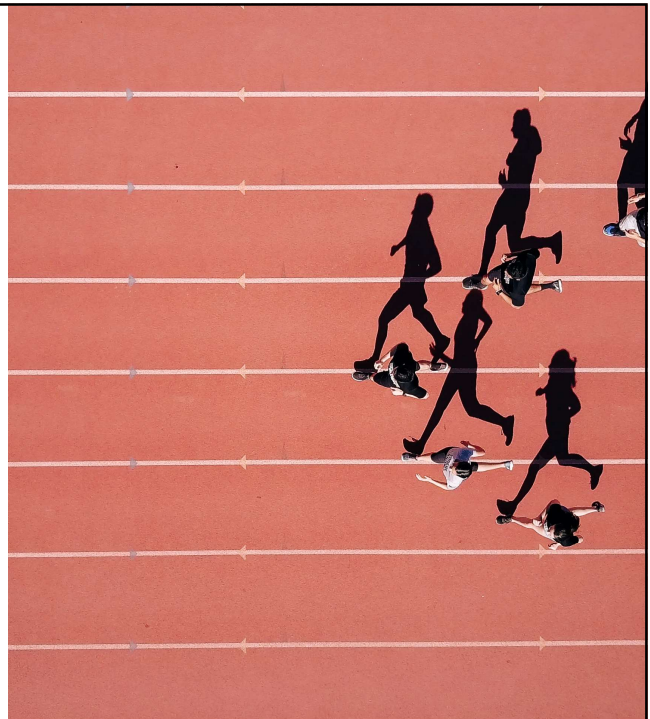
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**2 CFR 200.319 Competition**

- (a) Full and open competition
- (b) Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing

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## 2 CFR 200.319 Competition

Section  
renumbering

Removed standard  
on geographical  
preferences

Geographical  
preferences must  
be consistent with  
governing law  
outside of 2 CFR  
200

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### (c) Examples of situations that may restrict competition

- (1) Placing unreasonable requirements qualify to do business
- (2) Requiring unnecessary experience and excessive bonding
- (3) Noncompetitive pricing practices
- (4) Noncompetitive contracts to consultants on retainer
- (5) Organizational conflicts of interest
- (6) Specifying only a “brand name” product
- (7) Any arbitrary action in the procurement process.

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## 2 CFR 200.319 Competition

### (d) Must have written procedures for procurement transactions

These procedures must ensure that all solicitations:

- (1) Exclude contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals
- (2) Incorporate a clear and accurate description of the technical requirements for the property, equipment, or service being procured.
- (3) Identify any additional requirements which the offerors must fulfill and all other factors that will be used in evaluating bids or proposals

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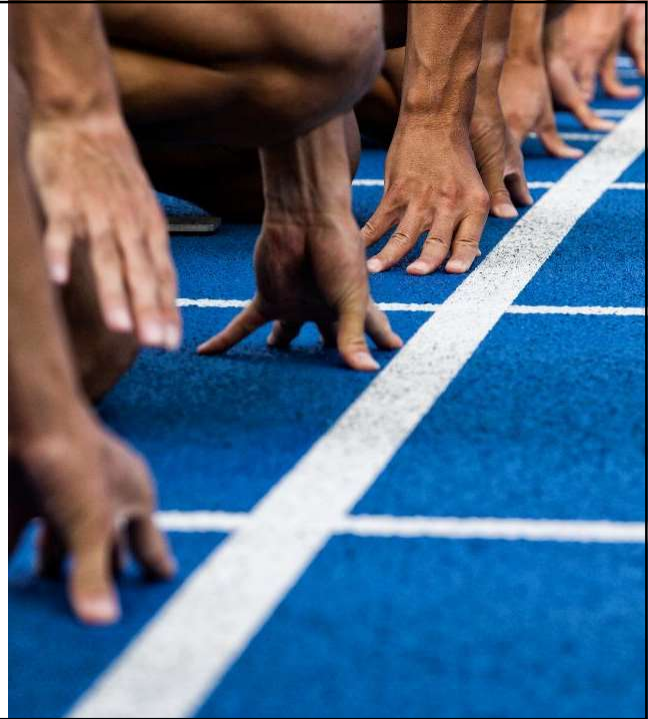
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## 2 CFR 200.319 Competition

### (e) Prequalified sources

- Must ensure lists are **current** and include **enough qualified sources** to ensure maximum open competition
- **When establishing or amending lists, must consider objective factors that evaluate price and cost to maximize competition**
- Must not prevent potential bidders from qualifying during solicitation period

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## 2 CFR 200.319 Competition

NEW  
REGULATION

Any geographical preferences or scoring mechanisms must also be consistent with established practices and legal requirements

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### (f) Scoring mechanism

- Not prohibited from developing written procedures for procurement transactions that incorporate a **scoring mechanism** that rewards bidders that commit to **specific numbers and types of U.S. jobs**, minimum compensation, benefits, on-the-job-training for employees making work products or providing services on a contract, and other worker protections.
- Not prohibited from making inquiries of bidders about these subjects and assessing the responses.
- Any scoring mechanism must be consistent with the U.S. Constitution, applicable Federal statutes and regulations, and the terms and conditions of the Federal award.

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# 03 Methods of procurement

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**2 CFR 200.320 Procurement Methods**

(a) Informal procurement methods	(b) Formal procurement methods	(c) Noncompetitive
<ul style="list-style-type: none"><li>Up to the simplified acquisition threshold<ul style="list-style-type: none"><li>See definitions</li><li>Or a lower threshold established by the recipient or subrecipient</li></ul></li><li>Expedite the completion of transactions and minimize the administrative burden</li></ul>	<ul style="list-style-type: none"><li>Over the simplified acquisition threshold (SAT)<ul style="list-style-type: none"><li>See definitions</li><li>Or a lower threshold established by the recipient or subrecipient</li></ul></li><li>Follow documented procedures</li><li>Public solicitation</li></ul>	<ul style="list-style-type: none"><li>Specific circumstances</li><li>1 or more apply</li></ul>

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## 2 CFR 200.320 Procurement methods

(a) Informal procurement methods for small purchases

(1) Micro-purchase

(i) Distribution

- Aggregate amount does not exceed micro-purchase threshold
  - See 200.1 for definition of threshold
- To the extent practicable, should distribute equitably among qualified suppliers

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## 2 CFR 200.320 Procurement methods

### (a) Informal procurement methods for small purchases (cont.)

(1) Micro-purchase (cont.)

(ii) Awards

- May be awarded **without competitive quotes** if price is considered **reasonable** based on research, experience, purchase history, or other information
- Maintains **documents** to support its conclusion
- Purchase cards **may be used as a method of payment**

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**2 CFR 200.320  
Procurement  
methods**

**(a) Informal procurement methods for  
small purchases (cont.)**

- (1) Micro-purchase (cont.)
  - (iii) Thresholds
    - Responsible for determining and documenting an appropriate micro-purchase threshold based on
      - internal controls
      - an evaluation of risk, and
      - documented procurement procedures
    - Threshold must be authorized (not exceed FAR limit) or not be prohibited under State, local, or tribal laws or regulations
    - May establish a threshold higher than the threshold established in the Federal Acquisition Regulations (FAR)

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**2 CFR 200.320  
Procurement  
methods**

**(a) Informal procurement methods for  
small purchases (cont.)**

Threshold  
determined based  
on

- internal controls
- an evaluation of risk, and
- documented procurement procedures

- (1) Micro-purchase (cont.)
  - (iv) Threshold **increase up to \$50,000**
    - May establish a threshold higher than the micro-purchase threshold identified in the FAR
    - May self-certify a threshold up to \$50,000 on an annual basis
      - Must maintain documentation to be made available to the Federal agency or pass-through entity and auditors

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**2 CFR 200.320  
Procurement  
methods**

**(a) Informal procurement methods for  
small purchases (cont.)**

- (1) Micro-purchase (cont.)
  - (iv) Threshold **increase up to \$50,000** (cont.)
    - May self-certify (cont.)
      - Self-certification must include **a justification, clear identification of the threshold, and supporting documentation of any of the following:**
        - (A) A qualification as a low-risk auditee for the most recent audit
        - (B) Annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
        - (C) For public institutions, a higher threshold is consistent with State law.

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**2 CFR 200.320  
Procurement  
methods**

**(a) Informal procurement methods for  
small purchases (cont.)**

- (1) Micro-purchase (cont.)
  - (v) Threshold **over \$50,000**
    - Must be approved by the cognizant agency for indirect costs
    - Must submit a request that includes justification
      - (see previous slides)
    - Approved increase threshold is valid until changes occur to any factor or rationale relied on to set the threshold.

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## 2 CFR 200.320 Procurement methods

### (a) Informal procurement methods for small purchases (cont.)

(1) Micro-purchase (cont.)

**(iii), (iv), and (iv) summary:**

≤\$10,000	\$10,000 - \$50,000	>\$50,000
<ul style="list-style-type: none"><li>• 48 CFR 2.1</li><li>• 200.1 Definitions – micro-purchase threshold</li></ul>	<ul style="list-style-type: none"><li>• Annual self certification</li><li>• Must maintain documentation to justify</li></ul>	<ul style="list-style-type: none"><li>• Cognizant agency approval</li><li>• Submit request with supporting documentation of the requirements met and justification</li></ul>

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## 2 CFR 200.320 Procurement methods

(a) Informal procurement methods for small  
purchases

(2) Simplified acquisitions

(i) Procedures

- Aggregate amount exceeds [internal] micro-purchase threshold, but does not exceed the simplified acquisition threshold
- Price or rate quotes must be obtained from an **adequate number of qualified sources**
- Recipient or subrecipient **determines adequate number**, unless specified by the Federal agency

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## 2 CFR 200.320 Procurement methods

Terminology  
change-  
small purchase =>  
simplified  
acquisitions

[2 CFR 200.1](#)  
“[Simplified  
acquisition  
threshold](#)”

## (a) Informal procurement methods for small purchases (cont.)

(2) Simplified acquisitions (cont.)

(ii) Thresholds

- Recipient or subrecipient is **responsible** for determining an appropriate simplified acquisition threshold
- May be lower than, but must not exceed, the threshold established in the FAR



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## 2 CFR 200.320 Procurement methods

(b) Formal procurement methods

- Required when a Federal award exceeds the recipient's or subrecipient's simplified acquisition threshold
- Competitive and requires public notice

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**2 CFR 200.320  
Procurement  
methods**

**(b) Formal procurement methods (cont.)**

(1) Sealed bids

- Publicly solicited through an invitation
- Firm fixed-price contract (lump sum or unit price) award to responsible bidder whose bid conforms with all material terms and conditions of the invitation and is the lowest in price
- Preferred for procuring construction services

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**2 CFR 200.320  
Procurement  
methods**

**(b) Formal procurement methods (cont.)**

(1) Sealed bids (cont.)

- (i) For sealed bids to be feasible, the following conditions should be present:
- (A) Complete, adequate, and realistic specification or purchase description
  - (B) Two or more responsible bidders have been identified as willing and able to compete effectively for the business
  - (C) Procurement lends itself to a firm-fixed-price contract and selection of successful bidder can be made principally based on price

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**2 CFR 200.320  
Procurement  
methods**

Removed  
requirement for  
tribal entities to  
publicly advertise

**(b) Formal procurement methods (cont.)**

- (1) Sealed bids (cont.)
  - (ii) If sealed bids are used, the following apply
    - (A) Bids must be solicited from **adequate number** of qualified sources
      - Provide **sufficient response time** prior to opening of bids
      - May exercise **judgment on adequate number**, unless specified by Federal agency
      - Local governments – invitation for bids must be **publicly advertised**

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**2 CFR 200.320  
Procurement  
methods**

Removed  
requirement for  
tribal entities to  
publicly open  
bids

**(b) Formal procurement methods (cont.)**

- (1) Sealed bids (cont.)
  - (ii) If sealed bids are used, the following apply (cont.)
    - (B) Invitation must define the items or services with **specific information**, including any required specifications
    - (C) All bids will be **opened** at the time and place prescribed in the invitation for bids
      - Local governments- the bids must be **opened publicly**
    - (D) Firm-fixed-price contract awarded in writing to the **lowest responsive bid and responsible bidder**

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**2 CFR 200.320  
Procurement  
methods**

**(b) Formal procurement methods (cont.)**

(2) Proposals

- Used when conditions are **not appropriate for using sealed bids**
- May result in **either** a fixed-price or cost-reimbursement contract
- Requirements:
  - (i) **Public notice** with all evaluation factors and relative importance
    - Must be solicited from **multiple qualified entities**
    - Consider all submitted proposals to maximum extent

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**2 CFR 200.320  
Procurement  
methods**

**(b) Formal procurement methods (cont.)**

(2) Proposals (cont.)

- Requirements (cont.)
  - (ii) Must have **written procedures** for conducting technical evaluations and making selections
  - (iii) Must award contracts to the responsible offeror whose proposal is most advantageous, considering price and factors

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## Sealed bids and competitive proposals

### Include grievance procedures

- Require written appeals of decisions
- Include contact information and a deadline for appeals
- Limit grievances to violations to Federal laws or regulations, or failure to follow the organization's policies

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### 2 CFR 200.320 Procurement methods

(c) Noncompetitive procurement

May be used if **one or more** of the following apply

- (1) Less than micro-purchase threshold;
- (2) Can only be fulfilled by a single source;
- (3) Emergency;
- (4) Request is made in writing and awarding agency provides written approval
- (5) After soliciting several sources, competition is determined inadequate

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**2 CFR 200.321 Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms.**

(a) When possible, should ensure that small businesses, minority businesses, women's business enterprises, **veteran-owned businesses**, and labor surplus area firms (See U.S. Department of Labor's list) are considered



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**2 CFR 200.321 Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms.**

**(b) Consideration**

Included on solicitation lists

Solicited whenever they are deemed eligible as potential sources

Dividing procurement transactions into separate procurements to permit maximum participation

Establish delivery schedules that encourage participation

Utilize SBA and Minority Business Development Agency of Dept. of Commerce

Requiring a contractor under a Federal award to apply this section to subcontracts

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## 2 CFR 200.323 Procurement of recovered materials

See [40 CFR Part 247](#) to assist in complying with section 6002 of the Solid Waste Disposal Act

[Executive Order 14057](#)

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(a) A recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors **must** comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962.

**NEW** (b) **Should**, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be **reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable.**

- May include purchasing **compostable items** and other products and services that **reduce the use of single-use plastic products**. See Executive Order 14057, section 101, Policy.

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## 2 CFR 200.324 **Contract cost and price** Contract cost and price

(c) Must not use the “cost plus a percentage of cost” and “percentage of construction costs” methods of contracting.

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**2 CFR 200.325  
Federal  
agency or  
pass-through  
entity review**

**(b) Must provide procurement documents**

Must make available, upon request:

	RFPs	IFBs	Independent cost estimates
When the following occurs	(1) Procurement procedures do not comply with standards (2) Expects to exceed SAT, no competition or one bid or offer (3) Expects to exceed SAT, specifies brand name product (4) Exceeds SAT, not awarded to lowest bidder (sealed bid) (5) Contract modification changes scope or increased over SAT		

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**2 CFR 200.327  
Contract  
provisions**

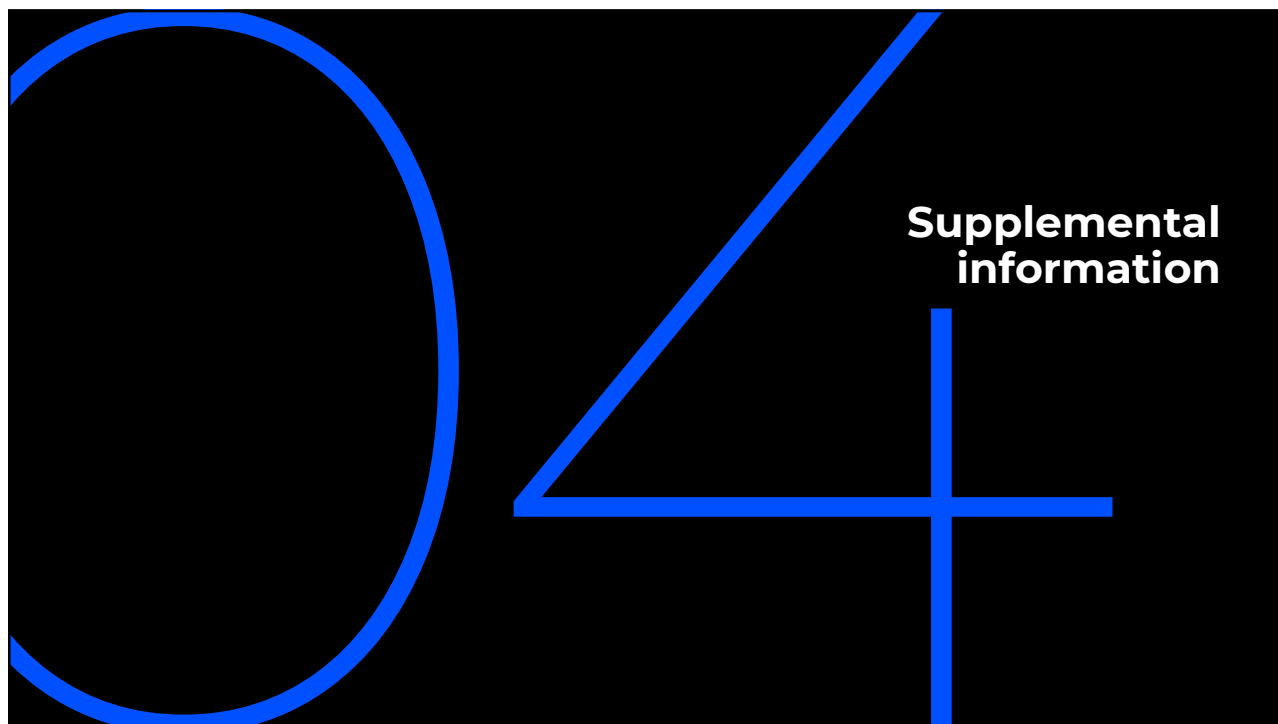
Contracts must contain the applicable provisions in Appendix II

[Appendix II to Part 200, Title 2](#)

- A. Administrative, contractual or legal remedies where contractors violate or breach contract terms (all contracts in excess of SAT)
- B. Termination for cause and convenience (contracts in excess of \$10,000)
- C. Equal Employment Opportunity
- D. Davis-Bacon Act when required by Federal program legislation (prime construction in excess of \$2,000)
- E. Contract Work Hours and Safety Standards Act (construction in excess of \$100,000; or others involving mechanics or laborers in excess of \$2,500)
- F. Rights to Inventions Made Under a Contract or Agreement
- G. Clean Air Act and Federal Water Pollution Control Act (contracts and subgrants in excess of \$150,000)
- H. Debarment and Suspension (check contractors at System for Award Management ([www.sam.gov](http://www.sam.gov)))
- I. Byrd Anti-Lobbying (contractors in excess of \$100,000)
- J. Procurement of recovered materials (units of government)
- K. Prohibition on certain telecommunications and video surveillance services or equip
- L. Domestic preferences for procurements

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## Procurement policies & procedures

Questions to ask about your procurement policies & procedures:

- Do they make sense?
- Do they work for you?
- How frequently are they reviewed and updated?

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## EXAMPLE ONLY

(Thresholds are shown only for the purpose of displaying an example of how to present information in policies. Wipfli is not recommending these thresholds for your entity.)

Amount of Purchase	Approvals	Solicitation Process	Documentation of Decision
≤ \$10,000	<ul style="list-style-type: none"> <li>Project Director</li> </ul>	<ul style="list-style-type: none"> <li>Price must be considered reasonable based on research, experience, purchase history, or other information</li> <li>To the maximum extent practicable, micro-purchases will be equitably distributed among qualified suppliers, provided pricing is reasonable</li> </ul>	<ul style="list-style-type: none"> <li>Receipt or invoice</li> </ul>
\$10,001 ≤ \$25,000	<ul style="list-style-type: none"> <li>Project Director</li> </ul>	<ul style="list-style-type: none"> <li>Select pre-qualified contractor, or</li> <li>2 quotes (catalogue, internet, written, oral, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>Documentation of quotes obtained</li> <li>Purchase order</li> <li>Receipt/invoice</li> </ul>
\$25,001 ≤ \$150,000	<ul style="list-style-type: none"> <li>Project Director</li> <li>Finance Director</li> </ul>	<ul style="list-style-type: none"> <li>Select pre-qualified contractor, or</li> <li>3 written quotes (catalogue, internet, written, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>Documentation of quotes obtained</li> <li>Purchase Order</li> <li>Receipt/invoice</li> </ul>
\$150,001 ≤ \$250,000	<ul style="list-style-type: none"> <li>Project Director</li> <li>Finance Director</li> <li>Executive Director</li> </ul>	<ul style="list-style-type: none"> <li>Select pre-qualified contractor, or</li> <li>RFP process, or</li> <li>Sealed bid process</li> </ul>	<ul style="list-style-type: none"> <li>Proposals &amp; evaluations, or bids</li> <li>Purchase order</li> <li>Procurement checklist</li> <li>Contractor invoices</li> </ul>
> \$250,000	<ul style="list-style-type: none"> <li>Project Director</li> <li>Finance Director</li> <li>Executive Director</li> <li>Board of Directors</li> </ul>	<ul style="list-style-type: none"> <li>Select pre-qualified contractor, or</li> <li>RFP process, or</li> <li>Sealed bid process</li> </ul>	<ul style="list-style-type: none"> <li>Proposals &amp; evaluations, or bids</li> <li>Purchase order</li> <li>Procurement checklist</li> <li>Contractor invoices</li> </ul>

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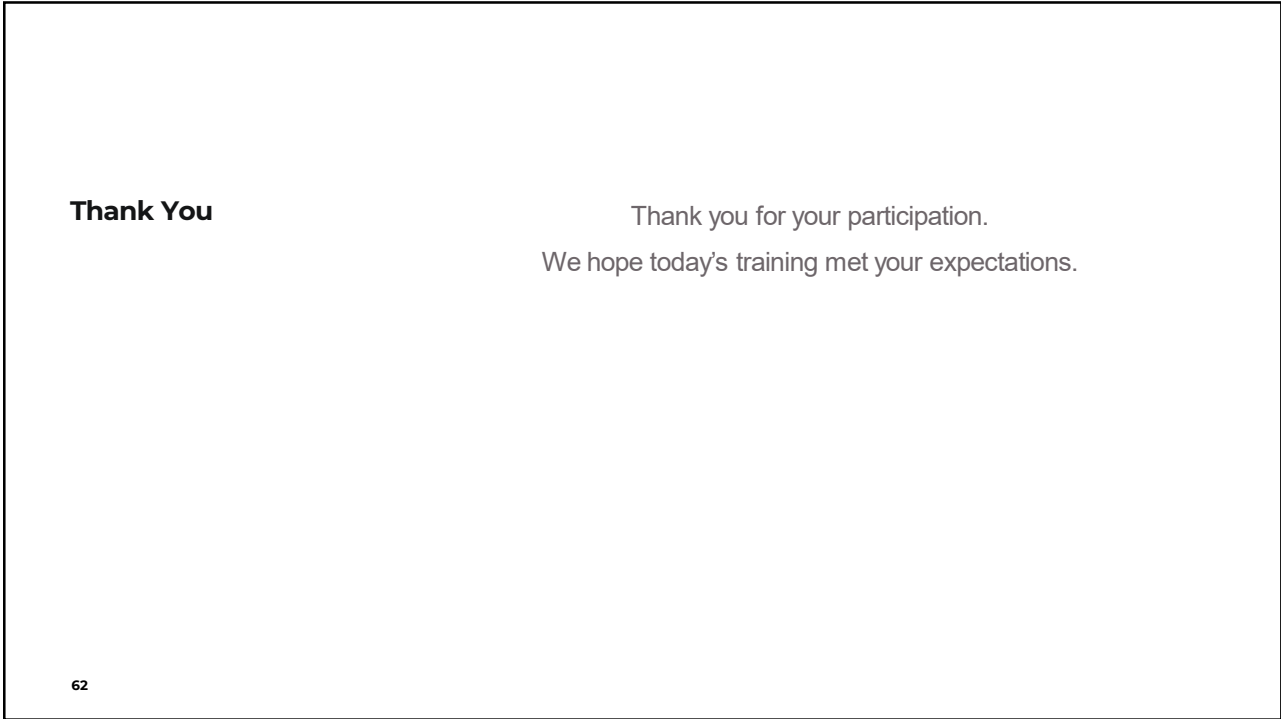


# Questions

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## Thank You

Thank you for your participation.  
We hope today's training met your expectations.

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Greater *understanding.*  
*engagement.*  
*impact.*  
*delivery.*  
*measurement.*  
*growth.*

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The Wipfli Way

Team Commitment  
 The Wipfli Way we create positive impact and lifetime relationship by leading and working with an outward mindset  
 Creating lasting positive impact  
 Client Commitment  
 Community Commitment

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