



- Coronavirus State and Local Fiscal Recovery Update
- Grant Management Essentials
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  - Uniform Guidance and Cost Principles
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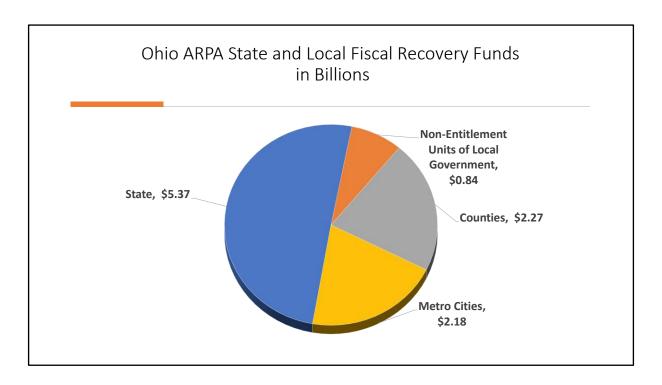


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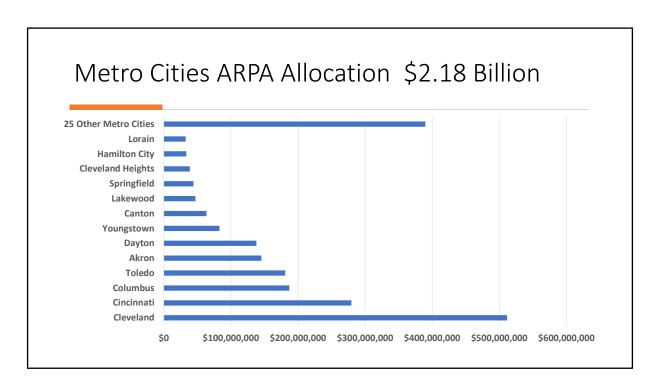
## American Rescue Plan Act Update

State and Local Fiscal Recovery Funds



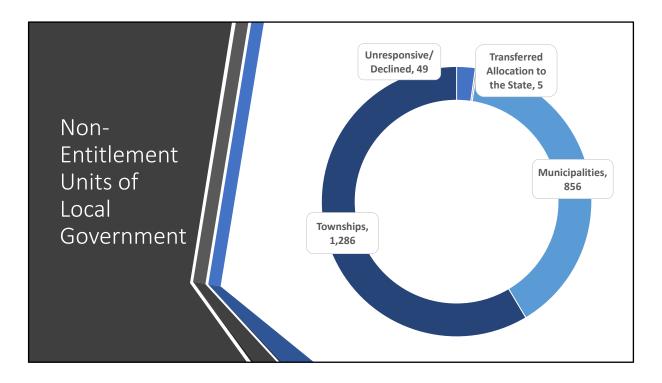
Ohio's State and Local Recovery Fund Allocations

- State received about \$5.4 Billion
- Counties received \$2.3 Billion directly from U.S. Treasury
- Ohio's 38 metro areas received \$2.18 Billion directly from U.S. Treasury
- Nearly 2,200 Local governments with populations of less than 50,000 received a total of \$844 million, with Treasury passing the funds through the state



Metro Cities receiving direct allocations from US Treasury

- 38 Ohio Metro Cities received \$2.18 Billion directly from U.S. Treasury
- Cleveland received the most at nearly \$512 million
- Cincinnati was second at nearly \$280 million
- Columbus and Toledo were third and fourth at \$187 and \$181 respectively
- The \$390 million line at the top represents the other 25 metro cities that each received less than \$30 million



#### NEU's

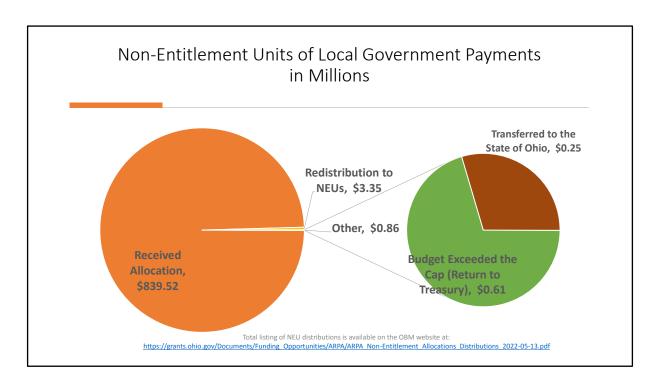
- We started with the list from U.S. Treasury of 2,196 eligible local governments
- 1,305 townships
- 891 municipalities

Our OBM Grants Partnership had extensive outreach to find them all – we had some contact information for our CRF recipients, but it was clear that the intention of U.S. Treasury was for this money to benefit every single community and we wanted to be sure every NEU had the opportunity to receive their allocation.

We are so grateful for you and your counterparts in county government for helping us get the message out and being great partners.

By the time the U.S. Treasury gave states a hard deadline to reallocate remaining, unclaimed dollars, we had successfully reached 98% of all of Ohio's NEU's.

Out of nearly 2,200 local governments, only 49 were unresponsive or said they didn't want the allocation. Another 5 local governments transferred their allocation to the state. But the vast majority accepted the funds.



This chart shows the payments to our NEU's.

In my previous slide, I mentioned that 98% of NEU's responded. Those that did claimed 99.5% of the total that U.S. Treasury made eligible for NEU's.

The \$3.3 million that was unclaimed was redistributed to all eligible NEU's.

I mentioned that 5 local governments wanted to transfer their allocation over to the state. That totaled a little more than \$250,000.

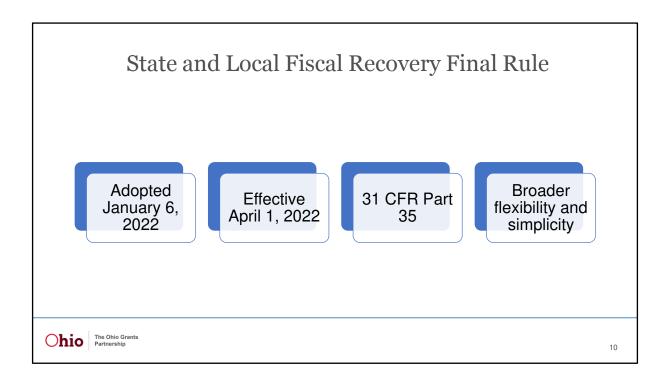
In the formula required by U.S. Treasury, no NEU could receive an allocation that totaled more than 75% of their operating budget. There were only 6 entities that hit that threshold and we needed to return a total of \$605,000 to U.S. Treasury, or 0.03% of the total NEU allocation amount.

The first half of funding was paid in batches as NEU's completed their applications.



## Final Rule and Major Provisions





Early adoption was allowed. Treasury will not take action to enforce the interim final rule if recipients use funds in a manner consistent with the final rule.

With significant steps toward obligating prior to January 6 consistent with the interim final rule, Treasury will not take action to enforce provisions contained in the final rule.

This includes initiation of procurement or grantmaking actions, detailed planning of projects or programs, appropriation of funds, or other significant planning steps.

#### Summary of Key Changes in the Final Rule **Public Health and** Water, Sewer, and **Economic Premium Pay Revenue Loss** Broadband **Impacts** Infrastructure · Use for capital Expanded list of Standard Broadens expenditures eligible workers allowance option eligibility for broadband Expanded eligible Minor changes to households and revenue loss projects calculation communities and Additional eligible broader set of water and sewer projects uses Restore and support public sector employment Ohio The Ohio Grants Partnership

#### **Public Health and Economic Impacts**

Use of funds for capital expenditures

Expanded set of households and communities that are presumed "impacted" and "disproportionately impacted" with a broader set of uses

Broader use of funds to restore and support public sector employment

#### **Premium Pay**

Expanded the list of eligible workers who can receive premium pay without written justification

#### **Revenue Loss**

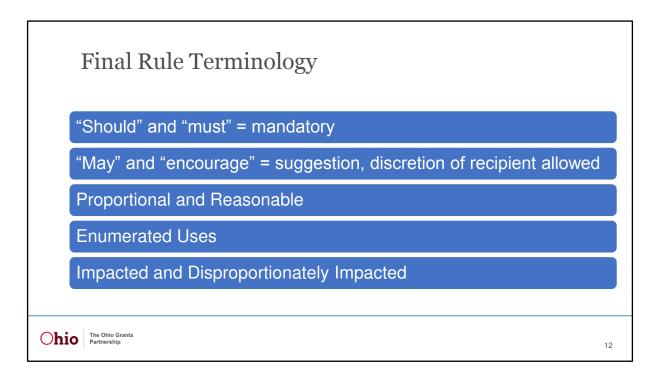
Added a standard allowance option

Other minor changes with the calculation of revenue loss

#### Water, Sewer, and Broadband Infrastructure

Broadens eligibility for broadband projects

Added additional eligible water and sewer projects



- "Should" and "must" = mandatory
- "May" and "encourage" = suggestion, discretion of recipient allowed
- Proportional and Reasonable are key concepts stressed in the rule in determining the level of investment for eligible activities
- Enumerated by Treasury means specifically listed as an eligible use of funds in the Final Rule

- Impacted those impacted by the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency
- Disproportionately Impacted those that experienced disproportionate public health or economic outcomes from the pandemic, Treasury recognizes that preexisting disparities amplified the impacts of the pandemic causing more severe impacts in underserved communities

#### Revenue Loss – Standard Allowance

- Up to \$10 million in revenue loss through the life of the program
- Recipients may use revenue loss funds for general government services up to the revenue loss amount





- Treasury recognizes the standard allowance may cover an entire allocation and has indicated reporting will be streamlined
- Do not have to illustrate there was an actual revenue loss

General government services means any service traditionally provided by a government, unless Treasury has stated otherwise

Treasury provided the following examples of *general government* 

## services as a non-exhaustive list:

- Construction of schools and hospitals
- Road building and maintenance, and other infrastructure
- Health services
- General government administration, staff, and administrative facilities
- Environmental remediation
- Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)

#### Revenue Loss as Non-Federal Match?

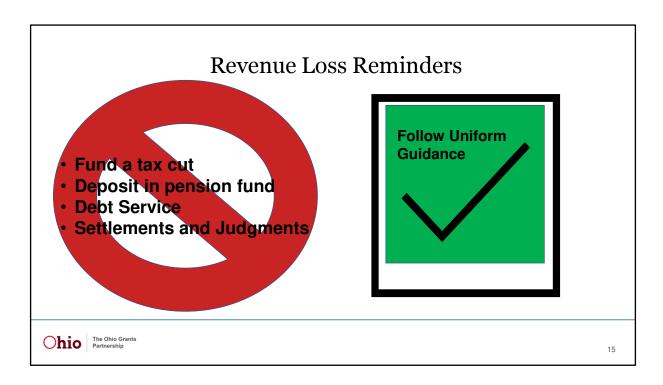
Generally, may be used to meet the non-federal cost-share or matching requirements of other federal programs.





The use as non-federal match for the state's Medicaid and CHIP programs are unallowable.

Funds beyond eligible revenue loss cannot be used as a non-federal match or cost-share requirement other than as specifically provided for by statute (i.e., Infrastructure Investments and Jobs Act, Bureau of Reclamation projects and certain broadband deployment projects).



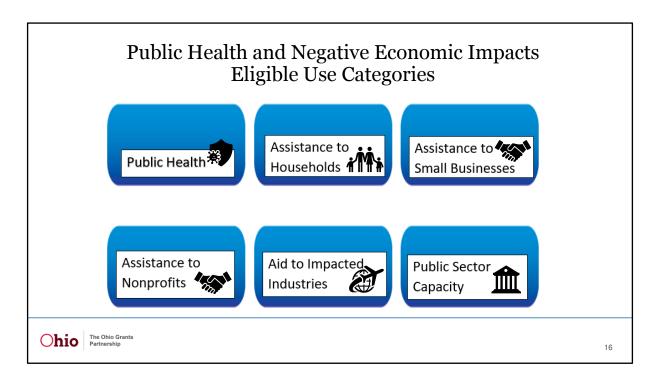
Every NEU in Ohio can use the standard allowance for revenue loss and it would cover their entire allocation. Declaring the revenue loss does not prevent the local government from using the funds for any ARPA allowable purposes, but it provides additional flexibility on uses and reduces the reporting requirements. OBM would recommend local governments take advantage of this flexibility.

## Prohibitions with funds still apply to the use of revenue loss funds

- No debt service or financial reserves replenishment
- No settlements or judgements
- No extraordinary pension contributions
- May not undermine COVID-19 mitigation

## practices

- Revenue loss funds are considered federal funds and must follow Uniform Guidance requirements
  - Treated and tracked as federal expenditures
  - Uniform Guidance applies (i.e., procurement, equipment & inventory, etc.)
  - Terms and Conditions of Award apply (e.g., conflicts of interest, civil rights, etc.)
  - Revenue loss funds must be expended within the period of performance



Organized around the types of assistance a recipient may provide and includes several subcategories:

Public health
Assistance to households
Assistance to small businesses
Assistance to non-profits
Aid to impacted industries
Public sector capacity



Treasury has provided lists of enumerated uses and presumptions for populations that were impacted. Recipients providing enumerated uses of funds to populations presumed eligible (impacted or disproportionately impacted) are clearly operating consistently with the Final Rule.

Eligible uses in this category must meet two criteria:

1) Identify a COVID-19 public health or economic impact on a specific household,

- business, or non-profit; or to a class of households, businesses, or non-profits (i.e., group), **AND**
- 2) Design a response (program, service, or capital expenditure) that addresses or responds to the impact.

Responses must be *related*, *reasonably proportional* to the harm identified, and *reasonably designed* to benefit those impacted.



There are two main ways an industry can be designated as "impacted."

- 1) If the industry is in the *travel, tourism, or hospitality sectors*, the industry is impacted.
- 2) If the industry is outside the travel, tourism, or hospitality sectors, the industry is impacted if:
  - The industry *experienced at least 8% employment loss from pre-pandemic levels, OR*
  - The industry is experiencing comparable or

worse economic impacts as the national tourism, travel, and hospitality industries as of 1/6/22 based on totality of economic indicators or qualitative data (if quantitative data is unavailable), and if the impacts are generally due to the COVID-19 public health emergency.

Final Rule provides flexibility to define impacted industries eligible for aid. Aid may only be provided to support those *operating prior to* the pandemic and affected by required closures and other efforts to contain the pandemic.



- No change to eligible use for Public Safety, Public Health, and Human Services responding to COVID-19
- Restoring pre-pandemic employment
- Providing additional funds for employees who experienced pay cuts or were furloughed
  - Must reduce for unemployment benefits received
- Maintaining current compensation levels

## to prevent layoffs

- Providing worker retention incentives
  - Must be additive to an employee's compensation, narrowly tailored to need, and should not exceed incentive traditionally offered or comparable to market
  - Less than 25% of base rate of pay for individual or 10% for a group
  - Reasonably proportional to need to retain employees
- Covering ancillary administrative costs related to hiring, support, and retention



May reduce the number of FTEs when identifying the actual FTEs by those that are dedicated to responding to COVID-19

## **Two Options:**

- Hire back employees for prepandemic positions – same positions that existed on 1/27/20 but were unfilled or eliminated as of 3/3/21
- 2) Hire above the pre-pandemic baseline with flexibility in positions can support an increase in the number of budgeted

# FTEs up to 7.5% above pre-pandemic baseline

- -- Identify FTE level on 1/27/20 (baseline)
- -- Determine 7.5% level above the baseline (*adjusted baseline*)
- -- Identify budgeted FTE level on 3/3/21 (*actual FTEs*)
- -- Adjusted baseline less actual FTEs is the total number of FTEs that can be covered



Recovery Funds may be used to improve the efficacy of public health and economic programs.

- Supporting program evaluation, data, and outreach:
  - Program evaluation and evidence resources
  - Data analysis resources to gather, assess, share and use data
  - Technology infrastructure to improve access to and user experience of government IT systems
  - Technology improvements to increase public access and delivery of government programs

- and services
- Community outreach and engagement activities
- Capacity building resources to support using data and evidence, including hiring staff, consultants, or technical assistance support

## Addressing administrative needs:

- Administrative costs for programs responding to pandemic
- Needs caused or exacerbated by the pandemic (backlogs caused by shutdowns, increased repair or maintenance needs, and technology infrastructure to adapt government operations to the pandemic (e.g., video-conferencing software, data and case management systems))



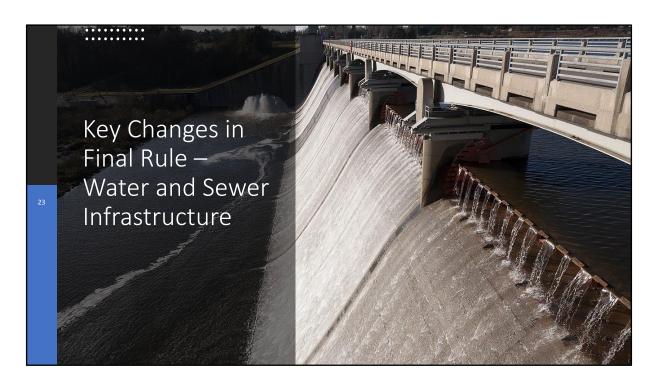
Final Rule expanded the list of "eligible" workers, while still allowing a chief executive of a recipient government the ability to designate additional non-public sectors as critical to protecting the health and well-being of residents.

Final Rule provided flexibility to permit premium pay to workers that are not exempt from the Fair Labor Standards Act

overtime provisions without submitting a written justification.

### Additional clarifications include:

- Premium pay may be provided in installments or lump sums (i.e., monthly, quarterly, etc.)
- Can be awarded to hourly, part-time, or salaried or non-hourly workers
- Volunteers cannot receive premium pay

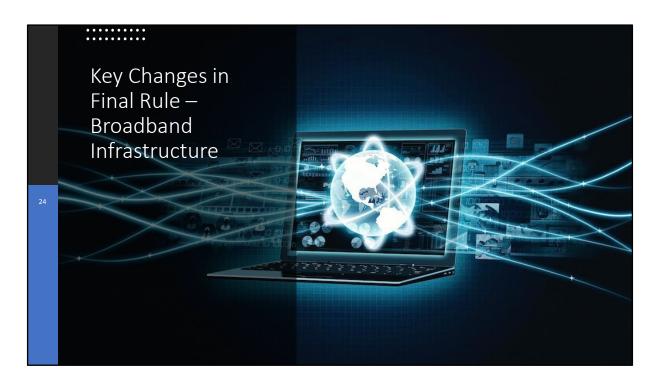


Final Rule provides additional eligible projects, if found to be "necessary:"

- ✓ Culverts
- ✓ Residential wells
- ✓ Dam and reservoir rehabilitation (related to drinking water)
- ✓ Broad set of lead remediation projects

## Necessary must be:

- 1. Responsive to an identified need to achieve or maintain adequate minimum level of service, which may include a reasonable project of increased need, whether due to population growth or otherwise
- 2. Cost-effective means for meeting that need, considering available alternatives
- 3. For investments in infrastructure that supply drinking water in order to meet projected population growth, projected to be sustainable over its estimated useful life



Final Rule allows investment in locations without reliable wireline 100Mbps download/20 Mbps upload (change from 25 Mbps download/3 Mbps upload).

## Additional requirements outlined:

- 1) Identify an eligible area for investment prioritize under or unserved areas (lack of access to reliable, affordable high-speed broadband connection)
- 2) Design a project to meet high-speed

**technical standards** – projects are required to meet or exceed 100 Mbps download/100 Mbps upload (flexibility for 100 Mbps/20 Mbps)

Enrollment in low-income subsidy program
– must require the service provider to either
participate in the FCC's Affordable
Connectivity Program (ACP) or provide access
to broad-based affordability program to lowincome consumers that provides benefits
commensurate to ACP

Modernization of cybersecurity for existing and new broadband infrastructure, regardless of their speed delivery standards is specifically listed as eligible.



## **Project** Demographic Distribution

What Impacted and/or Disproportionately Impacted population does this project primarily serve?



	Impacted	Disproportionately Impacted
Public Health	General Public	
Assistance to Households	Low- or-moderate income households or populations¹²     Households that experienced unemployment     Households that experienced increased food or housing insecurity     Households that qualify for certain federal programs¹³     For services to address lost instructional time in K-12 schools: any students that lost access to in-	Low-income households and populations <sup>14</sup> Households and populations residing in Qualified Census Tracts     Households that qualify for certain federal programs <sup>15</sup> Households receiving services provided by Tribal governments     Households residing in the U.S. territories or receiving services from these governments

person instruction for a significant

Applicable to Public Health and Negative Economic Impacts Expenditure Categories (1.1-2.37)

Page 20 of the Compliance and Reporting Guidance (https://home.treasury.gov/system/files/136/S LFRF-Compliance-and-Reporting-Guidance.pdf)

What Impacted and/or Disproportionately Impacted population does this project primarily serve?

May select up to two additional populations served.

### Public Health and Negative Economic Impact – Capital Expenditures Reporting

If a project has total capital expenditures of	and the use is enumerated by Treasury as eligible, then	and the use is beyond those enumerated by Treasury as eligible, then				
Less than \$1 million	No Written Justification required	No Written Justification required				
Greater than or equal to \$1 million, but less than \$10 million	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury	Written Justification required and recipients must submit as part of regular reporting to Treasury				
\$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury					



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# Written justification includes:

- Description of harm or need to be addressed
- Explanation of why a capital expenditure is appropriate
- Comparison against at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior
- Consideration to alternatives of improving existing capital assets already owned or

# leasing other capital assets

- Treasury presumes that the following capital projects <u>are generally ineligible</u>:
  - ✓ Construction of new correctional facilities as a response to an increase in rate of crime
  - ✓ Construction of new congregate facilities to decrease spread of COVID-19 in the facility
  - ✓ Construction of convention centers, stadiums, or other large capital projects intended for general economic development or to aid impacted industries

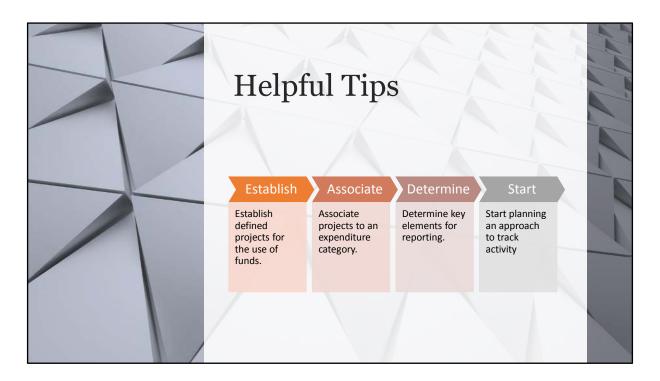


# Davis-Bacon or "baby Davis-Bacon Acts" recommended

If unable to certify, must provide a project employment and local impact report detailing:

- The number of employees of contractors and subcontractors working on the project
- The number of employees on the project hired directly and hired through a third party
- The wages and benefits of workers on the project by classification AND
- Whether those wages are at rates less than those prevailing

# Recipients must maintain sufficient records to substantiate this information upon request



### Organize spending into projects

Example - State of Ohio project ID's will each start with a number that correlates to our accounting system. This will help us be able to reconcile SFRF reporting to our system, verifying our agencies are reporting accurately and completely.

### Identify the Expenditure Category (EC) upfront

Using the EC, identify what reporting elements will be required

During the subaward/subcontract/project tracking process you can ensure receipt of required data, whether during the application process or as the recipients report back about their spending

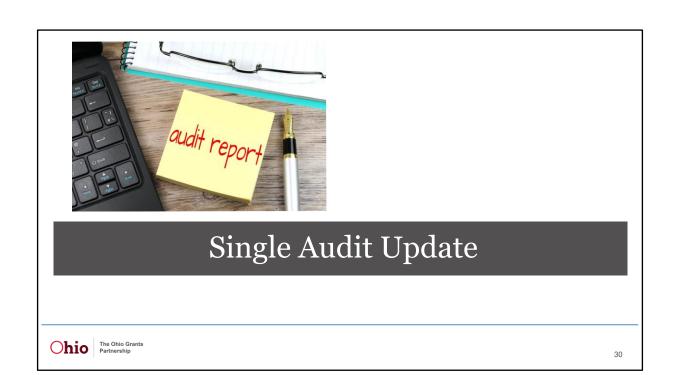
Don't forget about the data elements that are "manual entry" referenced in the User Guide (are not yet built into Treasury's templates)

**Identify the project recipient relationship** - subrecipients, beneficiaries, or contractors Also helps ensure you communicate federal requirements to those receiving subawards!

Planning approach questions:

How will you track expenditures by project?

- What report will provide purchase order information on expenditures over \$50K (e.g., supplier information, obligation amount, current quarter obligations, related expenditures and dates, etc.)?
- Do you have a way to run a report for contracts which provides necessary reporting details (e.g., contract number, contract type, contract amount, period of performance, contract date, primary place of performance address, etc.)?
- How will program information and/or performance metrics be tracked?
- How will your organization track the UEI and other relevant information for all expenditures over \$50K?





50.													
	A	В	С	Е	F	G	Н	I	J	L	M	N	
	Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debament	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions	
	Y	Y	N	N	N	N	Y	Y	N	Y	Y	N	
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### Alternative Compliance Examination Engagement

SLFRF Recipients that expend \$750,000 or more during their fiscal year and meet the following criteria:

- Recipient's total SLFRF award received directly from Treasury is at or below \$10M AND
- Other federal awards expended (not including SLFRF award funds) are less than \$750,000 during the recipient's fiscal year



Engage a practitioner to perform a compliance examination engagement in accordance with the Government Accountability Office Government Auditing Standards.

The submission deadlines for the alternative compliance examination engagement are the same as those for Single Audits and Program Specific audits due in accordance with 2 CFR Part 200, Subpart F. Therefore, the results of the alternative compliance examination engagement must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period.

### Provides relief to those that qualify for Single Audit as a result of SLFRF.

Where to submit the results will be released by Treasury at a later date.

# Alternative Compliance Examination Engagement (continued)

### Compliance Requirements Relevant to the Compliance Examination Engagement

The requirements noted with a "Y" in the "Matrix of Compliance Requirements" below are subject to the compliance examination engagement.

Α	В	С	E	F	G	Н	1	J	L	М	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	N	N	N	N	N

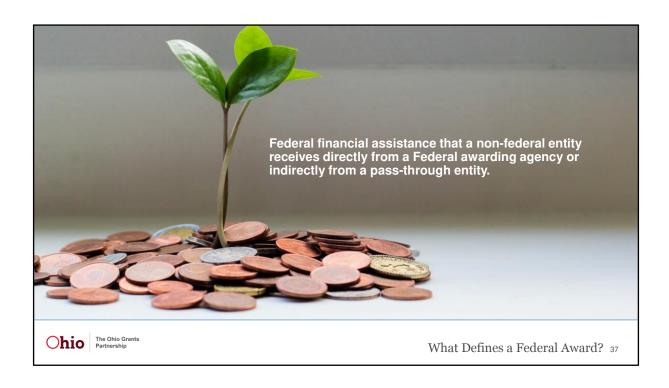


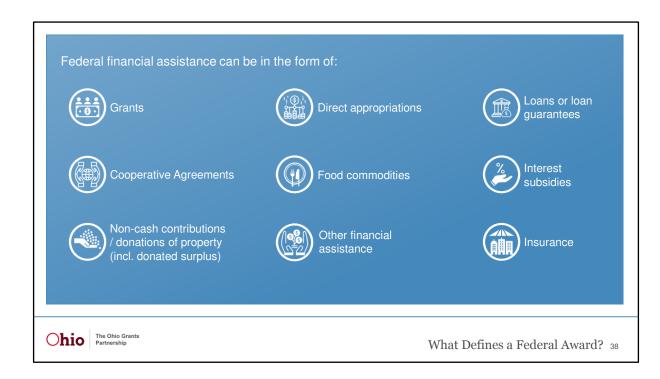


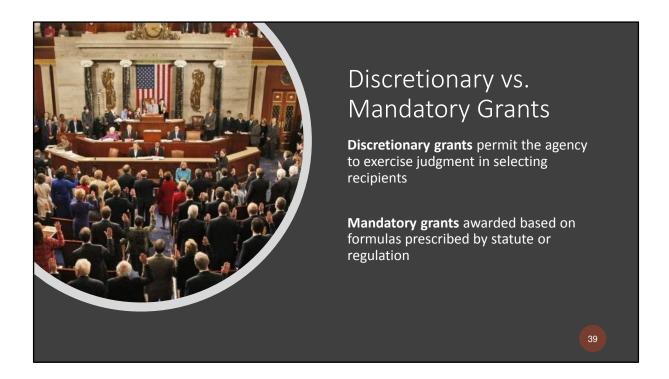
Grants Management Essentials



What Defines a Federal Award?



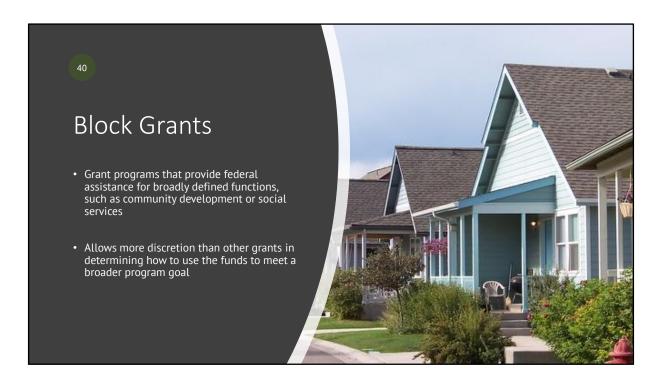




**Discretionary grants** permit the agency to exercise judgment in selecting recipients based on projects or proposals, most often following a competitive or formula process and are often referred to as "project" grants

Funds for these programs are appropriated annually at the discretion of the U.S. Congress

Mandatory grants are typically awarded based on formulas prescribed by statute or regulation and applicants need not compete for funds, but instead need only demonstrate that they meet the eligibility criteria to establish their entitlement to funding



### **Examples of Block Grants**

The Community Development Block Grant (CDBG) from the Department of Housing and Urban Development (HUD) is a prime example of a block grant. It was established in the 1970s as a consolidation of similar, existing grant programs. Within the current CDBG, there are different program areas for grant recipients to implement the grants.



Grant Life Cycle

# **Grant Lifecycle**



### **Pre-Award Phase**

Funding Opportunity/Announcement
Application



#### **Award Phase**

Award Decisions & Notifications



### **Post-Award Phase**

Implementation of the program
Reporting
Closeout
Audit
Record Retention



## What is the Uniform Guidance?

- Government-wide framework for grants management
- Authoritative set of rules and requirements for Federal awards



## Structure of the Uniform Guidance

2 CFR Paragraph	Subpart	Definition
200.0	Α	Acronyms and definitions
200.100	В	General provisions of guidance (purpose and applicability)
200.200	С	Pre-federal award requirements and content of awards
200.300	D	Post-award requirements
200.400	E	Cost principles
200.500	F	Audit requirements (includes legacy A-133 requirements)
Appendices to Part 200	I-XII	Additional guidance on topics such as indirect cost principles and the OMB compliance supplement





- Budget period means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which recipients are authorized to expend the funds awarded.
- Financial obligation means, orders placed for property and services, contracts and subawards made, and similar transactions that require payment made by a subrecipient using federal funds.

- Period of performance means the time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. The period of performance in the Federal award does not commit the awarding agency to fund the award beyond the currently approved budget period.
- Liquidation period is not defined in the Uniform Guidance but is commonly used to identify the time allowed after the performance period end to close the grant. The period is used to reconcile activities only.
- **Cost sharing or matching** means the portion of project costs not paid by Federal funds (unless otherwise authorized by Federal statute).
- **In-kind match** is when something of value other than cash is used as match (example-value of volunteer time on a project).
- **Maintenance of Effort** is when a grant recipient must maintain a specified level of financial effort for which Federal funds were provided.
- Supplanting is the use of Federal funds to replace already designated funds. Essentially, a
  reduction in an activity or financial support for that activity specifically because Federal
  funds are available (or expected to be available).



Program income means gross income earned that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. Program income includes but is not limited to:

- Income from fees for services performed
- Use or rental of property acquired under Federal awards
- · Sale of commodities or items fabricated

under a Federal award

- License fees and royalties on patents and copyrights
- Principal and interest on loans made with Federal award funds

Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them.

# Post Award Key Concepts

Be familiar with what types of expenditures are allowed.

Know the **budget period, period of performance, and liquidation period.** 

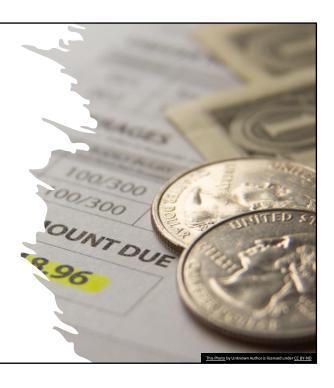
Be aware if your grant has a **match** or **maintenance of effort** requirement.

- Unless specifically allowed, you **cannot** match Federal funds with Federal funds.
- In-kind match may be allowed, but **documentation** is important.



### Post-Award Key Concepts – Cost Principles (2 CFR 200.403)

- Necessary and reasonable
- Allocable
- Conforming to limitations or exclusions
- Consistent with policies, regulations, and procedures
- Costs are treated consistently
- Determined in accordance with GAAP
- Not included as a match or cost-share
- Adequately documented
- Incurred during the budget period



# Post-Award Key Concepts

- Always track federal funds separate in a Special Revenue Fund
- Each Federal award should be tracked with a unique identifier
- Expenditure of Federal funds over \$750,000 in an entity's fiscal year will require a Single Audit
- Federal funds should always be a supplement to your program and cannot replace budgeted expenditures (that is called supplanting)



# **Post-Award Key Concepts**



Personnel costs directly charged should ensure appropriate documentation.

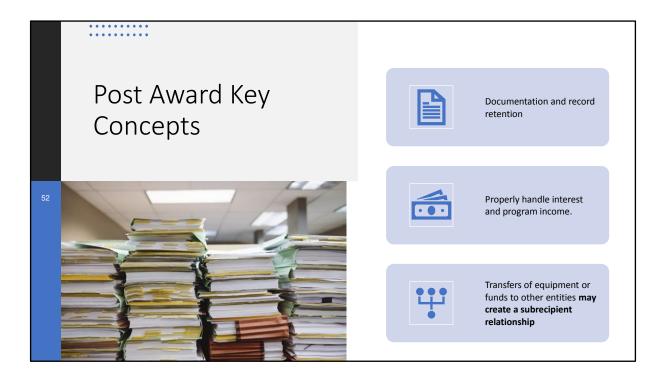


Salaries of administrative & clerical staff should normally be treated as indirect (may have exception).



Indirect costs must either have an approved rate or use the de minimis rate.





### Documentation and record retention

- Make sure to keep all records for at least three years from awarding agency's close-out (unless longer record retention is required).
- Must account for every dollar received and spent.
- Remember records may be more than financial records such as personnel files, budget records, time and effort support, etc.

Properly handle interest and program income

Transfers of equipment or funds to other entities may create a subrecipient relationship

- Receiving entity must book a revenue and expenditure and place value on the federal schedule
- Purchasing entity must treat like a subgrant and follow all pass-through responsibilities
- Refer to AOS Bulletin 2000-008



**Relationship Matters** 

### **Determining Relationships**

Subrecipient

Beneficiary

Contractor

Entity that receives a subaward from a pass-through entity to carry out part of a federal award

Individuals or beneficiaries of a federal award

Entity that receives a contract



# Subrecipient and Contractor Determinations 2 CFR 200.331

Subrecipient	Contractor
Pass-through entity can determine who to fund	Provides goods and services within normal business operations
Performance measured in relation to whether objectives were met	Provides similar goods or services to others
Pass-through entity has programmatic decision making	Normally operates in a competitive environment
Responsible to adhere to federal requirements	Provides goods or services that are ancillary to the operation of the program
Uses funds to carry out a program for a public purpose	Not subject to compliance requirements





#### Contractor

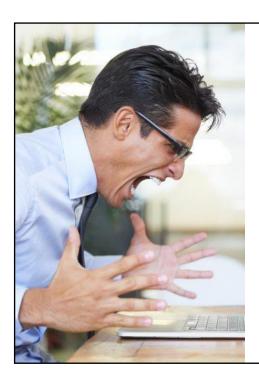
- Provides what is specifically procured and agreed upon payment is made
- Relationship typically ends once delivery and payment are made
- Agreement is typically a written contract or agreed upon quote
- Requirements of the grant are not passed to the contractor

#### Goods or services are procured following a procurement method

#### Subrecipient

- Purpose of carrying out a portion of the federal award
- Ongoing relationship with the pass-through entity
- Agreement in the form of a grant agreement or subaward
- Requirements of the grant are passed through to the subrecipient

#### Pass-through responsibilities apply



## Pass-through Responsibilities (2 CFR 200.332)

- Must Provide a Notice of Award
- Review audits of the subrecipient and follow up on issues with funds awarded
- Evaluate subrecipient's risk of noncompliance for purposes of determining an appropriate subrecipient monitoring plan
- · Monitor the activities and use of funds

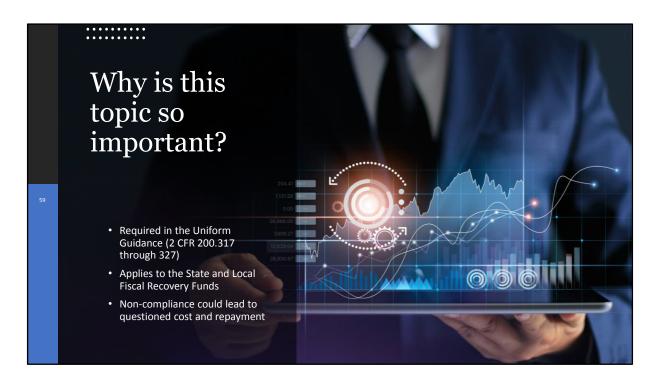
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- Must provide a Notice of Award
  - Include relevant federal award information
  - Requirements imposed on the pass-through from the federal funder
  - Additional requirements imposed to meet responsibilities to the federal funder including information to complete required financial and performance reports
  - Audit requirements and access to records
  - · Terms and conditions concerning close-out
- Review audits of the subrecipient and follow up on issues with funds awarded
- 3. Evaluate subrecipient's risk of noncompliance for purposes of determining an appropriate subrecipient monitoring plan

- Consider any necessary special conditions
- 4. Monitor the activities and use of funds
  - Includes ensuring any equipment purchased or updates made are being used as intended

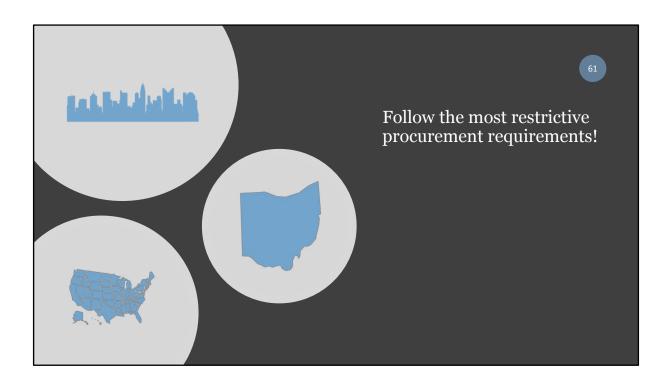


Federal Procurement Regulations



- Required in the Uniform Guidance (2 CFR 200.317 through 327)
- Applies to the State and Local Fiscal Recovery Funds
- Non-compliance could lead to questioned cost and repayment
  - Tarnishes reputation, attracts media attention, overshadows successes of program or use of funds
  - Purchase may have been legitimate, forwarded the program purpose, and was of reasonable cost









Must develop and document procedures that reflect applicable State and local laws and regulations, ensuring that procurements conform to applicable Federal law and these standards



Must maintain contract oversight to make sure the contractor performs in accordance with the terms and conditions of the written contract and purchase order requirements. Ensure your entity is getting exactly what they are paying for. Deliverables match up to bill



Covers conflicts of interest and actions of employees that are part of the procurement process and contract administration. Should include in your documented policies and procedures.



Seek economic benefits such as considering consolidating or breaking out procurements to obtain a more economical purchase. Should examine cost effective solutions or alternatives such as evaluating lease versus purchase scenarios.



Use of shared services and intergovernmental agreements for procurement of common goods or services



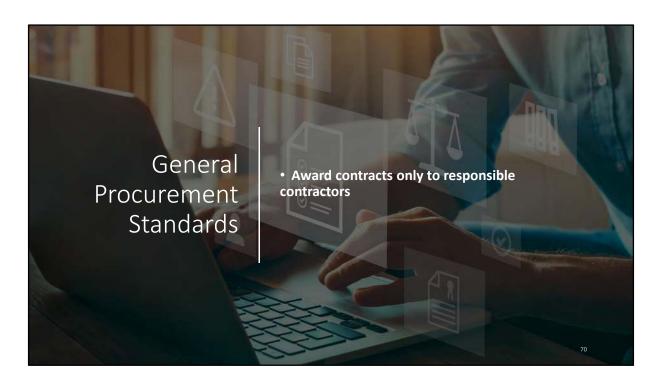
Leverage federal surplus when possible in lieu of purchasing new equipment and property whenever such use is feasible and reduces project cost



Encourages value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.

What is value engineering?

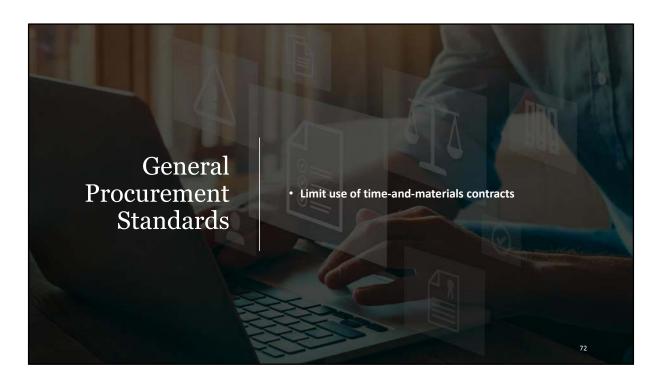
- What alternate methods, materials, or processes can perform the same desired function
- Evaluating best practices versus reasonable cost to arrive at acceptable substitutions
- Comparison of design solutions to determine which answer will perform adequately
- Expanding design efforts for those areas where performance or impact is critical



Contractors that demonstrate the ability to successfully perform. Consider contractor integrity, compliance with public policy, record of past performance, financial and technical resources. Always make sure you are checking for excluded parties



- · Rationale for selected procurement method
- Contract type selected
- Contractor selection (or rejection)
- Basis for contract price

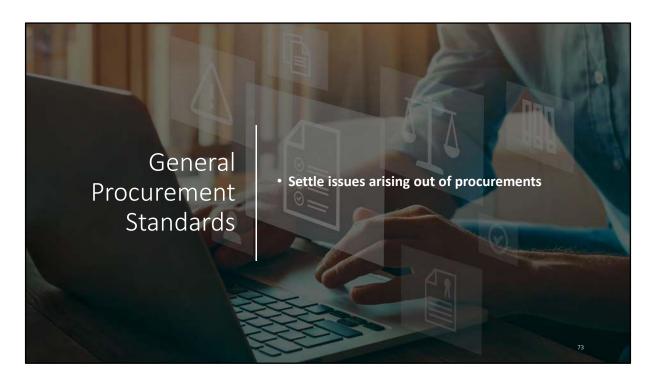


Price paid to contractor for time-and-materials contracts:

- Labor hours worked at fixed hourly rate inclusive of wages, any indirect cost rate, and profit
- · Actual cost of materials used

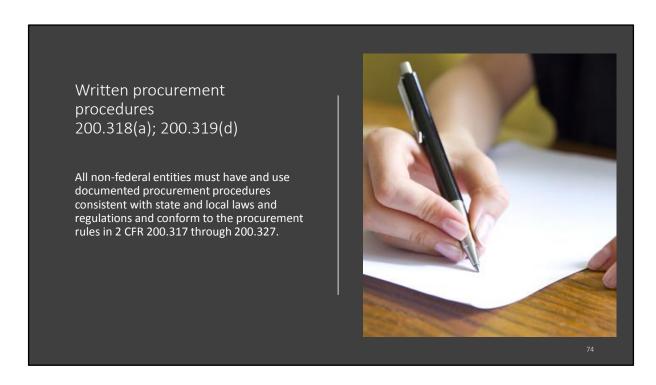
May use time-and-materials contracts if:

- Determination is made that no other contract type is suitable, AND
- Contract includes a ceiling price that the contractor exceeds at its own risk



Responsible for all contractual and administrative issues, including:

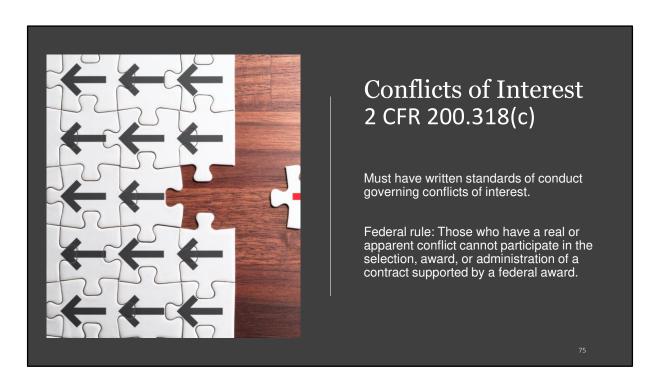
- Source evaluation
- Protests
- Disputes
- Claims



Procurement procedures must ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the desired procurement; and
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

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



A conflict of interest arises when any of the following has a financial or other interest in the firm selected for award

- Employee, officer, or agent
- Member of that person's immediate family
- That person's partner
- An organization that employs any of the above

Includes the acceptance of gratuities, favors, or anything of monetary value from contractors or parties to subcontracts

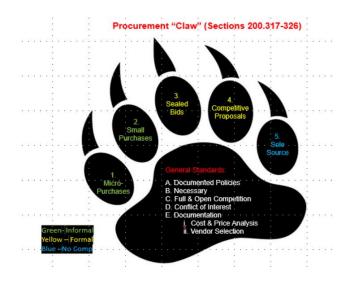


All procurement must be conducted in a manner to provide full and open competition.

- Contractors that develop specs, bids, etc. are excluded from competing for that procurement
- Competition cannot be restricted through unreasonable requirements, requiring unnecessary experience or bonding, specifying a "brand name," etc

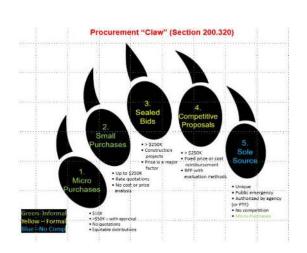
Non-competitive procurements must be awarded in accordance with 2 CFR 200.320(c).

The Procurement "Claw" (Sections 200.317-326)



#### Source:

Innovation Exchange April 2021, OMB Updates: 2 CFR Revisions and M-21-30 https://www.cfo.gov/wp-content/uploads/2021/April-Grants-Innovation-Exchange.pdf



The Procurement "Claw" (Sections 200.320)

#### Source:

Innovation Exchange April 2021, OMB Updates: 2 CFR Revisions and M-21-30 <a href="https://www.cfo.gov/wp-content/uploads/2021/April-Grants-Innovation-Exchange.pdf">https://www.cfo.gov/wp-content/uploads/2021/April-Grants-Innovation-Exchange.pdf</a>

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# Informal Procurement Methods 2 CFR 200.320

#### Two types of informal procurement:

- Micro-purchases
- Small Purchases

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### Informal Procurement Methods 2 CFR 200.320

#### Micro-purchases

Responsible for determining and documenting an appropriate micropurchase threshold based on internal controls, an evaluation of risk, and documented procurement procedures not to exceed the FAR (\$10K or less, unless self-certify up to \$50K)

Self-certify a threshold up to \$50K on an annual basis and must maintain documentation including justification, clear identification of threshold, and supporting documentation of:

- Low-risk auditee (200.520) for most recent audit;
- · Annual internal risk assessment; or
- Higher threshold consistent with State law for public institutions.

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### Micro-purchases

Responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and documented procurement procedures not to exceed the FAR (\$10K or less, unless self-certify up to \$50K)

Must distribute equitably and solicit price or rate quotes.

Self-certify a threshold up to \$50K on an annual basis and must maintain documentation including justification, clear identification of threshold, and supporting documentation of:

- Low-risk auditee (200.520) for most recent audit;
- Annual internal risk assessment; or
- Higher threshold consistent with State law for public institutions.

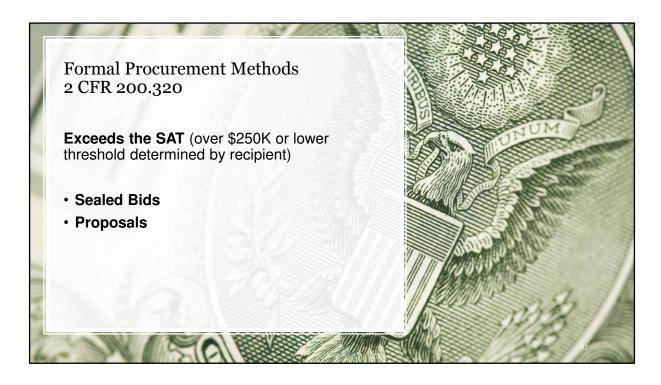


## Informal Procurement Methods 2 CFR 200.320

#### **Small Purchases**

- Above Micro and below the Simplified Acquisition Threshold (SAT)
- Responsible for determining an appropriate SAT based on internal controls, an evaluation of risk, and documentation of procurement procedures not to exceed the threshold in the FAR (currently \$250K)
- Price or rate quotes must be obtained from an adequate number of qualified sources.

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**Exceeds the SAT** (over \$250K or lower threshold determined by recipient)

- **1. Sealed Bids** bids are publicly solicited, and a firm fixed price contract is awarded to the responsible bidder whose bid conforms materially and is the lowest in price.
- **2. Proposals** either fixed price or cost-reimbursement type contract is awarded and is used when conditions are not appropriate for the use of sealed bid.

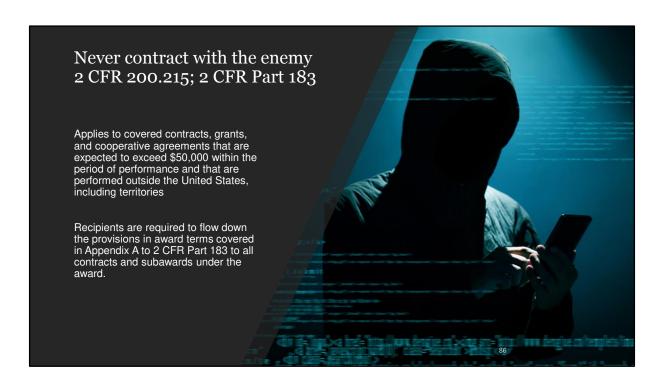




Method and degree of analysis depends on the facts of the procurement action/situation. There is guidance in the Federal Acquisition Rule (Part 15) that gives more color on profit negotiation.

- Must perform either a cost or price analysis for all procurement transactions, including modifications, over the SAT (\$250K)
- Must make independent estimates before receiving bids or proposals.
  - Cost analysis: evaluating the separate cost elements that make up the total price
  - Price analysis: evaluating the total price without looking at the individual cost elements
- Must negotiate profit as a separate element of the price when:
  - No price competition or
  - A cost analysis is performed
- Cost plus a percentage of cost and percentage of construction cost method of contracting are prohibited





Applies to covered contracts, grants, and cooperative agreements that are expected to exceed \$50,000 within the period of performance and that are performed outside the United States, including territories, and that are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

Recipients are required to flow down the provisions in award terms covered in Appendix A to 2 CFR Part 183 to all contracts and subawards under the award.



Prohibited to procure or obtain equipment, services, or systems that use equipment or services as a substantial or essential component of any system, or as critical technology as part of any system that are connected to:

- Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate)
- Hytera Communication Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company (or any subsidiary or affiliate)

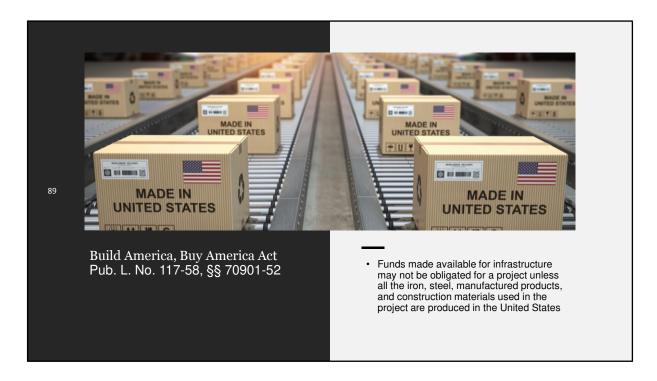
# Domestic preferences for procurements 2 CFR 200.322

To the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.

Requirements of this section must be included in all subawards and contacts.



Infrastructure Investment and Jobs Act (IIJA) included the Build America, Buy American Act strengthened Made in America Laws



- No later than May 14, 2022, federal agencies shall ensure funds made available for infrastructure may not be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States
- Affirms Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers
- Creates the Made in America Office in the OMB to maximize and enforce compliance
- Implementation Guidance OMB M-22-11 (April 18, 2022)

# Required terms and conditions:

All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

- All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.
  - After May 14, all new awards, renewals, or amendments obligating additional funds to existing awards must incorporate the new terms
  - Federal agency may be able to grant waivers
  - Excludes Stafford Act expenditures as part of a major disaster or emergency declaration
  - Applies to all federal programs

# Head of the Federal agency may grant waivers if:

- 1. Applying the domestic content procurement preference would be inconsistent with the public interest (a "public interest waiver")
- 2. Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a "nonavailability waiver"); or
- 3. The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an "unreasonable cost waiver")



Affirmative steps include (see CFR for more items):

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists
- Assuring these firms are solicited when they are potential sources
- Dividing total requirements, when economically feasible, into smaller tasks to permit maximum participation; and
- Require prime contractors to take the affirmative steps

# Contract Provisions - 2 CFR 200.327

 Contracts must contain the applicable provisions outlined in Appendix II of 2 CFR Part 200, as applicable

Threshold	Applicable Provisions
\$0	<ul> <li>Equal Employment Opportunity – All Federally assigned construction contracts.</li> <li>Rights to Inventions Made Under a Contract or Agreement – use in any funding agreement requiring experimental, developmental, or research work.</li> <li>Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment</li> <li>Never Contract with the Enemy</li> <li>Domestic preferences for procurement*</li> <li>* May be revised to align with the Buy American Act</li> </ul>

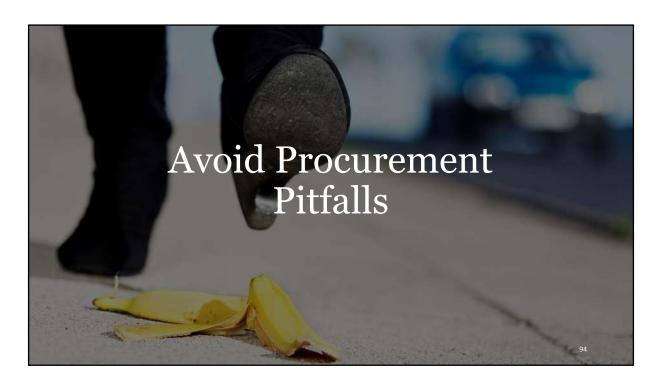


Threshold	Applicable Provisions
\$2,000	<ul> <li>Davis Bacon Act (federally assisted construction contracts)</li> <li>Copeland Anti-Kickback Act (federally assisted construction contracts)</li> </ul>
\$10,000	<ul> <li>Procurement of Recovered Materials</li> <li>Termination Provisions (cause/default and convenience)</li> </ul>
\$25,000	• Debarment and Suspension – required to check SAM exclusions prior to any award of \$25k or greater
\$100,000	<ul> <li>Contract Work Hours and Safety Standard Act – applies to all contracts involving the employment of mechanics or laborers</li> <li>Byrd Anti-Lobbying Amendment</li> </ul>
\$150,000	Clean Air Act and Federal Water Pollution Control Act – applies to contracts and subawards
\$250,000/SAT	<ul> <li>Contracts awarded must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms; must provide sanctions and penalties as appropriate</li> </ul>



# Procurement Policy

- At a minimum should include:
- Written standards of conduct covering conflicts of interest
- Standards for procurement process and complying with applicable procurement laws/regulations/provisions (local/state/federal)
- Micro-purchase and simplified acquisition thresholds
- Contract standards to include the applicable provisions outlined in Appendix II of 2 CFR Part 200



- Use of legacy purchase renewals (maintenance renewals or upgrades) when original procurement was not competitive
- Use of "name brand" in bid specifications thus exempting competition
- Use of a master service or supply agreement that was not competitive
- Follow agency policy or ORC with belief either meets the federal requirements
- Conflicts of Interest
- Repeated use of same personal service

- contractors without re-bidding
- Use of joint contracting programs (may not be competitive)
- Inappropriate justification for sole source
- Short timeframe of grant funds does not constitute a public emergency for sole source
- Cost analysis indicating reasonable price/cost benefit not performed
- Failure to keep documentation, especially on no bid responses, solicitation, etc. and
- Solicitation was limited



**Equipment and Inventory** 



Equipment – all tangible personal property (including information technology systems) having a useful life of more than one year and a perunit 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

# **Supplies** – all tangible personal property other than those described in the definition of equipment

A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of length of its useful life.



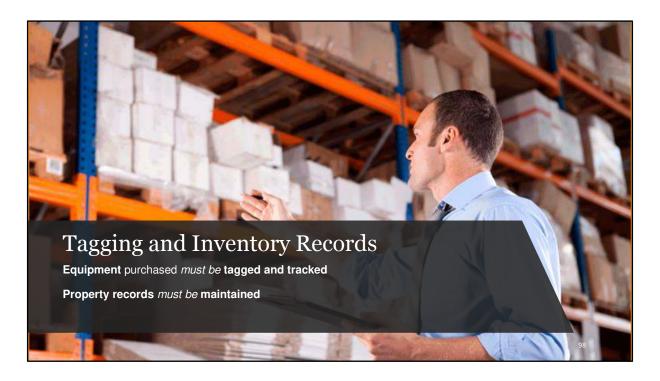
A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two years.

A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

Adequate maintenance procedures must be developed to keep the property in good condition.

Disposition instructions must be requested from Federal awarding agency.

Uniform Guidance specifically defines current per unit fair market value of \$5,000 or less to not require further action.



# Equipment purchased must be tagged and tracked

# Property records must be maintained to include:

- ✓ description of the property
- ✓ serial number or other identification number
- ✓ source of funding for the property (including the FAIN)
- ✓ who holds title
- √ acquisition date
- ✓ cost of the property
- ✓ percentage of Federal participation in the project costs for the Federal award under which the property was acquired

- ✓ location
- $\checkmark$  use and condition of the property; and
- ✓ any ultimate disposition data including the date of disposal and sale price of the property

# Chio The Ohio Grants Partnership Resources

# Coronavirus State and Local Fiscal Recovery Funds (SLFRF)

 $\frac{\text{https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds}$ 

### SLFRF Text of Final Rule

https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf

### **SLFRF Overview of Major Provisions**

https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Overview.pdf

### **SLFRF Compliance Statement**

 $\underline{https://home.treasury.gov/system/files/136/SLFRF-Compliance-Statement.pdf}$ 

# Tool for Determining Low- and Moderate-Income Households

https://home.treasury.gov/system/files/136/SLFRF-LMI-tool.xlsx

# **Treasury Final Rule Webinar**

https://youtu.be/rwcwxguVR0I

# **Treasury Final Rule Slide Presentation**

https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Webinar.pdf

# **Compliance and Reporting Guidance**

https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf



# SLFRF Reporting Resources



# **Reporting Guides**

Project and Expenditure Report User Guide

 $\underline{https://home.treasury.gov/system/files/136/Project-and-Expenditure-Report-User-Guide.pdf}$ 

### NEU Agreements and Supporting Documents User Guide

 $\frac{\text{https://home.treasury.gov/system/files/136/NEU-Non-UGLG-Agreements-and-Supporting-Documents.pdf}{}$ 

### **Accessing Treasury Portal**

https://home.treasury.gov/system/files/136/Login.gov-User-Guide.pdf

# **Recipient Reporting Tiers Listing**

 $\underline{https://home.treasury.gov/system/files/136/SLFRF-Recipient-Tiers-January-Reporting.xlsx}$ 

# **Treasury Webinars**

**Project and Expenditure Reports** 

 $\underline{\text{https://www.youtube.com/watch?v=6YTsxrEMS1o}}$ 

# **Reporting Tiers**

https://youtu.be/JnoKISwCA-g

# **Account Creation and Login**

https://youtu.be/MS7EAO2uCs0

### **User Roles**

https://youtu.be/w7vbi94rVDI

# Other Grant Related Resources

**Code of Federal Regulations (Uniform Guidance)** 

https://ecfr.io/Title-02/cfr200 main

**System for Award Management** 

https://sam.gov/SAM/

**Federal Acquisition Regulations** 

https://www.acquisition.gov/browse/index/far

Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS)

https://www.fsrs.gov/

**USASpending.gov** 

https://www.usaspending.gov/#/

**Pandemic Response Accountability Committee** 

https://pandemic.oversight.gov/



# **Previous Webinars**

# https://grants.ohio.gov/

# Navigation:

Helpful Resources> Grant Training

Funding Opportunities > American Rescue Plan Act Local Fiscal Recovery Fund



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# Chio The Ohio Grants Partnership Questions



Final Thoughts



# **Final Thoughts**

Be prepared to accept funding should it become available

Every grant is different, take the time to review the requirements.

Be aware if you subgrant funds you have pass-through entity responsibilities.

Don't be afraid of grants- no one knows it all.

Be cognizant of procurement, equipment and inventory requirements

Ensure you follow proper record retention for all applicable records.





