**BROADBAND READY COMMUNITY (BRC) GRANT PROGRAM**

Compliance Webinar

April 2024

Goals

1. To inform grantees on major **compliance requirements and grant success best practices** associated with BRC grant projects

2. To have a detailed discussion about **procurement guidance**

3. To discuss on **Invoicing process** with eligible and in-eligible cost breakup

4. To introduce grantees with **Reporting, Monitoring, Audits, Internal Control, and Title VI compliance** requirements

Required Attendance Check at the End
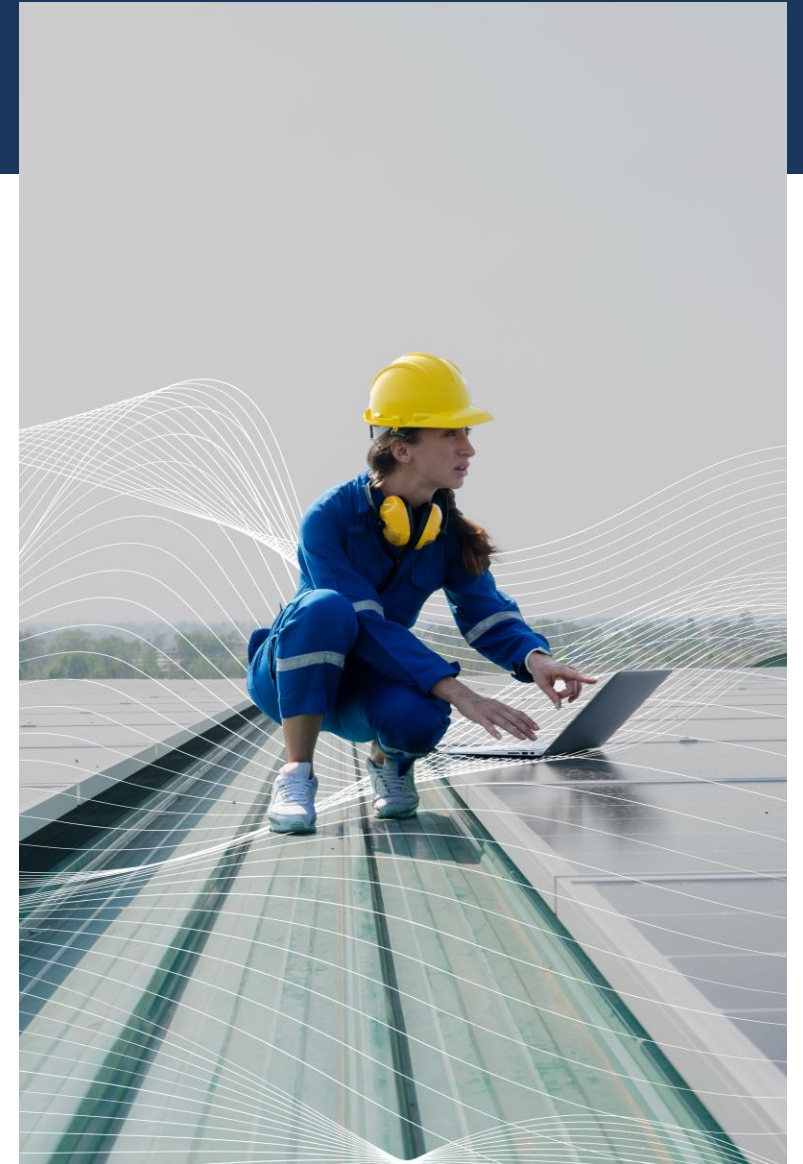
Agenda

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Key Principles of BRC Success

02

Procurement Process

03

Invoicing & Costs

04

Awarding your subcontractors

05

Reporting Compliance

06

Monitoring / Record Keeping

07

Audit/ Title VI Form

Appendix

01 Key Principles of BRC Success

Tennessee's Goals for Digital Opportunity

80%
of Tennessee residents belong to a covered population that may be disproportionately impacted by the digital divide *(NTIA Estimates)*

Digital Opportunity Taskforce

Community Listening & Working Groups

Digital Opportunity Summit

Online Surveys

Digital Opportunity Asset Inventory

Needs and Barriers

Affordability	**Digital Skills**	**Technical Support**	**Access to Quality Devices**	**Online Safety and Privacy**
Broadband cost was the top barrier across all covered populations and communities	Key Concern for Aging individuals as well as for employment opportunities and higher education	Lack of resources around troubleshooting, technical repairs, and maintenance services	Most Tennesseans have a smartphone, but many lack access to a device that enable remote working, online education etc.	Tennesseans expressed concerns for the safety of both children and aging individuals utilizing the Internet with a strong correlation to digital skills

TNECD's Digital Opportunity Efforts to Date

Using funds tactfully to maximize impact and intentionally advance covered populations

DO Initiatives to Date

Through ARPA dollars, launched:

- **Digital Skills, Education, and Workforce Development (DSEW)** – in process of distributing $38M across digital skills, education, and workforce development

- **Connected Community Facilities (CCF)** – in process of enabling digital workforce development, virtual health monitoring, virtual education, and broadband access through construction or rehabilitation of a building

- **Broadband Ready Communities (BRC)** – $10 million distributed to non-competitive grant for county and local governments to secure up to $100,000 for broadband adoption activities

- **Tennessee College of Applied Technology (TCAT)** - $5 million across 5 adult educational institutions offering the Telecommunications Electronics Technician Diploma to produce the well-trained and diverse telecommunications workforce

TNECD's Digital Opportunity Efforts to Date

Using funds tactfully to maximize impact and intentionally advance covered populations

Looking Ahead

- Advancing digital opportunity through initiatives laid out in Digital Opportunity Plan

- Continue grant work through DSEW and CCF 2.0

- Newer initiatives and grants may include increasing digital skilling state prisons, accessibility to digital government resources, and cybersecurity awareness

- Exact future funds uncertain – TNECD will apply for Digital Equity Capacity Grant Program ($15.9 in year one, two more tranche's coming) and Digital Equity Competitive Grant Program

Digital Opportunity Goals

The design of BRC grant is aligned with the Tennessee's overall vision for Digital Opportunity

- Increase digital adoption rates

- Expand workforce development opportunities through access to digital skills trainings

- Expand access to affordable devices for personal and common use

02 Procurement Process

Best Practices for Grants Success

1. Stay Consistent with your Goals and budget

Adhere to grant goals and budget. Clearly communicate objectives to team for smoother transitions and improved performance

2. Maintain Accurate Records and Documentation

Maintain detailed records of project activities, expenses, and outcomes, including financial documents, essential for audits

Grants Management Lifecycle

4. Evaluate and Report on Impact

Regularly assess project impact beyond TNECD/Treasury requirements. Gather data, feedback, and testimonials to evaluate effectiveness
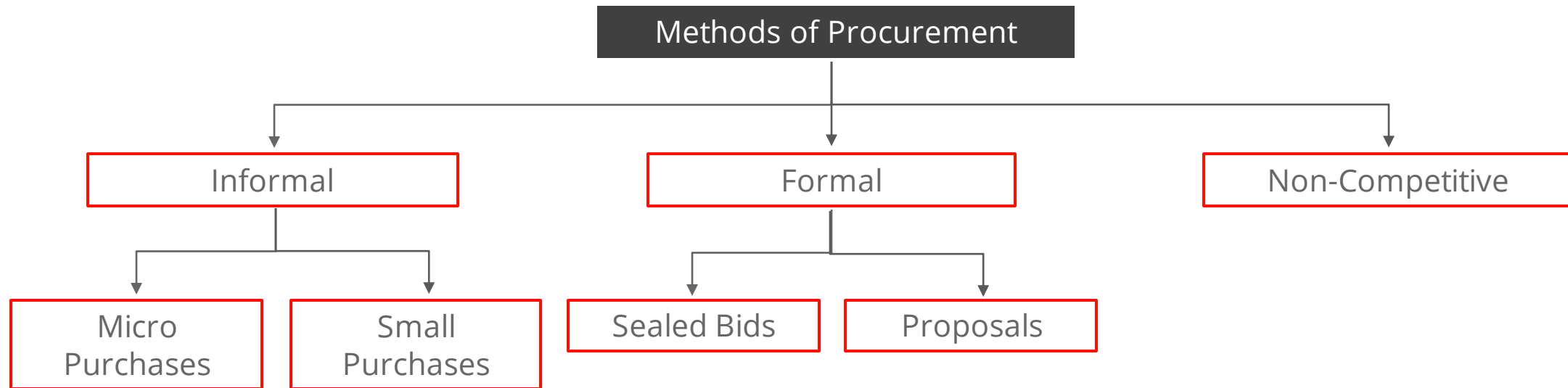
3. Communicate Effectively with Stakeholders

Keep stakeholders informed with updates on project progress, milestones, and challenges, fostering transparent communication and collaboration.
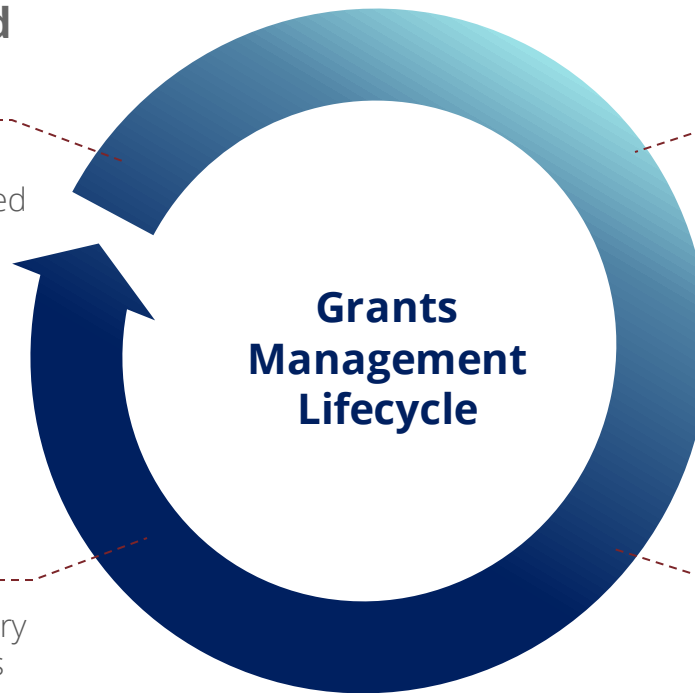
Guidelines to Successful Procurement

- Develop and follow policies and procedures that incorporate **2 CFR Part 200 requirements.**

- **Select the appropriate procurement method based on the cost threshold, scope of services, etc.**

- Ensure procurements provide **full and open competition**

- Ensure that cost or price analyses are **performed and documented** (applies to amendments/change orders)

- Ensure contracts include **all applicable contract provisions**

- Ensure steps are taken to explore solicitation offers with **small, minority, and women-owned businesses.**

- Maintain **sufficient records**

Reference : 2 CFR Part 200 ; TEBF Procurement Guidance ; TN GoDBE

Which procurement type fits the scope of work?

```
                        ┌──────────────────────────┐
                        │  Methods of Procurement  │
                        └──────────────────────────┘
                                     │
         ┌───────────────────────────┼───────────────────────────┐
         ▼                           ▼                           ▼
  ┌────────────┐              ┌────────────┐            ┌──────────────────┐
  │  Informal  │              │   Formal   │            │  Non-Competitive │
  └────────────┘              └────────────┘            └──────────────────┘
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   ▼        ▼                  ▼        ▼
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│Purchas│ │Purchas│      │   Bids   │ │          │
│  es   │ │  es   │      └──────────┘ └──────────┘
└───────┘ └───────┘
```

Grantee must choose a method based on the **contract amount** or **type of services** to be procured.

Reference : 2 CFR 200.320

Dollar Thresholds – Methods of Procurement

$0.1 to $9,999.99	• No additional bids/quotes needed
$10,000.00 to $249,999.99 (or otherwise determined threshold)	• At least 3 bids must be included to show lowest price was selected • All bids/quotes must be signed by the vendor • Cannot exceed $249,999.99
$250,000.00+ (or otherwise determined threshold)	• Must be conducted in a sealed bid process called an ITB (invitation to bid) or RFP (request for proposal) • Cannot exceed $250,000

Non-Competitive Procurement

Noncompetitive procurement can only be awarded if one or more of the following circumstances apply

- The item is available only from a **single source**
- After solicitation of several sources, **competition is determined inadequate**
- The **public exigency or emergency** for the requirement will not permit a delay
- The Federal awarding agency or pass-through entity **authorizes** a noncompetitive procurement in response to a written request from the non-Federal entity

Note - **The grantee is solely responsible for justifying noncompetitive procurement** ; ECD reviews and provides feedback on the documentation but is not responsible for final authorization.

Further Reference : 2 CFR 200.320

No Purchase before Contract is signed

All grantees

- **Contracts awarded for other funding sources cannot automatically work**

    - **If using a contract prior to sub-recipient agreement being signed, contracts must have been competitively procured as per Uniform Guidance (2 CFR 200.317-200.327).**

- **What if we are already subcontracted with companies and did not perform a request for proposal(s) or bid(s) as described?**

    - **Such contracts can not be used for the purpose of the grant project**

Reference : 2 CFR 200 Subpart D ; 2 CFR 200 Appendix II

03 Invoicing & Costs

Invoicing

- Grantees will be required to **invoice exact expenses** directly to TNECD.

- Grantees must follow the **format prescribed by TNECD**, which includes submitting a cover sheet, along with individual invoices and proofs of payments to a shared TNECD mailbox.

- Invoices can be **submitted monthly** and are expected to be paid in three - four weeks.

Edison Address		
Edison Location		
ECD Speedchart# or Program#:		
Edison Contract ID# :		
ECD Department ID# (Please use through 6/30/2023)		
ECD Department ID# (Please use beginning 7/1/2023)		
Edison Vendor ID#:		
County:		
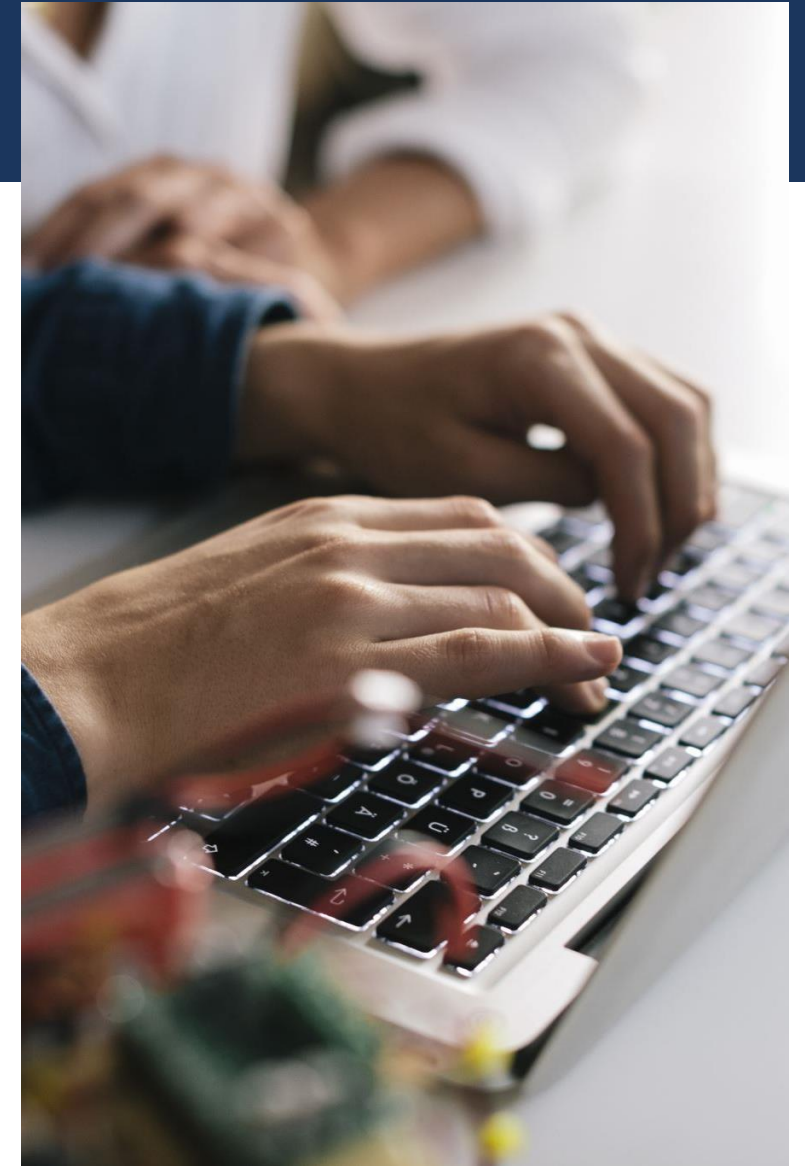
Invoice Request Number:	1
Final Invoice Request? YES or NO?:	no
Date of Invoice:	12/20/23

	Beginning	End
Invoice Period:	09/06/22	06/30/23

	Begin Date	End Date
Contract Period:	09/06/22	08/31/25

Amount of this Request:	220,703.30
ECD Contact	Taylre Beaty, Broadband Director

Remit To:
0

	Budget Line-Item	Total Project	Grantee Participation	% Grantee Participation	Grant Budget	% Grant Funds	Amount of Grant Funds Previously Invoiced	Beginning Grant Balance	Amount Requested for Current Invoice Period	Cumulative Amount Invoiced	Ending Grant Balance	Cumulative Percent Invoiced
A	Construction (Including Inspection)	$23,561,815.71	$10,602,816.71	45.00%	$12,958,999.00	55.00%	$0.00	$12,958,999.00	$220,703.30	$220,703.30	$12,738,295.70	1.70%
B	Engineering and Design	$0.00	$0.00	0.00%	$0.00	0.00%	$0.00	$0.00	$0.00	$0.00	$0.00	0.00%
C	Legal Services	$0.00	$0.00	0.00%	$0.00	0.00%	$0.00	$0.00	$0.00	$0.00	$0.00	0.00%
D	Appraisals	$0.00	$0.00	0.00%	$0.00	0.00%	$0.00	$0.00	$0.00	$0.00	$0.00	0.00%
E	Acquistion of Property	$0.00	$0.00	0.00%	$0.00	0.00%	$0.00	$0.00	$0.00	$0.00	$0.00	0.00%
F	Capital Purchase	$0.00	$0.00	0.00%	$0.00	0.00%	$0.00	$0.00	$0.00	$0.00	$0.00	0.00%
G	Project Contingency	$0.00	$0.00	0.00%	$0.00	0.00%	$0.00	$0.00	$0.00	$0.00	$0.00	0.00%
	Total	$23,561,815.71	$10,602,816.71	45.00%	$12,958,999.00	55.00%	$0.00	$12,958,999.00	$220,703.30	$220,703.30	$12,738,295.70	1.70%

With my signature, I certify the expenses requested for reimbursement were incurred:
For the contract project area only, or middle mile infrastructure necessary to serve the contract project area; and
All contracted procurement requirements were followed.

Authorized Signature:
Title:
Date

Please email your invoice including the first three tabs and backup documentation to ECD.Invoices@tn.gov

Note – You will soon be receiving an invoice template specific to Digital Opportunity Grants

Invoicing Redaction List

- For each vendor invoice listed by the grantee on the ECD's invoice template, they will need to provide the invoice/sales receipt and the proof of payment for all eligible expenses

- The grantees must redact the following information from their invoices and proof of payments before submitting them to TN ECD

  - ACH Company Name

  - ABA Code

  - Account Number

  - Magnetic Ink Character Recognition Code
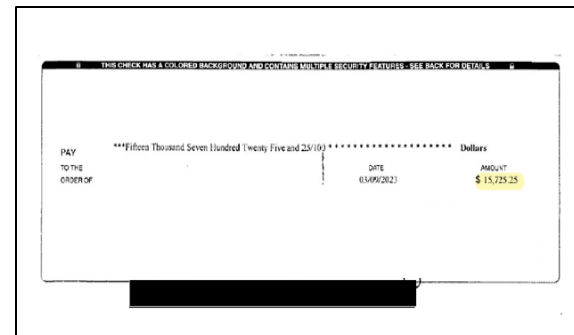
MCIR Code on the Check

Eligible Expenses (1/6)

The following categories are the most common for grantees and are allowable costs to the grant.

1. Supplies, Telephone, Postage & Shipping, Equipment Rental & Maintenance, Printing & Publications
   - Shipping
   - Curriculum materials or kits (for instructors and students)
   - Student computers, including subsidized or low-cost devices (e.g., computers, tablets) and refurbishing supplies
   - Print and digital advertising (e.g., fliers, yard signs)
   - Telecommunications equipment (e.g., hotspots)
   - Supplies for hands-on learning activities (e.g., ladders)

Eligible Expenses 2/6

2. Capital Purchases ($5000 or more)

- Computer labs or classrooms with devices in place (measured by price of rental, # of hours of use, # of seats needed, etc.)

- Assistive or adaptive technology (e.g., mobility devices, such as walkers, wheelchairs, hardware, software, and peripherals that assist people with disabilities in accessing computers or other information technologies)

- General-purpose equipment (e.g., motor vehicles enabling transportation, assistance for program participants, printing or reproduction technology)

- Special-purpose equipment

- Equipment for hands-on learning activities (e.g., power tools, wiring lab, simulating lab)

Eligible Expenses (3/6)

3. Construction

   - Construction, repair, rehabilitation, installation, and improvement of facilities, such as internal wiring

   - Internal labor costs associated with eligible project activities.

   - Material for the installation of fiber, such as conduit and boring

   - Contingency that was budgeted must be applied towards construction costs for public Wi-Fi installation.

4. Architect/engineering fees

   - Designing and constructing the proposed project: engineering, architectural, and project management costs

Note: For construction related expenses, project has to justify that there is an existing network at place and the expenses are mainly for wi-fi drops. Grantee can collaborate with an existing ISP. In case of multiple ISP availability, grantee must leverage the one providing superior speed.

Eligible Expenses (4/6)

5. Professional fees and grant & awards

- Professional fees to outside professionals, consultants, and personal-service contractors, and grant and award costs for the project, including to design and/or implement grassroot marketing campaigns (i.e. flyers, local Facebook ads) for the Affordable Connectivity Program

- Legal and auditing fees

- Data gathering

- Public feedback processes

- Equity assessments and planning

- Needs assessments.

- Permitting, planning, architectural design, engineering design, and work related to environmental, historical, and cultural reviews.

- Organization's awards, grants, subsidies, and other pass-through expenditures to individuals and to other organizations including allocations to affiliated organizations.

- Mileage rates of vehicle rentals associated with eligible project activities (must be charged within $0.655/mile)

- Payments to fund digital training certifications for workforce development programs (Cyber-Security Certification)

Eligible Expenses (5/6)

6. Other non-personnel

- Permits

- Required licenses, such as digital subscriptions and software licenses.

- Sales tax applicable to new equipment purchases and warehousing expenses.

- Mileage rates of vehicle rentals associated with delivering digital skills training expenses (must be charged within $0.655/mile)

Eligible Expenses (6/6)

7. Administrative expenses (Max 6%)

- Administration, including carrying out performance accountability requirements (e.g., compiling monthly expenditure reports, aggregating quarterly performance data, fulfilling a request from TNECD concerning costs or other program-level information, etc.) and activities completed by the awardee's Professional Grant Administrator

- Planning activities (excludes strategizing and implementation of developed plan).

- Budgeting and accounting services to track grant and prepare reimbursement requests.

- Environmental review

- Federal grant compliance (Davis-Bacon, financial management, procurement, closeout, etc.)

Ineligible Expenses(1/2)

The following categories are the most common for grantees and are unallowable costs to the grant.

1. **Travel Costs** (associated with program-related functions)
   - Flights / airfare
   - Hotels / lodging
   - Meals
   - Transportation (vehicle rentals, etc.)
   - Related insurance
2. **Discounts or Subsidized Broadband Service**
   - Discounted internet service
3. **Incentives for Incorporation of Broadband across Different Sectors**
   - Subsidies
   - Tax Benefits

4. **Supplies, telephone, postage and shipping, equipment rental and maintenance, and printing Office equipment and supplies for skills training**

   Promotional items and memorabilia
     - Models, gifts, souvenirs
     - Other costs designed solely to promote the grant-holding agency
   Entertainment
     - Food, amusement, diversion, social activities
     - Other associated costs
5. **Capital purchases**

   - Vehicles / vehicle rentals
   - Land acquisition

Ineligible Expenses(2/2)

The following categories are the most common for grantees and are unallowable costs to the grant.

6. **Construction**

Any costs related to the Middle Mile, Last Mile construction, acquisition, or improvement of middle mile and last mile infrastructure in unserved and underserved areas

7. **Professional fees and grant & awards**

- Fundraising activities

- County employees' salaries are ineligible for funding. However, salaries for personnel within distinct governmental entities are eligible. For instance, funding may support a digital navigator's salary at a library that operates independently from county government. Validation during budget review and contracting ensured that such employees are not considered County employees.

- Salary and benefits cannot be reimbursed, but hourly wages can, and they will need to clearly track hours spent on the project

8. **Administrative Expenses**

Fundraising Activities

04 Awarding your subcontractors

Contracts Verification

- **All sub recipients must ensure that their contractors are qualified, responsible contractors**

  - Confirm the contractor holds the proper licensure and insurance

  - A list of subcontractors must be included in the procurement records

- The requirement for obtaining a UEI number does not flow down beyond the sub-recipient. However, it is an encouraged practice to ensure contractors are qualified.

Reference: 2 CFR 200.215 ; CFR frequently asked questions - Q30
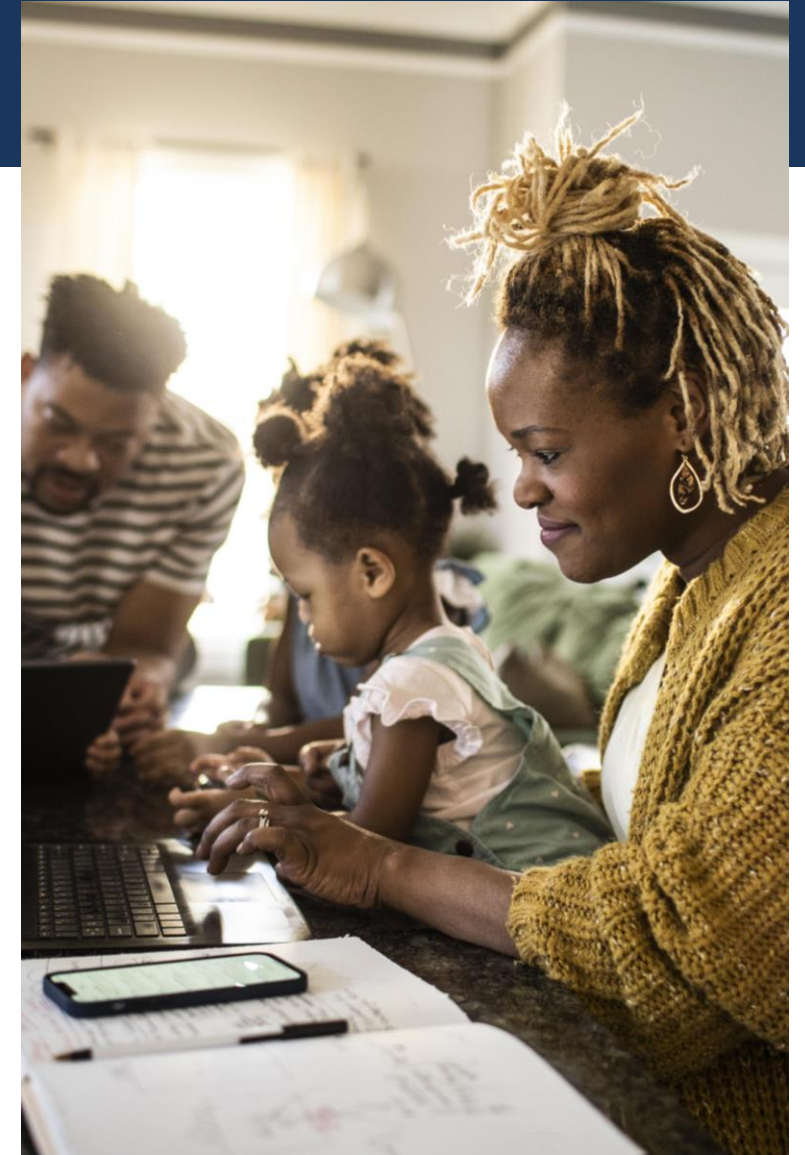
Small, Minority-Owned, and Women-Owned Business

- Grantees must take several affirmative steps in the procurement process to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible

  - Placing s/m/w on **solicitation lists**

  - When economically feasible, **dividing requirements** into smaller tasks/quantities

  - Establishing **delivery schedules** where a requirement permits, which encourage participation by s/m/w businesses

  - Using services/assistance of the **Small Business Administration** and the Minority Business Development Agency of Dept. of Commerce

  - Link to TN's Diversity Business Enterprise Directory

Reference : 2 CFR 200.321, TN GoDBE Directory

05 Reporting Compliance

Reporting

Reporting Cycles

Grantees are required to submit **Quarterly Reports** for below mentioned reporting periods:

1. December 1st – February 28th : **April 3rd**
2. March 1st – May 31st : **July 3rd**
3. June 1st – August 31st : **October 3rd**
4. September 1st – November 30th : **January 4th**

Annual Report : July 3rd

Close out Report: Once grantee gets 85% of their grant funds reimbursed through invoicing from ECD

.

Reporting Requirements(1/2)

Reporting Form

Reporting form would have following sections:

- General Project Information

- Financial Section
  - Project expenditure and income

- Programmatic Section
  - Program operations and impact

- Demographic Section
  - Deep dive on targeted population and their demographic background

- Operations and Timeline sections
  - Discussion on any delays/obstacles and project's plan for next reporting cycle

Demographic Section
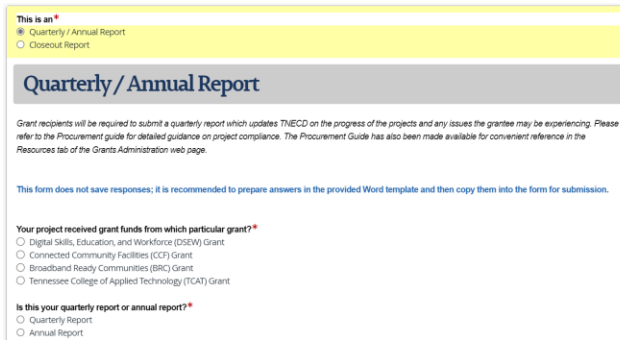
- Required by the SLFRF to give as much detailed demographics as possible

- Purpose of this section to capture the socio-economic outreach of your program through collating information related to the beneficiary groups under:
  - Gender
  - Age
  - Racial /Ethnic groups
  - Education and Literacy level
  - Employment status
  - Household Income group
  - Disability (if any)
  - Veteran population (if any)
  - Incarcerated group (if any)

To assess the demographic impact of the public Wi-Fi project, we recommend employing random sampling and surveys during specific time frames throughout any week. By analyzing weekly results, you can extrapolate to estimate the overall impact of these initiatives.

Note - This data will be validated during the mid-point monitoring. Please keep accurate records of the population that are serviced from this program.

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Reporting Form : Quick Navigation guide

- Visit Digital Opportunity Reporting Form to access the reporting form your quarterly and annual report submissions

- Select "Quarterly / Annual Report" to access quarterly / annual report form (Later you would be asked to specify if your submission is for quarterly or annual report)

- Select "Broadband Ready Communities (BRC) Grant" to access BRC specific reporting questions

Reminder: This form does not save responses; it is recommended to prepare answers in the provided Word template and then copy them into the form for submission.

06 Monitoring / Record Keeping

Risk Assessment and Monitoring

Grantees will be assigned to a risk category based through an initial risk assessment exercise*

The risk category assignment helps ECD to plan the post award compliance processes for you, like Monitoring Mode (Medium Risk - Desktop Monitoring , High Risk - Site Visit)

Below is an example of any grantee's position under listed parameters.

Assessment Parameters	Level	Risk Category Assignment under parameter
Experience in managing federal funds	Low ▼ High	Medium Risk
Grant Amount Received	Low ▼ High	Medium Risk
Project Complexity	Low ▼ High	High Risk
Personnel Changes	Low ▼ High	High Risk
Grantee Relationship with ECD	Bad ▼ Good	Medium Risk
Past Performance History	Bad ▼ Good	Medium Risk

*Your Risk Level May Change

The initial risk assessment of every grantee is not a final risk category assignment as this assessment is subjected to changed post two major compliance exercises:

- Audit Findings: If the grantee's single audit report highlight any concerns related to financial or program specific items then TNECD may raise the grantee risk level from medium to high.

- Monitoring Result: If there are any major findings related to non-compliance found during the mid point monitoring of project then TNECD can raise the grantee risk level from medium to high.

Monitoring

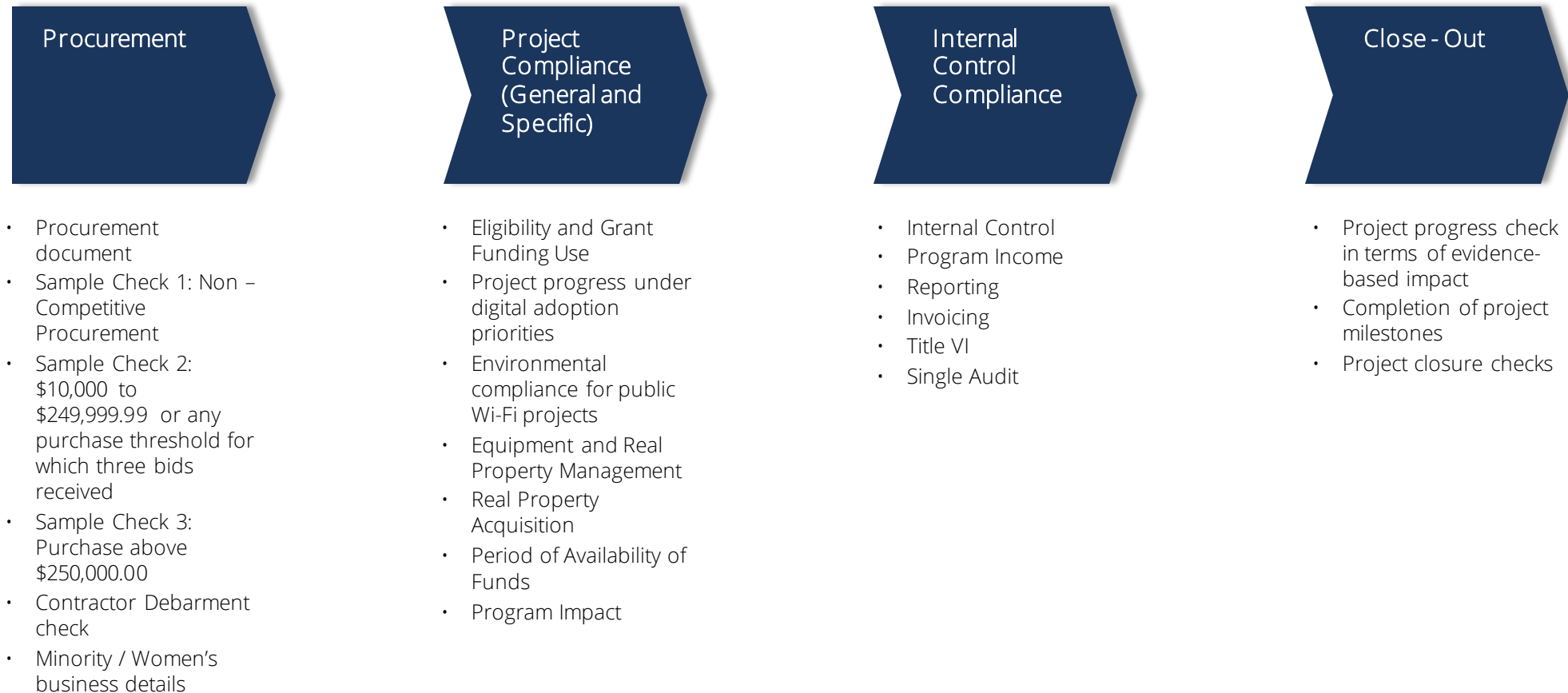**Grantees will be subject to a monitoring review at <u>two points</u>**

- **Midpoint review:** Once the project has reached 50% completeness, as reported by the grantee

- **Closeout review:** A closeout review will be conducted once the project receives 85% of their invoices reimbursed or 100% of project completion rate, whichever is earlier

- Monitoring may involve telephonic review, desk reviews or site visits or more than one mentioned monitoring methods

  - Desk Review for Low-Risk Grantee
  - Site Visit* for High-Risk Grantee / Both desktop review and site visit for high-risk grantees

*Site visits will include a physical inspection of the project progress made and review of other compliance requirements
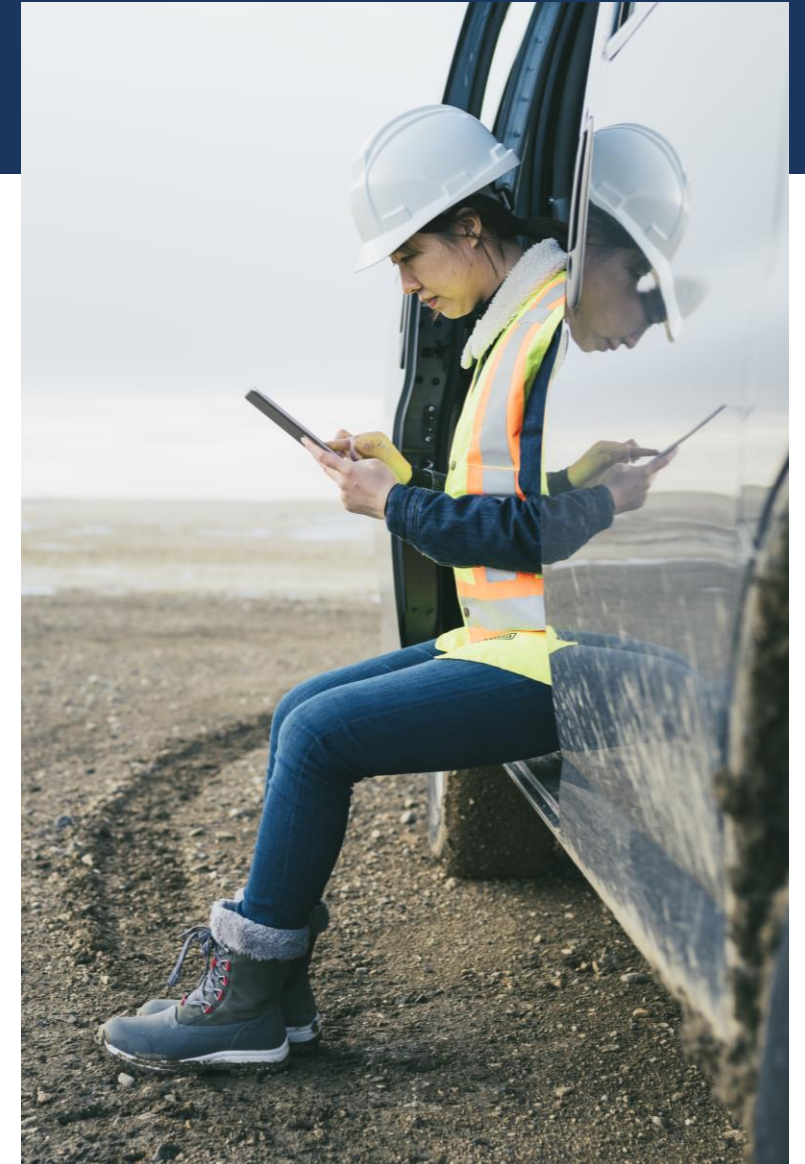
Monitoring Checklist

Monitoring process will cover an exhaustive check of project around following major compliance requirements:

Procurement	Project Compliance (General and Specific)	Internal Control Compliance	Close - Out

Procurement
- Procurement document
- Sample Check 1: Non – Competitive Procurement
- Sample Check 2: $10,000 to $249,999.99 or any purchase threshold for which three bids received
- Sample Check 3: Purchase above $250,000.00
- Contractor Debarment check
- Minority / Women's business details

Project Compliance (General and Specific)
- Eligibility and Grant Funding Use
- Project progress under digital adoption priorities
- Environmental compliance for public Wi-Fi projects
- Equipment and Real Property Management
- Real Property Acquisition
- Period of Availability of Funds
- Program Impact

Internal Control Compliance
- Internal Control
- Program Income
- Reporting
- Invoicing
- Title VI
- Single Audit

Close - Out
- Project progress check in terms of evidence-based impact
- Completion of project milestones
- Project closure checks

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Monitoring Check: Close - Out

For Close – Out Monitoring Visit

- On – site inspection of project progress and impact delivered

- Closure check of project compliance requirements – Status of invoices submitted, document retention policy, etc.
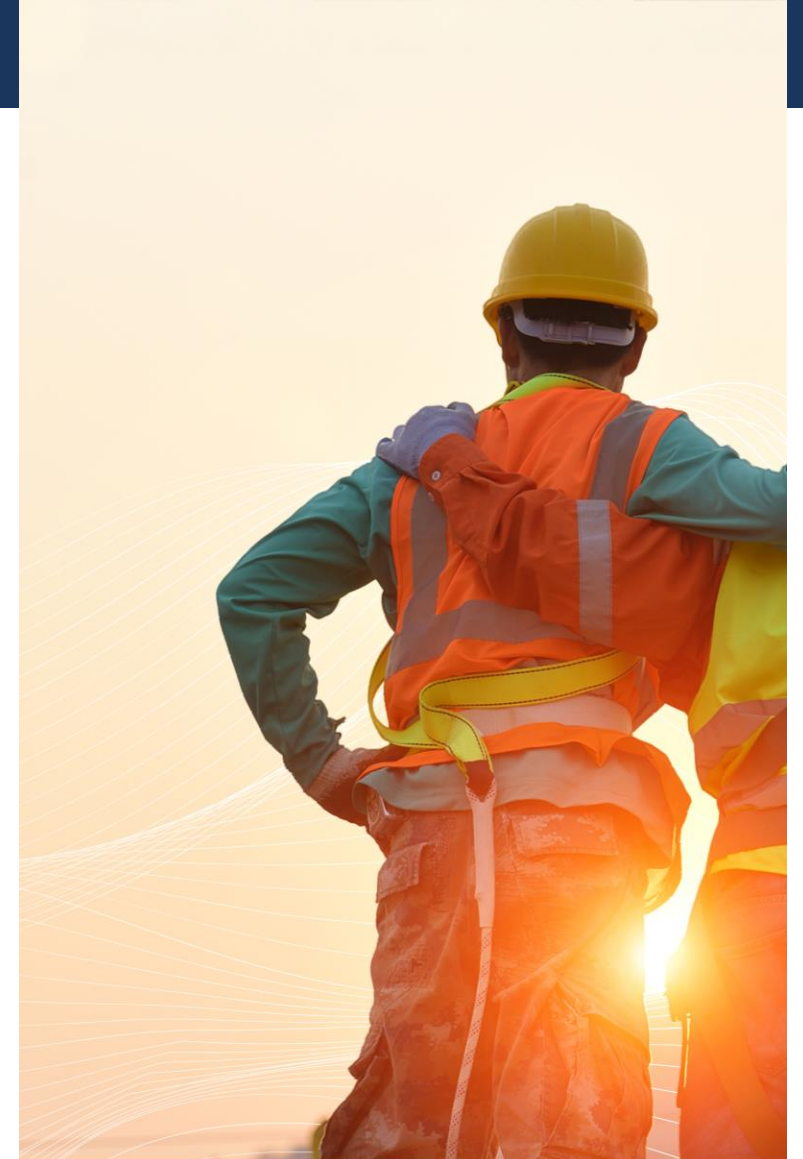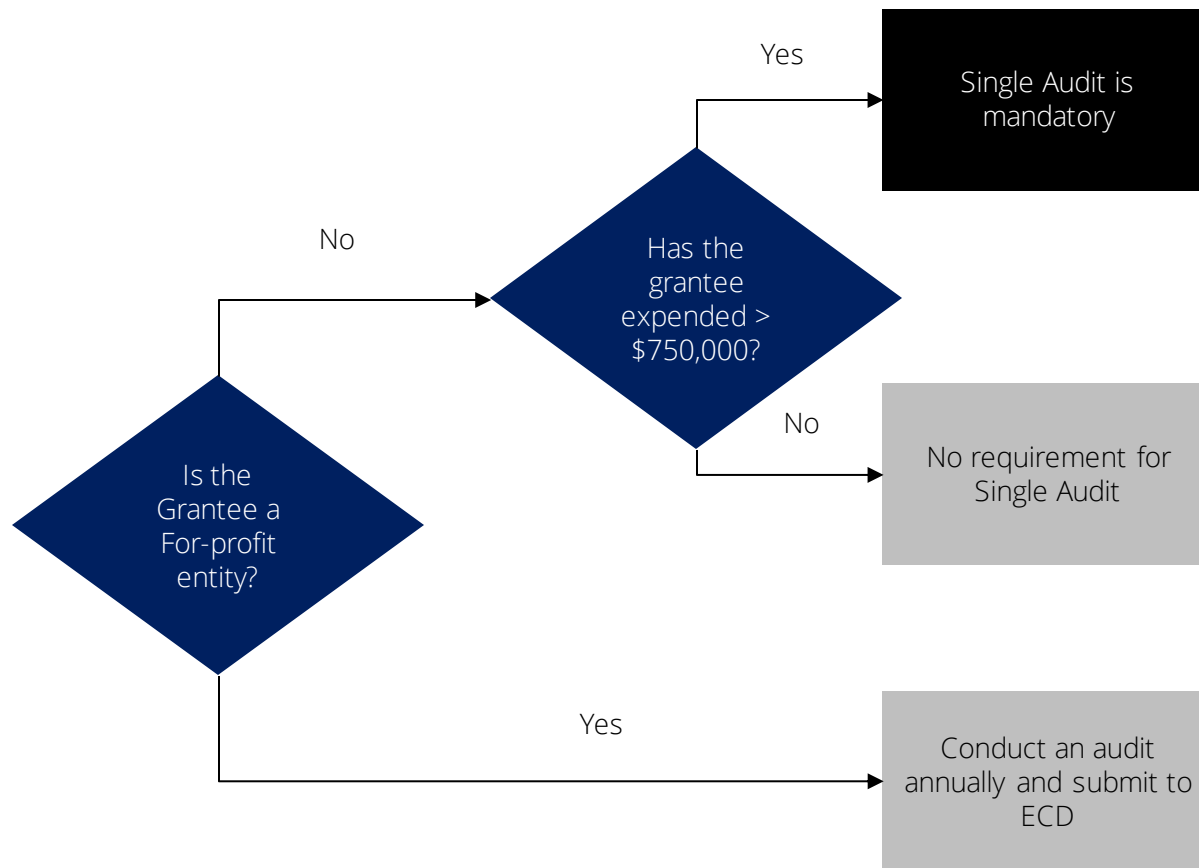
07 Audit/ Title VI Form

Single Audit Eligibility

Single audit is mandatory to be conducted by all Non-federal entities (except For-profits) if they have expended $750,000 or more in federal awards

Flowchart

Is the Grantee a For-profit entity?

- No → **Has the grantee expended > $750,000?**
  - Yes → **Single Audit is mandatory**
  - No → **No requirement for Single Audit**
- Yes → **Conduct an audit annually and submit to ECD**

List of Non-federal entities eligible to submit single audit

Non-federal entities **expending $750,000 in Federal awards** during the entity's fiscal year need to conduct a single audit. These include:
- ✓ State/Local Govt
- ✓ Indian Tribe
- ✓ Institution of Higher education
- ✓ Non-profit

When to submit audits (Single and Program Audit)

Audits Due to FAC
- Single audits are due to the Federal Audit Clearinghouse, within nine months after grantee's fiscal period end date.

Audits Due to ECD
- Single audits are due to the ECD within one month after receipt of auditor's report
- Program specific audits are due to ECD in December 2024.

Guidelines for audit reporting and leading practices

Audit reports should contain important information as prescribed below and follow leading practices for grantee wide trend identification and analytics

Key Coverage for Audit reports

Auditor's report must consist of:
- ✓ Financial Statements
- ✓ Report on internal control over financial reporting and compliance
- ✓ A report on compliance for each major program & a report on internal controls
- ✓ A schedule of findings and questions costs which has the summary of the auditor's results, which must include:

(1) Type of report auditor issued on whether FS audited were prepared in accordance with GAAP;

(2) Internal control were disclosed

(3) A statement as to whether audit disclosed any noncompliance that is material to the financial statements of the auditee;

(4) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control over major programs were disclosed by audit

Leading Practices

Common Reporting Format

A common reporting format across all the grantees capturing deficiencies in financial statements and federal award findings

Materiality Exposure

For deficiencies noticed by the auditors, capturing materiality in $ value to quantify the risk/finding

Risk Segregation

Classification of findings into financial/IT/Access/Process risk

Risk Level Categorization

Classification of risks associated with findings into High/Medium/Low

Feedback

Feedback

- Please scan the QR code on the slide to provide feedback on the webinar to track your attendance

- We would appreciate your valuable feedback to improve future sessions

Required Attendance Check

Broadband Ready Community (BRC) Grant Program - Post Award Compliance Webinar Feedback

Contact Us

To get detailed guidance on post award compliance, please refer to the resources on our website

TNECD Grants Administration Page

 Digital Opportunity Grant Compliance and Reporting Guidebook

For any queries ECD.Broadband@tn.gov

Disclaimer

- The compliance webinar is not an exhaustive guide and is **only to be used for improving the Grantees awareness** towards applicable procurement methodologies, processes, eligible/ineligible expenses, compliance terminologies etc.

- All grantees are subject to stringent federal, state and local guidelines/laws and this document is not to be perceived as a substitute for the guidelines/laws.

- Grantees/Sub-recipients must maintain financial records/supporting documentation to ensure compliance with Federal regulations and allow TNECD/Auditors access to these records for compliance checks.

- Enforcement actions, deficiency in internal controls & remediation plans would be recommended strictly in accordance with Federal regulations

- In the event of any discrepancy, Federal regulations will prevail over the content/references mentioned in this document.

APPENDIX

Monitoring

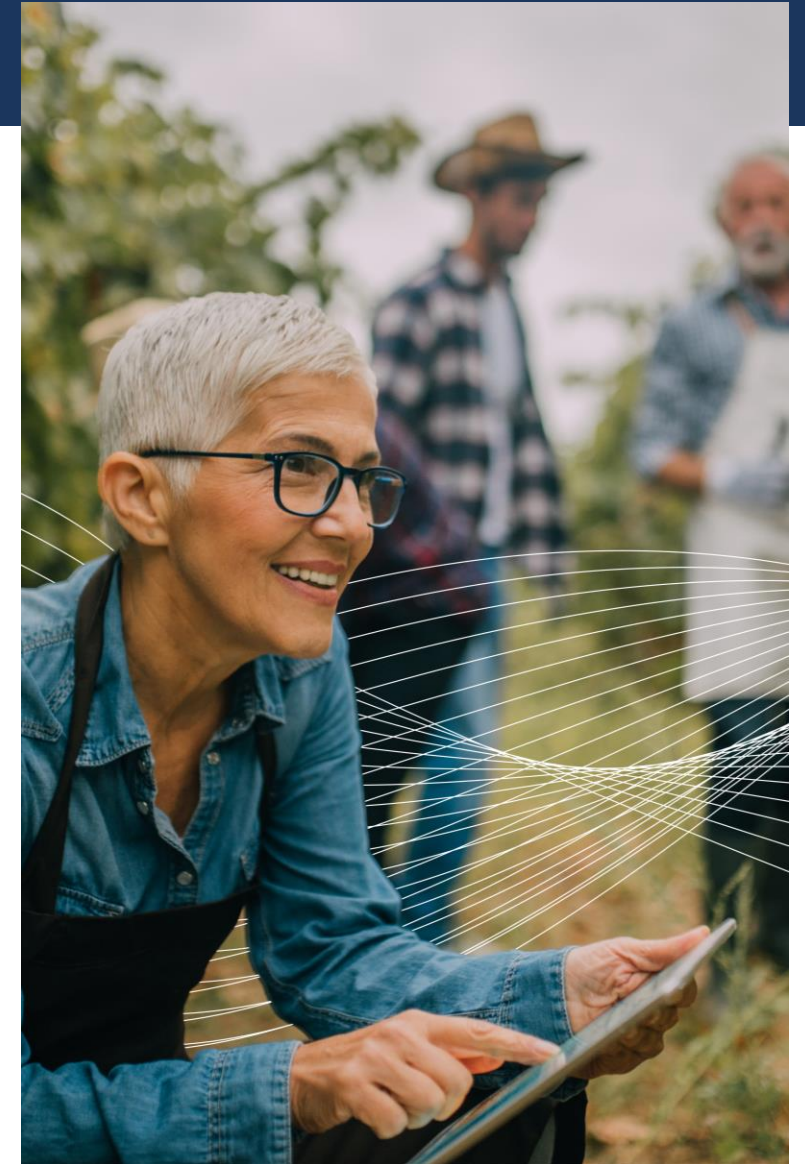# Monitoring Check: Procurement

Procurement

- This procurement check will go through the **sample** of a few procurements to validate if it is compliant with the guidelines

- We will review the samples to check if the grant activities were procured in compliance with the local and state procurement guidelines

- The grantee should have employed **appropriate methods of procurement** methods for any purchase made out under any of the following procurement samples:

    I.   Sample 1 - Non-competitive procurements

    II. Sample 2 – Procurement between $10,000 and $249999.99 / Any purchase where three bids were received

    III. Sample 3- Procurement above $249,999.99 or any purchase procured through competitive procurement method, but contracts awarded prior to grant award / vendor is retained for the grant project
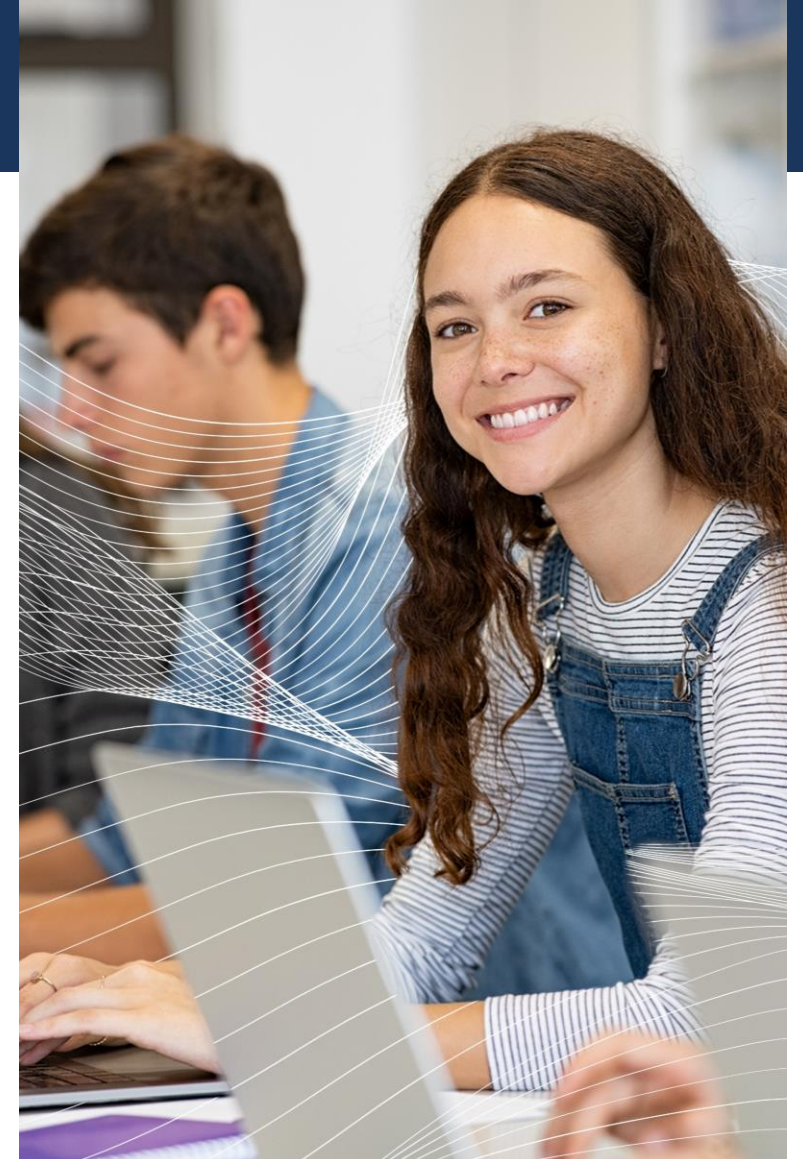
Monitoring Check: Project Compliance

Project Compliance: Equipment and Real Property Management

- This is applicable if any **Capital Purchase valued at $5,000 or more** was purchased with grant funds.
  - Examples include equipment, vehicles etc.
- Ensure that there is a process to track and maintain the equipment for at least five years
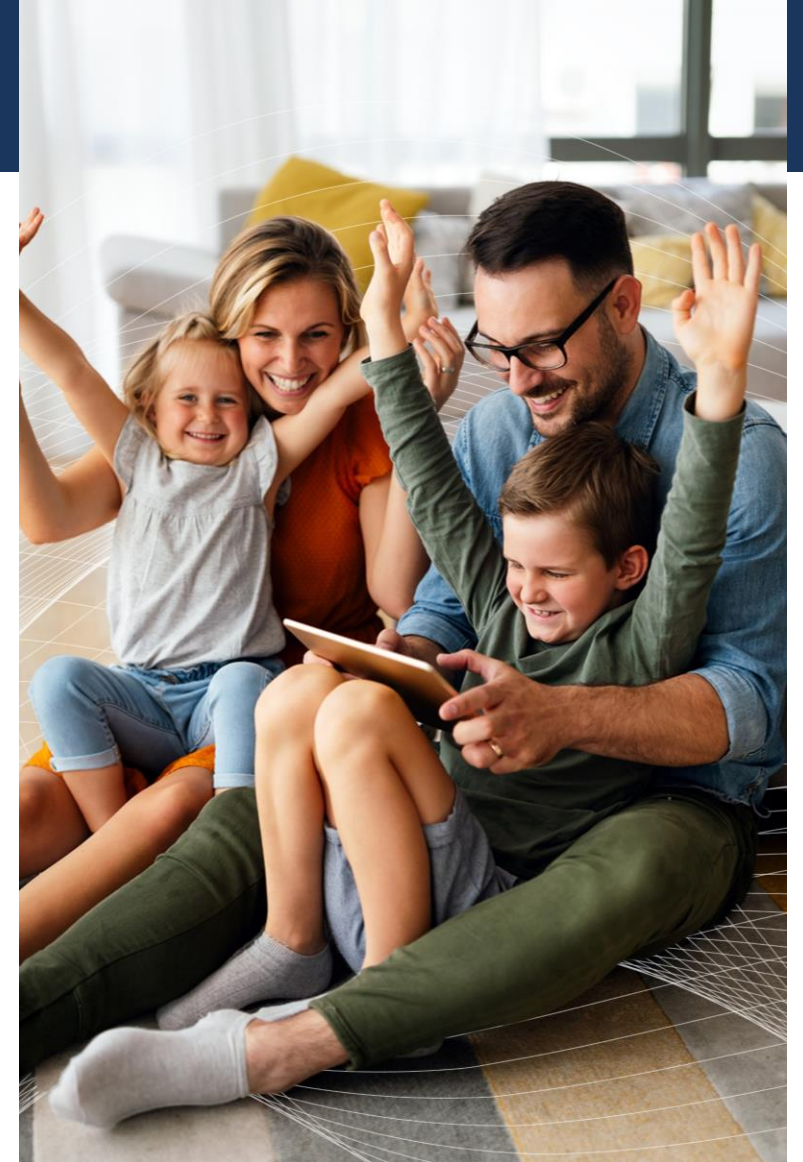- View the equipment purchased (Through images or in-person inspection)

Reference: 2 CFR 200.313

Monitoring Check: Project Compliance

Project Compliance: Equipment and Real Property Management

Usage Requirements

Property, supplies, or equipment last reported as being used for the provision of services to small businesses, nonprofits, and impacted industries outlined in 31 CFR 35.6(b)(3)(ii)(B)-(D) are authorized to fulfill any eligible use of funds outlined in the public health and negative economic impacts eligible use category.

Source: SLFRF-Final-Rule-FAQ.pdf (treasury.gov)

Reference: 2 CFR 200.313

Monitoring Check: Project Compliance

Project Compliance: Equipment and Real Property Management

Disposition Rules for SLFRF

- All equipment over $5,000 or real property must be maintained for its eligible purpose until December 31, 2026, the period of performance for SLFRF. If a recipient changes the use of an asset to an ineligible use or sells the asset prior / after to December 31, 2026, the recipient must follow the disposition procedures set out in the Uniform Guidance. See 2 CFR 200.311, 200.313, 200.314, and 200.315.

- Items of equipment with a current per unit fair market value of $5,000 or less may be retained, sold or otherwise disposed of with no further responsibility to the Federal awarding agency.

- After December 31, 2026, the property, supplies, or equipment must be used consistent with the purpose for which it was purchased or improved or for any other eligible purpose in the same eligible usage category.

Source: SLFRF-Final-Rule-FAQ.pdf (treasury.gov)
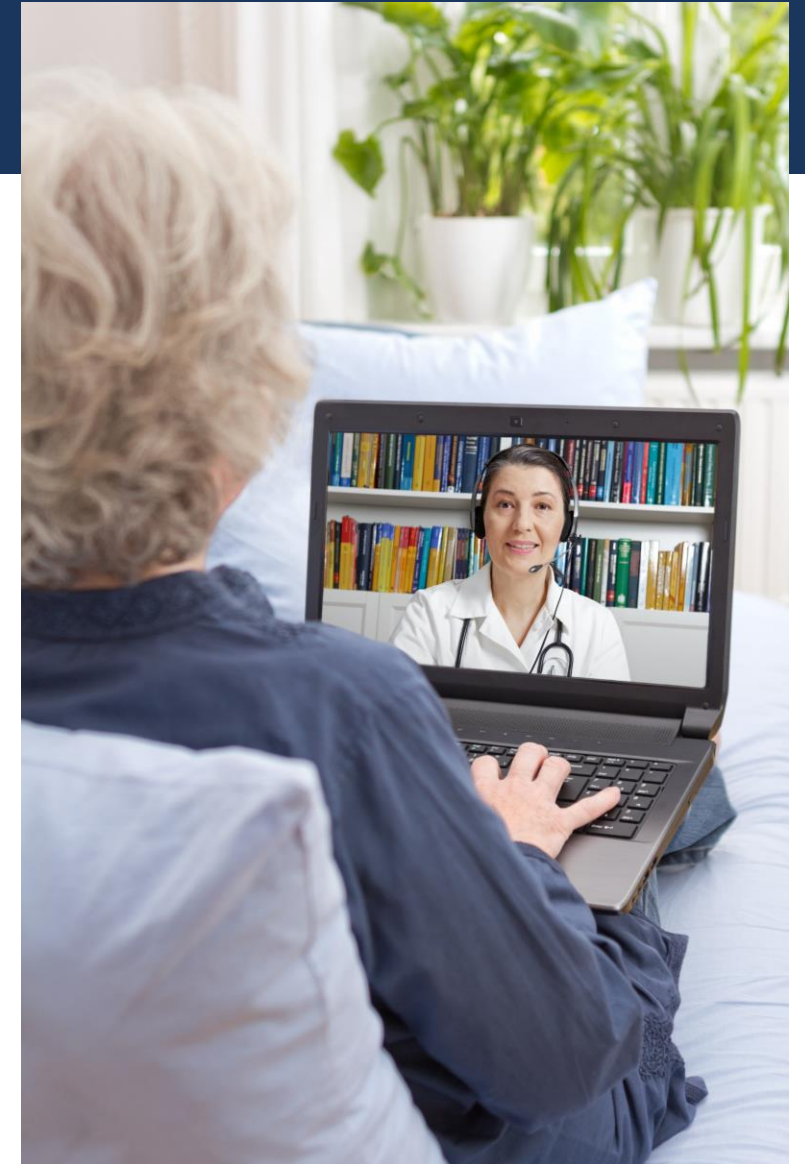
Monitoring Check: Internal Control Compliance

Internal Control Processes

- Grantees must have **internal protocols** in place to document and obtain approvals for changes in planning methodologies or procurement policy thresholds at every level of the organization.

- Contracts and Purchase Orders (POs) should include a **Conflict-of-Interest declaration**, which must be signed off by relevant personnel associated with the procurement process.

- Grantees should assign roles to different users in a way that ensures the clear **segregation of duties**.

- Personnel involved in the procurement process must possess the **appropriate training and experience**. This ensures that individuals handling procurement activities are qualified and knowledgeable in their roles.

- Grantees are encouraged to implement transactional controls, such as the **3-way match process**. This involves comparing the purchase order, invoice, and goods receipts to ensure they match before approving the invoice.

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Monitoring Check: Internal Control Compliance

Internal Control : Title VI Compliance

Title VI Verification Process:

Grantees need to report if any federal or state agency found them in noncompliance with civil rights requirements.

Grantees must report if a civil rights compliance review has been conducted at their site by any federal or state agency within the last two years.

If a compliance review was conducted and found compliant, a copy of the finding must be saved in the ECD file for documentation purposes.

Enhance Procurement Internal Controls

Enhance Internal Controls

Appropriate internal controls over the procurement process involve Transactional, Master Data, Process related and User access-based checks

- Internal controls, policies, and procedures **strengthen procurement practices and reduce risk**

- Ensure that **procurement policy has been created** and **signed off by the Chief Procurement Officer/Head of Procurement**

- Ensure some **planning methodologies/policies** for making changes to the procurement policies, methodologies or **threshold value approval**

- Implement **the 4 eyes principle** by creating a **segregation of duties.** For example, the same user should not receive goods & raise a purchase order or make payments and raise invoice

- Ensure **Conflict of Interest declaration** is present in the contracts/POs and signed off by associated personnel

- Create **transactional controls** such as **3-way match** (the process of comparing the purchase order, invoice, and goods receipts to make they match prior to approving the invoice) controls to mitigate risks in the Accounts Payable process

- Ensure that **only authorized individual** make binding contracts

- Ensure personnel involved in procurement have **appropriate training and experience**

$0.1 to $9,999.99 – Informal Methods of Procurement

All grantees

Micro Purchases

- Solicitations are **not required for Micro Purchases**

- Document pricing or costs that are **publicly available** (i.e., vendor website or publication) or from previous purchases

- Cost Reasonableness Analysis – purchase at the market price is **reasonable for a micro purchase**
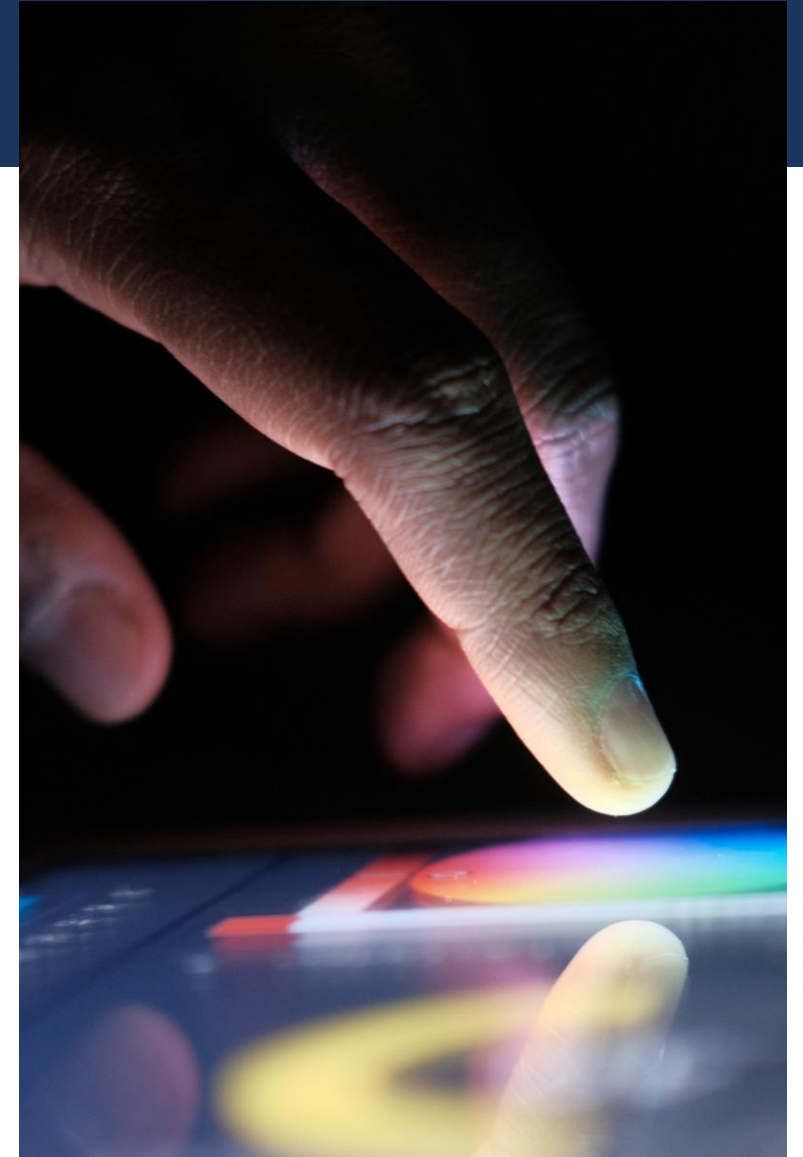
Reference : 2 CFR 200.320
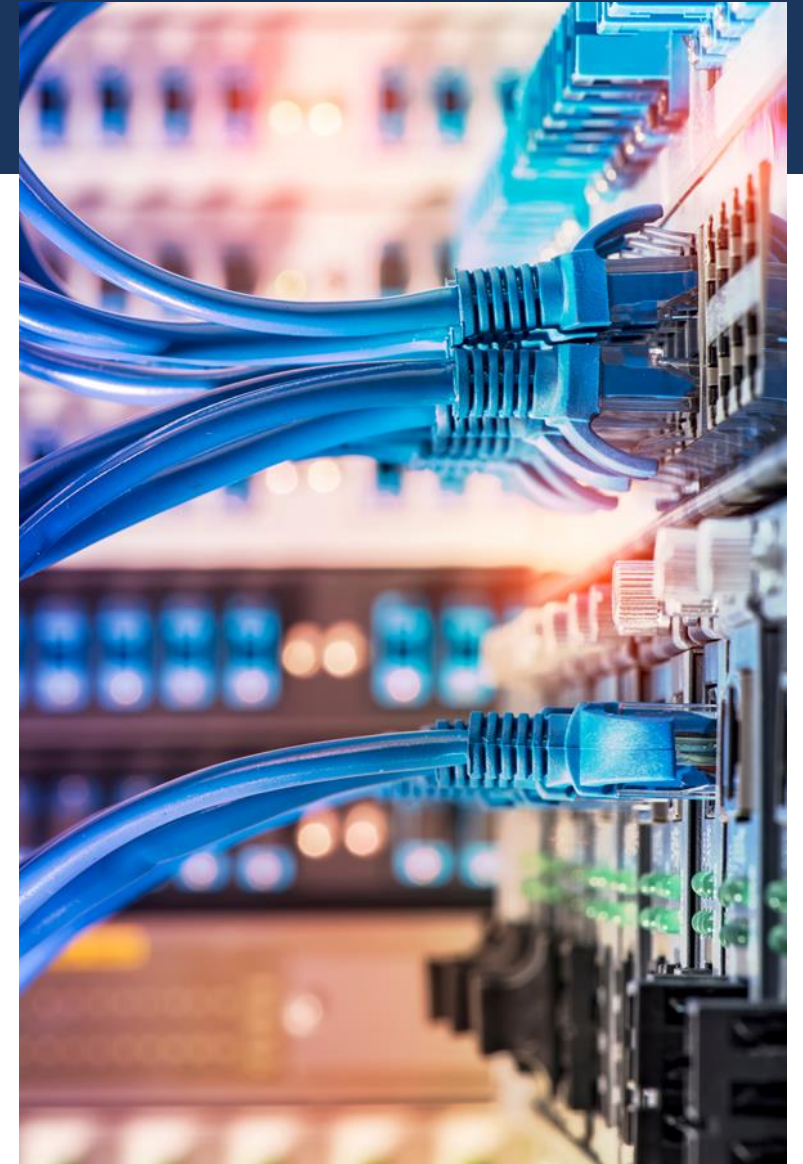
$10,000.00 to $249,999.99 – Submitted Bids

All grantees

2. Small Purchases

- Small purchases are relatively simple and informal procurements that do not exceed the Simplified Acquisition Threshold of $250,000

- **Price or rate quotations must be obtained** from at least **three qualified sources**

Reference : 2 CFR 200.320

Over $250,000 - Formal Methods of Procurement

All grantees

The two formal methods of procurement used are **Sealed Bids** and **Proposals**

1. Sealed bids

- **Publicized requests for proposals** to the maximum extent practical (website, newspaper, social media)

- All bids will be opened at the time and place prescribed in the invitation for bids

- For sealed bidding to be feasible, the following conditions should be present

  - A complete specification or purchase description is available

  - Two or more responsible bidders are willing and able to compete effectively for the business

  - The selection of the successful bidder can be made principally based on price

    - Factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest.
    - Any or all bids may be rejected if there is a sound documented reason

Reference : 2 CFR 200.320

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Over $250,000 - Formal Methods of Procurement

All grantees

2. Proposals

- Proposals are to be used when conditions are not appropriate for the use of sealed bids (Typically for professional services, consulting, architectural, or engineering services)

- Allows for the consideration of technical factors other than price; (Typically for professional services, consulting, architectural, or engineering services)

- Proposals must:

  - **Identify all evaluation factors**

  - **Publicized requests for proposals** to the maximum extent practical

  - Have a **written method for conducting technical evaluations**

  - Be awarded to the proposal that is **most advantageous**, with price and other factors considered

Reference : 2 CFR 200.320

Practices that Restrict Full and Open Competition

Some of the situations considered to be restrictive of competition include but are not limited to

- Placing **unreasonable requirements** on firms for them to qualify to do business

- Requiring **unnecessary experience and excessive bonding**

- **Noncompetitive pricing practices** between firms or between affiliated companies

- **Noncompetitive contracts to consultants** that are on retainer contracts

- Organizational **conflicts of interest**

- **Specifying only a "brand name" product** instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement

  - Documentation will be required to justify while a brand name is the only option possible (i.e., only Nokia products are compatible with the network)

- **Any arbitrary action** in the procurement process

- Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals **must be excluded from competing** for such procurements

Reference : 2 CFR 200.319 ; SBA

Domestic Preferences for Procurement

- To the greatest extent practicable, non-Federal entity recipients should provide **preference** for purchase, acquisition, use of goods, products, or materials **produced in the United States**

- The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products

  - **"Produced in the United States" means,** for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

  - **"Manufactured products" means** items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

- **Future requirement:** For broadband funding from the Bipartisan Infrastructure Law (BIL/IIJA), domestic procurement is **required, except for waivers** under the Buy American Provisions

Reference : 2 CFR 200.322
NTIA Waiver guidelines for BEAD
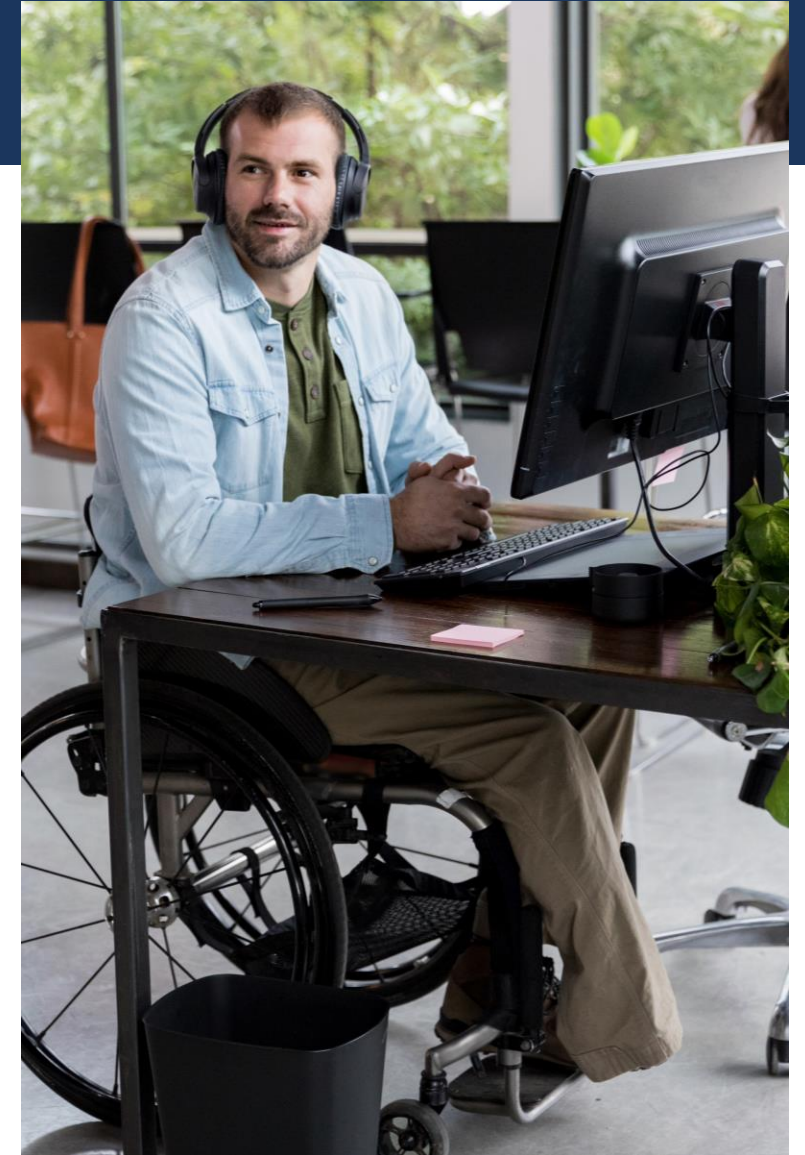
Procurement of Recovered Materials

- Grantees shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired :

  - Competitively within a timeframe providing for compliance with the contract performance schedule

  - Meeting contract perform performance requirements

  - At a reasonable price

- Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

- The Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act

Reference : 2 CFR 200.323; 6002 of Solid Waste Disposal Act

Bonding Recommendations

Types of Bonding Requirements in 2 CFR Part 200

- **TN ECD recommends the use of bonding requirements** which include bid guarantees, performance bonds and payment bonds as good practice

Bonding Requirement	Purpose	Timeline	Coverage
Bid Guarantee	To ensure that the bidder enters the contract and demonstrates the commitment to fulfill the contract if the bid is accepted	Submitted along with the bid proposal	Based on the contract value, it must either be consistent with the local/state/nonfederal entity's requirements or **5% of the bid price**
Performance Bond	To ensure that a contractor will complete a project according to the terms of the contract	After the acceptance of the bid and before the commencement of the project	Based on the contract value, it must either be consistent with the local/state/nonfederal entity's requirements or **100% of the contract price**
Payment Bond	To ensure that subcontractors, suppliers and laborers are guaranteed payment for the work they perform on a project	Before commencement of the project	Based on the contract value, it must either be consistent with the local/state/nonfederal entity's requirements or **100% of the contract price**

References : 2 CFR 200.326 , TEBF ARP Subrecipient Procurement Guidelines

Bonding Requirements Based on Contract Value

When contracts or subcontracts for construction or facility improvements are **under** $25,000	• The Grantee can follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds • However, the Grantee's and State's interest should be adequately protected and that such contracts should be executed in a timely manner • Otherwise, bonding requirements shall be the same as for contracts exceeding $25,000
When contracts or subcontracts for construction or facility improvements are **over** $25,000	• The State or the Federal awarding agency will decide that the Federal interest is adequately protected by the non-Federal entity's bonding policy/requirements. • If this determination is not made, the minimum requirements must be: o A bid guarantee consisting of a firm commitment such as a bid bond from each bidder equivalent for 5% of the bid price. o A performance bond on the part of the contractor for 100% of the contract price o A payment bond on the part of the contractor for 100% of the contract price

References : 2 CFR 200.326 , TEBF ARP Subrecipient Procurement Guidelines

Cost and Price Reasonableness

When and Why Should You Perform an ICE and Cost/Price Analysis?

- Recipient must perform a cost/price analysis in connection with every procurement action, including contract modifications
- The method and degree of analysis is dependent on the facts surrounding the procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- This may range from a simple budget estimate to a complex estimate

Estimate/Analysis	When?	Why?
Make independent cost estimates (ICE)	• Before receiving bids and proposals • **Any purchases above the micro purchase threshold (>$9,999.99)**	• Provides a point of reference for review when bids are received • Assists with ensuring the services are allowable, necessary, reasonable and related (allocable) to completing the project
Cost or price analysis	• Prior to the award of the contract • **Any purchase above $249,999.99**	• An independent assessment for what to expect to pay for goods and services • Determined by a comparison of the ICE and the price proposals or bids received

Reference : 2 CFR 200.324

How Should You Perform an ICE?

Any purchases above the micro purchase threshold (>$9,999.99)

- The ICE should include the following items:

    1. Method of procurement

    2. Type of item/services being procured (good, service, construction, A/E services)

    3. Description of the item or service being procured

    4. Provide documentation of the tool used to provide the estimate

        – Simple budgetary estimate

        – Construction estimating software

        – Published pricing or quotes

        – Other methods
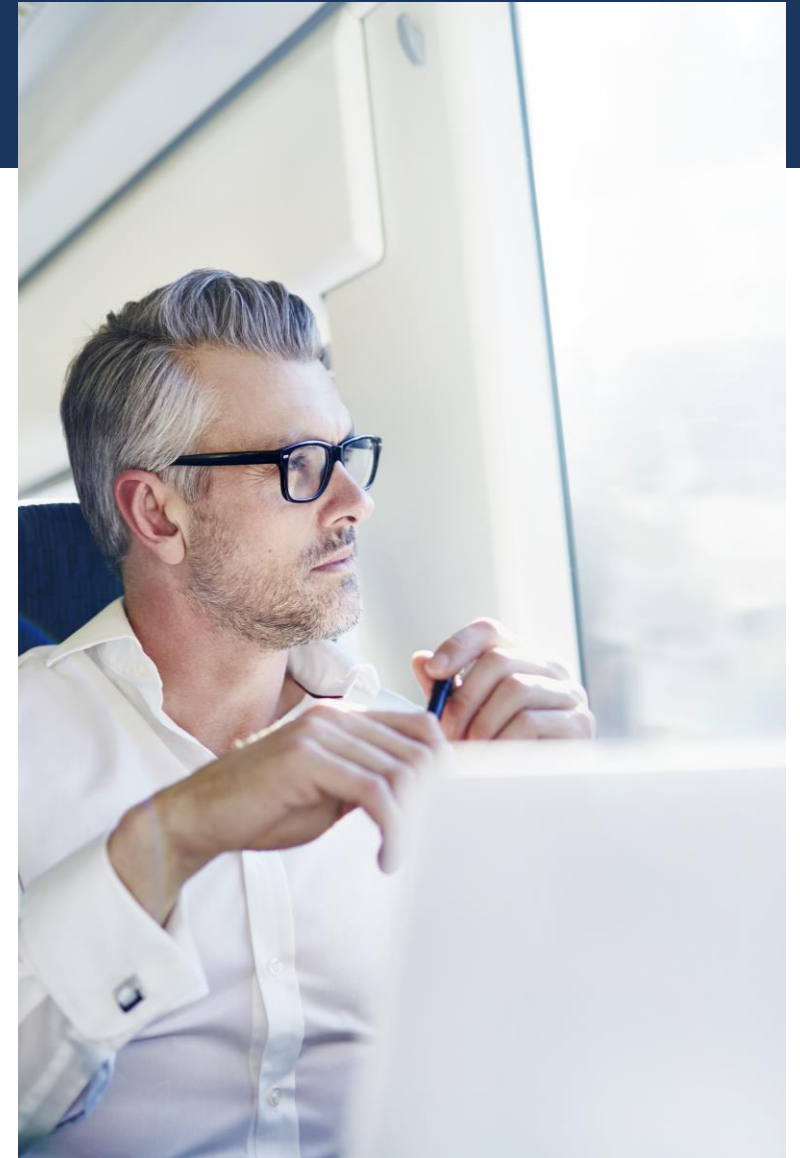
How Should You Perform Cost or Price Analysis?

Any purchases above $249,999.99

- Cost analysis shall be performed by the Procurement/Contracting staff and shall focus on the individual cost elements of the particular project.

- <u>Once a bidder has been selected</u>, perform due diligence prior to final contract award

- Typically, costs received which are within 15% of the estimate are considered reasonable and may move forward to award.

- What steps should be taken if costs received are not with in the reasonable range?

  - Review the estimate! Ensure all costs which were received were accounted for in the ICE.

  - Identify <u>costs or price </u>areas where there are discrepancies.

  - Determine if the market conditions drastically changed from the time the ICE was completed to the time bids were received.
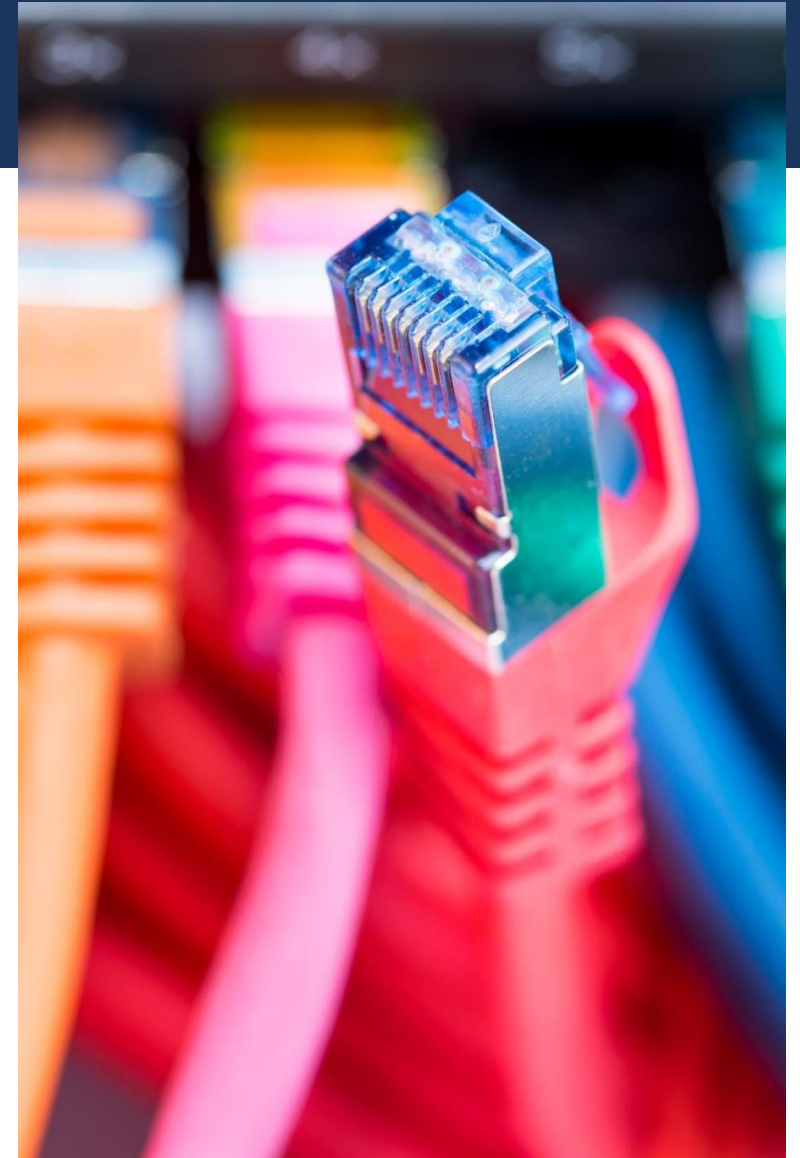
Sample : Cost Analysis Form

- PO: _____ Prepared by: _____

- Amount: _____

- Description: _____

- Vendor: _____

- Description: _____

- Unit of Measure: _____

- ICE: _____

- Unit of Measure: _____

- Cost for the services is quoted at $x,xxx and was estimated by Agency' Project Manager at $y,yyy. It is determined that the cost for this effort is fair and reasonable since the total cost difference is within 15% of the Independent Cost Estimate (ICE).

If a unit costs are requested in the solicitation, then the ICE should be completed with unit costs.