

**Date**

October 20, 2021

**Time**

10:30 am – 11:45 am

**Instructors**

**Angela Heath, CFE, LLM**  
Senior Attorney

**Diane B. Allison, CPA, CGMA, CGFO**  
Director of Local Government Services

**Location**

Virtual

**Method of Delivery**

Webinar

**Learning Level**

Basic

**CPE Hours**

1.5 Hours

**CPA Subject Matter**

Accounting and Auditing

**Yellow Book Subject Matter**

Governmental

**Prerequisite**

None

# American Rescue Plan Act – Coronavirus Fiscal Recovery Fund

**Description**

This course will give participants an overview of the American Rescue Plan Act (ARPA) Coronavirus Fiscal Recovery Fund (Recovery Fund).

**Objectives**

After this class participants will understand:

- The purpose of the ARPA Recovery Fund including eligible and ineligible uses of funds according to US Treasury guidelines.
- Federal grant reporting guidelines for the ARPA Recovery Fund.
- State and Federal audit requirements for the ARPA Recovery Fund.

**Who Will Benefit**

- Elected Officials/Appointed Officials
- Local Government Employees/Local Government Auditors

**About the Instructors****ANGELA M. HEATH, CFE, LLM****SENIOR ATTORNEY**

Angela M. Heath, CFE, LLM is a Senior Attorney for the Office of the Louisiana Legislative Auditor (LLA). She is a graduate of Southern Methodist University, in Dallas, TX, where she received a B.A. in English and a B.A. in Broadcast Journalism (1991). She received her J.D. from Loyola University New Orleans, School of Law (1996) and her LL.M – Admiralty from Tulane University School of Law (1997). Ms. Heath began her career serving as a judicial law clerk for Justice Catherine D. “Kitty” Kimball on the Louisiana Supreme Court before going into private practice. Her practice focused on mass-tort class actions and products liability litigation. Following Hurricane Katrina in 2005, Ms. Heath moved to Charlotte, NC where she began practice in consumer bankruptcy and as the attorney for the U.S. Chapter 7 Bankruptcy Trustee for the Western District of North Carolina. Upon returning to Louisiana in 2012, Ms. Heath served as a Senior Parish Attorney for the Parish of Jefferson before joining the LLA in February 2016. In her capacity as Senior Attorney to the Legislative Auditor, Ms. Heath researches and writes

**DIANE ALLISON, CPA, CGMA, CGFO****ASSISTANT LEGISLATIVE AUDITOR and DIRECTOR OF LOCAL GOVERNMENT SERVICES**


Diane Allison has been a CPA for 24 years and has over 30 years of accounting experience, including in the local government, not-for-profit,

public accounting, and for-profit manufacturing sectors.

Diane currently serves as Assistant Legislative Auditor and Director of Local Government Services of the LLA, which oversees the work of more than 200 independent CPA firms that conduct over 3,600 audits and other types of engagements, performs various advisory services, prepares fiscal and actuarial notes for the Louisiana Legislature, and educates local governments on financial management.

Diane chairs the Government Finance Officers Association Accounting, Auditing and Financial Reporting committee and is a member of numerous professional organizations.

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**American Rescue Plan Act  
Coronavirus Fiscal Recovery Fund**

**Michael J. "Mike" Waguespack, CPA  
Louisiana Legislative Auditor**

Presented by:



**Diane B. Allison, CPA, CGMA, CGFO  
Assistant Legislative Auditor and  
Director of Local Government Services**

**Angela M. Heath, LLM, CFE  
Senior Attorney**

**October 20, 2021**

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Agenda



- Overview of the American Rescue Plan Act
- Timeline
- Eligible Uses of Funds
- Ineligible Uses of Funds
- Reporting Requirements
- Records Retention
- Compliance with Uniform Guidance
- Procurement Guidelines

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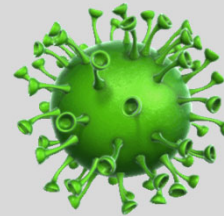
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# Overview of the American Rescue Plan Act



➤ The Coronavirus Fiscal Recovery Funds portion of the American Rescue Plan Act (ARP) provides State and local governments with significant financial resources to continue their response to the COVID-19 public health emergency and “to lay foundation for a strong economic recovery”.

Obligation(s)	FY 20	FY 21 (est.)	FY 22 (est.)
<b>■ Direct Payments for Specified Use Total</b>	<b>Actual Not Available</b>	<b>\$350,000,000,000</b>	<b>Estimate Not Available</b>
Payments to U.S. Territories (defined to include, Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa)	\$0	\$4,500,000,000	Estimate Not Available
Payments to Tribal governments	\$0	\$20,000,000,000	Estimate Not Available
Payments to States and the District of Columbia	\$0	\$195,300,000,000	Estimate Not Available
Payments to Metropolitan Cities	Actual Not Available	\$45,570,000,000	Estimate Not Available
Payments to States for distribution to Nonentitlement units of local government	\$0	\$19,530,000,000	Estimate Not Available
Payments to Counties	\$0	\$65,100,000,000	Estimate Not Available
<b>Totals</b>	<b>Actual Not Available</b>	<b>\$350,000,000,000</b>	<b>Estimate Not Available</b>



# Overview of the American Rescue Plan Act



## CARES Act v. ARP

**CARES Act**  
**Coronavirus Relief Fund**

**American Rescue Plan Act**  
**Coronavirus Fiscal Recovery Fund**

March 1, 2020 to December 31, 2021



March 3, 2021 to December 31, 2024

Focus on immediate response to pandemic

Focus on economic recovery



# Overview of the American Rescue Plan Act



**Distribution**

I. States  
Parishes  
Municipalities with populations over 50,000  
13 Municipalities in Louisiana

Type I must submit information to the Treasury Submission Portal



<https://api.id.me/en/session/new>

and have an active registration with the System for Award Management (SAM)  
[www.sam.gov](http://www.sam.gov)

II. Municipalities with populations less than 50,000 (NEUs)  
Type II coordinated through Louisiana DOA OCD

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# Timeline



## Timeline of Fund Distribution

➤ **Two tranches:**



- First tranche available now
- Second tranche 12 months later.

➤ **Exceptions:**

- States that have suffered a net increase in the unemployment rate of more than 2 percentage points from February 2020 will receive their grant in a single payment.
  - Louisiana is a state not subject to the split
- Payments to Tribal governments received first in May and the second to be delivered in June 2021.

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## Eligible Uses of Funds



1. To respond to the *public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel and hospitality;*
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
3. For the provision of government services to the extent of the reduction in revenue due to COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
4. Make necessary investments in water, sewer, and broadband infrastructure.

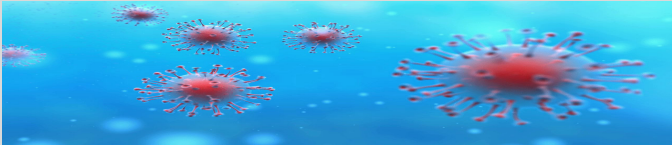
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## Eligible Uses of Funds




5. **Equity-Focused Services to address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic.**

See: Section II of Treasury Interim Final Rule:  
<https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>



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## Eligible Uses of Funds



- **Support public health response**
  - Services to contain and mitigate the spread of COVID-19, including vaccination, medical expenses, testing, quarantine costs, capacity enhancements, and related activities;
  - Behavioral healthcare services, including mental health or substance abuse treatment, crisis intervention and related services;
  - Payroll and covered benefits for public health, healthcare, human services, and public safety response to the extent they work on the COVID-19 response.

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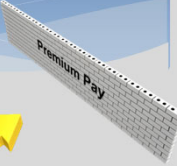

## Eligible Uses of Funds



- **Address negative economic impacts caused by pandemic**
  - Deliver assistance to workers and families, including support for unemployed workers, aid to households, and survivor's benefits to families of COVID-19 victims;
  - Support small businesses with loans, grants, in-kind assistance, and counseling programs;
  - Speed the recovery of impacted industries, including tourism, travel, and hospitality sectors;
  - Rebuild public sector capacity by rehiring staff, replenishing state unemployment insurance funds to January 2020 levels, and implementing economic relief programs.

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## Eligible Uses of Funds



- **Premium pay for essential workers**
  - Provide premium pay to essential workers, both directly and through grants to third-party employers;
  - US Treasury Rule and FAQ 5.1 “essential workers are those in critical infrastructure sectors who regularly perform in-person work, interact with others at work, or physically handle items handled by others.”
  - Critical infrastructure sectors include, but are not limited to, “healthcare, education and childcare, transportation, sanitation, grocery and food production, and public health and safety.”

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## Eligible Uses of Funds




- **Premium pay for essential workers**
  - Prioritize low- and moderate-income workers, who face the greatest mismatch between employment-related health risks and compensation.
  - Premium pay that would increase a worker’s total pay above 150% of the greater of the state or county (parish) average annual wage requires specific justification for how it responds to the needs of these workers.

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## Eligible Uses of Funds



➤ **Replace public sector revenue loss**


There are four parts to calculating lost revenue:

- Determining the base year general revenue;
- Determining actual general revenue at designated points in time;
- Applying an inflationary factor to the base year general revenue at each point in time; and
- Comparing actual general revenue to the inflated base general revenue to determine lost revenue.

This calculation will be performed four times – for December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023.

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## Eligible Uses of Funds



➤ **Replace public sector revenue loss**

A reduction in a recipient's General Revenue equals:

$$\text{Max } \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{\frac{n}{12}}] - \text{Actual General Revenue}_t ; 0 \}$$

Where:

*Base Year Revenue* is General Revenue collected in the most recent full fiscal year prior to the COVID-19 public health emergency.

*Growth Adjustment* is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.



*n* equals the number of months elapsed from the end of the base year to the calculation date.

*Actual General Revenue* is a recipient's actual general revenue collected during 12-month period ending on each calculation date.

Subscript *t* denotes the calculation date.

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# Eligible Uses of Funds



The Government Finance Officer Association (GFOA) has created an Excel spreadsheet to help local governments calculate their lost revenue amounts.

<https://naco.sharefile.com/share/view/s41a8f7bd327b462fb84de7c386c36071>

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# Eligible Uses of Funds





➤ **Water & Sewer infrastructure**

- Includes improvements to infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems;
- Eligible uses aligned to the Environmental Protection Agency project categories for the Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).

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## Eligible Uses of Funds



- **Broadband infrastructure**
  - Focus on households and businesses without access to broadband and those with connections that do not provide minimally acceptable speeds;
    - defined as those that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.
  - Projects that deliver reliable service with minimum 100 Mbps download/100 Mbps upload speeds unless impracticable;
  - Complement broadband investments made through Capital Projects Fund
  - Provide assistance to households facing negative economic impacts due to COVID-19, including digital literacy training and other programs that promote access to the Internet.

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## Eligible Uses of Funds



- Additional flexibility for the hardest-hit communities and families to address health disparities, address educational disparities, and promote healthy childhood environments;
- Broadly applicable to Qualified Census Tracts, other disproportionately impacted areas, and when provided by Tribal governments.

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# Ineligible Uses of Funds





## ARP

- States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in the law from March 3, 2021 through the last day of the fiscal year in which the funds provided have been spent.
- No recipient may use this funding to make a deposit to a pension fund.

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# Ineligible Uses of Funds



## Treasury rules

- Funding debt service;
- Legal settlements or judgments;
- Deposits into rainy day funds or financial reserves; and
- Non-federal match for Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements.
  - State share of Medicaid is not an eligible use;
  - State/local share under Stafford Act (FEMA)/; CWSRF; and DWSRF.
- General infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or the amount allocated under the revenue loss provision.

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## Reporting Requirements: Project Expenditure Report



- ❖ Projects funded and major activities
- ❖ Financial data
  - Expenditures by category (Compliance Guide, Appendix 1)
  - Obligations and grants
- ❖ Contracts and subawards of \$50,000 or more
- ❖ Data elements related to specific eligible uses
- ❖ Status of completion of projects
- ❖ Cash or accrual basis, consistently applied

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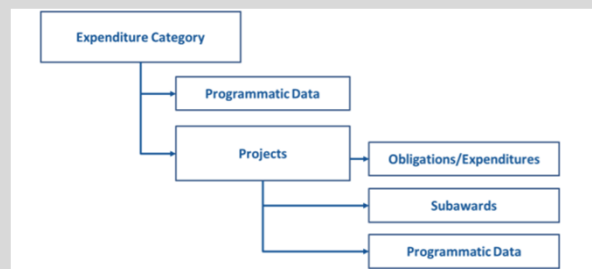
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## Reporting Requirements: Project Expenditure Report



Each project can be aligned to only one expenditure category




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## Project Expenditure Report: Excerpted Expenditure Categories




<b>4: Premium Pay</b>	
4.1	Public Sector Employees
4.2	Private Sector: Grants to Other Employers
<b>5: Infrastructure<sup>27</sup></b>	
5.1	Clean Water: Centralized Wastewater Treatment
5.2	Clean Water: Centralized Wastewater Collection and Conveyance
5.3	Clean Water: Decentralized Wastewater
5.4	Clean Water: Combined Sewer Overflows
5.5	Clean Water: Other Sewer Infrastructure
5.6	Clean Water: Stormwater
5.7	Clean Water: Energy Conservation
5.8	Clean Water: Water Conservation
5.9	Clean Water: Nonpoint Source
5.10	Drinking water: Treatment
5.11	Drinking water: Transmission & Distribution
5.12	Drinking water: Transmission & Distribution: Lead Remediation
5.13	Drinking water: Source
5.14	Drinking water: Storage
5.15	Drinking water: Other water infrastructure
5.16	Broadband: "Last Mile" projects
5.17	Broadband: Other projects
<b>6: Revenue Replacement</b>	
6.1	Provision of Government Services

Each expenditure category can have multiple projects

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## Project Expenditure Report: General Reporting Information



- ❖ Enter 0 if received funds but have not obligated or spent them yet
- ❖ The population threshold will not change from the date of the award, even if the population changes during the four-year reporting period
- ❖ Can update the annual Project Expenditure Report but not the interim or quarterly ones; can make corrections to adjust for ineligible uses
- ❖ Only general administrative costs not associated with a particular project and that do not fall into another Expenditure Category should be reported as Administrative Expenses (EC 7.1)
- ❖ Can upload bulk files or individual ones, but must be submitted as a .CSV file

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## Reporting Requirements: Recovery Plan Performance Report



- ❖ Information on recovery projects (the Recovery Plan)
- ❖ How the government is planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner
- ❖ Flexible on form and content of the Recovery Plan
- ❖ Key performance indicators
- ❖ Programmatic data in specific eligible use categories
- ❖ Posted on the government’s website
- ❖ Required only from all states, parishes, and metropolitan cities with populations over 250,000

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## Reporting Requirements Chart 1: States, Parishes & Metropolitan Cities with Populations Over 250,000



Report Name	Report Period	Report Frequency	Report Due Date
Interim Project and Expenditure Report	Date of Award – July 31, 2021	Once	Aug. 31, 2021
Initial Project and Expenditure Report	Date of Award – Dec. 31, 2021	Once	Jan. 31, 2022
Project and Expenditure Report	Quarters Ending March 31, June 30, Sept. 30, Dec. 31	Quarterly	April 30, July 31, Oct. 31, Jan. 31
Initial Recovery Plan Performance Report	Date of Award – July 31, 2021	Once	Aug. 31, 2021
Recovery Plan Performance Report	July 1 – June 30	Annually	July 31

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**Reporting Requirements – Chart 2: Parishes & Metropolitan Cities with Populations Under 250,000 and More Than \$5M in ARP Funding**



Report Name	Report Period	Report Frequency	Report Due Date
Interim Project and Expenditure Report	Date of Award – July 31, 2021	Once	Aug. 31, 2021
Initial Project and Expenditure Report	Date of Award – Dec. 31, 2021	Once	Jan. 31, 2022
Project and Expenditure Report	Quarters Ending March 31, June 30, Sept. 30, Dec. 31	Quarterly	April 30, July 31, Oct. 31, Jan. 31

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**Reporting Requirements – Chart 3: Parishes & Metropolitan Cities with Populations Under 250,000 and Less Than \$5M in ARP Funding**




Report Name	Report Period	Report Frequency	Report Due Date
Interim Project and Expenditure Report	Date of Award – July 31, 2021	Once	Aug. 31, 2021
Initial Project and Expenditure Report	Date of Award – Dec. 31, 2021	Once	Jan. 31, 2022
Project and Expenditure Report	Oct. 1 – Sept. 30	Annually	Oct. 31

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### Reporting Requirements – Chart 4: Cities, Towns & Villages with Populations under 50,000 (Non-entitlement Units, NEUs)



Report Name	Report Period	Report Frequency	Due Date
Initial Project and Expenditure Report	Date of Award – March 31, 2022	Once	April 30, 2022
Project and Expenditure Report	Oct. 1 – Sept. 30	Annually	Oct. 31

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### Reporting Requirements to the Legislative Auditor



Revenues and Other Sources	Type of Report	Due Date
\$75,000 or less	Sworn financial statements	90 days after close of fiscal year
Between \$75,001 and \$199,999	Compilation	6 months after close of fiscal year
Between \$200,000 and \$499,999	Review/Attestation	6 months after close of fiscal year
\$500,000 or more	Audit and Statewide Agreed-Upon Procedures	6 months after close of fiscal year
\$750,000 or more in federal funds	Single Audit	6 months after close of fiscal year

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## Schedule of Expenditures of Federal Awards (SEFA)



- ❖ Coronavirus State and Local Fiscal Recovery Funds are Assistance Listing Number 21.027
- ❖ Prepared by auditee
- ❖ Includes federal awards *expended* in the fiscal year
  - Based on when the activity related to the federal grant occurs and complies with federal statutes, regulations, and terms and conditions of the federal award
  - Expenditure transactions, contract effective date, disbursement of funds to subrecipients
  - If expended in a prior year (i.e. 2020) but received funds in current year (i.e. 2021), then include expenditures on 2021 SEFA and disclose in notes the amount of funds expended in the prior year

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## Record Retention Requirements



- ❖ All programmatic and financial records
- ❖ For five years after all funds have been expended or returned to Treasury, whichever is later
- ❖ Wherever practicable, collected, transmitted, and stored in open and machine-readable formats (electronically)
- ❖ Made available to Treasury and other regulators upon request

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## Compliance with Uniform Guidance (2 CFR 200)



1. Effective internal controls to ensure funding decisions constitute eligible uses (allowable costs)
2. Sound management practices
3. Costs should be reasonable, allowable, documented by prior written approval, reasonably allocated
4. Direct and indirect costs; timesheets
5. NOT subject to cash management rules, so OK to put in interest-bearing accounts, can keep interest and use of interest is unlimited

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## Compliance with Uniform Guidance



6. Determine and monitor compliance with eligibility of beneficiaries and subrecipients
7. Equipment and real property must be used for the purpose and ownership vests to the recipient
8. No matching, level of effort, or earmarking
9. Carefully watch performance period (March 3, 2021 through Dec. 31, 2024)
10. Competitively procured

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## Compliance with Uniform Guidance



11. Written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records
12. Adhere to reporting requirements
13. Maintain accounting and procurement records
14. Subrecipient monitoring, including risk of noncompliance
15. SAM.gov (System for Award Management)

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## Compliance with Uniform Guidance



### Best Practice Areas to Consider

- ❖ Written policies and procedures
- ❖ Written standards of conduct
- ❖ Risk-based due diligence
- ❖ Risk-based compliance monitoring
- ❖ Record maintenance and retention

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## Procurement Guidelines 2 CFR 200.317-327



- ❖ Encourage use of intergovernmental or inter-entity agreements
- ❖ Encourage use of Federal excess and surplus property
- ❖ Encourage use of value engineering clauses
- ❖ OK to use a time and materials contract type, but it must include a ceiling price and include only actual cost of materials and direct labor hours (at a rate that includes wages, general and administrative, and profit)
- ❖ Full and open competition
- ❖ Prohibits state and local geographical preferences but OK to prefer U.S.-produced goods and materials

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## Procurement Guidelines 2 CFR 200.317-327



- ❖ Contractors who develop requirements, specifications, statements of work, etc. are excluded from bidding
- ❖ Keep prequalified list of persons, firms, and products current and include multiple sources
- ❖ Have written criteria to evaluate requests for proposals, including price
- ❖ Comply with Sec. 6002 of Solid Waste Disposal Act regarding recovered materials

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## Procurement Guidelines 2 CFR 200.317-327



- ❖ Document affirmative steps taken to encourage quotes and bids from minority businesses, women’s business enterprises, and labor surplus area firms
- ❖ Perform a cost or price analysis for purchases of at least \$250,000; negotiate profit
- ❖ Cost plus (percentage of completion) contracts are strictly forbidden
- ❖ Contractors of construction projects of \$250,000 or more must be bonded

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## Comparison of State and Federal Procurement Methods



Follow the most restrictive method

Procuring	Procurement method	LA Public Bid Law	Federal
Goods (materials and supplies)	Direct purchase	Less than \$10,000	Less than \$10,000 (micro-purchase)
	Obtain at least 3 documented quotes	Between \$10,000 and \$29,999	Between \$10,000 and \$249,999 (small purchase)
	Advertise and bid publicly	\$30,000 or more	\$250,000 or more (simplified acquisition threshold)
Public works (construction)	Direct purchase	Less than \$250,000	Less than \$10,000 (micro-purchase)
	Obtain at least 3 documented quotes	N/A	Between \$10,000 and \$249,999 (small purchase)
	Advertise and bid publicly	\$250,000 or more	\$250,000 or more (simplified acquisition threshold)
Professional services	Direct purchase	Exempt	Less than \$10,000 (micro-purchase)
	Obtain at least 3 documented quotes		Between \$10,000 and \$249,999 (small purchase)
	Advertise and bid publicly		\$250,000 or more (simplified acquisition threshold)

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## Construction Contract Requirements



- ❖ Title IV of the Civil Rights Act of 1964 (anti discrimination)
- ❖ Projects over \$10 million should comply with Davis-Bacon Act (prevailing wages)
- ❖ Equal Employment Opportunity Clause
- ❖ Address administrative, contractual, or legal remedies and provide for appropriate sanctions and penalties
- ❖ Address termination for cause or convenience, including manner and basis for settlement
- ❖ Contract Work Hours and Safety Standards Act (for contracts over \$100,000)

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## Construction Contract Requirements



- ❖ Clean Air Act
- ❖ Federal Water Pollution Control Act
- ❖ Do not contract with an entity that has been debarred or suspended from doing business with the federal government
- ❖ Byrd Anti-Lobbying Amendment
- ❖ Solid Waste Disposal Act, especially section 6002 regarding procuring items containing the highest percentage of recovered materials practicable
- ❖ Comply with Drinking Water and Clean Water State Revolving Funds for water and sewer projects

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## Tips to Avoid Questioned Costs



- ❖ Know the terms and conditions of the federal award
- ❖ Prudent person test: is the cost reasonable? Is it necessary?
- ❖ Document, document, document
- ❖ Comply with laws, regulations, policies, procedures
- ❖ Provide open and fair competition

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## Coronavirus State and Local Fiscal Recovery Fund website

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

**Electronic Code of Federal Regulations**  
[www.ecfr.gov](http://www.ecfr.gov)

**Email US Treasury**  
[SLFRP@treasury.gov](mailto:SLFRP@treasury.gov)

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## Contact Information



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