

The letters S, M, A, R, and T are stacked vertically. Each letter is enclosed in a circle. The circles for S, M, and A are connected by a dashed line, while the circles for R and T are solid. The background features a pattern of overlapping circles in light blue and orange.

S
M
A
R
T

Strategies

Monitoring

Accountability

Risk Mitigation

Transparency

Procurement and Contract Administration

SMART 4.0 Training

Hosted by the Office of Grants Management
Division of Compliance Assistance and Policy
Employment and Training Administration
U.S. Department of Labor.

SMART 4.0 Training Series

- PLEASE NOTE: This module is **part two** and is intended to be viewed after "**Procurement Standards and Methods**."
- The training modules are focused on: **S**trategies for sound grant management that includes **M**onitoring, **A**ccountability, **R**isk mitigation and **T**ransparency.
- **4.0 focuses on Risks Identification and SMART Practices!**

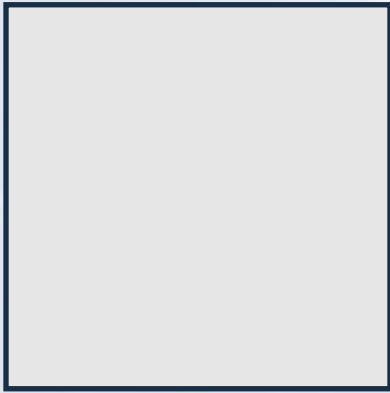


Disclaimer

SMART 4.0 is part of the catalog of SMART grant management tools. This conference and its materials should be viewed primarily as a support resource. It is not intended to be comprehensive but rather to provide an understanding of 2 CFR 200, 2 CFR 2900, and the management of ETA grants. The use of these SMART 4.0 modules does not ensure compliance. Any omission of an applicable Federal requirement does not waive a grant recipient or subrecipient's responsibility to comply with that requirement.

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Today's Speakers



First Last

Occupation/Title
Company Name



First Last

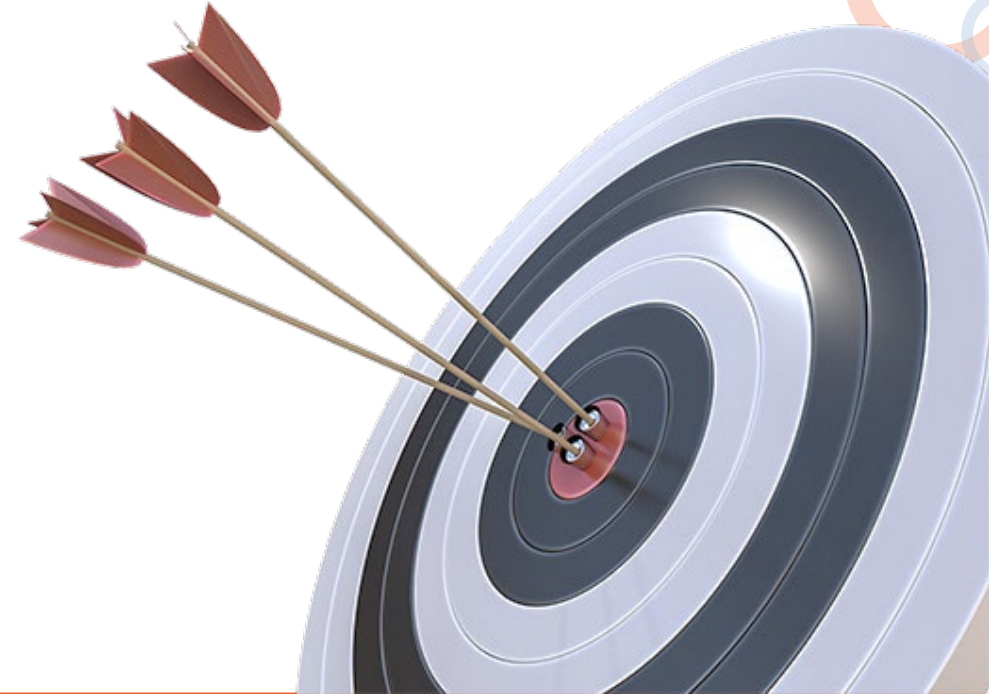
Occupation/Title
Company Name

Module Overview

- Contract Administration.
 - Procurement Overview.
 - Types of Contracts.
- Formal Competitive Procurement Process.
 - Planning.
 - Solicitation.
 - Release and Evaluation.
 - Negotiation and Selection.
 - Implementation.
 - Closeout.
- Risks and SMART Practices.

REMINDER:

This module is **part two** and is intended to be viewed after **“Procurement Standards and Methods.”**



**S
M
A
R
T**

Contract Administration

Procurement Overview

Procurement – Purchasing of Goods and/or Services

Property

Supplies, equipment,
building space,
leases

Curricula, and/or
Intangible property

Services

Auditing services,
consultation
services,
professional services

IT services, training,
temporary or HR
staffing

Renovation or
repairs of leased or
owned real property

Methods of Procurement – Overview

[2 CFR 200.320](#)

Informal Methods:

- Micro-purchase - < \$10,000.
- Small Purchase - \$10,000 and \$250,000.

Formal Methods:

- Sealed bids (> \$250k).
- Proposals.
 - Including Professional or Qualifications Based Services.
- Non-Competitive Procurement.
 - Thresholds are set by the Federal Acquisition Regulations ([FAR](#)) at [48 CFR Subpart 2.1](#) and [41 U.S.C 1908](#) and are subject to change.

Definitions

- **Contract** – a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award ([2 CFR 200.1](#)).
- **MOU*** – a form of a legally binding agreement.
- **Agreement*** – a written instrument of understanding between two parties.
 - Recipients and subrecipients are encouraged to enter into State and local intergovernmental agreements where appropriate to foster greater economy and efficiency ([2 CFR 200.318\(e\)](#)).

**"MOU" and "Agreement" are the appropriate vehicle for recipients and subrecipients of grants and cooperative agreements. Ask yourself if the recipient is a contractor or subrecipient to determine whether to use a contract, MOU or agreement.*

Contract Administration

Contract administration refers to the execution of procurement actions and management of contracts thereafter.

Necessary in order to:

- Ensure deliverables are completed on time and within budget.
- Improve compliance with procurement standards and methods.
- Improve communication between the grant recipient and contractor.
- Promote mutual understanding and transparency of contract obligations and standards.



Types of Contracts

Contract Types

[2 CFR 200.320\(b\)\(1\)](#) and [2 CFR 200.320\(b\)\(2\)](#), [2 CFR 200.318\(j\)\(1\)](#)

- Firm Fixed Price contracts.
- Cost-Reimbursement contracts.
- Time and Material.
- Performance-based contracts.

Salary limitations for professional services and consultants.

Contract Types – Firm Fixed Price

Key Characteristics:

- Allowable when sealed bids and proposal procurement methods are used.
- Defined to fully cover the project, each unit of deliverable has a preset price.
- Often used to purchase services such as audits or other professional services.
- Specifies the types of quality of the deliverable, number of units needed.
- Higher risks for the contractor.

Contact Types – Cost Reimbursement

Key Characteristics:

- Reimburse the contractor for all incurred costs.
- Less risky than a firm fixed price contract.
- Contractor gets reimbursed for labor and material used.
- Allowable when the Request for Proposal procurement method is used.
- Not allowable under a sealed bids method.

Contract Types – Time and Material

Key Characteristics:

[2 CFR 200.318\(j\)\(1\)](#)

- Cost = actual cost of material + fixed direct labor hours.
 - There are no positive profit incentive to the contractor.
- Has a ceiling price.
- Both parties agree on the price of materials and hourly rates.
- Recipient must provide more oversight to ensure contractor uses efficient methods and effective cost control.

Use when no other contract is suitable for the requirement.

Contract Types – Performance-Based

Key characteristics:

- Payments are based on the achievement of mutually agreed-upon performance goals.
- Increases flexibility in operations while reducing the need for budget modifications.
- May reduce costs and promote efficiencies.
- Help build evidence and improve programs in an ongoing way.
- Cost Plus Fee is not allowed.

Consultants

- Consultants – expertise that is presented for consideration. It may be difficult to establish a market rate due to specialized experience.
 - Therefore, ETA established reasonableness with a daily rate limitation, for consultants.
- Refer to your grant's terms and conditions for the consultant daily rate limitation.
- Any consultant agreement needs to be in writing and formalized in a legal binding instrument such as a contract.



Formal Competitive Procurement Process

Applicability – Formal Competitive Procurement

- Grant recipients and subrecipient looking for contractors/vendors.
- For an amount greater than \$250k.
- Procurement process applies to sealed bids and proposals.
- Tips:
 - Recipients must have written procedures for procurement transactions.
 - Ensure public advertisement of the goods and services needed.
 - Ensure procurement actions are documented.

Competitive Procurement Process

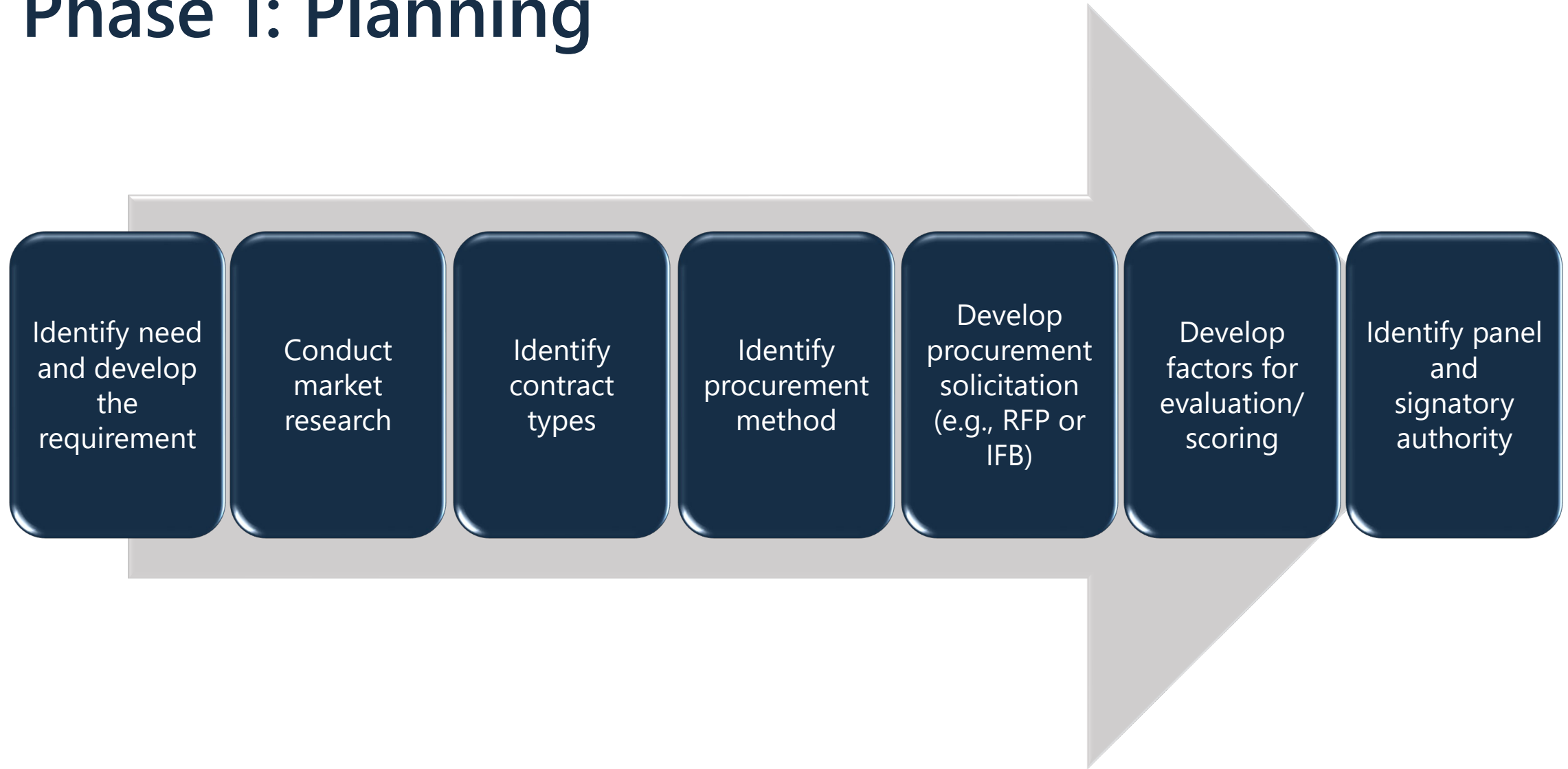
Includes 5 Phases:

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

Refer to [TEGL 15-16](#), Competitive Selection of the One-Stop Operators, as guidance on the procurement phases.

Planning

Phase 1: Planning



Identify a Need and Develop the Requirement

- The description of the requirement must specify the services to be performed.
- Develop a Statement of Work (SOW).
- SOW should identify:
 - **“What”** they must do.
 - **“Who”** is needed to do the work.
 - **“How”** the work must be monitored.
 - **“When”** - period of performance, hours of operation, payment terms.
 - **“How much”** - the cost available for work.

Conduct Market Research (1)

Market research involves obtaining information specific to the product or service being acquired.

- To determine the best sources for goods and services based on requirements and costs.
 - To include the availability and capability of small/ minority/ veterans/ woman-owned contractors that can satisfy your needs.
- Performed before identifying the best procurement method and soliciting offers and awarding a firm or an individual.
- Ways to conduct research include attending industry conferences, common searches on websites, company informational brochures, or issue requests.

Conduct Market Research (2)

- Request for Information (RFI) is a formal process for gathering information from potential contractors about the goods and services offered.
- RFI is not intended to signify the intention to procure.
- Limit the information request to only what information is needed.
- Is specific with what information is being requested but avoids in-depth detail.
- Pricing, for example, is not information required at this stage.

Solicitation

Develop Procurement Solicitation

[2 CFR 200.319\(d\)\(1\)](#)

All solicitations:

- Must have a clear and accurate description of the technical requirement (the need) but not restrict competition.
- May have a statement of the qualitative nature of the material, product, or service to be procured.
- May have a brand name or equivalent to make a clear and accurate description of the requirement.
 - When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used.
- Avoid detailed specifications when possible.

Develop Factors for Evaluation

[2 CFR 200.320\(b\)\(2\)\(i\)](#)

Tips for Evaluation:

- Review past performance.
- Ensure that the contractor/vendor is responsible.
 - Conforms to the terms and conditions.
- Ensure that the contractor/vendor is the best selected from your sources and type of method.
 - Price and Cost – best used for fixed price contracts under the sealed bids method.
 - Quality – best selection factor for architectural engineering services, rather than price.

Identify Panel and Signatory Authority

- Identify personnel for reviewing proposals or bids.
- Ensure that there is no conflict of interest.
- [2 CFR 200.318\(c\)\(1\)](#)

Reminder - No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

- Officers, employees, or agents of the organization are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from contractors.

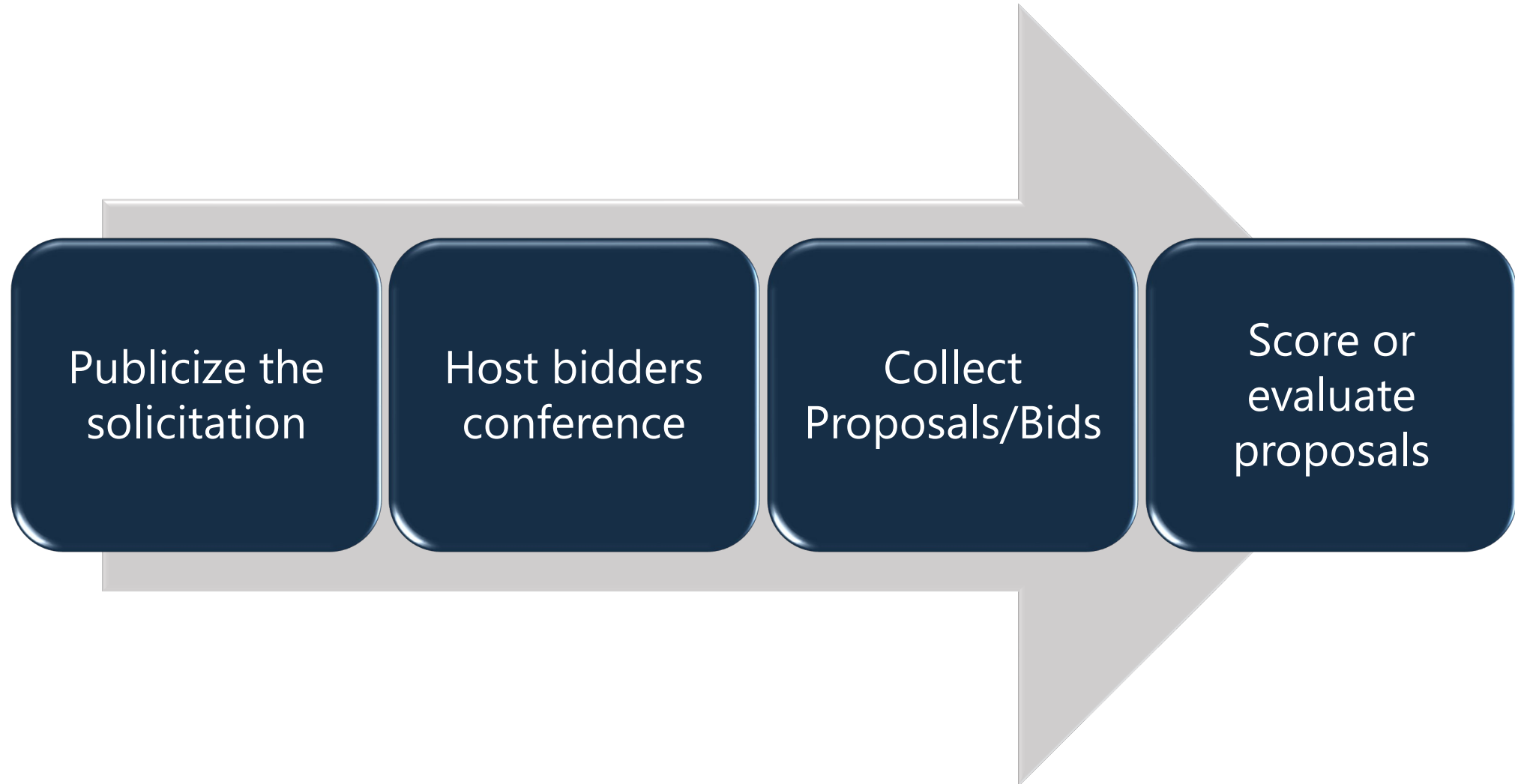
Price or Cost Analysis

[2 CFR 200.324](#)

- Use for procurement at or above \$250,000.
- Applicable on Firm Fixed Price and Cost-Reimbursement contracts.
- Performed by the recipient or subrecipient prior to receiving bids or proposals.
- Price analysis – when it is the primary criterion for the selection of goods.
- Cost analysis – performed in the absence of price.

Release and Evaluation

Phase 2: Release and Evaluation



Publicize the Solicitation

- Publicize the RFP or RFQ/IFB following the provisions at [2 CFR 200.319](#).
- Allow at least 30 days of response time for receipt.
- Publicize on all platforms and websites.
- Provide the evaluation factors that would allow a bidder/offeror to view its score in order to improve its proposal/bid.
- Provide information on how to submit a bid or proposal.
- May include a brief questionnaire in the RFP or RFQ/IFB.

Host Bidders Conference

- Recipients may host bid conferences to answer questions about the publicized solicitation.
- Ensure during the bidder's conference:
 - Only answering questions about the specifications.
 - Not adding additional requirements to what was already publicly announced.
 - Do not collect bids.

Collection of Bids/Proposals

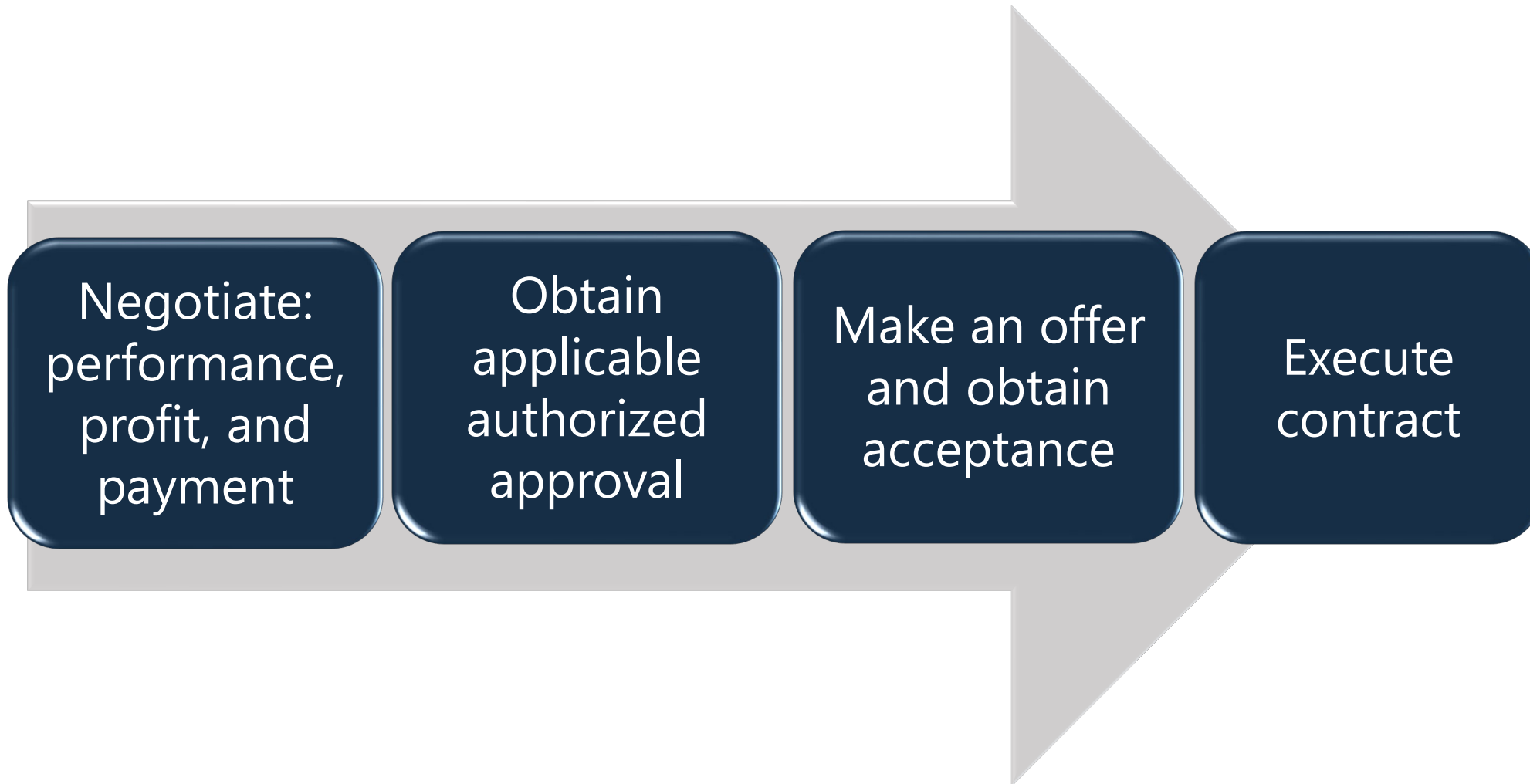
- The recipient follows its own policies and procedures for collecting bids or proposals.
- Collected based on the solicitation's date, time, and location for submission.
 - Under sealed bids, the bids must be opened publicly [2 CFR 200.320\(b\)\(1\)\(ii\)\(C\)](#).
- Any or all bids may be rejected if there is a sound documented reason [2 CFR 200.320\(b\)\(1\)\(ii\)\(E\)](#).

Score and Evaluate Bids/Proposals

- Document results of the solicitation.
- Assign reviewers to review all documents submitted.
- Evaluate the bidder's submission against the evaluative factors and assign and record scores.

Negotiation and Selection

Phase 3: Negotiation and Selection



Negotiate: Performance, Profit, and Payment

- Performance levels – when deliverables are due from the contractor.
 - May include an itemized list of program deliverables expected to be delivered.
 - Coordinate with other service providers and partner programs.
 - Having a schedule/timetable for the delivery of services/products holds the contractor accountable for performance.
- Price – is the price reasonable?
- Profit – how much of a profit can be earned?
 - The opportunity to earn profit is an exception. Only allowable for certain WIOA programs ([20 CFR 683.295](#)).
- Payment details and frequency – advance or reimbursement?
Monthly or quarterly?

Make an Offer and Obtain Acceptance (1)

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

- When selecting the contractor, consider the following [2 CFR 200.318\(h\)](#):
 - Integrity.
 - Compliance with public policy.
 - Record of past performance.
 - Financial stability.
- Entities must not be debarred, suspended, or otherwise excluded from or made ineligible for participation in Federal programs/activities ([2 CFR 200.214](#)).
- Entities must not be enemies of the United States ([2 CFR 200. 215](#)).
- Certain telecommunications and video surveillance services are prohibited from being procured ([2 CFR 200.216](#)).

Make an Offer and Obtain Acceptance (2)

Both parties sign written contracts.

- Signatures of the offeror and the offeree must be contained as part of the written contract.
 - **Offer:** A conditional promise made by the offeror to the offeree, giving the offeree the ability to accept.
 - **Acceptance:** An unconditional agreement with the terms of the offer.
 - **From the Authorized officials:** Persons authorized to enter into and sign legally binding agreements and must be on record as the signatory official.
 - › If authorized personnel for modifications/amendments to the contract are different from personnel who signed the original contract, those individuals need to be identified in the contract as well.

Execute (1)

Ensure all essential elements of a contract are present:

- **Offer.**
- **Acceptance.**
- **Consideration:** the giving of something of value in return for something of value.
- **Required contract clauses** and those specific to the type of contract, terms and conditions that are either required by the State, Local Area, or Federal agency as national, State, or local policy requirements.

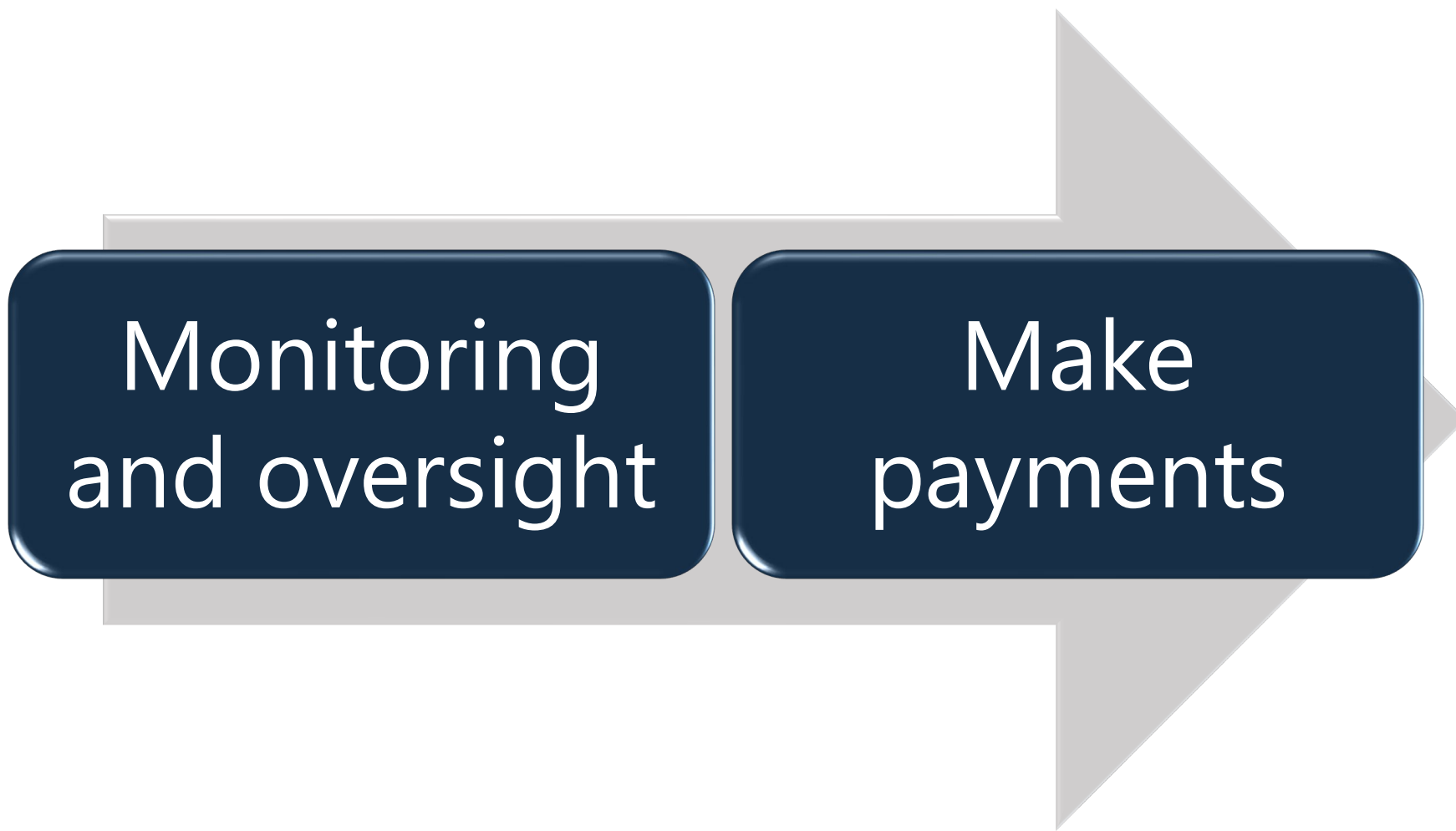
Execute (2)

Required Contract Clauses – Procurement

- Administrative, contractual, or legal remedies for breach of contract if the contract exceeds Simplified Acquisition Threshold (currently \$250,000).
- Termination for cause and for convenience if contract > \$10,000.
- Equal Employment Opportunity provisions
 - Must include EEO notice in recruiting materials.
- Davis-Bacon Act for construction contracts > \$2,000.
- Clean Air Act for contracts > \$150,000.
- Energy efficiency standards per State plan.
- Byrd Anti-lobbying certification for contracts > \$100,000.
- Procurement of recovered materials.
- For States and their political subdivisions.
- Not a contract clause, but UG prohibits the use of debarred, suspended, and other excluded parties.
- Grant terms and conditions may identify additional requirements.

Implementation

Phase 4: Implementation



Monitoring
and oversight

Make
payments

Monitoring and Oversight

- Track and measure performance on deliverables.
- Monitor delivery of deliverables for:
 - Timeliness.
 - Accuracy.
 - Quality.

Make Payments

- Process on time payments and modification requests in a consistent manner.
 - Type – advance or reimbursement.
- Submission of supporting documentation for payments.
- Ensure contractors submit invoices on time.
- Establish procedures to pay invoices timely for timely payment.

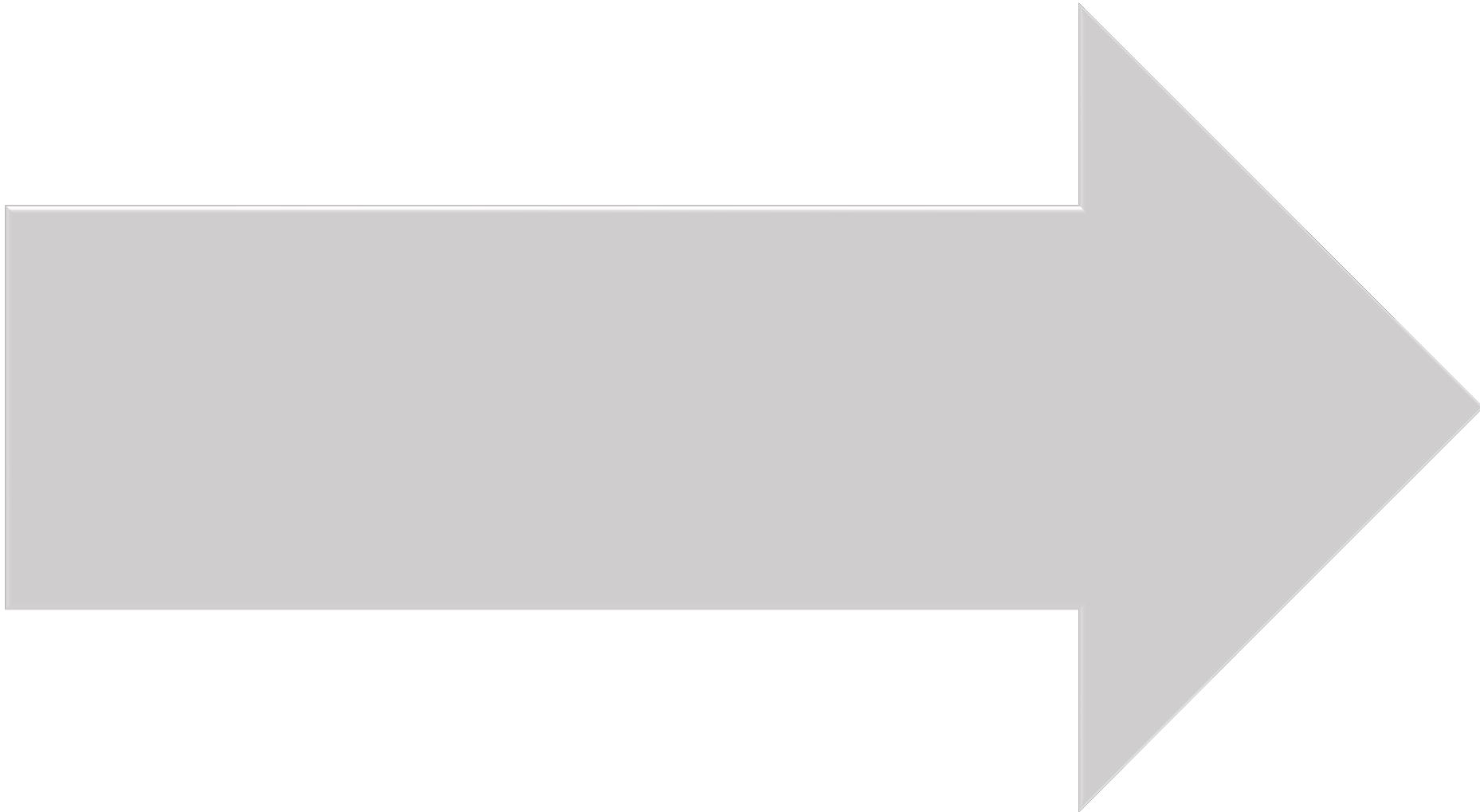
Reconcile Costs and Payments

- Verify payments for accuracy.
- Gather all relevant documentation.
- Compare payments with amount due under the contract.
 - Review invoices carefully before making payments.
- Contact contractor if necessary to resolve discrepancies.

TIP: reconcile payment on a regular basis not just at closeout in order to resolve discrepancies early on.

Closeout

Phase 5: Closeout



Reconcile Performance Goals with Actual Performance

- Gather all relevant documentation.
- Review the contract's goals and objectives.
- Review the contract's period of performance.
- Compare the contract with the contractor's performance.
- Contact the contractor to resolve discrepancies.

TIP: start tracking measurable goals on day one and identify and address any gaps.

Record Retention

- Grant recipients must retain procurement records.
- Types of records that may need to be retained include:
 - Planning, evaluation, negotiation and selection documentation.
 - Purchase orders.
 - Invoices.
 - Contracts.
 - Correspondence.
 - Bids/quotes, proposals.
 - Delivery receipts.
 - Payment records.

Prepare Closeout Documents

- Verify all contract documents.
- Ensure all payments and performance issues have been resolved.
- Types of closeout document could include:
 - Final report from the contractor.
 - Final invoice.
 - Release of liability.
 - Termination of agreement.



Risks and SMART Practices

Common Risks

- Contract administrator not communicating with the program managers when preparing the solicitation or executing the contract.
- Granting awards or procuring contracts that are not cost-effective nor in the best interest of the program.
- Selecting contractors not meeting past performance standards.
- Not establishing clear methods and standards for proposal evaluation.
- Selecting a cost-reimbursement contract type without having a price ceiling.
- Failing to add the required contract clauses as well as the specific clauses that are appropriate for either firm fixed price or cost reimbursement contract.
- Missing the authorized signatures and period of performance date on a contract, MOU or agreement.

SMART Practices

- Allow adequate timing for the procurement process.
- Update contract template (boilerplate) to ensure that it contains the essential elements and requirements of the grant, including the contract provisions found in the Uniform Guidance.
- Create or update policies on the procurement history file to ensure that the five (5) phases of a competitive procurement are recorded.
- Ensure that all contracts, agreements and MOUs that are considered legal binding agreements contain the essential elements of a contract.
- Plan and prepare and evaluate suppliers before awarding.
- Negotiate terms of the contract.
- Monitor performance.

Questions?



Testing For Compliance – Core Monitoring Guide

The purpose of ETA monitoring is to assess compliance using the Core Monitoring Guide (CMG). Here is a list of indicators that were discussed during the module's topic.

■ **Objective 2.d: Procurement and Contract Administration**

- The grant recipient maintains an adequate procurement/purchasing system that includes written procedures and ensures that all contracting, or procurement actions are performed in a manner that provides for full and open competition.
 - › Indicator 2.d.2: Competition.
 - › Indicator 2.d.3: Methods of Procurement.
 - › Indicator 2.d.4: Cost or Price Analysis.
 - › Indicator 2.d.5: Contract Administration.

Procurement Resources

- [Core Monitoring Guide](#)
- Training and Employment Guidance Letter
 - TEGL 15-16
- United State Code
 - 41 U.S.C 1908
- Department of Labor Exceptions [2 CFR Part 2900](#)
- WIOA Provisions [20 CFR Part 683](#)
- 20 CFR 683.500
- [Uniform Guidance Crosswalk](#)
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR Part 200
 - 2 CFR 200.101
 - 2 CFR 200.214
 - 2 CFR 200.318
 - 2 CFR 200.319
 - 2 CFR 200.472
 - 2 CFR 200.465

Thank You!