

This document is meant to give you a sense of the Environmental Protection Agency's (EPA) rules for Greenhouse Gas Reduction Fund (GGRF) awardees' use of subcontractors. In the context of the GGRF, these subcontractors would primarily be assisting GGRF Awardees in developing and delivering the technical assistance services that they are required to provide. More information about those services can be found in the awardee-specific documents [linked here](#).

This document is meant to be operable, but not exhaustive. (A complete list of the EPA's procurement/consulting rules [can be found here](#).) As such, I included the three components of the EPA's rules that I thought would be most helpful for an organization initially deciding whether or not pursuing technical assistance subcontracting would be in their best interest. These components include the payment structures allowed by the EPA, the types of procurement processes that GGRF awardees are allowed to conduct, and the circumstances for which a noncompetitive (sole-circumstance) procurement is allowed.

Note: Many chunks of text have been grabbed directly from various documents published by different arms of the U.S. government.

Consultant Fee Caps:

- The amount of compensation for individual consultants that a recipient may charge to EPA agreements is capped at Level IV of the Federal Executive Level
 - This is a statutory requirement and EPA cannot waive the requirement
 - The cap does not include consultant's overhead or travel costs.
- When the cap applies depends on whether the recipient selects, directs, or controls the consultant along the same lines as an employee.
 - Contracts for individual consultants will almost always trigger the cap, unless the contract is on a fixed amount basis for a discrete product, such as a report
 - Contracts with multi-employee firms rarely trigger the cap as long as the firm, rather than the recipient, selects, directs, and controls the consultant.

Procurement Thresholds:

- Threshold 1: Micro purchase: Purchases up to the micro purchase level (\$10,000 for most recipients) may be made without competition provided the recipient distributes purchases equitably among qualified suppliers to the extent "practicable" and the prices are reasonable.

- Generally, for purchases of supplies (including computing devices) but recipients may obtain consulting services provided the equitable distribution requirement is met.
 - A series of micro purchases with the same consultant without using other sources as well will raise compliance issues.
- Threshold 2: Simplified acquisition: Recipients may use small purchase procedures for contracts up to the simplified acquisition threshold (\$250,000) by obtaining price or rate quotations from an adequate number of qualified sources.
 - EPA expects recipients to obtain prices/quotes from at least 3 sources.
 - For professional services, recipients may use email solicitations to document their files.
 - For equipment, internet searches of price catalogs documented by “screenshots” are acceptable.
 - Recipients must justify selection of contractors quoting higher prices/rates based on qualifications or technical factors.
 - Good faith efforts must be made to solicit disadvantaged businesses
- Threshold 3: Formal competitive requirements: Procurements in excess of the simplified acquisition threshold (greater than \$250,000) are subject to formal competitive requirements and must obtain Competitive Sealed Bids or Competitive Proposals.
 - Sealed bidding is appropriate when precise specifications can be developed and a firm fixed-price contract will be awarded to the responsive bidder based principally on price.
 - Typically used for construction projects or purchases of equipment widely available in the commercial marketplace.
 - Procurement by competitive proposals requires more than one proposal and results in a fixed price or cost reimbursement contract. Requests for Proposals must be publicized and include factors to be evaluated and the relative importance of the factors.
 - Typically used for acquisition of services where the offerors’ experience or technical approaches may be more important than price considerations. However, price must be a selection factor unless the contract is solely for licensed architectural and engineering services.

Sole Circumstance Procurements:

- Scenarios in which sole source procurement may be used:

- Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - The item is available only from a single source;
 - Public exigency or emergency;
 - The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request; or
 - After solicitation of a number of sources, competition is determined inadequate.
- Additional considerations for procurement:
 - EPA's position is that "sole source" procurements are justified by copyrights, patents, equipment maintenance agreements with manufacturers or similar arrangements.
 - Sole source contracts for services widely available in the commercial marketplace (e.g., consulting, information technology, construction, architect/engineer services, project management) are not acceptable. "Unique qualifications" do not qualify as a sole source.
 - Compliance with competitive procurement requirements is frequently a major focus for oversight entities that audit EPA assistance agreements.