[6/17/21 Update: This post and resolution has been updated to clarify that for contracts subject to the Mini-Brooks Act (Article 3D of Chapter 143 of the General Statutes), a unit is advised to establish a micro-purchase threshold of $0 in the event that it fails to exercise the exemption to the Mini-Brooks Act contained in G.S. 143-64.32. In that case, the generally applicable micro-purchase threshold contained in the FAR ($10,000, as adjusted for inflation) is less restrictive than the threshold contained in North Carolina law. Therefore, units *failing* to exercise the exemption should follow the qualifications-based selection process of the Mini-Brooks Act in all cases.]

**Micro-Purchase Threshold Self-Certification for Units of Local Government in North Carolina**

 On August 13, 2020, the Office of Management and Budget (“OMB”) published revisions to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200) (the “Uniform Guidance”).[[1]](#footnote-1) Among other things, the revisions to the Uniform Guidance allow non-Federal entities to raise, via annual self-certification, the micro-purchase threshold to a “higher threshold consistent with State law.”[[2]](#footnote-2)

 This document provides background information for units of local government in North Carolina interested in self-certifying micro-purchase thresholds above $10,000, and contains a sample resolution that a governing board may use to self-certify such higher thresholds.

*Background*

 Many units of local government in North Carolina receive federal funding subject to the procurement standards in Subpart D of the Uniform Guidance (“Subpart D”).[[3]](#footnote-3) Those procurement standards enumerate three categories of procurement methods: (1) informal; (2) formal; and (3) noncompetitive.

A “micro-purchase” is both an informal procurement method and a noncompetitive procurement method.[[4]](#footnote-4) And when spending federal funds subject to Subpart D, a non-Federal entity may, on a noncompetitive basis, acquire supplies or services, the aggregate dollar amount of which does not exceed the “micro-purchase threshold” (as defined in the Uniform Guidance). A non-Federal entity need not solicit competitive price or rate quotations when awarding a micro-purchase if it considers the price to be “reasonable based on research, experience, purchase history or other information and documents [that] it files accordingly.”[[5]](#footnote-5)

*What is the “Micro-Purchase Threshold”*?

 Prior to the 2020 Uniform Guidance revisions, the Federal Acquisition Regulation set forth the primary definition of “micro-purchase threshold”[[6]](#footnote-6). And in 2018, OMB set the micro-purchase threshold at $10,000.

 Rather than set forth a uniform “micro-purchase threshold” for all non-Federal entities, the revised Uniform Guidance requires each individual non-Federal entity to “determin[e] and document[t] an appropriate micro-purchase threshold” on its own.[[7]](#footnote-7) Under the new definition of “micro-purchase threshold”, OMB has indicated that “*[g]enerally*, the micro-purchase threshold for procurement activities administered under Federal awards is not to exceed the amount set by the [Federal Acquisition Regulation] at 48 CFR Part 2, Subpart 2.1[.]”[[8]](#footnote-8) As of this writing, that amount is $10,000 (subject to limited exceptions) and periodic adjustments for inflation.

*Ability to Increase the Micro-Purchase Threshold*

 Despite the continued existence of the generally applicable micro-purchase threshold, the 2020 revisions to the Uniform Guidance permit non-Federal entities, for some types of contracts, to raise the micro-purchase to a level not to exceed $50,000.[[9]](#footnote-9)

 A non-Federal entity may self-certify a threshold of up to $50,000 on an annual basis if (1) it maintains documentation to be made available to a Federal awarding agency or pass-through entity and auditors in accordance with 2 C.F.R. 200.334, and (2) within the self-certification it:[[10]](#footnote-10)

(1) includes a justification for the threshold;

(2) clearly identifies the threshold; and

(3) includes supporting documentation of any of the following:

(A) a qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;

(B) an annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or

(C) for public institutions, a higher threshold consistent with State law.[[11]](#footnote-11)

For certain categories of local government contracts, North Carolina law establishes competitive bidding thresholds higher than those currently identified in the Federal Acquisition Regulation.

Under North Carolina law, units of local government need not engage in a competitive bidding process for either the purchase of “apparatus, supplies, materials, or equipment” or the purchase of “construction or repair work” unless the cost of each such purchase exceeds $30,000.[[12]](#footnote-12) North Carolina law also does not require units of local government to engage in a competitive bidding process for the purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 (the “Mini-Brooks Act”) (e.g., architectural, engineering, surveying, and certain construction services).[[13]](#footnote-13)

The newly promulgated micro-purchase threshold regulation suggests that a unit of local government in North Carolina may raise its micro-purchase threshold via annual self-certification to $30,000 for the purchase of “apparatus, supplies, materials, or equipment” or the purchase of “construction or repair work,” and to $50,000 for service contracts other than those subject to the Mini-Brooks Act.

State law enables units of local government to exercise an exemption to the qualifications-based selection process in the Mini-Brooks Act, in writing, for particular projects where the aggregate cost of services does not exceed $50,000.[[14]](#footnote-14) G.S. 143-64.32 does not authorize use of a “blanket” exemption for all projects costing less than $50,000—instead, a unit must exercise an exemption on a project specific basis. In conjunction with the increased micro-purchase threshold flexibility in 2 C.F.R. 200.320(a)(1)(iv)(C), a unit could set a micro-purchase threshold of $50,000 for services subject to the Mini-Brooks Act as long as the unit exempts the project, in writing, from the qualifications-based selection process in the Mini-Brooks Act. Such an action and higher threshold would be “consistent with State law.”

Each unit should note that it is not required to raise any micro-purchase threshold above the generally applicable threshold in the Federal Acquisition Regulation,[[15]](#footnote-15) but may do so if it chooses.

*Limitation on Applicability*

 If a unit adopts higher micro-purchase thresholds, it may not apply such thresholds to Federal financial assistance awards issued to the unit prior to November 12, 2020 (the effective date of the applicable revisions).[[16]](#footnote-16) A unit’s newly adopted micro-purchase threshold can apply to Federal financial assistance awards issued after that date. A unit must adopt the self-certification on an annual basis, and units making a self-certification should do so once per fiscal year.

*Method of Adoption*

 The revisions to the Uniform Guidance do not explicitly require that a non-Federal entity’s governing board self-certify a higher micro-purchase threshold in an adopted resolution. The non-Federal entity might take such action in the form of a filed memorandum. As a best practice, however, units should obtain governing board approval of this change, as the revision necessarily requires a revision to a unit’s written purchasing policies.

 The Uniform Guidance continues to require non-Federal entities to have and use their own documented procurement policies, consistent with state law, local policy, and the procurement standards in Subpart D of the Uniform Guidance. Therefore, any change made pursuant to a self-certifying resolution must be integrated into a unit’s generally applicable purchasing policy.

*Self-Certification Resolution Template*

This document contains a sample resolution that units can consider for adoption. Note that all local government entities are eligible to raise the micro-purchase thresholds to the levels identified below, which are consistent with North Carolina law:

A. $30,000, for the purchase of “apparatus, supplies, materials, or equipment”; and

B. $30,000, for the purchase of “construction or repair work”; and

C. $50,000, for the purchase of services not subject to competitive bidding under North Carolina law; and

D. $50,000, for the purchase of services subject to the Mini-Brooks Act (Article 3D of Chapter 143), but only where the unit of local government exercises, in writing, an exemption to the Mini-Brooks Act for a particular project pursuant to G.S. 143-64.32. Where the unit does not exercise an exemption to the Mini-Brooks Act for a particular project, the micro-purchase threshold shall be $10,000 (as adjusted periodically for inflation pursuant to 48 CFR Subpart 2.1).

*Contact and Questions*

 Please contact Connor Crews at the UNC School of Government (919-962-1575, ccrews@sog.unc.edu) with questions or suggested revisions to this document.

**RESOLUTION**

**OF**

**[*GOVERNING BOARD*][[17]](#footnote-17)**

***OF [UNIT*]**

**AUTHORIZING INCREASE IN MICRO-PURCHASE THRESHOLD**

\* \* \* \* \* \* \* \* \*

**WHEREAS**, from time to time, the [*name of the unit*] (the “[*Unit*]”[[18]](#footnote-18)) purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R. Part 200, Subpart D; and

**WHEREAS**, the [*Unit*]’s procurement of such goods and services is subject to [*name of purchasing policy*], as most recently amended on [*date of most recent amendment to purchasing policy*]; and

 **WHEREAS**, the [*Unit*] is a non-Federal entity under the definition set forth in 2 C.F.R. § 200.1; and

 **WHEREAS**, pursuant to 2 C.F.R. 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly; and

**WHEREAS**, pursuant to 2 C.F.R. 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

 **WHEREAS**, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed $50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and

 **WHEREAS**, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a “higher threshold consistent with State law”; and

 **WHEREAS**, G.S. 143-129(a) and G.S. 143-131(a) require the [*Unit*] to conduct a competitive bidding process for the purchase of (1) “apparatus, supplies, materials, or equipment” where the cost of such purchase is equal to or greater than $30,000, and (2) “construction or repair work” where the cost of such purchase is greater than or equal to $30,000; and

 **WHEREAS**, North Carolina law does not require a unit of local government to competitively bid for purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 of the North Carolina General Statutes (the “Mini-Brooks Act”); and

 **WHEREAS**, G.S. 143-64.32 permits units of local government to exercise, in writing, an exemption to the qualifications-based selection process for services subject to the Mini-Brooks Act for particular projects where the aggregate cost of such services do not exceed $50,000; and

**WHEREAS**, pursuant to 2 C.F.R. 200.320(a)(1)(iv), the [*Governing Board*] of the [*Unit*] now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. § 2.101.

**NOW THEREFORE, BE IT RESOLVED BY [*NAME OF GOVERNING BOARD*] OF THE [*UNIT*]:**

 [1. [*Option #1*]*:* In accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, the [*Unit*] hereby self-certifies the following micro-purchase thresholds, each of which is a “higher threshold consistent with State law” under 2 C.F.R. § 200.320(a)(1)(iv)(C) for the reasons set forth in the recitals to this resolution:][[19]](#footnote-19)

[1. [*Option #2*]: The Unit has completed an annual internal institutional risk assessment to identify, mitigate, and manage financial risks. Therefore, in accordance with 2 C.F.R. § 200.320(a)(1)(iv)(B) and the applicable provisions of North Carolina law:]

[1. [*Option #3*: The Unit has qualified as a low-risk auditee in accordance with the criteria set forth in 2 C.F.R. § 200.520. Therefore, in accordance with 2 C.F.R. § 200.320(a)(1)(iv)(A) and the applicable provisions of North Carolina law, the [*Unit*] hereby self-certifies the following micro-purchase thresholds:]

 A. $30,000, for the purchase of “apparatus, supplies, materials, or equipment”; and

 B. $30,000, for the purchase of “construction or repair work”; and

 C. $50,000, for the purchase of services not subject to competitive bidding under North Carolina law; and

 D. $50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the Unit has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be $0.]

2. The self-certification made herein shall be effective as of the date hereof and shall be applicable until the [end of the current fiscal year][[20]](#footnote-20) of the Unit, but shall not be applicable to Federal financial assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).

 3. In the event that the [*Unit*] receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the Unit shall comply with the more restrictive threshold when expending such funds.

4. The Unit shall maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.

 5. The [*appropriate officers and employees*][[21]](#footnote-21) of the Unit are hereby authorized, individually and collectively, to revise the Purchasing Policy of the Unit to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution.

\* \* \* \* \* \* \* \* \*

Adopted this the [\_\_\_] day of [\_\_\_\_\_], 2021.[[22]](#footnote-22)

1. *See* [Guidance for Grants and Agreements, 85 Fed. Reg. 49506 (August 13, 2020) (to be codified at 2 C.F.R. pt. 200)](https://www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-17468.pdf). [↑](#footnote-ref-1)
2. *Id.* at 49553 (to be codified at [2 C.F.R. § 200.320(a)(1)(iv)(C)](https://www.ecfr.gov/cgi-bin/text-idx?node=se2.1.200_1320&rgn=div8)). [↑](#footnote-ref-2)
3. *Id.* at 49552-49556 (to be codified at [2 C.F.R. §§ 200.317 – 200.327](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4a7f1e1dd9eb30318cd17d70539be85d&mc=true&n=sp2.1.200.d&r=SUBPART&ty=HTML)). [↑](#footnote-ref-3)
4. *Id.* at 49553 (to be codified at [2 C.F.R. § 200.320(a)(1); 2 C.F.R. § 200.320(c)(1)](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4a7f1e1dd9eb30318cd17d70539be85d&mc=true&n=sp2.1.200.d&r=SUBPART&ty=HTML#se2.1.200_1320)). [↑](#footnote-ref-4)
5. *Id.* (to be codified at [2 C.F.R. § 200.320(a)(1)(ii)](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4a7f1e1dd9eb30318cd17d70539be85d&mc=true&n=sp2.1.200.d&r=SUBPART&ty=HTML#se2.1.200_1320)) [↑](#footnote-ref-5)
6. 2 C.F.R. § 200.67 (2020) (“The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is $3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.”). In 2018, the Office of Management and Budget raised the micro-purchase threshold under Federal financial assistance awards to $10,000. *See* [Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum M-18-18, Memorandum for Chief Financial Officers and Heads of Small Executive Agencies (June 20, 2018)](https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf). [↑](#footnote-ref-6)
7. [Guidance for Grants and Agreements, 85 Fed. Reg. 49506, 49553 (August 13, 2020) (to be codified at 2 C.F.R. § 200.320(a)(1)(iii)](https://www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-17468.pdf)). [↑](#footnote-ref-7)
8. *Id.* at 49502 (to be codified at [2 C.F.R. § 200.1](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4a7f1e1dd9eb30318cd17d70539be85d&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_11)) (definition of “Micro-purchase threshold”). [↑](#footnote-ref-8)
9. *Id.* (to be codified at [2 C.F.R. § 200.320(a)(1)(iv)](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4a7f1e1dd9eb30318cd17d70539be85d&mc=true&n=sp2.1.200.d&r=SUBPART&ty=HTML#se2.1.200_1320)). [↑](#footnote-ref-9)
10. Subject to limited exceptions, a non-Federal entity must retain all “[f]inancial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award . . . for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient.”). *Id.* at 49558 (to be codified at [2 C.F.R. § 200.334](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4a7f1e1dd9eb30318cd17d70539be85d&mc=true&n=sp2.1.200.d&r=SUBPART&ty=HTML#se2.1.200_1334)). [↑](#footnote-ref-10)
11. *Id.* at 49552 (to be codified at [2 C.F.R. § 200.320(a)(1)(iv)(C)](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4a7f1e1dd9eb30318cd17d70539be85d&mc=true&n=sp2.1.200.d&r=SUBPART&ty=HTML#se2.1.200_1320)). [↑](#footnote-ref-11)
12. [N.C. Gen. Stat. § 143-129(a)](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-129.pdf) (formal bidding); [N.C. Gen. Stat. § 143-131(a)](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-131.html) (informal bidding). [↑](#footnote-ref-12)
13. [N.C. Gen. Stat. § 143-64.31 *et seq.*](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_143/Article_3D.html) [↑](#footnote-ref-13)
14. [N.C. Gen. Stat. § 143-64.32](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-64.32.html). [↑](#footnote-ref-14)
15. [48 C.F.R. § 2.101 (2020)](https://www.ecfr.gov/cgi-bin/text-idx?node=sp48.1.2.2_11&rgn=div6) (subject to limited exceptions, setting the micro-purchase threshold at $10,000). [↑](#footnote-ref-15)
16. 85 Fed. Reg. 49506, 49521 (August 13, 2020) (“The revisions to 2 CFR are not applicable to Federal financial assistance awards issued prior to the effective dates provided in the Dates section of this Notice of Final Guidance, including financial assistance awards issued prior to those dates under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).”). [↑](#footnote-ref-16)
17. The term “governing board” should be replaced with the proper name of the governing board (e.g., council or board). [↑](#footnote-ref-17)
18. The term “unit” should be replaced with the proper name of the public entity (e.g., town, city, village, or county). [↑](#footnote-ref-18)
19. All units of local government, regardless of audit findings, may raise the micro-purchase thresholds to levels “consistent with State law” pursuant to 2 C.F.R. § 200.320(a)(1)(iv)(C). [↑](#footnote-ref-19)
20. The self-certification must be made on annual basis. A best practice is to adopt the self-certification at the beginning of each fiscal year. [↑](#footnote-ref-20)
21. Include those officers and employees with authority to revise the Unit’s purchasing policy. [↑](#footnote-ref-21)
22. A Unit may format this resolution to include its standard resolution information (e.g., resolution number or vote tally). [↑](#footnote-ref-22)