



UNIFORM GRANT GUIDANCE IN FOCUS: *PROCUREMENT*

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Published on www.lorman.com - August 2017

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Uniform Grant Guidance in Focus: Procurement

by Kinman Tong and Aparna Venkateswaran, Senior Managers,
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With change comes challenge. That's no surprise to any organization doing its best to keep up with regulatory guidance.

One of the most profound changes affecting not-for-profits receiving federal awards today is the application of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (or uniform guidance). It aims to reduce the administrative burden on organizations that receive federal awards while mitigating the risk of waste, fraud, and abuse.

In a previous article in this series, we looked in depth at one important aspect of the guidance: subrecipient monitoring. In this article, we'll examine procurement, another key area, and give some related best practices.

Overview

The new procurement guidance adopts a majority of its language from the previous Office of Management and Budget (OMB) Circular A-102, which applied solely to state, local, and Indian tribal governments. Now that it's part of the uniform guidance, not-for-profit entities that previously followed the guidance in OMB Circular A-110 for newer federal awards and incremental funding will be required to follow the new

procurement guidance instead. As a result, they'll need to revisit their systems, processes, and documentation surrounding procurement.

A few points that distinguish the new uniform guidance from Circular A-110 are that it:

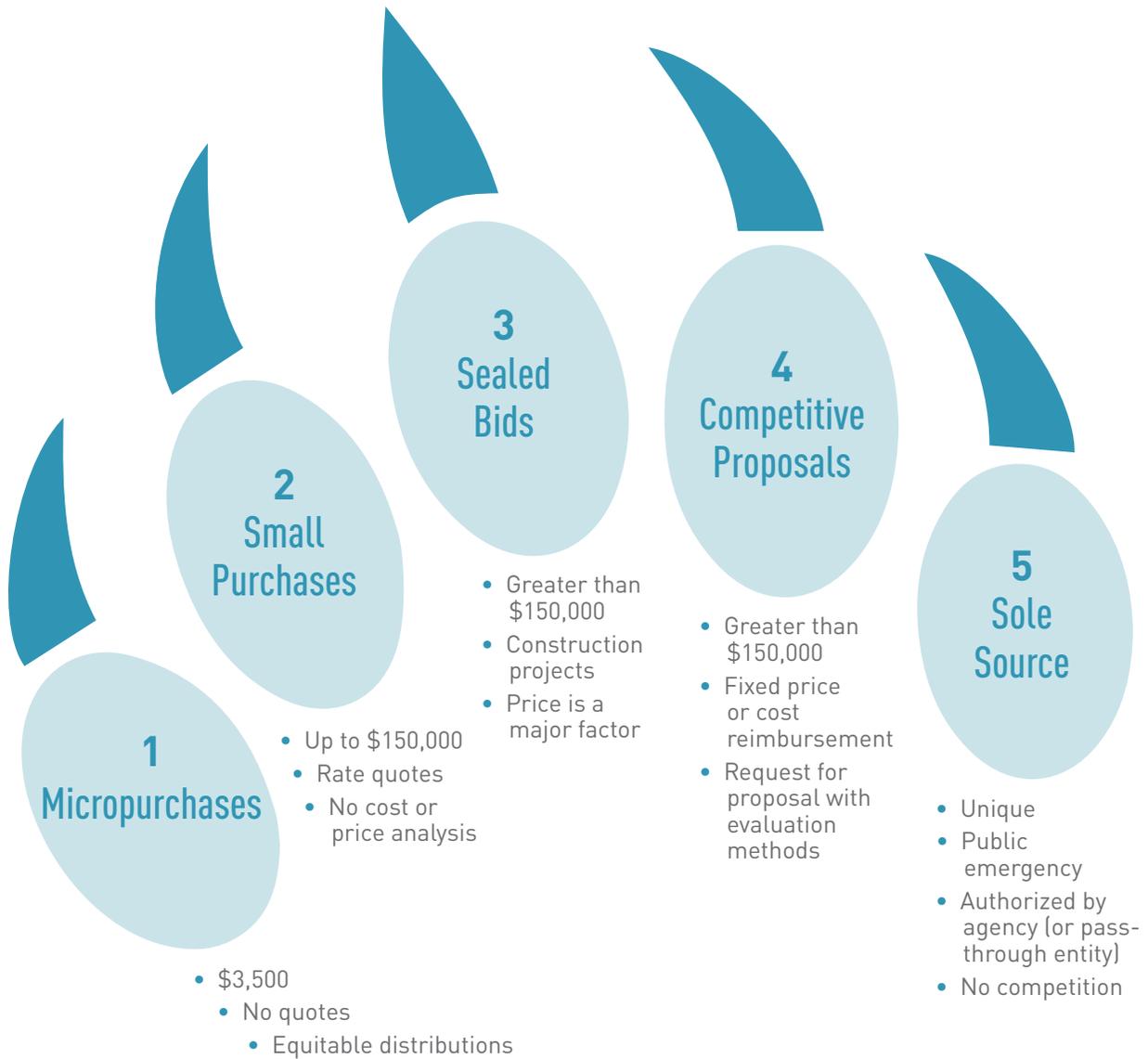
- Is designed to better mitigate the risk of waste, fraud, and abuse
- Explicitly requires internal controls of how federal award money is used
- Requires the entity to follow its own documented procurement procedures that reflect applicable state and local laws and regulations

Grace Period

Not-for-profit entities have a grace period of two full fiscal years after the effective date of the uniform guidance before they must comply with the procurement requirements. For example, if a not-for-profit entity's fiscal year-end is December 31, its new effective date for the procurement requirements is **January 1, 2017**. If a not-for-profit entity's fiscal year-end is June 30, its new effective date for the procurement requirements is **July 1, 2017**. However, during this grace period not-for-profits must clearly document whether they decided to comply with the previous version of the applicable procurement standards or the new standards contained in the uniform guidance.

Five Methods of Procurement

The uniform guidance outlines five methods of procurement: micropurchases, small purchases, sealed bids, competitive proposals, and noncompetitive (sole source) proposals.



Source: "Frequently Asked Questions for the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200," published by the Council on Financial Assistance Reform (COFAR).

Some general standards apply to all five types of procurement:

- The policies surrounding the procurement must be documented
- The procurement must be necessary
- The procurement must be subject to full and open competition among vendors

- The procurement can't present a conflict of interest

Above the simplified acquisition threshold (\$150,000), organizations are required to document their cost and price analysis as well as the criteria by which they selected a vendor.

Purchase Type	Characteristics & Requirements
Below simplified acquisition threshold of \$150,000	
Micropurchases	<ul style="list-style-type: none"> • Under the micropurchase threshold (currently \$3,500 and recently adjusted from \$3,000) • No bid or quote process required • No cost or price analysis required • Should be distributed among a range of qualified vendors • Use interentity agreements where applicable
Small purchases	<ul style="list-style-type: none"> • Under \$150,000 • Price or rate quotes required from an adequate number of sources • Should be distributed among a range of vendors • Use interentity agreements where applicable
Above simplified acquisition threshold of \$150,000	
Sealed bids	<ul style="list-style-type: none"> • Typically used for construction contracts • Bids must be publicly solicited • Two or more bidders are willing and able to compete and qualified to do the work • Complete, adequate, and realistic specification or purchase description is available • Firm fixed-price contract is feasible; a bidder can be selected based on price
Competitive proposals	<ul style="list-style-type: none"> • Requires request-for-proposal process and solicitation of an adequate number of bidders • Written method of evaluation, considering price as well as other factors advantageous to the program
Above or below simplified acquisition threshold	
Noncompetitive proposals	<p>Falls into one or more of these four circumstances:</p> <ul style="list-style-type: none"> • Item available only from a single source • Public exigency or emergency won't permit a delay resulting from competitive solicitation • Expressly authorized by the awarding agency or pass-through entity • Competition is determined to be inadequate after solicitation

- Written policies and procedures for:
- Procurement standards
 - Conflicts of interest in procurement
 - Allowable cost standards

Best Practices

Maintain written policies and standards of conduct.

One of the largest changes contained in the uniform guidance for procurement affecting not-for-profit entities is that procurement policies and standards of conduct must be documented in writing.

Your written policy should detail, among other things:

- Thresholds and appropriate process for each of the five procurement methods
- How conflicts of interest involving employees engaged to select, award, and administer contracts will be governed
- How conflicts of interest involving parent entities, affiliates, and subsidiaries will be governed at the organizational level

It's up to each organization to determine the best way to handle its conflicts of interest. It might make sense, for example, to preserve objectivity in the bidding process by limiting the involvement of employees who have a conflict of interest. Organizations with affiliated entities may want to circulate memos regarding bids in process to surface potential conflicts of interest.

Search for vendors on the System for Award Management (SAM), formerly the Excluded Parties List System (EPLS).

This requirement isn't exactly new under the uniform guidance, but it's now explicit. Before you engage a vendor, search the SAM for the vendor by name, tax identification number, or another characteristic to make sure the person or entity hasn't been suspended or debarred from performing federally funded work. If you do engage a prohibited vendor, the federal awarding agency could refuse to reimburse your costs or request a return of previously awarded funds.

This is especially important for covered transactions—the procurement of goods or services expected to exceed \$25,000—and for any subrecipient arrangement, regardless of size. Given the high dollar amount involved in these transactions, many not-for-profit entities would be hard-pressed to cover the expense if their grant funds were revoked.

Consider centralizing purchasing operations.

The more decentralized your organization's purchase decisions, the more challenging it can be to make sure all purchasers are following the rules in the uniform guidance. With decentralized purchases, there's a more widespread risk of noncompliance, a lack of uniformity in processes and adherence to procedures, and room for error. Instead, consider having one centralized procurement function handle a majority of the organization's purchases.

One area likely to be impacted by the uniform guidance is procurement cards (or P cards), because they're typically distributed to many users within an organization. As a result, it's important to have strong and consistent policies in place to make sure each individual follows the appropriate procurement requirements. Consider training all staff involved with federal programs in the procurement standards and processes to ensure compliance at all levels of responsibility.

Create checklists to guide purchasers through proper processes.

Outline steps as well as decision criteria for each procurement method, from micropurchases up through competitive bids. Start by building in the requirements for each procurement method above (as well as searching for suspended or debarred vendors), but also include considerations unique to your organization. This might include procedures for uncovering and managing any conflicts of interest (individually and as an organization) as well as what documentation should be generated and collected at each step of procurement.

Update Your Policies and Procedures

Now's the best time for not-for-profit entities to revisit the policies and procedures surrounding their procurement activities. Work toward making sure your policies and procedures are written down, documented, and communicated to all employees.

Take time now to develop internal controls and tools, such as checklists, that will support your compliance with the new guidelines. You may

want to revisit your organization's purchasing policies in totality, or take an inventory of the services and goods you share (or could share) with affiliated entities and make that list easily accessible to any employee with purchasing power, especially those involved with federal programs.

Above all, remember that documentation is one of the more important requirements under the new guidance. Keep careful records of bids and proposals solicited, selection criteria considered, and quotes from vendors. If an individual procurement begins as a sealed bid, for example, but only one qualified vendor bids on the work, make sure you have documentation to support the fact that you solicited offers from a range of vendors rather than a sole source from the beginning.

We're Here to Help

For more information on procurement and related topics, visit www.mossadams.com/uniformguidance. To learn more about whether your organization's procurement processes adhere to the new guidance, or for help creating appropriate internal controls over procurement, contact your Moss Adams professional.

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