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Uniform Guidance for Federal Procurements



WARNING

*Uniform Guidance for Federal Procurements have changed.
These are the new rules to receive and use federal awards.*



Background

In December 2013, the US Office of Management and Budget (OMB) issued comprehensive reforms to the standards for federal grant management and compliance. All OMB federal grant circulars were combined and streamlined into the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), commonly known as the “Uniform Guidance.” The Uniform Guidance is a set of rules and requirements for federal awards, which includes procurement standards, cost principles for determining the allowable costs, financial and program management standards, and audit requirements aimed at reducing the risk of waste, fraud, and misuse of federal grant funding to non-federal entities. These reforms impact federal agencies, non-federal agencies (states, local governments, non-profits, institutions of higher learning, and Indian tribes that receive federal funds as recipients or sub-recipients), and non-federal agencies’ external auditors.



Non-federal entities receiving federal awards must implement the procurement standards in the Uniform Guidance by the start of the fiscal year (FY) beginning on or after December 26, 2017. **For Palm Beach County¹, Children Services Council², Solid Waste Authority³, and municipalities⁴ within Palm Beach County, the implementation date is the start of FY 2019 (October 1, 2018).**

¹ Section 129.04, Florida Statutes, states that the fiscal year for each county in Florida shall commence on October 1, and end on September 30.

² Section 125.901(3)(a), Florida Statutes, states that the fiscal year for the district shall be the same as that of the county.

³ Chapter 2001-331, section 5 at 10, Laws of Florida, defines the fiscal year for Solid Waste Authority beginning October 1 of each year and ending September 30 of the following year.

⁴ Section 166.241(1), Florida Statutes, requires municipalities to establish a fiscal year beginning October 1 of each year and ending September 30 of the following year.

“Enhancing Public Trust in Government”

Uniform Guidance - Procurement Standards

The general procurement standards for the use of federal funds by non-federal entities include:

- The non-federal entity must have its own documented procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal law and the Uniform Guidance.
- Procurements with federal funds should use the most economical solutions, avoid purchasing unnecessary items, and employ shared services and cooperative agreements where appropriate.
- The non-federal entity must have a written Conflict-of-Interest or Standards of Conduct policy governing the actions of its employees engaged in the selection, award, and administration of contracts. The policy must state that no employee or agent may participate in the selection, award, or administration of a contract if she/he has an actual or apparent conflict of interest, as defined in the Uniform Guidance. The policy must also provide for disciplinary actions.
- The procurement process must be sufficiently documented, including but not limited to, the basis for the method of procurement, selection of contract type, contractor selection or rejection, and basis for the contract price.
- The entity must perform an appropriate level of contract administration and oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Uniform Guidance – Open Competition

All procurement transactions using federal grant funds must be conducted using full and open competition consistent with the Uniform Guidance. In order to eliminate unfair competitive advantage, the Uniform Guidance states that contractors participating in the drafting of specifications, statements of work, or bids must be excluded from such procurements. Additionally, non-federal agencies must not unduly restrict competition. Undue restrictions on competition include: specifying particular brand names, unreasonable requirements, noncompetitive pricing, arbitrary actions in the procurement process, and geographic preferences, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference.



The methods of procurement specified in the Uniform Guidance are:

- Micro-Purchase: Purchase of supplies or services up to \$10,000.⁵ Requires one quote.

⁵ 2 CFR §200.67 provides that this threshold is \$3,000, but may be periodically adjusted for inflation. On June 20, 2018, the OMB issued an exception to the Uniform Guidance Procurement Standards required by the 2018 National Defense Authorization Act to increase the threshold for Micro-Purchases from \$3,500 to \$10,000 for fiscal year 2018 for all recipients.

- **Small Purchase:** Purchases for services, supplies, or other property over \$10,000 up to Simplified Acquisition Threshold of \$250,000. Requires multiple, informal quotes.⁶
- **Sealed Bids:** Over the Simplified Acquisition Threshold of \$250,000. Requires a formal solicitation with award based on the lowest price.
- **Competitive Proposals:** Over the Simplified Acquisition Threshold of \$250,000. Requires a formal solicitation where the award is based on the most advantageous to the program, with price and other factors considered.
- **Noncompetitive Proposals:** Can be used when only one source is available, for public emergencies, when authorized by the federal award, or after attempts to use the competitive process have failed.

The Uniform Guidance also contains provisions regarding:

- Soliciting and utilizing minority businesses, women's business enterprises, and labor surplus area (LSA) firms as determined by federal standards.
- The use of recovered materials.
- Construction bonds.
- Contract provisions required for non-federal entity contracts.

Recommendation

The materials provided are for informational purposes only. We recommend that local governments currently receiving or planning to receive federal funds beginning October 1, 2018, review their policies and procedures for compliance with the Federal Uniform Guidance, as specified in 2 CFR 200 – Procurement Standards (§§ 200.317 – 200.326), and seek legal guidance, as needed.



Additional Information

Palm Beach County employees should refer to *PPM CW-L-049, Procurement of All Non-Construction Related Goods or Services Purchased or Reimbursed with Federal Funds*.

For Municipal governments, Children Services Council, Solid Waste Authority, and the citizens of Palm Beach County, the IG has posted on its website at: <http://pbcgov.com/oig/outreach.htm>, an informational brief entitled, *Uniform Procurement Guidance for Non-Federal Entities*.

⁶ 2 CFR §200.88 provides that this threshold is \$150,000, but may be periodically adjusted for inflation. On June 20, 2018, the OMB issued an exception to the Uniform Guidance Procurement Standards required by the 2018 National Defense Authorization Act to increase the threshold for Simplified Acquisitions from \$100,000 to \$250,000 for fiscal year 2018 for all recipients.