

Implementing and Executing Procurement Requirements Under Uniform Guidance

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Outline

- ✍ Overview of Standards
- ✍ Five Methods of Procurement
- ✍ Written Policies & Procedures
- ✍ Lessons Learned
- ✍ Action Items
- ✍ Other Grants Management Issues for 2018
- ✍ Q and A

Overview of Procurement Standards

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Overview of Procurement Standards

- ✍ Uniform Guidance procurement standards were delayed until July 1, 2018. For districts that waited, time is up!
- ✍ Reforms require the non-federal entity to use its own documented procurement which reflect applicable state and local laws and regulations, provided that the standards also confirm to applicable federal laws and standards.
- ✍ Must have written procurement procedures, conflict of interest policy, and written procedure for conducting technical evaluations of proposals and selecting participants.

Five Methods of Procurement

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Five Methods of Procurement

1. Micro-Purchases

➤ When should this method be used?

- Purchases less than micro purchase threshold of \$3,500, indexed annually (CFR 200.67)
- Note, because of the Defense Agency Appropriations Act the threshold may be \$10,000!
- Limit applies to aggregate purchase

➤ How are purchases solicited/awarded?

- Purchases are awarded based on District's discretion
- No quotes or bids needed if price deemed reasonable
- District Credit Cards
- Attempt to rotate purchases between vendors, if practical

Five Methods of Procurement

2. Small Purchase (Simplified Acquisition)

- **When should this method be used?**
 - **Purchases that do not exceed**
 - **Goods** – The State of Michigan Bid Threshold (MCL 380.1274), indexed annually (FY 2018 threshold: \$23,881)
 - **Services** – The Federal Simplified Acquisition Threshold, currently \$150,000 (2 CFR 200.88)
 - **School Policy** – If the District has lower bidding thresholds, these apply instead. The District CANNOT increase the mandated thresholds

- **How are purchases solicited/awarded?**
 - Price or rate quotations are obtained
 - No cost or price analysis required
 - District Credit Cards????
 - Decision is documented

Five Methods of Procurement

3. Sealed Bids

- **When should this method be used?**
 - Purchases that exceed
 - **Goods** – The State of Michigan Bid Threshold (MCL 380.1274), indexed annually (FY 2018 threshold: \$23,881)
 - **Services** – The Federal Simplified Acquisition Threshold, currently \$150,000 (2 CFR 200.88)
 - **School Policy** – If lower than the mandated thresholds
 - Fixed-price contract (lump sum or unit price)

- **How are purchases solicited/awarded?**
 - Sealed bids solicited via formal advertising
 - Suspended and Debarred requirements
 - Awarded to lowest responsive and responsible bidder (meeting all material terms and conditions of invitation for bids)
 - Any or all bids may be rejected with sound documented reason

Five Methods of Procurement

4. Competitive Proposals

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- **When should this method be used?**
 - Purchases that exceed
 - **Goods** – The State of Michigan Bid Threshold (MCL 380.1274), indexed annually (FY 2018 threshold: \$23,881)
 - **Services** – The Federal Simplified Acquisition Threshold, currently \$150,000 (2 CFR 200.88)
 - **School Policy** – If lower than the mandated thresholds
 - Fixed-price or cost-reimbursement based contracts
 - Conditions not appropriate for use of sealed bids
- **How are purchases solicited/awarded?**
 - Bids will be solicited
 - Must have written method for conducting technical evaluations of proposals received
 - Suspended and Debarred requirements
 - Awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered

Five Methods of Procurement

5. Non-Competitive Proposals (Sole Source)

- **When should this method be used?**
 - Only when one or more of the following circumstances apply:
 - Available only from a single source
 - How do you know?
 - Public emergency will not allow a delay
 - Authorized (in writing) by the awarding agency or pass through entity
 - No (or inadequate) competition (after soliciting sources)

- **How are purchases solicited/awarded?**
 - Awarded to sole source if one or more of the above conditions exist
 - Specification limitations must be reasonable
 - Documentation is KEY!

Written Policies and Procedures

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Written Policies and Procedures

- Policy versus Procedure
 - Policy: Should address why you administer things a certain way and contain a goal or objective
 - Procedure: Should detail how you perform the functions necessary to conform to the policy
 - Controls: While not specifically discussed, controls must exist to ensure procedures are completed correctly
- Procurement policy required to reflect UG changes
- Application of policy changes for UG can be reflected in the policy itself, OR in the procurement procedures

Written Policies and Procedures

- Conflict of Interest *Policy* (§200.318)
 - Written standards of conduct covering conflict of interest
 - Employee conflict of interest (did not change)
 - Organizational conflict of interest (new!)

 - Key Items to Include
 - Define conflict of interest
 - Soliciting or accepting gifts
 - Disciplinary actions applied to violations
 - Identify organizational conflicts
 - Process to resolve the conflict
 - Disclosure
 - Exclude organization
 - Abstain
 - Resignation
 - Nepotism

Written Policies and Procedures

- Written Procurement *Procedures* (§200.319)
- Written *Procedure* for Conducting Technical Evaluations of Proposals and Selecting Participants (§200.320)
 - Written procedures for procurement transactions
 - Identify the five allowable methods
 - All procurement transactions must be conducted in a manner providing full and open competition
 - Must maintain oversight to ensure that contractors perform in accordance with terms, conditions, and specifications of contract or PO
 - Key Items to Include
 - Rationale for method of procurement
 - Selection of the contract type
 - Contractor selection or rejection
 - Basis for the contract price
 - Appendix II provides multiple provisions that must be included in contracts

Written Policies and Procedures

- **Suggestions**

- Review MDE guidance/expectations
- Update policies and procedures already in place; no need to “re-create the wheel”
 - Policy services providers likely have developed model policies
 - Model Procedures for Michigan Schools released 11.17
- Tailor procedures for your specific processes
- Tie in state law and local (district) policies – but make sure federal requirements are met
 - If District policy is more restrictive, reference federal requirements but note are above District thresholds
- Consider referencing CFR/MCL sections instead of dollar values (for indexed thresholds)

Model Procedures for Michigan Schools

- Model Grants Management procedures issued November 2017
- Designed to conform with Uniform Guidance
- Key Content Areas
 - Financial Management Systems
 - Policies for Compliance with Michigan Department of Education Requirements
 - Policies for Compliance with the OMB Compliance Supplement
 - Other Policies and Procedures
 - Appendix

Model Procedures for Michigan Schools

• Section highlights – Procurement	<u>Pages</u>
➤ Purchasing and Procurement	3-6
➤ Activities Allowed/Unallowed	30-31
➤ Allowable Costs/Cost Principles	30-31
➤ Procurement, Suspension and Debarment	37-38
➤ Conflict of Interest	43
➤ Supplies	46
➤ Credit Card Purchases	48-49
➤ Certification Regarding Suspension and Debarment	54
➤ Conflict of Interest Disclosure Form	55-56
➤ 2 CFR 200, Subpart E: Cost Principles – Selected Items of Cost	58-60

Model Procedures for Michigan Schools

- Procurement - Key Observations
 - Purchasing and Procurement
 - Sample procedures use dollar amounts, suggest using indexing reference or FAR references
 - Directs use of lower of federal and state thresholds
 - Provides paying methods for student activities disbursements
 - Includes brief process for non check disbursements (might need a bit more detail added here)

Model Procedures for Michigan Schools

- Procurement - Key Observations
 - Activities Allowed/Unallowed and Allowable Costs/Cost Principles
 - Provides framework for “reasonable cost”
 - Provides framework for assessing grant allowability
 - Procurement should consider allowability within the purchasing process
 - Procurement, Suspension and Debarment
 - Focus on documenting selection of method of procurement (not everything must be bid and not everything is sole sourced!)
 - Defines “covered transaction” which is when suspended and debarred is applicable
 - Identifies methods for complying with Suspended and Debarred
 - Sample Certification Regarding Suspension and Debarment

Model Procedures for Michigan Schools

- Procurement - Key Observations
 - Conflict of Interest
 - Sample Conflict of Interest disclosure form in appendix
 - Supplies
 - MDE does not require bidding,
 - federal requirements follow the thresholds
 - Is there a unique district policy?

Model Procedures for Michigan Schools

- Procurement - Key Observations
 - Credit Card Purchases
 - Sample prohibits gift cards, does your district use them?
 - Allowable usage is specified, need to tailor to District
 - Prohibition on use to circumvent District procurement procedures
 - consider for micro purchases
 - Effective policing?
 - Selected Items of Cost
 - Discusses allowability of certain types of costs
 - Procurement related: Entertainment, computing devices, costs requiring prior approval, student activity, rents

Model Procedures for Michigan Schools

- Procurement - Key Questions

- Is the item going to be charged to a federal grant?
- Could the item or vendor be charged in the future?
- Does the item require preapproval by the grantor?
- Will use of a state or co-op bid list satisfy the procurement requirements?
- Is it allowably under the grant terms/budget?
- Does suspended and debarred apply? (Should it apply to all purchases?) How best to document compliance?
- Are there sufficient controls for purchases where a check is not used? (electronic payments, credit card etc)
- How do staff know what to do when purchasing?
- Will the policy and procedure be functioning 7.1.18?

Quick Access to UG Guidance

US ED Guidance

<https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>

MDE/Grants/Uniform Guidance

http://www.Michigan.gov/mde/0,4615,7-140-5236_76204---,00.html

What's NEW at MDE

Compensation-Personal Service Memo – February 2, 2017

Tangible Personal Property Memo – February 2, 2017

MDE Uniform Guidance (UG) memo – May 26, 2016

MDE User Guide to Local Users – May 26, 2016

(Pages 7-10 focus on Procurement)

MSBO

<http://www.msbo.org/msbo-online-library-school-finance>

Federal UG Guidance

http://www.Michigan.gov/mde/0,4615,7-140-5236_76204-381290--,00.html

Lessons Learned

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Observations From 2017 Implementations

- No 2 were the same!
- Some Districts focused on a brief policy, highlighting key policy elements
 - Used detailed administrative procedures to address specifics of the procurement requirements
- Some Districts modified current policy
 - compared each element to the new requirements and edited (gap analysis)
- Some Districts created a policy for each segment of SD activity
 - Essentially this repeated the key elements in each policy section
- Some Districts essentially adopted the vendor stock policy with little modification
 - *Note, this can be dangerous if procedures do not mirror policy*
- All Districts invested time prior to adoption to gain Board acceptance

Action Items

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Action Items

- Update internal procurement policies and procedures to reflect changes described in Uniform Guidance – five allowable methods should be identified
- Ensure employee conflict of interest policy includes required language
- Ensure organizational conflict of interest policy is written
- Review Appendix II to ensure contracts include required specifications
- Review Model Manual - *BUSINESS OFFICE PROCEDURES AND FEDERAL AWARDS ADMINISTRATION*
- Revisit where non-competitive bids may be likely to occur
- Determine approach to micro purchases
- Maintain suspended/debarred processes
 - Consider expanding to all purchases over \$25,000

Other Grants Management Issues for 2018

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Other Grants Management Issues

- 2018 “Skinny” Compliance Supplement
- MDE School Audit Manual
- MDE Audit Risk Alert
- New Government Auditing Standards (Yellow Book) likely for 6.30.19
- Child Nutrition Cluster
 - Equipment preapproval
 - Bad debts
 - If district has excess fund balance and not reducing it, MDE can ask for funds back!
- Special Ed Cluster
 - Appears a method established for Excess Cost reporting by grantees
 - Includes cost segregations between primary and secondary education
 - Auditors may be required to test at some level

Questions?

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Let's have more fun with this!

Using your computer or cell phone, open up your web browser and go to <https://kahoot.it/>

Please take note of the following:

Question #6 Detroit lions refers to only the super bowl era

Question #8 is asking for which procurement method

<https://kahoot.com>

Thank you for your time!

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