

Implementing Procurement Requirements Under Uniform Guidance

Jennifer Chambers & Holly Stefanski

May 4, 2017



plante
moran

audit • tax • consulting

Outline

- ✍ Overview of Standards
- ✍ Five Methods of Procurement
- ✍ Written Policies & Procedures
- ✍ Action Items
- ✍ Q and A

Overview of Procurement Standards

plante
m
moran

audit • tax • consulting

Overview of Procurement Standards

- ✍ Uniform Guidance procurement standards can be delayed until July 1, 2017. Districts were previously required to elect this delay in writing.
- ✍ 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

plante
m
moran

audit • tax • consulting

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)

- **How are purchases solicited/awarded?**
 - Purchases are awarded based on District's discretion
 - No quotes or bids needed if price deemed reasonable
 - Attempt to rotate purchases between vendors, if practical

Five Methods of Procurement

2. Micro-Purchases

- **When should this method be used?**
 - **Purchases that do not exceed**
 - **Goods** – The State of Michigan Bid Threshold (MCL 380.1274), indexed annually
 - **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
 - 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
 - **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
 - 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

➤ When should this method be used?

- Purchases that exceed
 - **Goods** – The State of Michigan Bid Threshold (MCL 380.1274), indexed annually
 - **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
- 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
 - 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
- Documentation is KEY!

Written Policies and Procedures



audit • tax • consulting

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 confirm 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 (*see next slide*)
- Update policies and procedures already in place; no need to “re-create the wheel”
 - Policy services providers likely have developed model policies
- 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)

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)

Federal UG Guidance

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

Action Items

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
- Revisit where non-competitive bids may be likely to occur
- Maintain suspended/debarred processes
 - Consider expanding to all purchases over \$25,000

Questions?

Jennifer Chambers
Jennifer.Chambers@PlanteMoran.com
248-375-7290

Holly Stefanski
Holly.Stefanski@PlanteMoran.com
248-223-3790

Thank you for your time!

plante
m
moran

audit • tax • consulting