

Public Sector Update

Implementation Grace Period for New OMB Procurement Standards

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The Office of Management and Budget (OMB) has updated guidance for the procurement grace period available to non-Federal entities under Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

The update, as included in the Federal Register, allows for an additional one-year grace period for implementation of the procurement standards set forth in the Uniform Guidance (2 CFR 200.317 through 200.326). Including the grace period, the implementation date for the revised procurement standards are effective for fiscal years beginning on or after December 26, 2017. A non-Federal entity that chooses to take advantage of this grace period must document its choice in its internal records, noting whether it's in compliance with the previous or revised procurement standards.

The new procurement standards apply to procurement of goods and services directly charged to a Federal award. The standards do not apply to indirect costs and procurement of goods and services not charged to a Federal award. The standards have a strong emphasis on procurement methodology to achieve the goals of increased accountability and competition. The changes are designed to better mitigate waste, fraud and abuse.

General Requirements of the New Guidance

The following are the general requirements:

- Non-Federal entities (such as not-for-profit entities and local governments) receiving Federal awards must have their own documented (written) procurement procedures that conform to reflect Federal law, Uniform Guidance standards, and any State laws and regulations.
- Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms of their contracts or purchase orders.
- Non-Federal entities must maintain written conflict-of-interest policies if its employees engage in the selection, award and administration of contracts. No employee, officer or agent may participate in the selection, award, or administration of a contract funded by a Federal award if he or she has an actual or apparent conflict of interest. This also applies to organizational conflicts of interest if the non-Federal entity is unable, or appears to be unable, to be impartial in conducting a procurement action involving a related organization.
- Non-Federal entities should focus on greater economy and efficiency to promote cost-effective use of services during the procurement process, and must avoid using Federal funds for the acquisition of unnecessary and duplicative items.

- Non-Federal entities must document and maintain records sufficient to detail the history of the procurement steps and activities required to be completed. This includes the rationale for the type of procurement, selection of contract type, and the basis for the contractor selection and price.

Five Methods of Procurement

The Uniform Guidance outlines five methods of procurement:

1. **Micro-Purchases:** Purchases that individually do not exceed \$10,000. To the extent practicable, micro-purchases must be distributed equitably among qualified suppliers. No bid or quote process is required.
2. **Small Purchases:** Used for purchases up to the Simplified Acquisition threshold (currently \$250,000). These include small and informal purchase methods for securing services, supplies, or other property. Price or rate quotes must be obtained from an adequate number of qualified sources.
3. **Sealed Bids:** Purchases over \$250,000. Bids are publicly solicited and a fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all material terms and conditions of the invitation for bids, is the lowest in price. This method is most commonly used for procurement of construction contracts.
4. **Competitive Proposals:** Purchases over \$250,000. This method requires formal solicitation from an adequate number of qualified sources, fixed-price or cost-reimbursement contracts, and is used when sealed bids are not appropriate. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
5. **Noncompetitive Proposals:** These proposals only apply under unique circumstances. Examples include when an item is available only from one source, when a public emergency does not allow time for a competitive proposal process, when the Federal awarding agency authorizes, or when the competition is deemed inadequate after proper solicitation.

In Brief

With the OMB seeking increased accountability and competition, it is important that your agency understand and implement the new guidance as applicable.

Contact Us

The partners and staff of the Public Sector Services Team at PKF O'Connor Davies, LLP are available to assist municipal entities with these new procurement standards as well as provide accounting, auditing and consulting services. Please contact any of the individuals listed below or your team member:

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