

# Uniform Guidance Overview

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Why did the federal government implement the Uniform Guidance?



INDIANA UNIVERSITY



- To "harmonize" (align) procurement rules and simplify the grant management process previously codified in 8 different federal circulars;
- To build more accountability into the grants management process ;
- To strengthen conflict of interest/ethics rules;
- To align procurement rules for *grants* with FAR (Federal Acquisition Regulations – which apply to federal *contracts*).



# Impact of Uniform Guidance on Procurement

The Uniform Guidance (UG) introduced a number of reforms and changes for institutions receiving federal grant funding.

Arguably, none of the changes are as significant as those impacting procurement.

- Establishes uniform administrative requirements, cost principles and audit requirements for Federal awards to non-Federal entities.
- Includes a section dedicated to Procurement Standards (200.317 – 200.326) as well as other areas of potential impact to procurement organizations (the focus of this discussion).



## **200.318 General procurement standards**

- The non-Federal entity must use 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 standards identified in this section.
- Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts.



## 200.319 Competition: Key Concepts

All procurement transactions must be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered. The specifications must describe the performance or other relevant requirements of the procurement;
- Any arbitrary action in the procurement process.



## **200.320 – Methods of procurement to be followed**

- Micro Purchase
- Small Purchase
- Structured Competition
- Formal Competitive Proposals
- Non-Competitive Proposals

### **Underlying Principles**

- Free and open competition
- Consistency for all procurements
- Full and accurate documentation



# Micro Purchase (IU “APO”)

“Automatic Purchase Orders” (APO) are orders placed by departments with existing vendors or for items not currently under contract.

- Current limit for each order is \$1000 with few exceptions.
- New limit will be \$3000 effective 7/1/2018.
- Current restrictions still apply.



# Small Purchase

- Current IU Policy requires competitive bidding for transaction over \$5000.
- We will raise the level for required competition to \$10,000.
- The competitive process may be structured or relatively simple and informal via phone quotes, e-mail, consortium price lists, etc.
- Purchasing will determine the competitive process to be used.
- Price or rate quotations must be obtained from an adequate number (2 or more) of qualified sources with documentation kept by Purchasing.
- These rules apply to transactions between \$10K - \$50K.





# Structured Competition

- For transactions/awards above \$50,000 up to \$150,000 we will utilize a structured competitive process.
- Request for Quotation (RFQ) and Request for Proposal (RFP) processes will be used.
- Procurement oversees the competitive process and maintains the audit trail.



# Formal Competition Process

- Above \$150,000 we will utilize formal, public bidding as required by the UG.
- Public posting of the bid opportunity is required. We will publicly post on the Procurement website.
- Formal bid process can NOT stipulate manufacturer make and model numbers. Must be based on needs/performance and must include evaluation criteria with relative weighting.



# Non- Competitive - Single or Sole Source

Procurement through a proposal from only one source may be used only when one or more of the following circumstances apply and are well documented:

- (1) After solicitation of a number of sources, competition is determined inadequate;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) The item is available only from a single source.



## **200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms**

- IU has a strong and well recognized Supplier Diversity program.
- The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- The IU focus is on providing opportunity to do business with IU, and developing diverse suppliers in order to contribute to economic development.



## **200.323 Contract cost and price**

Must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000)

- Method and degree depends on facts surrounding the procurement.
- As a starting point, must make independent estimates before receiving bids or proposals.



## 200.326 Contract provisions

There are 11 key contract provisions which will be included in contract terms and conditions:

1. Inclusion of administrative, contractual or legal remedies at \$150,000+
2. Contracts above \$10,000 must have termination clause for convenience
3. Equal Employment Opportunity clause
4. Davis-Bacon Act requirements
5. Contract Work Hour Standards Act
6. Rights to Inventions Made Under a Contract or Agreement Bayh-Dole Act
7. Clean Air Act provisions
8. Energy efficiency
9. Debarment and Suspension
10. Byrd Anti-lobbying Act provisions
11. Procurement of Recovered Materials