



Procurement Policies Under the Uniform Grant Guidance (UGG)

FSFOA, June 21, 2017

Martha K. Asbury



Federal vs. State

- The requirements for procurement using federal funds are found in the Uniform Grant Guidance at 2 CFR 200.317 – 200.326
- State requirements for school districts are found at 6A-1.012, FAC

Timelines

- Originally, the Uniform Grant Guidance (UGG) gave states/LEAs until July 1, 2017 to be in compliance with these procedures
- In May the OMB extended this timeline to December 25, 2017

Competition

- All procurement transactions must be conducted in a manner providing full and open competition
- Real or perceived unfair advantages must be avoided
- Results in best value (not always lowest price)

Examples of Restricting Competition

- Placing unreasonable requirements on vendors to quality
- Unnecessary experience requirements
- Excessive bonding
- Specifying only a brand name instead of allowing an equal product to be offered

Use of Brand Names

- Provide a clear and accurate description of technical requirements
- Specify brand name or equivalent
- Specific features of the named brand must be provided

Thresholds - State

- Competitive solicitations shall be requested from 3 or more sources for any commodities or services exceeding \$50,000.
- There are some exceptions as authorized by 1010.04(4)(a), F.S.

Exceptions to Competitive Solicitation

- Professional services such as legal services and health services
- Educational services and copyrighted materials

Thresholds - Federal

- Small purchases – anything less than \$250,000 (informal procedures; securing rates or price quotes from an “adequate number of sources”)
- Micro-purchase – anything less than \$10,000 (does not require a competitive solicitation if price considered reasonable)

Comparison

- State rule is more restrictive than federal regulations
- \$50,000 state threshold = \$250,000 federal threshold (requires an “adequate” number of price/rate quotes)
- No equivalent to micro-purchase in state rule

Competitive Procurements for Purchases Over \$50,000

- Sealed bid/formal advertising
- Florida rules are consistent with federal requirements
- Use:
 - Invitation to Bid
 - Request for Proposals
 - Invitation to Negotiate

Invitation to Bid

“Invitation to bid” - a written solicitation for competitive sealed bids. Used when the district school board is capable of specifically defining the scope of work or precise specifications. A written solicitation includes a solicitation that is publicly posted.

Request for Proposals

“Request for proposals” - a written publicly posted solicitation for competitive sealed proposals. Used when the district is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document.

Invitation to Negotiate

“Invitation to negotiate” - a written publicly posted solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. Used when the district determines that negotiations may be necessary for it to receive the best value.

Other Methods of Procurement

- Prices available through State Term Contracts (Department of Management Services)
- Use of alternative contract sources (procured by other governmental agencies) when contract permits purchase at the same terms, conditions, or prices.

Other Methods

- School board makes a determination that no valid or acceptable firm proposal has been received in response to a solicitation – may enter into negotiations with any vendor
- Less than two responsive proposals received – negotiate with responsive vendor for best value

Single Source

- Single source procurement may be used when district has reviewed all available information and determined that only one vendor can provide the service/commodity. In that case the intent to purchase must be publicly posted for at least 7 business days.
- Price IS NOT a factor in making a single source determination

Emergency Purchases

- Superintendent declares an emergency in writing
- Emergency is an immediate danger to the public health, safety, or welfare
- Other substantial loss to the district
- Get prices from 2 vendors if possible

Written Policies and Procedures

- District must have written policies and procedures that are consistent with both federal and state rules
- Policies may be more restrictive than state or federal but cannot be less restrictive

Conflict of Interest

- Avoid at all costs!
- Maintain written standards of conduct for staff engaged in the selection, awarding or administrative of a contract
- No employee, officer, or agent may participate if he/she has a financial or other interest in a firm being considered for a contract

Conflict of Interest (cont.)

- Includes family members, partners, or organizations employing or about to employ any of the parties
- Officers, employees, and agents may not solicit or accept gratuities, favors, or anything of monetary value from contractors or subcontractors

Beware!

- Non-competitive procurement exceeds the threshold
- Brand name is specified
- Awarded to other than the apparent low bidder
- Contract modification that changes the scope or increases contract amount over threshold

Small and Minority Businesses

- Must take affirmative steps to assure that minority businesses, women's businesses, and labor surplus area vendors are used when possible

State vs. Federal Requirements: Preferences

- Federal law prohibits state, local, or tribal geographic preferences
- State law requires use of geographic preferences

When using federal funds for purchases, do not use geographic preferences!

State vs. Federal Requirements

- With the exception of the provisions regarding geographic preferences, all policies and procedures must be the same for purchases using federal and non-federal funds

Thank You!

If you have questions, please contact:

Martha K. Asbury

Assistant Deputy Commissioner

Florida Department of Education

martha.asbury2@fldoe.org

850/245-0420

