



Purchasing with Federal Grant Funds

**County Auditor's
Spring Conference 2018**



Federal Grants

2 CFR Part 200 – Uniform Administrative Requirements,
Cost Principles & Audit Requirements for Federal Awards

Uniform Guidance effective date December 26, 2014

Procurement effective for periods after December 26, 2017
(if deferred)

Procurement Standards

2 CFR 200.317-326



200.317 Procurement by states

200.318 General procurement standards*

200.319 Competition*

200.320 Methods of procurement to be followed*

200.321 Contracting with small and minority business, women's and labor surplus area firms

* - Pertinent Information

Procurement Standards

2 CFR 200.317-326



- 200.322 Procurement of recovered materials
- 200.323 Contract cost and price
- 200.324 Federal awarding agency or pass through entity review*
- 200.325 Bonding requirements
- 200.326 Contract provisions

* - Pertinent Information

Procurement Standard 200.317



Procurement by States:

States must follow the same policies and procedures used for non-Federal funds

Procurement Standards 200.318 (a-b)*



- 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 part.
- Must maintain oversight to ensure contractors perform in accordance with contracts and specs.

Procurement Standards 200.318 (c)*



- Must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.
- No employee, officer or agent may participate in the selection, award, or administration of a contract if there is a conflict of interest.
- No employee, officer or agent may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontractors. Standards may be set.

Procurement Standards 200.318 (d-f)*



- Must avoid acquisition of unnecessary or duplicate items.
- Consideration should be given to consolidating or breaking out procurement to obtain a more economical purchase.
- Encouraged to enter into state and local intergovernmental agreements for procurement or use of common or shared goods and services.
- Encouraged to use Federal excess and surplus property in lieu of new equipment or property.



Procurement Standards 200.318 (g-i)*

- Encouraged to use value engineering clauses in construction contracts of sufficient size.
- Must award contracts only to responsible contractors possessing ability to perform successfully (integrity, compliance with public policy, past performance, financial & technical resources)
See also Suspension and debarment (200.213)
- Organizations must maintain records sufficient to document the rationale for the following:
 - Method of procurement (200.320)
 - Selection of contract type,
 - Contractor selection or rejection, and
 - Basis for contract price

Procurement Standards 200.318 (j-k)*



- Time and materials contracts may only be used after a determination that no other contract is suitable. If the contract includes a ceiling price, the contractor exceeds at his own risk.
- Responsible for good administrative practices and sound business judgement , and for the settlement of all contractual and administrative issues.



Competition 200.319 (a-b)*

All procurements must be conducted in a manner that provides full and open competition.

Example given of situations considered to be restrictive of competition

Conduct in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals.(exceptions: State Licensing Law)

Competition 200.319 (c)*



Written procedures for procurement transactions that ensure:

- Clear and accurate description of the technical requirements for material, product or services
 - Description must not contain features which unduly restrict competition
 - Detailed product specs should be avoided if possible
 - A “brand name or equivalent” description may be used to define performance or other requirements when it is impractical or uneconomical to make a clear and accurate description of the technical requirements.
- Identify all the requirements that offerors must fulfill and other factors to be used to evaluate bids or proposals

Competition 200.319 (d)



- Ensure that all prequalified lists of persons, firms or products that are used are current and include enough qualified sources to ensure maximum open and free competition
- Not preclude potential bidders from qualifying during the solicitation period.

Procurement Methods 200.320 (a)*



Procurements without competition:

- Micro-purchases, \$3,500 or less, do not require competition or a cost/price analysis but must be distributed equitably among qualified suppliers.
- Micro-purchases may be awarded without soliciting competitive quotations if the entity considers the price to be reasonable.

Procurement Methods 200.320 (b-d)*



Procurements requiring competition or cost-price analysis

- Small purchases below the Simplified Acquisition Threshold, (\$3,500-\$149,999), require price and rate quotes be obtained from a number of qualified sources. Note: No cost/price analysis is required.
- Sealed proposals, using firm fixed price contract, require formal advertising, two or more bidders are willing and able to respond, and there is public opening of the bids. (sealed bid method if preferred for procuring construction)
- Competitive proposals, used when sealed bids are not appropriate, require advertising, includes a written method for conducting the technical evaluation, responses must be solicited from an adequate number of qualified sources, normally has more than one source submitting an offer and the award is either fixed price or cost reimbursable.



Procurement Methods 200.320 (f)*

- Procurement by noncompetitive proposal is used when the items are only available from a single source. One or more of the following must apply:
 - Available only through a single source
 - Public emergency will not permit delay required for competition.
 - Awarding agency has expressly authorized a noncompetitive process
 - After solicitation of a number of sources, competition is deemed inadequate

Procurements*



Micro 200.320 (a)	Small 200.320 (b)	Simplified Acquisition Threshold/ Construction 200.320 (c)	Simplified Acquisition Threshold/ Non-Construction 200.320 (d)	Sole Source 200.320 (f)
< \$3,500	\$3,500 - \$150,000	> \$150,000	> \$150,000	Unique
No quotations	Rate quotations	Sealed Bids	Fixed price or cost reimbursement	Public emergency or no competition
Equitable distributions	No cost or price analysis	Price is a major factor	RFP with evaluation methods	Authorized by agency

Procurement and Affirmative Action 200.321



- Small and Minority Businesses, Women-Owned, and Labor Surplus Area Firms
- Organizations must take the following affirmative steps to ensure these firms are used:
 - Place on solicitation list
 - Divide total requirement, when economically feasible, into smaller tasks
 - Use service and assistance from various organizations
 - Require prime contractors to take the same affirmative steps



Procurement of Recovered Materials 200.322

- Organizations must comply with the Solid Waste Disposal Act for procuring items designated in the EPA guidelines.
 - Contain highest percentage of recovered materials possible
 - Procurement of solid waste services that maximizes energy

Contract Cost and Price 200.323



- Every procurement in excess of the Simplified Acquisition Threshold (\$150,000) must have a cost or price analysis performed.
- Profit must be negotiated as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.
- Cost or prices based on estimated cost for the contracts are allowable if they are allowable under Federal cost principles.
- Cost plus a percentage of cost must not be used.



Procurement Review 200.324*

- Must make available, upon request, technical specifications on proposed procurements to ensure the item or service is the one being proposed for acquisition
- Must make available for the federal agency or pass-through entity procurement documents when:

Procurement processes fail to comply with procurement standards

Procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or is awarded to entities other than the low bidder, specifies a “brand name” or contract modification that changes scope

- Exempt from this pre-procurement review if agency or pass through entity determine standards were met.

Request procurement system be reviewed

Bonding Requirement 200.325



- Bonding may be required for construction/facility improvement for contracts/subcontracts exceeding the Simplified Acquisition Threshold.
- Minimum Requirements:
 - A bid guarantee equal to 5% of the bid - to ensure bidder will enter into a binding agreement
 - Performance bond – secure fulfillment of contractor’s obligations
 - A 100% payment bond – assure payment of all persons supplying labor and materials in performing the specified work.

*Contract Provisions 200.326

Appendix II to Part 200



- Contract must contain the following provisions:
 - Contracts in excess of \$150,000 must address administrative, contractual or legal remedies in instances where contractors violate contract terms
 - Contracts >\$10,000 must address termination for cause and for convenience by organization including the manner by which it will be effected
 - Equal Employment Opportunity (all federally assisted construction contracts)
 - Davis-Bacon (construction contract is >\$2,000)
 - Contract Work Hours and Safety Standards (>\$100,000 where mechanics or laborers)
 - Rights to Inventions
 - Clean Air Act and Federal Water Pollution Control Act (>150,000 for contracts & subgrants)
 - Byrd Anti-Lobbying Amendment (>\$100,000)
 - Debarment and Suspension

Website



<https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>