Preparing for the Uniform Guidance

OMB Circular A-81
2 CFR 200.317-326
Procurement Standards

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NAEP District VI Meeting
October 4, 2016
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Agenda

1. Background
2. Implementation Timelines
3. Highlights
4. What’s Giving OSU Heartburn – How About You?
5. Resources
6. Q & A
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BACKGROUND

Why did the feds implement the Uniform Guidance OMB Circular A-81?

- To align the 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
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BACKGROUND

You must make note in your institutional policies that you are following Circular A-110 instead of the UG, if you chose not to implement the new UG procurement rules as of the original effective date.

QUESTION

Have you made note
or
are you implementing the UG Procurement Standards at this time?
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BACKGROUND

§200.320 Identifies methods of procurement to be utilized:

1. Micro Purchase ($3,500)
2. Small Purchase ($150,000)
3. Sealed Bid (Over $150,000)
4. Competitive Proposals (Over $150,000)
5. Non-Competitive Proposals (Sole Source)
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IMPLEMENTATION TIMELINES

When Uniform Guidance (UG) was published on 12/26/13, effective date was the first full fiscal year after 12/26/14

Effective date for procurement standards was extended one full fiscal year after the effective date of 12/26/14*

Example: If your fiscal year runs from July 1 – June 30, then your effective date would now be 7/1/17
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IMPLEMENTATION TIMELINES (Latest Update)

Council on Governmental Relations (COGR) and Association of Independent Research Institutes (AIRI) provided OMB with data and analysis on resource impacts (over $50M) for research universities. Now allowing time for comments and anticipate negotiating the micro-threshold with OMB.

Office of Management and Budget (OMB) is expected to finalize an extension of the grace period to FY 2019 (i.e. effective date of July 1, 2018 for most institutions) to reopen the rulemaking process.

Anticipate announcement in the preamble to the proposed rulemaking in the September/October 2016 Federal Register.
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WHAT’S GIVING OSU HEARTBURN

How about you?
Are you developing strategies and solutions?
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THE BIG ONE:

DECIDING WHETHER TO APPLY THE UG PROCUREMENT STANDARDS TO

ALL

OR

FEDERALLY FUNDED PROCUREMENTS
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Important Considerations for OSU:

1. Impact to departments that have little or no federal funding
2. University culture
3. Impact of having two sets of rules - confusion, risk in moving funds
4. Impact on resources
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OSU utilized the following in the decision making process:

- Data – FY 15 - 27,000 purchases impacted
- Benchmarking
- Risk analysis
- Advisory committee consensus
- Approval from VP for Finance and Administration and the Provost
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OSU’s Solution

2 Sets of Rules Will Apply:

1. Apply UG thresholds and procedures to federally funded procurements
2. Apply OSU Procurement Standards to non-federally funded procurements
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Have you identified your solution?
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...MICRO PURCHASE THRESHOLD OF $3,500

§200.320 (b) Simplified Acquisition Threshold of up to $150,000 requires

1. “price or rate quotations ..obtained by an adequate number of qualified sources.”

Note: An adequate number of sources is identified in the Council on Financial Assistance Reform (COFAR) FAQ’s as at least 2.

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What’s your university’s Micro Purchase (direct purchase with no required competition) threshold?

A. $3,500  
B. $5,000  
C. $10,000  
D. $25,000  
E. Other
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What does the Micro Purchase level do to your university’s resources and how will you handle it?

A. Delegate to departments or shared services
B. Manage within your department
C. Other
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What’s the impact to your Pcard?
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How will you address?

1. Lower the Pcard threshold
2. Maintain the Pcard threshold and provide training
3. Other
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GETTING INDEPENDENT COST ESTIMATES

§200.323 (a) “...must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, including contract amendments”..”as a starting point...must make independent estimates before receiving bids or proposals.”
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How will you obtain independent cost estimates?

1. Historical procurements
2. Colleagues
3. Procurement association listserves or online forums
4. Other
§200.323 (b) Contract Cost and Price. Must negotiate profit as a separate element of price for each contract in which there is no price competition and in all cases where cost analysis is performed.
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NEGOTIATION OF PROFIT

Need to know contractor’s true cost.

- FAR or other Federal publications provide guidelines:
  - [https://www.acquisition.gov/?q=/browse/far](https://www.acquisition.gov/?q=/browse/far)
  - Parts 15 and 31 address cost principles and negotiation of allowable profit.
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NO ALLOWANCE FOR EXEMPTIONS OR EXCEPTIONS TO THE COMPETITIVE PROCESS

§200.319 (f) Procurement by noncompetitive proposals when one or more of the following applies:

1. Single Source
2. Emergency
3. Federal awarding agency expressly authorizes
4. After solicitation of a number of sources, competition is determined inadequate
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OTHER

Prescriptive processes

Documenting rationale for method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. §200.318 (i)

Incorporating applicable provisions described in Appendix II to Part 200- Contract Provisions for non-Federal Entity Contracts Under Federal Awards
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THINGS CAUSING HEARTBURN FOR OTHER UNIVERSITIES
MANAGING CONFLICTS OF INTERESTS

§200.318 (c)(1) – “..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….”
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Resources on Conflicts of Interest

COGR’s “Recognizing and Managing Personal Conflicts of Interest”:
§200.319 (b) Competition

“...must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals except in those cases where applicable Federal Statutes expressly mandate or encourage geographical preference.”
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WHAT’S GIVING YOUR UNIVERSITY HEARTBURN?

How are you preparing?
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RESOURCES

OMB Part 217-326 Procurement Standards

http://www.ecfr.gov/cgi-bin/text-idx?SID=aed1fec11991386b28b3ffccacbeae4c&mc=true&node=pt2.1.200&rgn=div5#sg2.1.200_1309.sg2

Council on Governmental Relations
http://www.cogr.edu/

COFAR FAQs


Your Research or Sponsored Programs Office
THANK YOU!

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