

Florida State College at Jacksonville Procurement Procedures With Federal Grant Funding

I. INTRODUCTION

A. Uniform Administrative Requirements, 2 CFR Part 200

The Uniform Administrative Requirements is a set of regulations (including procurement regulations) that applies to all non-federal entities that receive federal grant money. The Uniform Administrative Requirements is found in the Code of Federal Regulations (C.F.R.), which is a compilation of rules adopted by federal agencies. The complete Uniform Guidance can be located at: <http://www.ecfr.gov/cgi-bin/text-idx?SID=2f3c1287f4d2ecfebfb85ef1f5a8148&node=pt2.1.200&rgn=div5>. For purposes of this procurement procedure, the focus will be on Procurement Standards CFR 200.317 – 200.328.

B. Revisions to Uniform Administrative Guidelines

The Office of Management and Budget (OMB) consolidated the federal government's guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Uniform Guidance supersedes OMB Circulars A-21, A-87, A-122; Circulars A-89, A-102, A-110, and A-133 and the guidance in Circular A-50 on Single Audit Act follow-up.

The National Defence Authorization Act (NDAA) of 2017 contained a provision (sec. 215) that would increase the micro-purchase threshold in Department of Defense research and laboratories activities and Institutes of Higher Education from \$3,000 to \$10,000. In raising the limit, this provision would allow appropriate organizations, such as colleges, universities, defense labs, and other performers, to facilitate easy and administratively efficient purchasing of small dollar items. The College has increased its authority to \$7,499 to align with its Direct Purchase Threshold. See attachment C for the OMB Memorandum dated June 20, 2018 authorizing implementation of this threshold increase. This NDAA report is located at:

<https://www.congress.gov/114/crpt/hrpt840/CRPT-114hrpt840.pdf>

C. Definitions

Acquisition cost {§200.2} means the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non-Federal entity's regular accounting practices.

Awarding agency means the federal agency or pass-through agency providing the funding from a federal program.

Bidder means a potential supplier or vendor responding to a public solicitation.

Contractor {§200.23} means an entity that receives a contract as defined in §200.22 Contract.

Cooperative agreement {§200.24} means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity.

Equipment {§200.33} means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.

Expenditures {§200.34} means charges made by a non-Federal entity to a project or program for which a Federal award was received.

Grant agreement {§200.51} means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304. (See Guidelines for further descriptive.)

General purpose equipment {§200.48} means equipment which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles. See also *Equipment* {§200.33} and *Special Purpose Equipment* {§200.89}.

Information technology systems {§200.58} means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources.

Internal controls {§200.33} means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (a) Effectiveness and efficiency of operations;
- (b) Reliability of reporting for internal and external use; and
- (c) Compliance with applicable laws and regulations.

“*Must*” means required, while the word “*Should*” indicates best practices or recommended approach.

Non-Federal Entity {§200.69} means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Real property {§200.85} means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Subaward {§200.92} means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient {§200.33} means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Special purpose equipment {§200.89} means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

Supplies {§200.94} means all tangible personal property other than equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life have a useful life of less than one year or an acquisition cost of less than \$5,000 per unit.

Value engineering means the systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

II. GENERAL PROCUREMENT REQUIREMENTS

- A.** Procurement Process: Florida State College at Jacksonville has developed procurement policies and procedures to support the procurement function:

05-0301 Specifications for Competitive Bidding

05-0302 Purchases Exempt from Solicitation (Non-Competitive Bid Purchases) and Sole Source Procedures

05-0401 Purchase Authority/Protest Procedures

05-0402 Review and Approval of Purchase Awards, Purchase Orders and Purchase Contracts

05-0501 Dollar Limits for Informal Bidding, Requisition Preparation, Funding and Processing

05-0601 Procedure For Contract Solicitation or Award Bid Protest

05-0602 Purchases From Federal Grants/Contracts

05-0701 Sales Representatives and Vendors on Campus

05-0801 Consultant Contract/Approval/Purchase Orders/Contracts

These procedures are located at [FSCJ Board Rules for Chapter 5-Purchasing](#).

- B.** Before starting a procurement process the department in collaboration with Procurement shall:
- 1) Review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies, and services.
 - 2) Consider whether it will it save money and/or time to consolidate procurements or to break out to allow for more competition; if so, the department shall document the reason for the decision.
 - 3) Where appropriate, perform an analysis of lease versus purchase alternatives, and other appropriate analysis to determine the most economical approach and document decision.
 - 4) Consider shared services and entering into interlocal cooperative agreements with other governmental agencies, to foster greater economy and efficiency,
 - 5) Perform a cost or price estimate on the procurement.
 - 6) Explore state or local intergovernmental agreements (such as competitive bidding group purchasing programs, state term contracts, GSA contracts, or formal intergovernmental agreements that can be utilized to procure equipment, supplies, and services. For more information, contact the Procurement Department at purchasing@fscj.edu .

- 7) Use Federal and surplus property. To reduce project costs, it is encouraged to use Federal excess and surplus property as a replacement for purchasing new equipment.

C. During the procurement process:

Follow the College Procurement Policies and procedures which apply to non-federally funded procurements located at [FSCJ Board Rules for Chapter 5-Purchasing](#).

- 1) Adhere to standards of conduct. Conflict of Interest – must disclose in writing any conflict of interest in the selection, award and contract administration.
- 2) Require contractor, applicant or any other entity to disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award.
- 3) Award contracts only to responsible contractors able to perform successfully under the terms and conditions of the procurement, consider assessment of contractor integrity, compliance with public policy, record of past performance, financial and technical resources. Assessment of these criterion are used during the formal solicitation process as described herein, Section B4.
- 4) Maintain oversight of contractors to ensure that they perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Each department is responsible for monitoring the performance of the contractor after award of a contract or purchase order. If the Contractor does not perform, the Department must complete a Vendor Performance Report and contact the Procurement Department. (Form is available in Atlas Forms).
- 5) Include a clear and accurate description of the technical requirements for the material, product or service to be procured, such as qualitative nature, minimum characteristics and standards for conformance. *Avoid too detailed or restrictive specifications.*
- 6) When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent: description may be used.
- 7) Include applicable contract provisions in each purchase order or contract as required by Federal statutes and regulations. See Appendix A. (Review grant documents to determine which clauses must be included; If still unclear, confirm with the awarding agency as to which clause to use).
- 8) *Construction Projects* – when feasible, for cost reduction, use value engineering clauses in contracts. When using prequalified lists of suppliers, the list must be current and include a sufficient number of bidders to ensure maximum open and free competition.
- 9) The College is required to keep and maintain records and documentation to detail the history of the procurement, to include:
 - a. Why you chose a specific procurement method;
 - b. The basis for your award (why did you select the contractor or vendor your selected? Why did you reject the others?);
 - c. The basis for the contract price; and
 - d. Any other significant decisions that were a part of the procurement process.

III. PROCUREMENT PRINCIPLES AND METHODS

A. Procurement Principles

All procurement transactions must be conducted in a manner providing **full and open competition**, must not restrict competition. *Examples of restricting competition include, but are not limited to:*

- 1) Placing unreasonable requirements on contractors to qualify to do business;
- 2) Requiring unnecessary experience or bonding (refer to the bonding limits identified in the Uniform Administrative Requirements {§200.325}).
- 3) Permitting noncompetitive pricing practices between firms or between affiliated companies;
- 4) Awarding contracts to consultants on “retainer” contracts;
- 5) Permitting conflicts of interest in contract awards or administration;
- 6) Specifying a brand name product without allowing an equal product to be offered; (and describing the performance requirements that must be met for a product to qualify as an “equal”);
- 7) Acting arbitrarily in awarding contracts (in other words, be consistent, fair, and transparent).
- 8) Awarding based on local geographic preferences. (However, geographic location *may* be a selection criteria when awarding contracts for architectural or engineering services, provided that using such criteria “leaves an appropriate number of qualified firms” to compete for the work, “given the nature and size of the project.”)

B. Procurement Methods

The College must use one of the following methods of procurement:

- 1) **Direct Purchase (Micro-Purchase) procedures** are used for procuring equipment, supplies and services not exceeding \$7,499. (\$2,000 for Construction subject to the Davis-Bacon Act). The Department shall solicit two-three quotes, when in excess of \$7,499, as needed, to confirm that the price is reasonable and shall include the quotes with the requisition.
- 2) **Informal Quoting (Small Purchase) procedures** are used as follows:
Request for Quotations for procuring equipment, supplies and services (other than construction) in which the cost will be less than \$65,000. Follow these guidelines for the Request for Quotations:
 - a. First, use cooperatively bid contracts, such as College Contracts, State Contracts, E & I, NJPA, NIPA, U.S. Communities, and NASPO.
 - b. If not available on contract, use a standard Request for Quote Form which includes standard terms and conditions and requires the supplier to hold prices firm for a period of 90 days.
 - c. Department shall solicit a minimum of three quotes from an adequate pool of suppliers.
 - d. Include minority and women owned businesses in the list of suppliers.
- 3) **Sealed bidding** is required for procuring equipment, supplies, and services in which the cost will exceed \$64,999. Sealed bidding is the preferred method for procuring construction contracts and for all other contracts in which the cost will exceed \$64,999 and when (1) a complete, adequate, and realistic specification is available, (2) there are two or more responsible bidders available, and (3) the procurement lends itself to contract award based on price.
 - a. Sealed bidding consists of public advertisement for bids and provides sufficient time for bidders to respond before the date set for the bid opening.
 - b. Bids must be solicited from “an adequate number of known suppliers”.
 - c. An invitation for bids, including the specifications and attachments, which defines the items or services required in enough detail to allow the bidders to properly respond.
 - d. Awarding a firm fixed-price contract made in writing to the lowest responsive and responsible bidder. (If specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs may be considered in determining which bid is lowest.)
 - e. Any and all bids may be rejected if there is a “sound documented reason.”

- 4) **Competitive proposals** are used for procuring architectural or engineering services, and for when sealed bids are not appropriate. See competitive proposal process below or contact the Procurement Department for additional information.
Competitive proposals are used when “conditions are not appropriate for the use of sealed bids,” and for the procurement of architectural or engineering services. The requirements for a competitive proposal process are as follows:
 - a. Requests for Proposal process (RFPs) must be publically advertised.
 - b. The RFP must identify all evaluation factors and each factor’s relevant importance;
 - c. Proposals must be solicited from “an adequate number of qualified sources” (these terms are not defined);
 - d. Proposals received must be evaluated based on the criteria in the RFP;
 - e. Award of the contract is made to the responsible firm whose proposal is “most advantageous to the program, with price and other factors considered”.

- 5) **Single Source** is a noncompetitive proposal and may only be approved when one of the following circumstances apply:
 - a. The item is available from a single source;
 - b. After solicitation and competition is attempted (through one of the methods described), it is determined that there is not enough competition available for a competitive procurement;
 - c. A public emergency is declared that will not allow time for a competitive process;
 - d. The grant document or the grantor expressly authorizes noncompetitive proposals in writing in response to the College requesting special consideration.

Note: (The Uniform Procedures Guidelines use the Simplified Acquisition Threshold, however the College’s Policy takes precedence, as it is more stringent).

C. Contract Cost and Price Analysis

Contract cost and price analysis is required in every procurement in excess of the \$65,000, including contract modifications. Before receiving bids or proposals, the Department shall provide sufficient information about the requirements of the procurement in order that the Purchasing Agent can perform an independent price estimate. They are as follows:

- 1) Perform a cost analysis (that is, verify the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits);
- 2) Negotiate profit as a separate element of the contract, considering the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of the contractor’s past performance, and industry profit rates in the surrounding area for similar work; and
- 3) Submit the procurement documentation to the awarding agency for pre-award review and approval.

D. Minority and Women Owned Businesses

Departments should strive to include minority firms, women’s business enterprises and labor surplus area firms in the small purchase process. During the competitive bidding process, Procurement must take steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible and are encouraged to participate. These steps include:

- 1) Place qualified small and minority businesses and women’s business enterprises on solicitation lists;

- 2) Assure that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- 3) Divide total requirements into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- 4) Establish delivery schedules which encourage participation by small and minority businesses and women's business enterprises;
- 5) Use the services and assistance of the Small Business Administration (<http://www.sba.gov>) and the Minority Business Development Agency of the Department of Commerce (<https://www.mbda.gov/>); and
- 6) Require prime contractors, if subcontracts are used, to take the same steps listed above.

E. Procurement of Recovered Materials

The College and its contractors must comply with the Solid Waste Disposal Act, Section 6002, the EPA 40 CFR part 247 and 2 CFR 200.322 Resource Conservation and Recovery Act (RCRA) which require:

- 1) When the price of the item exceeds \$10,000, procuring only items that contain the highest percentage of recovered (recycled) materials practicable, while maintaining a satisfactory level of competition. Suppliers can be required to provide the contents of materials supplied.
- 2) Online resources for sustainable purchasing can be viewed at <http://www.epa.gov/epawaste/consERVE/tools/cpg/index.htm>.
- 3) In developing plans, drawings, work statements, specifications, or other product descriptions, consider, as appropriate, a broad range of factors including: elimination of virgin material requirements; use of bio based products; use of recovered materials; reuse of product; life cycle cost; recyclability; use of environmentally preferable products; waste prevention (including toxicity reduction or elimination); and ultimate disposal."
- 4) Procuring solid waste management services that maximize energy and resource recovery; and establish an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 5) Attachment B are procedures for monitoring these compliance programs.

F. Pre-Procurement Review of Technical Specifications

Upon request of the Federal awarding agency, the College must make available:

- 1) Technical specifications on proposed procurements to ensure that the item or service specified is the one being proposed for acquisition;
- 2) All procurement documents and independent cost estimates;
- 3) When the procurement is expected to exceed \$150,000 and is awarded without competition;
- 4) When the procurement is expected to exceed \$150,000 and specifies a brand product;
- 5) When, under a sealed bid procurement, the contract is awarded to other than the apparent low bidder.
- 6) When a contract modification will change the scope of the contract or increase the contract amount by more than \$150,000.

The College is exempt from the pre-procurement review if the Federal awarding agency determines that the procurement systems comply with the standards of the Uniform Administrative Guidelines and the College self-certifies its procurement system. The Federal awarding agency may, nevertheless, review the College procurement system.

G. Bonding requirements

To protect the College and the Federal Awarding agency, the following minimum bonding requirements have been established for construction or facility improvement contracts and subcontracts exceeding \$150,000:

- 1) A bid guarantee of 5% of the bid price; P
- 2) Performance bond in the amount of 100% of the contract price;
- 3) A payment bond in the amount of 100% of the contract price.

IV. AWARDING CONTRACTS

A. Debarred/Suspended Contractors and Vendors

Always check the Excluded Parties List System website <https://www.sam.gov/SAM/> before awarding a contract. You will lose your grant funding if you award a grant-funded contract to a person or company on that list.

B. Standard of Award

- 1) Do not award time-and-material type contracts (where the College agrees to pay based on the time spent and materials used instead of based on a lump sum bid) unless no other contract is suitable, and then only if the contractor agrees to a maximum price;
- 2) Do not award "cost plus percentage" contracts, where the bidder is paid a percentage of the contract price on top of the cost of the contract itself.

V. CONTRACT PROVISIONS

- A. The College is required to include special provisions in all contracts, including small purchases, the applicable provisions in Attachment A Federal Attestations located at https://www.fscj.edu/docs/default-source/discover/spec_cond_1508.
- B. The College will ensure that any resultant contract award to Faith Based organizations shall clearly define limitations to religious content and activities in performance of the contract.

VI. BID PROTESTS

The College will follow its established bid protest procedures. If a protest is received, the awarding agency must be notified. Click on this link to review College protest procedures [FSCJ APM 05-0601.pdf](#)

VII. CONTRACT ADMINISTRATION AND RECORDS RETENTION

A. Contract Administration

Regularly monitor contracts and purchases to ensure that each contractor/vendor is complying with their contract terms, conditions, and specifications, including all Federal requirements, and to ensure that performance goals are achieved.

B. Record Retention

Solicitation documents and records must be retained in accordance with the College's Records Retention Schedule, usually a five (5) year period. Link: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules>.

VIII. DISPOSAL OF ASSETS

A. Property Management

At the end of the useful life of an asset or at the time of disposal, the department completes a Property Control Form and forwards to Property Management for processing. Property Management sends an email to the Grant Accounting Director, Jamica Bush, with the asset information and award number of equipment that is being surplus, traded, or which may have been lost/stolen. Grant Accounting will either approve or disapprove the request for disposal and provides Materials Management with appropriate instructions on the disposition. After approval by Grants Accounting, then Property Management will facilitate the proper disposal process and deletion from the Asset Records.

Attachment A

Special Condition 15.08 FEDERALLY FUNDED ATTESTATION – (NON CONSTRUCTION PROGRAMS)

Note: Certain of these assurances may not be applicable to sale of your products or services. If you have questions, please contact the FSCJ Purchasing Department. Further, certain Federal awarding agencies may require FSCJ certify additional assurances. If such is the case, you will be notified. Our company understands this purchase has federal funding and by signing this attestation we agree to:

1. Give the Federal Government the Comptroller General of the United States through their authorized representative access the right to examine all records, books, papers or documents related to this purchase, as well as establish a proper accounting system in accordance with generally accepted accounting standards and to retain all records a minimum of five years.
2. Establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. Initiate and complete the scope of work within the applicable time frame after receipt of an approved FSCJ College purchase order.
4. Comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763 relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
5. Comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88.352) which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 – 1683, and 1685 – 1686), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 – 6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92.255) as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91.616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd.3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
6. Comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91.646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
7. Comply with the provision of the Hatch Act (U.S.C. 1501 – 1508 and 7324 – 7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Comply as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a - 276a 7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874, and the Contract Work Hours and Standards Act (40.327 – 333), regarding labor standards for federally assisted construction sub-agreements

8. Comply, as applicable, with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L.91.190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) (f) conformity of Federal actions to State (Clear Air) implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93.523; and (h) protection of endangered species under the Endangered Species Act of 1973, as amended. (P.L. 93.205).
9. Comply, as applicable, with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
10. Assist the US Federal Government (as requested) in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a.1 et seq.).

Attachment B
Affirmative Procurement Program

Procedure:

A. Scope and applicability of preference program

1. The Affirmative Procurement Program applies only to federal grant purchases of designated goods where the college directly or indirectly purchases \$10,000 or more worth of the same or similar items during the course of the fiscal year or where the cost of such items or of functionally equivalent items purchased during the preceding year was \$10,000 or more. Any purchases made on behalf of the college by contractors would be considered indirect purchases.

2. 40 CFR 247 identifies the following designated items wherein the highest percentage of recovered materials should be purchased when the purchase price is competitive:

a. Paper and products, excluding building and construction paper grades

b. Vehicular products

1) Lubricating oils containing re-refined oil, including engine lubricating oils, hydraulic fluids, and gear oils, excluding marine and aviation oils

2) Tires, excluding airplane tires

3) Reclaimed engine coolants, excluding coolants used in non-vehicular applications

4) Rebuilt vehicular parts

3. Construction products

a. Building insulation products, including the following items:

1) Loose-fill insulation, including but not limited to cellulose fiber, mineral fibers (fiberglass and rock wool), vermiculite, and perlite;

2) Blanket and batt insulation, including but not limited to mineral fibers (fiberglass and rock wool);

3) Board (sheathing, roof decking, wall panel) insulation, including but not limited to structural fiberboard and laminated paperboard products, perlite composite board, polyurethane, polyisocyanurate, polystyrene, phenolics, and composites; and

4) Spray-in-place insulation, including but not limited to foam-in-place polyurethane and polyisocyanurate, and spray-on cellulose.

b. Structural fiberboard and laminated paperboard products for applications other than building insulation, including building board, sheathing, shingle backer, sound deadening board, roof insulating board, insulating wallboard, acoustical and non-acoustical ceiling tile, acoustical and non-acoustical lay-in panels, floor underlayments, and roof overlay (coverboard).

- c. Cement and concrete, including concrete products such as pipe and block containing:
 - 1) Coal fly ash;
 - 2) Ground granulated blast furnace slag (GGBF);
 - 3) Cenospheres; or
 - 4) Silica fume from silicon and ferrosilicon metal production.
 - d. Carpet made from polyester fiber made from recovered materials for use in moderate-wear applications such as single-family housing and similar wear applications
 - e. Floor tiles and patio blocks containing recovered rubber or plastic
 - f. Shower and restroom dividers/partitions containing recovered plastic or steel
 - g. Consolidated latex paint used for covering graffiti; and Reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceilings, and trim; gutter boards; and concrete, stucco, masonry, wood, and metal surfaces
 - h. Carpet cushion made from bonded polyurethane, jute, synthetic fibers, or rubber containing recovered materials
 - i. Flowable fill containing coal fly ash and/or ferrous foundry sands
 - j. Railroad grade crossing surfaces made from cement and concrete containing fly ash, recovered rubber, recovered steel, recovered wood, or recovered plastic
 - k. Modular threshold ramps containing recovered steel, rubber, or aluminum
 - l. Nonpressure pipe containing recovered steel, plastic, or cement
 - m. Roofing materials containing recovered steel, aluminum, fiber, rubber, plastic or plastic composites, or cement
4. Transportation products
- a. Traffic barricades and traffic cones used in controlling or restricting vehicular traffic
 - b. Parking stops made from concrete or containing recovered plastic or rubber
 - c. Channelizers containing recovered plastic or rubber
 - d. Delineators containing recovered plastic, rubber, or steel
 - e. Flexible delineators containing recovered plastic
5. Park and recreation products
- a. Playground surfaces and running tracks containing recovered rubber or plastic
 - b. Plastic fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications
 - c. Park benches and picnic tables containing recovered steel, aluminum, plastic, or concrete

d. Playground equipment containing recovered plastic, steel, or aluminum

6. Landscaping products

a. Hydraulic mulch products containing recovered paper or recovered wood used for hydroseeding and as an over-spray for straw mulch in landscaping, erosion control, and soil reclamation

b. Compost made from recovered organic materials

c. Garden and soaker hoses containing recovered plastic or rubber

d. Lawn and garden edging containing recovered plastic or rubber

e. Plastic lumber landscaping timbers and posts containing recovered materials

f. Fertilizer made from recovered organic materials

7. Non-paper office products

a. Office recycling containers and office waste receptacles

b. Plastic desktop accessories

c. Toner cartridges

d. Plastic-covered binders containing recovered plastic; chipboard and pressboard binders containing recovered paper; and solid plastic binders containing recovered plastic

e. Plastic trash bags

f. Printer ribbons

g. Plastic envelopes

h. Plastic clipboards containing recovered plastic

i. Plastic file folders containing recovered plastic

j. Plastic clip portfolios containing recovered plastic

k. Plastic presentation folders containing recovered plastic

l. Office furniture containing recovered steel, aluminum, wood, agricultural fiber, or plastic

8. Miscellaneous products

a. Pallets containing recovered wood, plastic, or paperboard

b. Sorbents containing recovered materials for use in oil and solvent clean-ups and as animal bedding

c. Industrial drums containing recovered steel, plastic, or paper

d. Awards and plaques containing recovered glass, wood, paper, or plastic

- e. Mats containing recovered rubber and/or plastic
- f. Non-road signs containing recovered plastic or aluminum and road signs containing recovered aluminum. Sign supports and posts containing recovered plastic or steel
- g. Manual-grade strapping containing recovered steel or plastic
- h. Bike racks containing recovered steel or plastic
- i. Blasting grit containing recovered steel, coal and metal slag, bottom ash, glass, plastic, fused alumina oxide, or walnut shells

B. Role of purchasing department

1. Purchasing will source vendors that sell designated items with recovered content for federal grant purchases over the threshold. Pricing will be considered comparable to non-recovered content when the difference in price does not exceed ten percent. Beyond pricing, products will need to be available in the quantity desired when needed and of comparable quality. The purchasing coordinator will be responsible to use professional judgment for item quality. Documentation to support exceptions will be maintained.
2. The purchasing coordinator will be responsible to promote the purchase of items with recovered content to Federal grant purchasers so that the requirements are known in addition to having recovered content vendors known and available.
3. The purchasing coordinator will review estimates of recovered materials content on applicable electronic orders and purchase requisitions to ensure that orders being placed are for items containing recycled content. The purchasing coordinator will randomly review purchases made indirectly or by requests for funds to ensure that items purchased actually contained recycled content as appropriate.
4. The purchasing coordinator will monitor the Affirmative Procurement Program and annually evaluate the program's effectiveness.



Attachment C
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
FINANCIAL MANAGEMENT

June 20, 2018

M-18-18

MEMORANDUM FOR CHIEF FINANCIAL OFFICERS AND HEADS OF SMALL EXECUTIVE AGENCIES

FROM:

Tim Soltis

Deputy Controller, Office of Federal Financial Management

SUBJECT:

Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance

In accordance with recent statutory changes set forth in the National Defense Authorization Acts (NDAA) for Fiscal Years 2017 and 2018, this memorandum raises the threshold for micro-purchases under Federal financial assistance awards to \$10,000, and raises the threshold for simplified acquisitions to \$250,000 for all recipients. Further, it implements an approval process for certain institutions that want to request micro-purchase thresholds higher than \$10,000. Agencies are required to implement these changes in the terms and conditions of their awards, and recipients of existing Federal financial assistance awards may implement them in their internal controls.

Background

This memorandum applies to all Federal agencies, as defined at 5 U.S.C. § 551(1), that award grants or cooperative agreements. It implements changes to the micro-purchase and simplified acquisition thresholds for financial assistance under the NDAA for Fiscal Year (FY) 2017 and FY2018. The micro-purchase threshold refers to purchases of supplies or services using simplified acquisition procedures, not to exceed an established amount pursuant to the Office of Management and Budget (OMB) Governmentwide Guidance for Grants and Agreements (“Uniform Guidance”) at 2 C.F.R. § 200.67 (Micro-purchase). The simplified acquisition threshold refers to purchases of property or services using small purchase methods not to exceed an established amount pursuant to 2 C.F.R. § 200.88 (Simplified acquisition threshold). For Federal financial assistance awards, these purchases are acquired for use by a Federal program. The NDAA for FY2017 increased the micro-purchase threshold from \$3,500 to \$10,000 for institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes (41 U.S.C. § 1908). The NDAA for FY2018 increases the micro-purchase threshold to \$10,000 for all recipients and also increases the simplified acquisition threshold from \$100,000 to \$250,000 for all recipients.

Implementing the NDAA for FY2017

Section 217(b) of the NDAA for FY2017 raises the micro-purchase threshold to \$10,000 for procurements under grants and cooperative agreements for institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes.¹

¹ Pub. L. No. 114-328 (codified at 41 U.S.C. § 1902(a)(2)).

The NDAA for FY2017 also establishes an interim uniform process by which these recipients can request and Federal agencies can approve requests to apply a higher micro-purchase threshold. Specifically, the 2017 NDAA allows a threshold above \$10,000 if approved by the head of the relevant executive agency. For purposes of this approval, the institution's cognizant Federal agency for indirect cost rates will be the relevant executive agency as defined in 2 C.F.R. § 200.19 (Cognizant agency for indirect costs). To receive a higher threshold, the institution must either have "clean single audit findings" (*i.e.*, in accordance with 2 C.F.R. § 200.520 - Criteria for a low-risk auditee), have an acceptable internal institutional risk assessment, or the higher threshold must be consistent with State law for public institutions.

Agencies should reflect this change through policy or terms and conditions in awards for those institutions. The effective date for this change was when the NDAA for FY2017 was signed into law on December 23, 2016. OMB intends to revise the Uniform Guidance to conform with the law.²

Process for Requesting a Higher Threshold Under the NDAA for FY2017

Requests for approval should be submitted to the institution's cognizant Federal agency for indirect cost rates; however, institutions should contact the agency before sending the request to determine the correct point of contact. The cognizant Federal agency will assign review of the request to the appropriate office within the agency to determine whether to approve, and will maintain records and justification of all approvals. The request should include the threshold level being requested and the justification(s) for it based on the criteria above per Section 217(b) of the NDAA for FY2017.

Implementing the NDAA for FY2018

This memorandum also implements provisions of the NDAA for FY 2018, Pub. L. No. 115-91, which became law on December 12, 2017. Specifically, section 806 raised the micro-purchase threshold from \$3,500 to \$10,000, and section 805 raised the simplified acquisition threshold from \$100,000 to \$250,000. Pursuant to 2 C.F.R. § 200.67 (Micro-purchase) and 2 C.F.R. § 200.88 (Simplified acquisition threshold), these higher thresholds are not effective until implemented in the Federal Acquisition Regulation (FAR) at 48 C.F.R. Subpart 2.1 (Definitions).³

In order to allow maximum flexibility for grant recipients in light of the changes to the NDAA for FY2018, OMB is granting an exception allowing recipients to use the higher threshold of \$10,000 for micro-purchases and \$250,000 for simplified acquisitions in advance of revisions to the FAR at 48 C.F.R. Subpart 2.1 and the Uniform Guidance. Pursuant to 2 C.F.R. § 200.102 (Exceptions), OMB may allow exceptions to the Uniform Guidance when exceptions are not prohibited by statute. The exception takes effect upon the date of issuance of this memo. Agencies should apply this exception to all recipients. Recipients should document any change based on this exception in accordance with 2 C.F.R. § 200.318 (General procurement standards).

If you have any questions regarding this memorandum, please contact Mary Tutman at Mary.E.Tutman@omb.eop.gov or Gil Tran at Hai_M._Tran@omb.eop.gov.

² The American Innovation and Competitiveness Act, Pub. L. No. 114-329, § 207(b) (2017) states that the Uniform Guidance shall be revised to conform with the requirements concerning the micro-purchase threshold.

³ Codified at 41 U.S.C. § 1902(f).