



HRSA **Healthy Grants** WORKSHOP

Purchasing with Grant Funds Are You Following Guidelines?

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Agenda

- **Procurements Overview and Implementation**
- **Sub-recipient vs. Contactor**
- **General Procurement Standards**
- **Procurement Procedures**
- **Competition**
- **Contracting with Small and Minority business**
- **Contract Cost and Price**
- **Fraud in Procurements**
- **Additional Resources**
- **Questions**

Procurements Overview and Implementation

- **Overview**

- Award funds for Goods and Services
- Procurement Procedures
- Settlement and Satisfaction

- **Implementation**

- Procurement Requirements in 45 CFR 75.326 to 75.335
- Grace Period for Implementation
- COFAR Frequently Asked Questions – Updated July 2017

Sub-recipient vs. Contractor

- **Sub-recipient**

- Responsible for carrying out a portion of the award.
- Determines eligibility and has programmatic decision making.
- Performance measured against objectives.
- Responsible for adherence to federal program requirements.
- Uses federal funds to carry out program for public purpose.

- **Contractor**

- Procurement for goods and services for own use within normal business operations and competitive environment.
- Provides similar goods and services to many purchasers.
- Goods and services ancillary to operation of program.

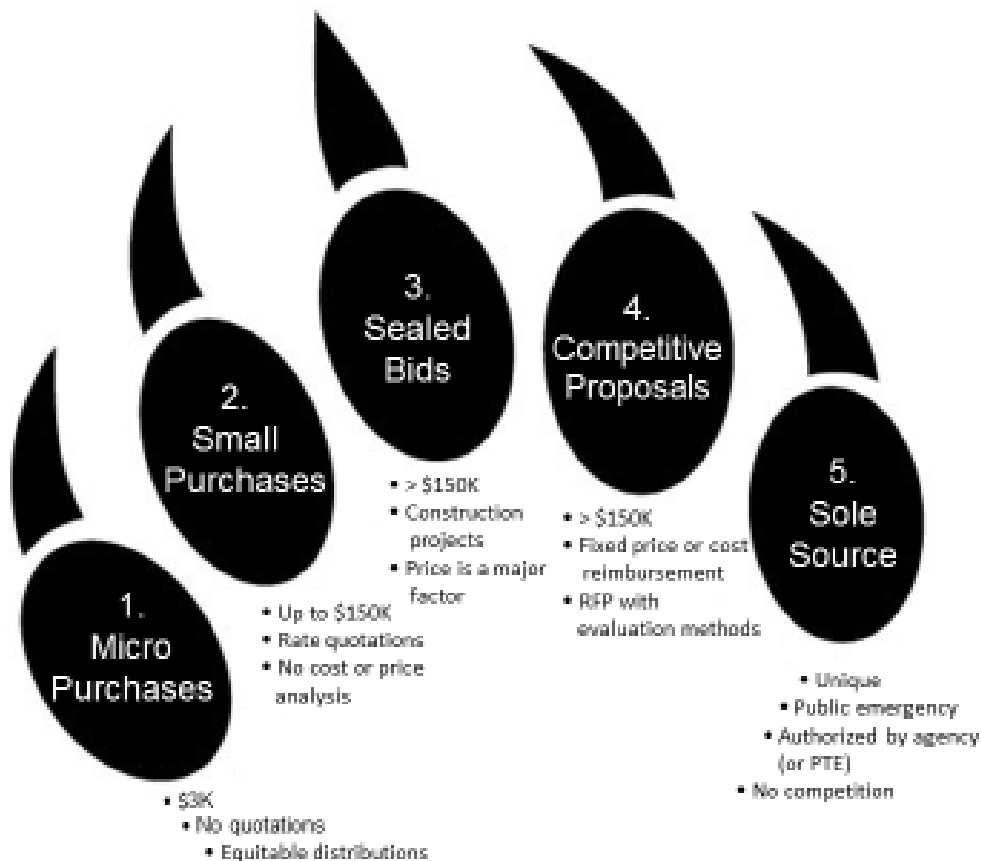
General Standards

- **Highlights**

- Must maintain oversight over work of contractors.
- Must maintain written standards for Conflicts of Interest.
- Must avoid duplicative or unnecessary items.
- Must maintain details of the history of the procurement.
- Must only award contracts to responsible contractors with ability to perform.
 - Consideration to integrity, past performance, financial and technical resources.

Procurement Procedures (45 CFR 75.329)

Procurement "Claw" (Section 200.320)



Procedures - Micro-purchases



- Defined as purchases in amounts up to the Micro-Purchase Threshold determined in Federal Acquisition Regulation at 48 CFR Subpart 2.1.
- Must distribute purchases equally among qualified suppliers.
- Can be awarded without soliciting competitive quotations if the price is reasonable.

Procedures - Small Purchases



- Defined as purchases in amounts up to the Simplified Acquisition Threshold determined in Federal Acquisition Regulation at 48 CFR Subpart 2.1 in accordance with 41 U.S.C. 1908.
- Simple and informal purchases of services or supplies.
- Price or rate quotations must be obtained from an adequate number of qualified sources.

Procedures - Sealed Bids (Formal Advertising)



- Used for purchases in amounts greater than the Simplified Acquisition Threshold determined in Federal Acquisition Regulation at 48 CFR Subpart 2.1 in accordance with 41 U.S.C. 1908.
- Preferred method for construction.
- Firm fixed-price contract with focus on best price.
- Publicly advertised bids solicited from an adequate number of suppliers with specifications.
- Award made to lowest bidder in writing.

Procedures - Competitive Proposals



- Used for purchases in amounts greater than the Simplified Acquisition Threshold determined in Federal Acquisition Regulation at 48 CFR Subpart 2.1 in accordance with 41 U.S.C. 1908.
- Preferred method when qualifications are important.
- Cost reimbursement or fixed-price contract with negotiation of fair and reasonable compensation.
- RFPs solicited from an adequate number of sources and evaluation factors identified.
- Award made to firm with proposal that is most advantageous to program with price and other factors considered.

Procedures - Sole Source



- Item is only available through one source.
- Emergency prohibits competition.
- Expressly authorized by HHS awarding agency.
- Competition is deemed inadequate.

Competition (45 CFR 75.328)

Prohibited actions:

- Place unreasonable requirements on firms.
- Require unnecessary experience and excessive bonding.
- Implement non-competitive pricing practices between firms or affiliated companies.
- Sign a non-competitive contract with a consultant on retainer.
- Award contracts that pose an organization conflict of interest.

Competition cont.

Prohibited actions:

- Specifying only a “brand name” product instead of allowing “an equal” product.
- Engage in any arbitrary action in the procurement process.
- Must not consider geographical preference in evaluation of bids and proposals.
- Must not preclude potential bidders from qualifying in the solicitation period.

Small and Minority Businesses (45 CFR 75.330)

Affirmative steps:

- Placing on solicitation lists.
- Assuring they are solicited whenever they are potential sources.
- Dividing total requirements into smaller tasks or quantities.
- Establishing delivery schedules which encourage participation.
- Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor to take the affirmative steps.

Contract Cost and Price (45 CFR 75.332)

The non-federal entity must:

- Make independent estimates before receiving bids or proposals.
- Negotiate profit as a separate element of the price.
- Ensure that cost estimates or costs incurred are allowable.
- Not use Cost-Plus or Percentage of Construction Cost methods of contracting.

What is Procurement Fraud?

Fraud in Procurements

Typical red flags:

- If the vendor is new to the organization, are they a “shell” company and do they really exist?
- Is the contract producing the intended results and is there enough contract oversight to ensure that the full value is being realized?
- Has there been any attempt by the organization or employees to circumvent the normal procurement process?
- Is the vendor or an employee in the organization under financial pressure?
- Are there any indicators that the vendor is not qualified to do the work?

Fraud in Procurements

Items to consider in working with your non-federal recipients:

- Employees, contractors and vendors can be strongly motivated by personal financial interest.
- Competition leads some to break the rules.
- Procurements of goods and services are often a significant use of grant funds, next to personnel costs.
- Non-federal recipients have a “due-diligence” responsibility and must operate under a “buyer beware” mentality.
- The responsibility for the contract does not end at the award stage – ensuring contract performance and proper administration can be more challenging than making an award.

Additional Resources

The following resources will be useful in learning more information on the Uniform Administrative Requirements:

The Uniform Administrative Requirements may be accessed at:

https://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75#_top

HRSA Manage Your Grant:

<http://www.hrsa.gov/grants/manage/index.html>

Council on Financial Assistance Reform

<https://cfo.gov/cofar/>

Questions



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