

Uniform Guidance Procurement Frequently Asked Questions (FAQs)

GENERAL

- 1. Are you aware of any US Dept. of Education programs that are exempt from the Uniform Guidance procurement standards that are required to be implemented in the current fiscal year for States, local governments, and NPOs that have not yet implemented?**

Per communication with a US Department of Education staff and counsel, the only program exempt from Uniform Guidance (UG) procurement standards is Impact Aid.

- 2. I heard that school nutrition grants might be exempt from Uniform Guidance procurement standards. Is this accurate?**

No. Both the Division of School Business and School Nutrition confirm that school nutrition grants are subject to Uniform Guidance procurement standards. See citation below.

[§210.21 Procurement.](#) (a) General. State agencies and school food authorities shall comply with the requirements of this part and 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415, as applicable, which implement the applicable requirements, concerning the procurement of all goods and services with nonprofit school food service account funds.

- 3. Are we subject to UG requirements if the federal grant was awarded prior to July 1, 2018?**

As of July 1, 2018, all federally funded awards will follow Uniform Guidance, regardless of the date issued.

- 4. What if a contract was signed and legally binding prior to the effective date for the new requirements (7/1/18)? then we are not subject to the UG requirements for that particular contract. Is this correct?**

Contracts issued on or after July 1, 2018 are subject to Uniform Guidance procurement requirements.

- 5. If a contract's effective date was prior to July 1, 2018, and there are renewal options within the contract; can we legally renew without starting the bidding process over?**

If renewal options are explicitly stated within the existing contract (effective prior to July 1, 2018), then the renewal options can be exercised "as is" without rebidding under new procurement requirements.

- 6. Is the decision in selecting the vendor under the micro-purchase driven solely by lowest price or can the decision be based upon criteria, including price, compatibility with the existing reading program?**

Under the "Small Purchase" procedure the standard is to use the lowest cost responsible bidder. Also considering the following Uniform Grant Guidance also requires that procurement records are maintained to include selection of contract type, contractor selection or rejection, and basis for contract price ([2 C.F.R. § 200.318\(i\)](#)). Detailing this information in the LEA's procurement records would at least document the rationale for the use of the vendor. UG also requires the selection of

vendors who have the ability to perform successfully, including such factors as integrity, compliance with public policy, record of past performance, and financial and technical resources ([2 C.F.R. § 200.318\(h\)](#)). If there are technical issues that favor the use of the vendor these should also be documented to support the use of the vendor.

7. What is considered a “transaction” when considering aggregate cost and micro-purchase methods under UG?

A transaction is an occurrence in which two or more entities exchange goods, services, or money between or among them under an agreement formed for their mutual benefit. The following examples illustrate transactions in the context of micro-purchasing:

- (1) A program operator purchases computer paper, ink cartridges, paper towels, and cleaning fluids from the same supplier at the same time. That would be a single transaction. If the aggregate cost of these items (that is, the total bill) does not exceed the micro-purchase threshold, the transaction is a micro-purchase under 2 CFR §200.320(a).
- (2) A program operator makes the following purchases on the same day at two separate locations: computer paper and ink cartridges at a retail office supply store, and paper towels and cleaning fluids at a different retail store. The dollar amount spent at each supplier is less than the micro-purchase threshold. Each purchase is a separate transaction made from different suppliers. Neither supplier is involved in the transaction with the other. Therefore, these transactions are micro-purchases and the program operator has distributed purchases among qualified suppliers.

8. What counts as a quote for Micro-Purchases and Small Purchases?

A “quote” can be a formal written price quotation, an email, or a price from a published price list or established contract. Verbal quotes may be requested, but these will need to be verified and documented. It is best practice when requesting verbal price quotes to obtain the full name and direct contact information of the individual providing the quote. Also, when possible, ask the person providing the quote to confirm it in writing by email.

9. We typically require individuals to pay for conference registrations upfront and then reimburse them after they attend. Are we allowed to consider the registration as part of travel reimbursement to staff or do we need to handle that differently? I am assuming it is ok to reimburse employees for registration cost without considering micro, small, etc.

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. We would consider conference registration paid to a vendor as a cost separate from travel expenses. If more than one employee is attending the conference, we recommend the LEA determine the total registration cost for all attendees. If the total exceeds the maximum threshold for micro-purchases, then the LEA may submit a Request for Noncompetitive Procurement Proposal to DPI for consideration.

10. If we use federal funds for reimbursing or paying an employee directly for certification/license fees and membership dues and fees, are we okay to do so without consideration of micro, small, etc.?

We recommend the LEA confirm allowability of the applicable federal grant funds for the reimbursement of certification, license, and membership fees. If the total costs to be reimbursed

exceeds the \$10,000 micro-purchase maximum, submit a request for noncompetitive procurement proposal for consideration.

11. Under the new Uniform Guidance requirements do you have to receive quotes for books over \$10,000?

If federal funds are being used to purchase the books, then it would require the “small purchase” procedures under the Uniform Guidance 2.C.F.R. 200.320(b) which requires quotes from an *adequate* number of suppliers (confirm grant does not list a specific number of quotes), which we recommend being at least two. Also, you would need to take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 200.321 and include Federal clauses.

12. In reviewing the NEW Uniform Guidance for federal funding expenditures, there is no specific information and/or guidance on how to handle any type of registration provided by the state and/or a professional organization for out of county professional development. The only guidance that I have is that all expenditures shall be either informal or formally bid unless it meets the micro-purchase threshold of less than \$10,000 annually. Do we have to informally or formally bid out of county professional development registration etc.?

No. LEAs may submit a request for approval of noncompetitive procurement for conference and/or professional development costs exceeding \$10,000 micro purchase threshold.

13. Will we have to do this [submit noncompetitive procurement proposal] on an individual basis for every conference registration?

Yes. Consultation with Federal Programs regarding a potential waiver for professional development as a category determined such a waiver would be inconsistent with the practices and procedures of USED. Individual requests serve to ensure DPI is acting as a good steward of federal funds as the pass-through entity.

14. Can we continue to reimburse for mileage and meals and hotels as well without getting any quotes for hotels etc.?

Yes, but note that costs incurred by employees for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-Federal entity in its regular operations as the result of the non-Federal entity’s written travel policy.

15. If we were to use federal funds to pay utilities, would we have to follow the new guidelines for services and get quotes or bids?

No. The Uniform Guidance procurement standards do not apply to procurements made in indirect cost areas. They apply to procurements for goods and services that are directly charged to a Federal award.

16. We recently had a bid opening for a project that exceeds \$250,000. We only received 1 bid. We are in the process of rebidding the project. If we only get 1 bid again, can we accept that?

In the formal range if you receive only one bid on the advertisement, you must re-advertise. If you re-advertise and only receive one bid again, document that fact and award to that vendor.

- 17. Uniform Guidance procurement standards state that noncompetitive proposals may be used when competition is determined inadequate. I tried to get multiple quotes, but only received one response. Can I request a sole source?**

Yes. Please document your efforts to obtain multiple quotes and retain for audit purposes.

- 18. From what I understand, we are not able to purchase under the N.C. State Contracts or State Purchasing Cooperative programs as an exemption to the new requirements. Can you confirm either yes or no?**

It depends. If the contract was bid out according to Uniform Guidance procurement standards, you would not need to get multiple quotes or conduct a bid. However, it is generally difficult to document that such contracts were established in accordance with Uniform Guidance procurement standards. Additionally, by getting multiple quotes or conducting a bid, you are ensuring the procurement is conducted in a manner providing full and open competition. Therefore, it is strongly recommended that you always obtain multiple quotes.

- 19. What if I want to purchase something that is on a state or consortium contract? Do I still need to get multiple quotes or conduct a competitive bid?**

It depends. If the contract was bid out according to Uniform Guidance procurement standards, you would not need to get multiple quotes or conduct a bid. However, it is generally difficult to document that such contracts were established in accordance with Uniform Guidance procurement standards. Additionally, by getting multiple quotes or conducting a bid, you are ensuring the procurement is conducted in a manner providing full and open competition. Therefore, it is strongly recommended that you always obtain multiple quotes.

- 20. Is e-rate (Universal Service) reimbursements and discounts covered?**

Per the DPI E-Rate Team, the Uniform Guidance would apply but does not represent anything new beyond what is already required for e-rate purchases.

- 21. Are all procurement transactions subject to be checked for debarment and suspension through SAMS or does it apply only to transactions \$25,000 and over?**

Under 2 CFR 200.213, all non-federal entities are subject to the suspension and debarment rules under 2 CFR Part 180. 2 CFR 180.220(b)(1) must take affirmative steps to ensure that the contractor is not on the suspension and debarment list if the contract is for \$25,000 or more. However, 2 CFR 180.400 says you cannot enter into a contract with a suspended or disqualified party. If you enter into a contract for less than \$25,000, and it is later discovered that the contractor is suspended or debarred from participating in a federally-funded contract, the federal agency could disallow the cost of the contract and require the state to repay the amount.

While the rules only require you to take an affirmative step to ensure that the contractor is not on the suspension and debarment list if the contract is for \$25,000 or more, it would still be a best practice if you took those steps for all procurement transactions. Under 2 CFR 180.300, you can check SAM, you can get a certification from the contractor that they are not suspended or debarred, or you can simply add a clause to the contract itself that acts as a certification that the contractor is not suspended or debarred from entering into the transaction.

Noncompetitive Procurement

22. What are the specific requirements for sole source procurement under UG?

Section 200.320 of the Uniform Guidance defines the circumstances in which sole source procurements are permitted.

- a. The item is only available from a single source
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
- c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity
- d. After solicitation of a number of sources, competition is deemed inadequate

Note: Only one of these circumstances needs to be met for a procurement to qualify.

Some other key considerations include the following:

2. A contract can only be awarded to a responsible contractor possessing the ability to perform successfully under the terms and conditions of a proposed procurement. You must perform the appropriate level of due diligence to consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
3. The contractor cannot be on the System for Award Management (SAM) exclusion list.
4. You still need to perform a cost or price analysis to ensure reasonableness.
5. The contract must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions.

In noncompetitive procurement situations, a history of the process and justification must be documented and retained for audit purposes.

23. If a contract over \$150,000 is sole sourced, will a cost/price analysis still must be performed?

Yes, as the cost will need to be deemed reasonable.

24. I found a good/service with an unbeatable price from a world-class supplier. It is 30% cheaper than anywhere else. Does this constitute a viable sole source?

No. Price is never a justification for a sole source. If under \$250,000, you can obtain two other quotes, if the value is over \$250,000 a formal RFP will need to be issued. Both purchase and service contracts must be bid and awarded to the lowest, responsive, responsible bidder standard.

25. If we perform a formal bid for a good/service and we have no responses to the bid, can I then sole source the vendor that I want?

Assuming that a legitimate solicitation open to all potential vendors was attempted and documented that contained specifications/scope of work that were not considered “lockout” specifications, this would be acceptable under UG.

26. What if a specific (named) vendor/product/model is specifically required in the special terms and conditions of the grant?

If the grantor is requiring specific goods or services in order to receive the grant, this would be an acceptable sole source under UG. The requirement must be explicit in the terms and conditions.

27. What if I name a specific vendor in my proposal? Is that justification for a sole source?

No, the UG exemption requires both (1) a written request by the grantee for a non-competitive purchase, and (2) for the funding agency or pass-through entity to “expressly authorize” approval of that request. A simple approval of a proposal without any expressed approval, and no mention of the non-competitive procurement in the proposal does not fit that criteria.

28. I want to sole source a consultant for certain services. I have a strong professional relationship with the individual and the person is familiar with the work and is the top expert in their field. Is this an acceptable sole source under UG?

Not typically. The situation described could be justified as the “best” qualified, which does not meet UG sole source requirements. However, this situation may be suitable for submission to DPI as a request for noncompetitive procurement proposal if the justification includes appropriate information as to why an individual with specific qualifications is needed and how this individual meets that qualification.

An example of a “good” justification:

Charlie Consultant is needed to assist with the specific project, which must be completed within the next 6 months. He is familiar with this type of work and one of the best in the world. I have reached out to the 5 top experts in the field and Chris is the only one who can commit to providing their services within the allotted timeline.

An example of a “poor” justification:

Charlie Consultant is needed to assist with the project. He is a world-renowned expert with vast experience with this type of work and no one is as good as Charlie at this type of work.

29. We have been using this good/service for the last 10 years and still need it going forward. Others could supply the necessary goods/service, but our LEA has this media/product and changing vendors could disrupt the program. Is this a viable sole source?

School Business would suggest the LEA submit a written request for noncompetitive procurement to obtain DPI’s (both School Business and the applicable federal program office) review for consideration to not have to competitively source the good or service.

30. Due to shortages in the psychology professional services state-wide, we were not able to obtain any proposals except for the contractor we have used in previous years. Do I need to submit this as a non-competitive procurement due to competition is determined inadequate since we did not receive any responses other than the contractor we used in prior years?

You may submit a request for noncompetitive procurement to DPI which, as the pass-through entity, is authorized to approve a noncompetitive procurement proposal of this nature. You would need to retain the documentation for audit purposes as well as the waiver once granted.

31. Our district utilizes the attached form for sole-source justification. Can I utilize this and send it to you as a request as long as it meets the requirements?

No, the request forms on School Business’ webpage should be used for consistency.