



UGG – PROCUREMENT AND COOPERATIVE PURCHASING



SPEAKERS

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TODAY'S SESSION

Part 1 – UGG Overview and Policies/Procedures

Part 2 – UGG Procurement Requirements

Part 3 – UGG Procurement Methods and Thresholds

Part 4 – Cooperative Purchasing Considerations

REVIEW - WHAT IS UGG?

U.S. Office of Management and Budget (OMB) issued comprehensive grant rules entitled, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” commonly referred to as the Uniform Grant Guidance (UGG)

- 2 CFR Part 200 www.ecfr.gov Title 2, Part 200

REVIEW - WHAT IS UGG?

- UGG was designed to consolidate and streamline the various requirements for federal fiscal compliance into a single source
 - Improve financial integrity
 - Strengthen accountability
 - Increase management based on performance outcomes
 - Reduce fraud and waste
- Replaces previous OMB circulars

Subpart D-POST FEDERAL AWARD REQUIREMENTS

PROCUREMENT STANDARDS

§200.317	Procurements 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 businesses, women's business enterprises, and labor surplus area firms.
§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.

REVIEW - WHAT IS UGG?

- UGG applies to school entities receiving federal awards directly from federal agencies and awards received via a pass-through agency such as the state
- Examples: Title I, Title III, IDEA, USDA Child Nutrition, Perkins

UGG POLICIES

- 626 Federal Fiscal Compliance (optional)
- 626.1 Travel Reimbursement – Federal Programs *
 - UGG and School Code requirements
- 827 Conflict of Interest (recently updated) *
 - Operations section, aligned with the Fraud policy (828)
 - State Ethics Act and UGG requirements
- 808 Food Services (optional)
 - Related to federal funds/procurement also
 - Additional updates based on USDA requirements

*Written policy required.

UGG PROCEDURES

- Costs/Obligations/Property Management (optional)
- Allowability of Costs *
- Cash Management *
- Subrecipient Monitoring (highly recommended)
- Procurement (recently updated) *

*Written procedures required.

UGG PROCUREMENT REQUIREMENTS

- Use own procurement procedures reflecting state and local requirements, provided they conform to federal standards (2 CFR 200.318-200.326)
- Maintain oversight of contracted providers
- Maintain written standards of conduct (Policy 827)

UGG PROCUREMENT REQUIREMENTS

- Avoid acquisition of duplicative items—consolidate or break out for economical purchase
- Intergovernmental agreements/cooperatives encouraged
- Use of federal excess and surplus property encouraged

UGG PROCUREMENT REQUIREMENTS

- Award contracts only to responsible contractors based on contractor integrity, compliance with policy, record of past performance and financial/technical resources
- School entity is responsible for settlement of all contractual and administrative issues arising out of procurements, including bid disputes—ensure you have a procedure

UGG PROCUREMENT REQUIREMENTS

- Ensure “full and open competition” in procurement transactions—**examples to avoid:**
 - Placing unreasonable requirements on firms in order for them to qualify
 - Requiring unnecessary experience and excessive bonding
 - Noncompetitive pricing practices
 - Noncompetitive contracts to consultants on retainer contracts
 - Organizational conflicts of interest
 - Specifying only a “brand name” product instead of “an equal”

UGG PROCUREMENT REQUIREMENTS

- Include clear and accurate descriptions of requirements in procurement requests—minimum essential characteristics, “brand name or equivalent” if necessary to clearly articulate, specific lists of features
- Identify all requirements and factors to be used in bid evaluation
- Ensure prequalified lists are current and include adequate number of sources for open competition

PROCUREMENT PROCEDURE

- Maintain **written procedures** for procurement
- Should have documented on this procedure or other policies/procedures if taking extension and continuing to comply with current standards through June 30, 2017
- Requirements under PA School Code for quotations/bids must be compared with federal UGG and USDA requirements for purchasing and the more restrictive must be used

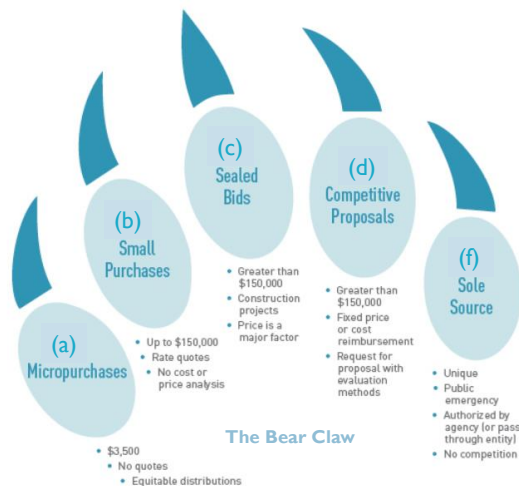
PROCUREMENT PROCEDURE

- Standard purchasing responsibilities and processes outlined in other policies and procedures/regulations should also be reviewed:
 - Policy 610. Purchases Subject to Bid/Quotation
 - Policy 611. Purchases Budgeted
 - Policy 612. Purchases Not Budgeted
 - Policy 613. Cooperative Purchasing
 - Policy 616. Payment of Bills

PROCUREMENT PROCEDURE

- Establish purchase request process and documentation
 - Purchase orders/requisitions
 - Paper/Electronic format
 - Delegation of responsibility for receipt, approval, confirmation, follow-up
 - Required information for documentation
 - Record retention
 - Contract provisions (Appendix II, 2 CFR Part 200)

§200.320 Methods of procurement to be followed



Source: "Frequently Asked Questions for the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200," published by the Council on Financial Assistance Reform (COFAR)

PROCUREMENT METHODS

(a) Micropurchases

- Not to exceed **\$3,500** (adjusted periodically, 48 CFR, Subpart 2.1)
- Not subject to state quotation/bid requirements
- Equipment, supplies, services purchased with federal funds
- Must be distributed equitably among qualified suppliers
- Must be **“reasonable”** according to sound practices: comparable to market prices for area—**document** reasonableness

PROCUREMENT METHODS

(b) Small Purchase Procedures

- > \$3,500 but < \$19,700
 - ✓ More restrictive - UGG requirement for quotes > \$3,500
 - ✓ More restrictive – state requirement for formal bidding starts at \$19,700
- Equipment, supplies or services
- Follow state quotation requirements under Policy 610 (24 P.S. 751, 807.1)
 - 3 quotations
- Services not subject to state requirements (services other than construction/maintenance/repairs) may follow RFP/quotation procedure in UGG up to \$150,000

PROCUREMENT METHODS

(c) Sealed Bids

- **\$19,700 or greater**
- Equipment, supplies or construction/maintenance/repair services (**other services \$150,000 or more**)
- Policy 610 requirements for bidding (24 P.S. 751, 807.1) – advertising for 3 weeks in 2 newspapers

PROCUREMENT METHODS

Sealed Bids (UGG standards)

- Complete, adequate and realistic purchase description must be provided
- Requires 2 or more responsible bidders
- Fixed price procurement – allowing selection to be made principally on price
- Must be opened at the same time, publicly
- Discounts, transportation costs, life cycle costs must be considered in determining lowest price
- Board may reject all bids – **sound, documented reason**

PROCUREMENT METHODS

(d) Competitive Proposals

- Services other than construction/maintenance/repair
- Where sealed bid is not appropriate **for amounts over \$150,000**
- Fixed price or cost-reimbursement type contract
- Publicize requests; solicit from adequate number of qualified sources
- Written method for conducting technical evaluation of proposals required
- Contract awarded to responsible firm “most advantageous” based on cost and other documented factors (i.e., experience, financial stability, availability)
- Special provisions for Architectural/Engineering

PROCUREMENT METHODS

(f) Noncompetitive Proposals (Sole Sourcing)

Appropriate only used when following circumstances apply:

- Item is only available from single source
- Public exigency or emergency (emergency = time required for board to act endangers life, property or continuance of classes)
- Federal agency or pass-through entity authorizes noncompetitive proposal based on written request
- After solicitation of a number of sources, competition is determined inadequate

ADDITIONAL PROCUREMENT SOURCES

- Intergovernmental Agreements and Cooperative Purchasing
- Federal Excess and Surplus Property
 - PA Dept. of General Services:
<http://www.dgs.pa.gov/Local%20Government%20and%20Schools/Surplus%20Supplies%20and%20Equipment/Federal-Surplus-Property/Pages/default.aspx>

PDE GUIDANCE ON IGAs

Updated PDE Guidance Concerning Use of Intergovernmental Agreements

- USDE Determination
- Joint/Collaborative Purchasing
- Consortia for Shared Services
- Bundled Services
- Special Educations Services
- Sole Source Requirements/Documentation

Individuals with Disabilities Education Act – Part B (IDEA-B)
Section 611 School Age Funds – Grants to States Program
Local Education Agency (LEA)
Program Narrative, Administrative and Fiscal Guidelines

2016-2017

2. The funding distribution chart will continue to be used in 2016-17. This chart is located on PDE's eGrants system in the Narrative Section of the application. On this chart, the amounts budgeted for Training and Consultation, and Equitable Participation are deducted from the total IDEA School Age, Section 611 regional allocation. The remaining balance (Component 3) is allocated to school districts and public charter schools as the value of pass through dollars and/or IU services available to them based on their most recent child count data. The Component 3 funds available to school districts and public charter schools are determined based

Revised May 2016

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3. Each IU must meet with its school districts and public charter schools and identify the total value of services and programming available to each of them. If the school district or public charter school chooses services in lieu of pass through funds, the IU must document the actual cost of such services.



IU13 PROCUREMENT PROCEDURES
Thresholds for Fiscal Year July 1, 2017 – June 30, 2018

Under Uniform Grant Guidance (UGG), non-Federal entities must comply with the more restrictive of Federal, state, and entity-level requirements when expending Federal funds. IU13 will use consistent procurement procedures for all programs. The following table outlines the procurement methods to be used by IU13 staff for the acquisition of goods and services.

Please contact the IU13 Procurement Hotline with any questions: (717) 947-1014.

Procurement Method §200.320	Goods/Supplies	Services* and Exempt Items**	Requirements
Micro-purchase (Informal, No quotes required)	≤ \$3,500	≤ \$3,500	<ul style="list-style-type: none"> • consider price to be reasonable • distribute equitably among suppliers to the extent practical
Small Purchase Procedures (Relatively simple and Informal)	> \$3,500 but < \$19,700	> \$3,500 but < \$150,000	<ul style="list-style-type: none"> • obtain/document price or rate quotations from a reasonable number of qualified sources (at least three per 24 PS 8.807.1) • written or documented quotes
Sealed Bids (Formal advertising)	\$19,700 or more	\$150,000 or more	<ul style="list-style-type: none"> • bids are publicly solicited • firm fixed price contract awarded to the responsible bidder lowest in price • cost or price analysis for purchases in excess of the Simplified Acquisition Threshold (\$150,000)
Competitive Proposals (Formal RFPs)	\$19,700 or more	\$150,000 or more	<ul style="list-style-type: none"> • conducted with more than one source • submitting an offer • price is not used as sole selection factor • fixed price or cost-reimbursement type contract is awarded • cost or price analysis for purchases in excess of the Simplified Acquisition Threshold (\$150,000)
Noncompetitive proposals*** (Sole Source)	Appropriate only when these circumstances apply: <ul style="list-style-type: none"> • Available only from a single source (sole source) • Public exigency or emergency • Expressly authorized by awarding or pass-through agency in response to a written request from the non-Federal entity • After soliciting a number of sources, competition is deemed inadequate 		<ul style="list-style-type: none"> • solicitation from only one source • must maintain records sufficient to detail the history of the procurement process used • used only when qualifying circumstances apply • fixed price or cost-reimbursement type contract is awarded

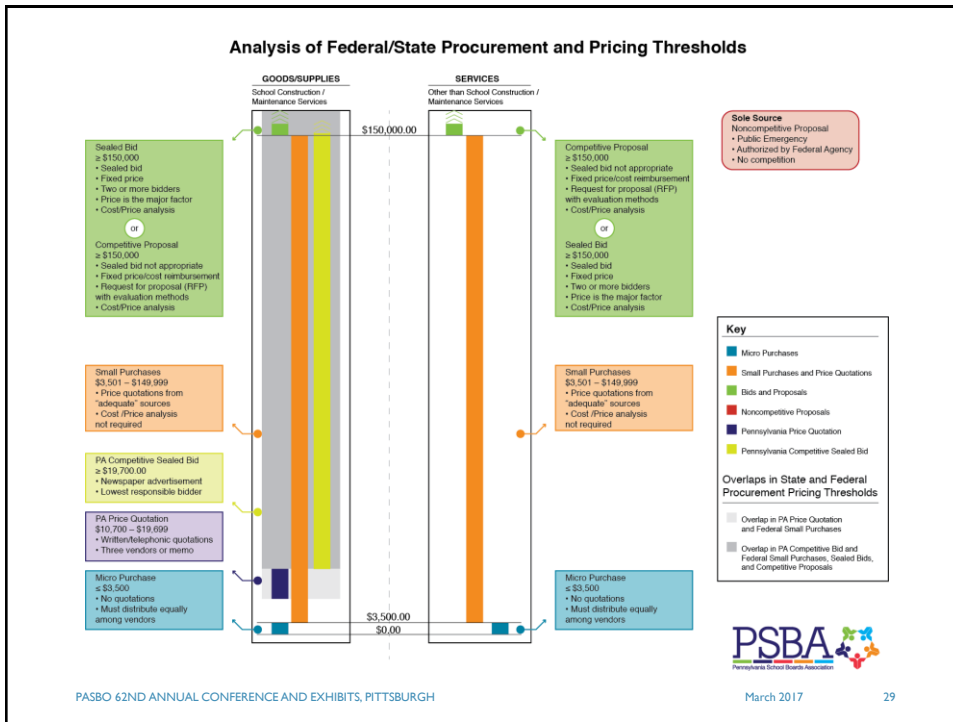
Note: Federal and state acquisition thresholds are adjusted for inflation periodically.

*Always check with grantor/pass-through entity's program manager about other requirements for the procurement of services that may be specific to the funding source.

**PA School Code exempts maps, music, globes, charts, educational films, filmstrips, prepared transparencies and slides, pre-recorded magnetic tapes and disc recordings, textbooks, games, toys, prepared kits, flannel board materials, flash cards, models, projectuals and teacher demonstration devices necessary for school use from the competitive procurement process outlined under 24 PS 8.807.1

***Use of noncompetitive proposal must be pre-approved by the IU13 Procurement Office.

Procurement Thresholds updated March 2017



ADDITIONAL CONSIDERATIONS

- **Contract Cost/Price Analysis $\geq \$150,000$**
 - Must be performed for all procurement actions exceeding \$150,000, including contract modifications
 - **Cost analysis:** evaluating separate cost elements that make up total
 - **Price analysis:** evaluating total price, not separate components
 - Make independent estimate prior to receiving bids/proposals
 - Negotiate profit as a separate element of the price (2 CFR 200.323)

ADDITIONAL CONSIDERATIONS

- Specify if procurement/purchase cards are used and reference policy/procedures (Pol. 625)
- Describe factors for full and open competition
- Spell out affirmative steps to include procurement from Minority and Women's Businesses and Labor Surplus Area Firms
- Ensure geographical preferences are prohibited (exception for Food Service Program regulations)

ADDITIONAL CONSIDERATIONS

Food Service Program Notes

USDA regs provide for special considerations/ exceptions for procurement in federal Food Service programs:

- Perishable Food - School Code exception (24 P.S. 504)
- Geographic Preferences – local agricultural products (7 CFR 210.21, 215.14a, 220.16)
- “Buy American” – domestic commodities (7 CFR 210.21, 220.16)

ADDITIONAL CONSIDERATIONS

Food Service Program Notes

- Mandatory Contract Clauses - specific to food services purchases (7 CFR 210.21, 215.14a, 220.16)
- Contracts with Food Service Management Companies and Contractors for Pre-Plated Meals– must comply with PDE, Division of Food and Nutrition, guidance and follow specific standards (7 CFR 210.16, 210.19, 210.21, 215.14a, 220.16)
<http://www.education.pa.gov/Teachers%20-%20Administrators/Food-Nutrition/Pages/Contracting-with-a-Food-Service.aspx>

UGG AND COOPERATIVE PURCHASING

■ Federal Procurement Standards-200.318 (e)

"To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services"

■ Evaluation of the cooperative's adherence to federal regulations

- ✓ Open competition
- ✓ Utilization of generic specifications
- ✓ No geographical preferences
- ✓ Suitable amount of qualified sources
- ✓ No vendor development of specifications

■ Branding

- ✓ Brands can be called out to specify product performance, but must include " or approve equal" language in the specification.

UGG AND COOPERATIVE PURCHASING

- Competitive procurement procedures are in compliance with federal procurement methods
- Procurement activity documentation trail
- Minority Business Enterprises (MBE) solicitation / affirmative steps
 - ✓ MBE's on a solicitation list
 - ✓ MBE's solicited
 - ✓ MBE's awarded contract(s)
 - ✓ Prime contractor award consideration

UGG AND COOPERATIVE PURCHASING

- UGG clauses necessary in solicitations:
 - ✓ Termination of Cause
 - ✓ Equal Employment Opportunity
 - ✓ Contract Work Hour and Safety Standards Act
 - ✓ Davis Bacon Act
 - ✓ Rights to Inventions
 - ✓ Debarment and Suspension
 - ✓ Byrd Anti Lobbying
 - ✓ Clean Air Act
 - ✓ Simplified Acquisition Threshold Contract Breach

UGG AND COOPERATIVE PURCHASING

- Other considerations
 - ✓ Ensure your LEA has documented purchasing procedures on file
 - ✓ All cooperative purchase transactions documented
 - ✓ Food buying group considerations

PROCUREMENT PROCEDURE

What could go wrong?

- May not contract with anyone debarred or suspended – successful contractors should provide written certification, verify accuracy (i.e., federal System for Award Management)
- School entity is responsible for contractual/ administrative issues – use sound business practices, consult solicitor
- Establish and provide bid protest procedures (i.e., process and timeline for submitting protest, documentation requested, responsible administrator and timeline for review, written appeal process)

PROCUREMENT PROCEDURE

Maintaining Records

- Examples of records to maintain:
 - Rationale for method of procurement
 - Quotations/Bids submitted
 - Selection of contract type
 - Reasons for contractor selection/rejection
 - Basis for contract price (cost/price analysis)
 - Verification that contractor not suspended/debarred
- Retention should be based on your Records Retention Schedule (Pol. 800 and procedures/AR) ****For federal programs, 6 years, plus current year**

ADDITIONAL RESOURCES

- eCFR
<http://www.ecfr.gov> Title 2, Part 200
- COFAR
<https://cfo.gov/cofar/cofar-resources/> Uniform Guidance Resources
- U.S. Dept. of Education
<http://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>
- PSBA Policies/Procedures - PNN/PNN+
Accessible through school entity's Web-based policy system; or contact policyprograms@psba.org

QUESTIONS

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