

Current Issue in School Management OMB Compliance Update

**Alabama Department of Education
LEA Fiscal Accountability**

Part 200 – Uniform Guidance for Federal Programs

- Memo to City and County Superintendents
 - July 18,2016
- Provided examples of written policies to assist in developing policies for individual school systems.
- A school board using the national purchasing cooperatives authorized under state law for federal programs and child nutrition program purchases should obtain documentation that shows the Part 200 competitive bid requirements were met.

Required Written Policies

- Cash Management
- Determination of Allowability of Costs
- Travel Reimbursement
- Conflicts of interest
- Procurement transactions
 - Including Method of conducting technical evaluations of competitive proposals and selection (not conducted by sealed bids).

Cash Management

- **§ Title 2 – Part 200.305(b) Payment**
- Procedures to minimize the time elapsing between pass-through entity (or the U.S. Treasury) and the disbursement by the local education agency.
- Advance payments must be limited to minimum amounts needed and be timed to be in accordance with the actual, immediate cash required.
- Example
 - Board procedures to minimize the cash balances in federal program funds are expected to prevent the aggregate cash balances of federal program funds from earning \$500 or more for the fiscal year if maintained in interest-bearing accounts. The federal program funds, with the exception of Child Nutrition Program funds, will not be maintained in an interest-bearing bank account if the Chief School Financial Officer determines that banking requirements for minimum or average balances are so high that an interest-bearing account would not be feasible. Federal program funds will be maintained in insured checking accounts that are subject to the state requirements for public deposits under the SAFE program.

Allowability of Costs

- **§ Title 2 – Part 200.403 Factors affecting allowability of costs**
- Actions to determine allowable costs will assure that:
 - The proposed expenditure is included in the federal program budget
 - The proposed expenditure is reasonable and necessary for the federal program
 - The proposed expenditures is consistent with procedures for financial transactions of the board , including:
 - P.O. approval procedures
 - Contract review and approval procedures
 - Applicable competitive purchasing procedures
 - Documentation supporting allowability of transaction

Travel Reimbursement

- **§ Title 2 – Part 200.474 Travel costs**
- Transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business
 - May be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two. The method used is applied to an entire trip
 - Charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies
- Lodging and subsistence
 - Must be considered reasonable and otherwise allowable
 - Do not exceed charges normally allowed in regular operations as the result of the written travel policy.
 - If these costs are charged directly to the Federal award documentation must justify that:
 - (1) Participation of the individual is necessary to the Federal award; and
 - (2) The costs are reasonable and consistent with non-Federal entity's established travel policy.

Conflict of Interest

- **§ Title 2 – Part 200.112 Conflict of Interest**
- **§ Title 2 – Part 200.318 (c)(1) General procurement standards**
- Any potential conflict of interest must be disclosed in writing.
- Standards of conduct covering conflicts of interest and governing the performance of employees engaged in the selection, award, and administration of the contracts.

Procurement

- **§ Title 2 – Part 200.320 Methods of Procurement to be Followed**
- Five methods of procurements
 - (1) micro-purchase (less than to \$10,000)*
 - (2) small purchase (less than \$250,000)*
 - (3) sealed bids purchases (more than \$250,000)*
 - (4) competitive proposal purchases(more than \$250,000)*
 - (5) Noncompetitive purchases (special circumstances which are applicable for all purchase levels)

*current thresholds as of 9/4/2019, subject to change
original thresholds were lower

Procurement

- **§ Title 2 – Part 200.318 General Procurement Standards**
- All purchases must comply with the following:
 - The non-Federal entity's documented procedures
 - Considered necessary
 - Awarded through Open competition (to the extent required by each method)
 - Conflict of interest policy
 - Proper documentation for the purchases.

Federal Procurement

– Micro-purchase

- A single transaction for acquiring supplies or services that does not exceed the micro-purchase threshold (currently \$10,000).
- To the extent practical, the school board must distribute purchases equitably among qualified suppliers.
 - No quotes or competitive bids unless required by state bid laws.

Example

– Micro-purchase or Sealed Bid

- A federal program issues a purchase order for \$2,800 in copier paper.
 - State bid law would apply if school board funds (including the federal funds) will purchase \$15,000 or more in copier paper during the year. The school board could issue requests for sealed bids, purchase from the state bid list approved vendor, utilize a vendor through membership in a regional purchasing cooperative, or use a vendor contract on an approved national purchasing cooperative.

Example – Micro-purchase

- A federal program issues a purchase order for \$1,800 to purchase DVD players.
- If no school board funds will be used to purchase additional DVD players (or like items) during the year then no quotes or bid requirements would apply.

Federal Procurement

– Small Purchase

- Applies to procurement transactions for materials and supplies that exceed the micro-purchase threshold (currently \$10,000) but does not exceed the simplified acquisition threshold (currently \$250,000).
 - Price quotes but no sealed bids required except for purchases by Alabama school boards over state bid threshold of \$15,000.

Example

– Small Purchase

- A federal program issues a purchase order for \$10,200 to purchase DVD players.
- If no school board funds will be used to purchase additional DVD players (or like items) during the year then no state bid requirements would apply. Two or more price quotes would be obtained to meet the federal requirements.

Federal Procurement

– Small Purchase

- The U.S. Department of Education provided guidance on price quotes for small purchase procedures:
 - School boards can decide the “adequate” number (more than one) of documented quotes from qualified sources, as well as the method of obtaining quotes (e.g., it can be in writing, orally, vendor price list on website, or generated online search engine.) No cost or price analysis is required

Bid Requirements in State Laws

- Alabama Competitive Bid Law
 - §16-13B-1, et.al.
- Information Technology Joint Purchasing Agreements
 - §16-61E-1. et.al.
- Public Works Law
 - §39-1-1, et.al.

State Competitive Bid Law

- For the procurement of goods and services of \$15,000 or more state law requires school boards to select a vendor by a sealed bid process.
 - The \$15,000 threshold is not limited to a single purchase but applies to the aggregate purchase of \$15,000 or more of like items over a period of time, generally one year.
- There are numerous exceptions to the state competitive bid law but only a few apply to federal and CNP procurement.

State Competitive Bid Law

- Purchases can be made from specified national purchasing cooperatives without the school board requesting sealed bids.
- The national purchasing cooperatives that are allowable for school boards to use are specifically approved by the State Examiners of Public Accounts.

Federal Procurement

– Sealed Bids

- Required for purchases of materials, supplies and equipment that exceed the simplified acquisition threshold (currently \$250,000), however:
 - Alabama school boards must follow the sealed bid procedures contained in the State Competitive Bid Laws for most purchases over \$15,000.

Example

– Sealed Bid

- A federal program issues a purchase order for \$18,600 to purchase DVD players.
- State bid requirements would apply. The school board may advertise for sealed bids, use the state bid list, or use one of the allowable purchasing programs.

Federal Procurement

– Competitive Proposals

- Required for certain transactions that exceed the simplified acquisition threshold (currently \$250,000).
 - Alabama school boards would use their own written competitive proposal procedures for those professional service contracts that are exempt from the State Competitive Bid Law requirements.
- Example - The board will request proposals for those professional service contracts (excluding architectural and engineering services) that are exempt under state procurement laws if the contracts exceed \$250,000 and will be paid from federal or child nutrition program funds. The board will utilize a team of three or more qualified individuals to conduct a technical evaluation of proposals received and for selecting recipients. As a part of the evaluation, the individuals on the evaluation team will sign an assurance that each of the individuals is in compliance with the board's conflict of interest policy.

Example

– Competitive Proposal

- A federal program plans to contract with consultants for a professional development program for teachers (Estimate-\$300,000).
- State bid requirements would not apply due to state bid law exceptions. The school board will request proposals for the professional service contract that will be awarded under a technical evaluation process in accordance with federal regulations and written board policies.

State Competitive Bid Law

– Sole Source

- Required sole source documentation:
 - Good or services are of an indispensable nature
 - All other viable alternatives have been explored
 - Only these will fulfill the purpose (Not frivolous)
 - No other vendor can provide substantially equivalent goods or services that will accomplish the purpose for which the goods or services are required
- All sole source documentation of sole source determination is maintained.

Federal Procurement

– Sole Source

- After solicitation from a number of sources competition is determined inadequate, or
- Federal agency or pass-through entity approves written request for sole source, or
- Competition process would delay emergency need, or
- Item is only available from a single source.

Example

– Sole Source

- A federal program plans to purchase a 3-D printer for \$21,500 that, according to the vendor, is only available from that vendor.
- If required, the school board must obtain prior approval from the awarding agency. Requirements for sole source purchases in the state bid law would apply.

Federal Procurement Regulations

- School boards are encouraged to use intergovernmental agreements for procurement.
- In addition to using state and regional bid programs, school boards may use specified national purchasing cooperatives if the vendor contracts comply with the federal procurement requirements.

Federal Procurement Regulations

- Vendors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals are excluded from competing for such procurements.
- Competition cannot be restricted by specifying only a “brand name” product instead of allowing “an equal” product.

LEA Fiscal Accountability

– On the SDE Website

- www.alsde.edu
- Select Department Offices tab on the left-hand side near the top of the screen
- Under Office of Supporting Programs select
 - “LEA Fiscal Accountability”
- Select “Bid Law and Purchasing”

LEA Fiscal Accountability

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