Uniform Guidance: Effective July 1, 2018

On December 26, 2014, the United States Office of Management and Budget (OMB) through the Code of Federal Regulation issued new Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards in the Federal Register. This "Uniform Guidance" replaces the administrative, accounting, audit rules and principles previously required in the OMB Circulars, including A-21, A-110, and A-133.

Throughout the process of implementing the new requirements mandated by the UG, University purchasing policies and procedures were evaluated to identify all necessary changes resulting from the newly established UG. In accordance with Section 200.110 of the UG, procurement standards in Section 200.317 - 200.326, non-Federal entities were allowed to comply with procurement standards in previous OMB guidance for one additional fiscal years after the relevant parts went into effect. Since the implementation of the UG in December 2014, additional one year grace periods were allowed for Fiscal Years 2016 (fiscal year ending June 30, 2016), 2017 (fiscal year ending June 30, 2017) and 2018 (fiscal year ending June 30, 2018). In accordance with the grace period provisions, Loyola elected to postpone implementation of all UG requirements until all elements of the UG were finalized.

Loyola has elected to implement all aspects of the Federal Uniform Guidance effective July 1, 2018.

It is important to note that the following are general standards for procurement over which Uniform Guidance entails. This list is a representation of Uniform Guidance concepts and does not represent an all-inclusive list of compliance requirements. For clarification relating to your specific procurement needs, please contact your purchasing agent for assistance.

- Every non-federal entity receiving federal awards must have documented procurement procedures that reflect federal law, Uniform Guidance standards, and any state regulations.
- Entities should focus on the most economical solution during the procurement process, and must avoid using federal funds for the acquisition of unnecessary items. Organizations are encouraged to consider the use of shared services and intergovernmental agreements to foster greater economy and efficiency.
- Written conflict-of-interest policies are required. No employee or agent of the entity may participate in the selection, award, or administration of a contract funded by federal grant dollars if he or she has an actual or apparent conflict of interest.
- The organization must document the procurement steps and activities required to be completed. This includes the basis for the type of procurement, contract type, and the basis for the contractor selection and price. Please refer to the University Procurement Action Matrix located at the following link: https://www.luc.edu/media/lucedu/purchasing/pdfs/buyer_matrix.pdf
- Ultimately, the recipient of federal awards must maintain an appropriate level of oversight to ensure that contractors perform in accordance with the terms of their contract.

The above illustrations demonstrate a need for high degree of due diligence and documentation relating to all procurement events. Procurement Services is willing and able to provide guidance and assistance to all University Departments as they navigate all necessary requirements as dictated by Uniform Guidance.

Additionally, Uniform Guidance requires full and open competition. Each department is required to consider all procurement options available while planning the various purchasing needs of any federally funded project. Procurement Services can help facilitate any procurement event necessary (basic quotes, established competition, controlled bid processes). It is important to understand that contractors or vendors who assist in drafting specifications for controlled bid processes or "RFx" (i.e., Requests for Quote, Information, or proposal; RFQ, RFI, or RFP, respectively) must be excluded from competing for those opportunities. In addition, RFx specifications cannot have unreasonable or restrictive requirements that are meant to limit competition. Also, procurements must be conducted in a manner that prohibits the use of geographical preferences in the evaluation of proposals, except in certain case where federal law explicitly requires or encourages geographic preference or when contracting for architectural and engineering services, provided that specifying geographic location leaves an appropriate number of qualified firms. Examples of procurement methods include the following:
- Micro-purchase: Purchases where the aggregate dollar amount does not exceed $5,000 (or $2,000 if the procurement is construction and subject to Davis-Bacon). When practical, the entity should distribute micro-purchases equitably among qualified suppliers. No competitive quotes are required if management determines that the price is reasonable.

- Small purchase: Includes purchases up to the Simplified Acquisition threshold, which is now $250,000. Informal purchasing procedures are acceptable, but price or rate quotes (minimum 3) must be obtained from an adequate number of sources.

- Competitive proposals (RFx): Used for purchases over the Simplified Acquisition Threshold, which is currently $250,000. These procurement methods require formal solicitation, fixed-price or cost-reimbursement contracts, and is used when sealed bids are not appropriate. The contract should be awarded to the responsible firm whose proposal is most advantageous to the program, with price being one of the various factors. Sealed bids are used when the funding source requires the use of sealed bids.

- Noncompetitive proposals: Also known as sole-source procurement, this may be appropriate only when specific criteria are met. Be advised that the new Uniform Guidance has placed a greater level of scrutiny on the use of Sole Source procurements (2 CFR 200.320). Under the new guidance, UG has limited the use of sole (or single source) procurements to four distinct justifications. Those are:
  - Product/service is only available from a single source;
  - Public Emergency Procurement
  - Federal Awarding Agency Authorization (the awarding agency specifically authorizes a non-competitive procurement after a written request from the Non-federal entity);
  - Inadequate competition after solicitation of multiple sources
  - "Continuity of research" justification is no longer an acceptable sole source justification.
  - Every sole source will require a price/cost justification.