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Karen Norris
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Presidential Memorandum M-18-18

Simplified Acquisition, Micro-Purchase Thresholds Increase

Updates to the FAR and Uniform Guidance Planned This Summer

By Karen Norris, Principal and Subject Matter Expert, kanoco

The Office of Management and Budget (OMB) released Presidential Memorandum M-18-18 on June 20, announcing an increase in the micro-purchase threshold from \$3,500 to \$10,000 and an increase in the Simplified Acquisition Threshold from \$150,000 to \$250,000 for all nonfederal entities. The grants community regards both increases as improvements.

The raised thresholds for federal financial assistance awards resulted from recent statutory changes in the National Defense Authorization Acts (NDAA) for 2017 and 2018. According to M-18-18, "Federal awarding agencies are required to implement these changes in the terms and conditions of their awards, and recipients of existing federal financial assistance awards may implement them in their internal controls."

Applicability

Although the NDAA generally applies to defense funding, another federal statute, the American Innovation and Competitiveness Act (Pub. L. 114-329) is also applicable. Institutions of higher education and the Council of Governmental Relations (COGR), which is a national association of research universities, affiliated medical centers, and independent research institutes, determined that the increases, therefore, would apply to all federal funding. The basis is found in the uniform guidance 200.101(b)(3), which states federal statutes (US Code) take precedence over the uniform guidance (Code of Federal Regulations).

Effective Date

The increases are retroactively effective to Dec. 23, 2016 when NDAA for 2017 was enacted. Revisions like these customarily occur after the Federal Acquisition Regulation (FAR) and uniform guidance are revised; however, M-18-18 provides an exception to implement in advance of the FAR and uniform guidance updates under certain circumstances.

The Circumstances - Strings Attached

Nonfederal entities that wish to use the new micro-purchase threshold of \$10,000 and the simplified acquisition threshold of \$250,000 in advance of the FAR and uniform guidance updates may do so under M-18-18, providing that the nonfederal entity have clean single audit findings (200.520) to meet the criteria as a low-risk recipient, have an acceptable internal risk assessment, or be consistent with state law. Nonfederal entities must also request and receive

approval from their cognizant agency for indirect costs. This prior written federal approval, therefore, would be important documentation.

Nonfederal entities should also document their implementation of the increased thresholds in their system of internal control, through updated local procurement policies and procedures.

FAR and Uniform Guidance Updates

Updates to the FAR should be forthcoming this summer at 48 CFR Subpart 2.1 (definitions). Updates to the uniform guidance will likely occur at 2 CFR 200.67 (definition for micro-purchase) and 2 CFR 200.88 (definition for simplified acquisition threshold). It is possible that procurement provisions in the uniform guidance (200.317-200.326) may be updated or impacted.

Benefits

A micro-purchase threshold (200.320(a)) of \$10,000 offers more flexibility to nonfederal entities than the prior threshold of \$3,500. The simplified acquisition threshold of \$250,000 will facilitate increased use of the small purchase method of procurement (200.320(b)), which allows for price quotes rather than a formal bid process that would be more burdensome than simple price quotes.

Next Steps

Nonfederal entities should be watchful for updates to the FAR and uniform guidance. In the interim, those who wish to implement the new thresholds based on M-18-18, should obtain prior written approval from their cognizant agency of indirect costs, update their local policies and procedures to address internal controls, and attend to any other strings attached that may be relevant. Federal agencies should update award terms and conditions accordingly.