

Procurement Policy under the Uniform Guidance

15th Annual Governor's Grants Conference

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CPAs & ADVISORS



Presenter

Meet the Instructor



Paul H. Calabrese

Principal
Outsourced Accounting & Advisory
Services

GRANTS

The CFO Council is dedicated to coordinating financial assistance to effectively deliver, oversee, and report on grants and cooperative agreements, as well as sharing with executive departments and agencies best practices and innovative ideas for transforming the delivery of grant assistance.



UNIFORM GUIDANCE

Uniform Guidance In December 2014, OMB together with Federal awarding agencies issued an interim final rule to implement the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). This guidance and implementing regulations delivers on President Obama's second term management agenda and his first term directives under Executive Order 13520, the ...
Continued

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TRAINING

Grants Training As a part of the CFO Council's mission to foster more efficient and effective Federal grants management system, the Council coordinates training on key issues related to that mission. Please Note: To properly view all Grants 101 Training Modules, please use either Google Chrome or Microsoft Internet Explorer. Please also make sure that Flash is enabled ...
Continued

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GRANTS RESOURCES

Grants Resources What was the Council on Financial Assistance Reform? OMB M-17-26, Reducing Burden for Federal Agencies by Rescinding and Modifying, rescinded the COFAR. The group's policy priorities will now be considered part of the President's Management Agenda and in the CFO Council. A sub-group may be formed on an as-needed basis to address specific ...
Continued

[Read more](#)

- Uniform C

- <https://www.cfo-council.org/uniform-guidance>
- <https://www.cfo-council.org/training>

- COFAR F

- <https://www.cfo-council.org/grants-resources>
- <https://www.cfo-council.org/uniform-guidance>

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Regulatory Requirements for Procurement

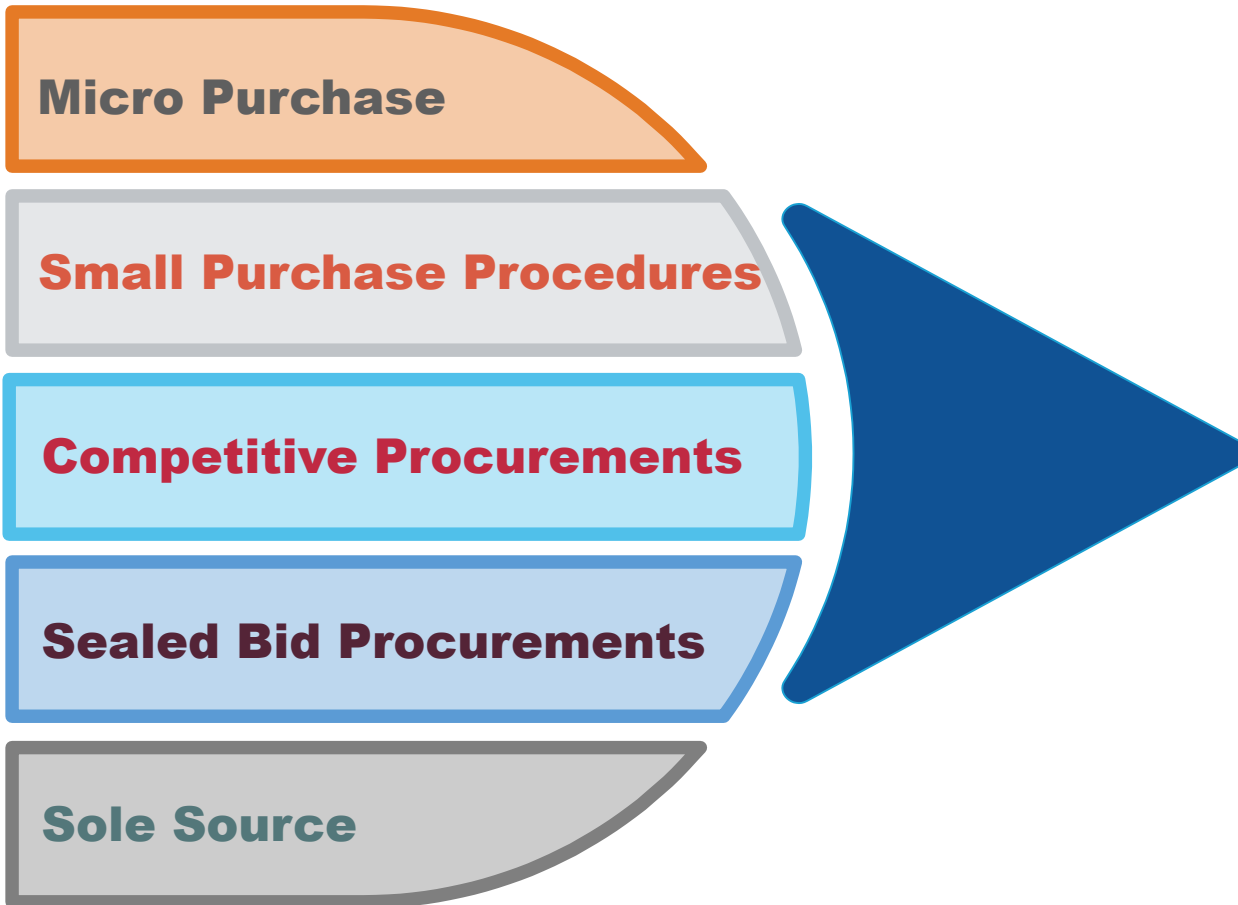
Types of policies and processes, roles and procedures in a Uniform Guidance compliant procurement system for the acquisition of goods and services



The Procurement Standards



5 Types of Procurement under the New Standards



The updated thresholds:

1. Micro Purchase updated threshold \$10,000
2. Small Purchase Threshold from \$10,000 to the updated Simplified Acquisition Threshold (SAT) of \$250,000
3. Competitive Procurements updated SAT of \$250,000
4. Sealed Bid Procurements updated SAT of \$250,000
5. Sole Source does not have a threshold

Updated Procurement Thresholds



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
FINANCIAL MANAGEMENT

June 20, 2018

M-18-18

MEMORANDUM FOR CHIEF FINANCIAL OFFICERS AND HEADS OF SMALL EXECUTIVE AGENCIES

FROM:

Tim Soltis

Deputy Controller, Office of Federal Financial Management

SUBJECT:

Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance

In accordance with recent statutory changes set forth in the National Defense Authorization Acts (NDAA) for Fiscal Years 2017 and 2018, this memorandum raises the threshold for micro-purchases under Federal financial assistance awards to \$10,000, and raises the threshold for simplified acquisitions to \$250,000 for all recipients. Further, it implements an approval process for certain institutions that want to request micro-purchase thresholds higher than \$10,000. 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.



Procurement 200.320 FAQ.320-1

All (5) procurement types include the following standards

- Purchase complies with Non-Federal Entity's (NFE) documented procedures in place (audit & agency concern)
- Purchases are necessary (direct charge to a grant)
- Open competition as required for any of the methods (obtain best/lowest price)
- Conflict-Of-Interest (price is not unduly high, arm's length transactions)
- Proper documentation of the purchases (audit & agency concern)

Procurement 200.320 FAQ.320-1

Micro-purchases under \$10,000 (updated)

- Purchase orders may be awarded without soliciting any competitive quotations if the NFE considers the cost to be reasonable
- To the extent practicable, the NFE must distribute their purchases equitably among suppliers
- EXAMPLE:
 - Purchase a network server in the amount \$7,000 as a micro-purchase supply
 - No competitive price quotations are required for the purchase
 - Cost or price analysis is not required
- If the organization has a policy for strategic sourcing or bulk purchase arrangements
 - This policy would dictate the purchase of similar network servers, rotated among supplies offering similar prices having similar features.



Procurement 200.320 FAQ.320-1

Small Purchase Procedures

- Purchases under the Simplified Acquisition Threshold currently set at \$250,000 [updated]
- All purchases between \$10,000 and \$250,000
- “Small purchase procedures” are “relatively simple and informal”
- Price or rate quotations must be obtained from an adequate number of qualified sources (number of sources > 1 , whereas $1 =$ sole source)
- The NFE has discretion as to the number of qualified sources and the method(s) of obtaining price quotations
- Agencies encourage the documenting of this process

Procurement 200.320 FAQ.320-1

Small Purchase Procedures

- Price or rate quotations can be:
 - Written or verbal
 - Vendor price list on website
 - Generated via online search engine
- Small purchases do not require cost or price analysis
- Certain agencies may have more restrictive requirements

General Procurement Standards 200.318(c)(1) & (2)

Requirement for a written policy

- Must have Code of Conduct to manage conflicts of interest.
 - Avoid appearance of family, financial or other interest in vendor
 - Anti-kickback policy
 - No gratuities to federal officials
- Manage organization conflict of interest such as with affiliates, parent company

General Procurement Standards 200.318

General Requirements:

- Avoid purchasing unnecessary items .318(d)
- Initiate process w/ purchase request/P.O. (best practice)
- If necessary, perform lease vs. buy analysis to ascertain the lowest cost method .318(d)
- Stipulate the type of procurement: FP, T&M .318(i)
- Ensure vendors aren't on excluded parties list: 200.205 – Agency Review Risk Posed by Applicants
- Contracts awarded based on contractor integrity, record of past performance, and financial & technical capability .318(h)

Procurement Standards 200.319

Full & Open Competition – Without Restrictive Practices:

- Unreasonable requirements to qualify to do business
- Unnecessary experience and excessive bonding
- Noncompetitive pricing practices between firms/affiliates
- Noncompetitive awards to consultants on retainer
- Specify only brand names instead of allowing an “equal” product offered
- Avoid the use of geographic preference laws
- RFP publicized and solicited from an adequate number of qualified sources
 - How does one determine an “adequate” number?
 - If large university ,state government, hospital network they should have a bidder’s list
 - Nonprofits struggle and should document how they inform the public
 - Post on their website
 - Put in local newspaper
 - Send out to possible bidders – suppliers of interest
 - Work with a collaborative manager of a consortium, a larger entity to post bids



Procurement Standards 200.320(f)

Procurement by non-competitive proposals:

- No minimum threshold, consider making it \$10,000 or specified amount in written policy
- The item is available only from a single source
- Public emergency will be delayed by competition
- Awarding agency authorizes noncompetitive proposals
- After solicitation of a number of sources, competition is determined inadequate
- More than one source submitting an offer is competition per 200.320(d), else sole source

Procurement Standards 200.323

Contract Cost & Price Analysis:

- Cost & price analysis performed with every procurement action > \$250,000 including contract modifications
- NFE negotiate profit as a separate element of the price for each contract w/no competition and all cases where cost analysis is performed
 - A fair and reasonable profit should be based on:
 - Complexity of the work to be performed
 - Risk borne by contractor
 - Contractor's investment
 - The amount of subcontracting
 - The quality of its record of past performance
 - Industry profit rates in the surrounding geographical area for similar work

Procurement FAQ.320-5

Indirect Procurements

- Since they are not a direct cost procurement, they do not follow the procurement standards
- Uniform guidance procurement rules do not apply to acquisitions in the indirect cost areas
- Uniform guidance procurement rules only apply to the acquisition of goods and services that are directly charged to a Federal award.

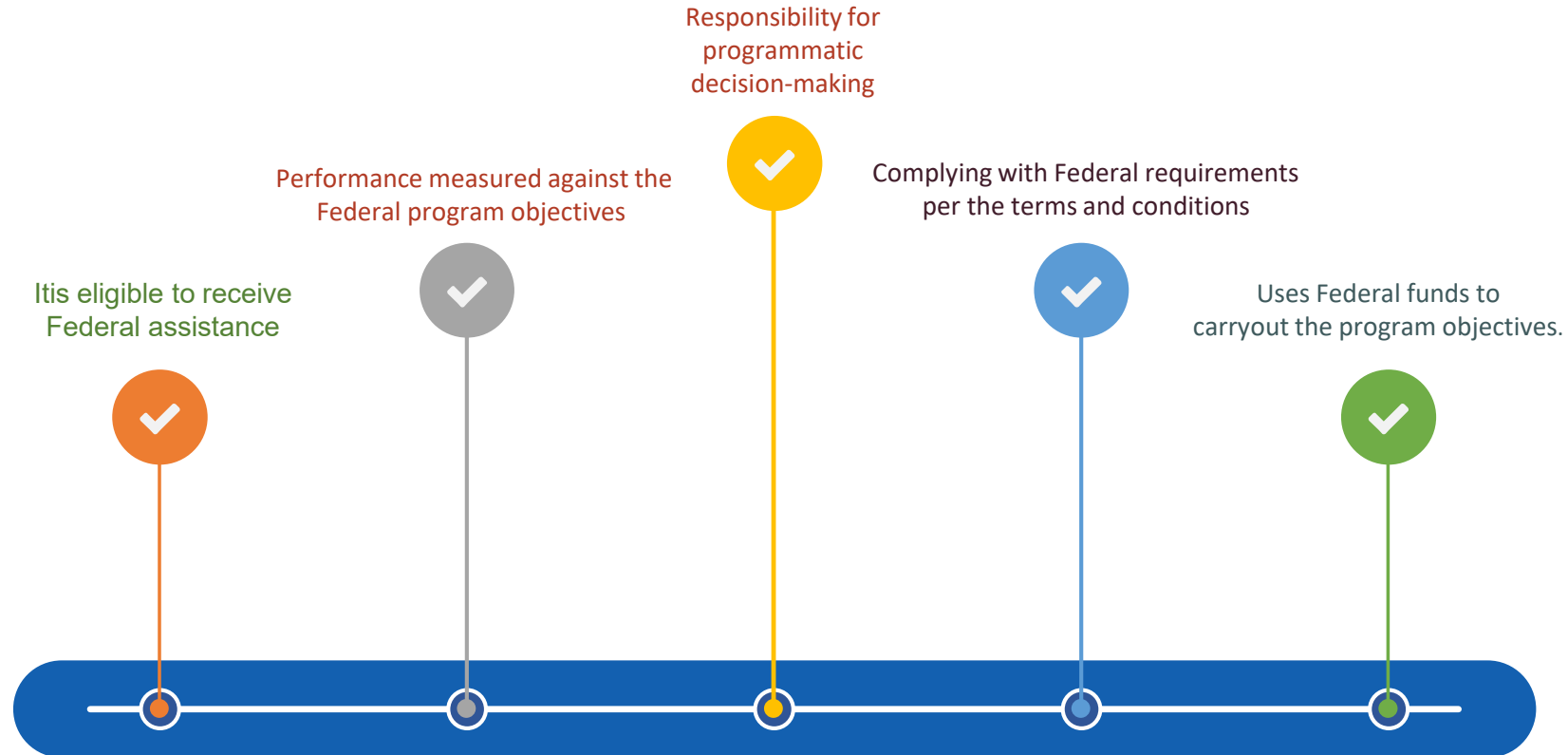
Components of a Compliant Procurement Policy



Definition of a Sub-Award

Sub-Award

Carrying Out a Portion of Program

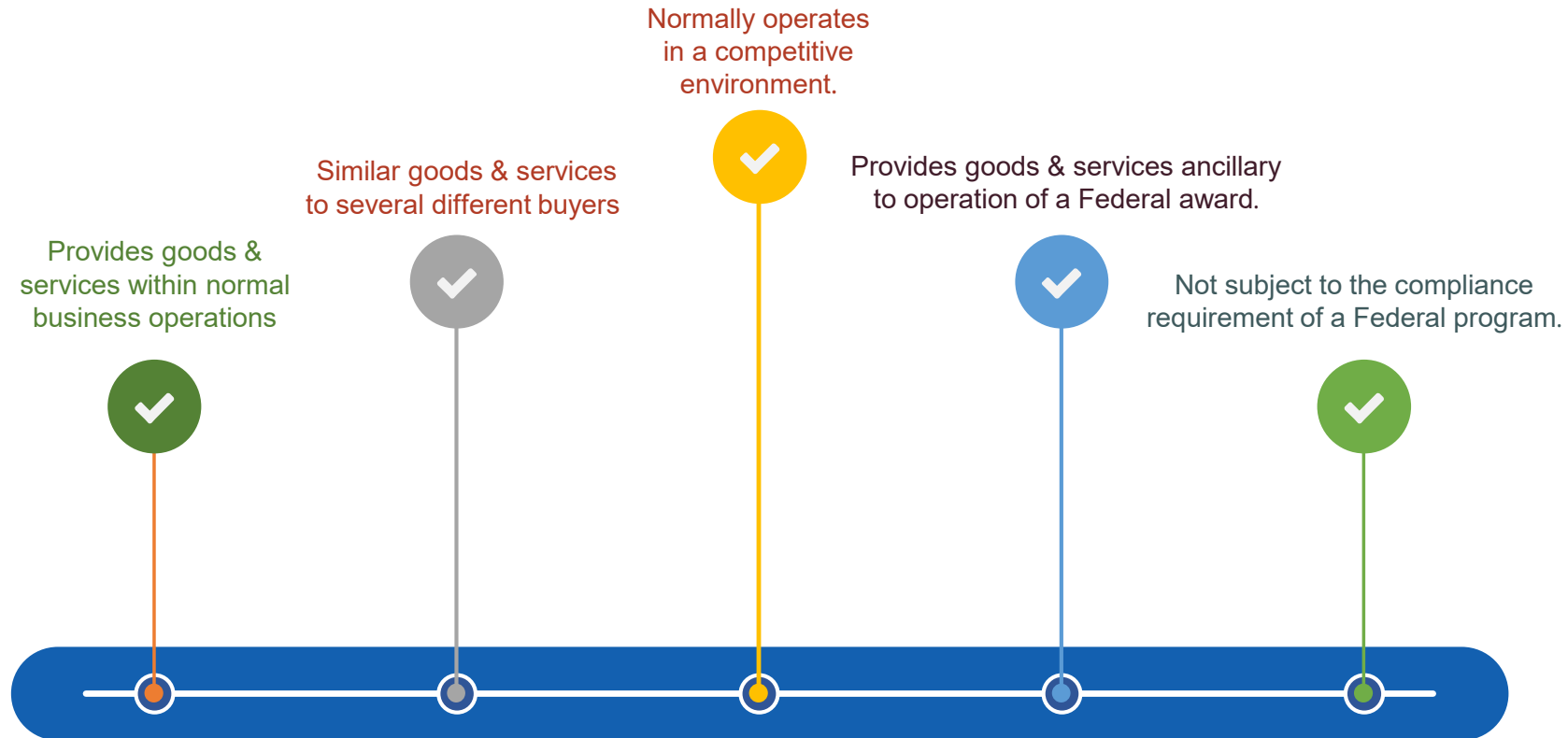


Per the Uniform Guidance 2 CFR 200.330(a). A sub-recipient award is for the purpose of carrying out a portion of a Federal award and creates Federal assistance relationship with the sub-recipient.

Definition of a Contract

Contract

Procurement of Goods & Services

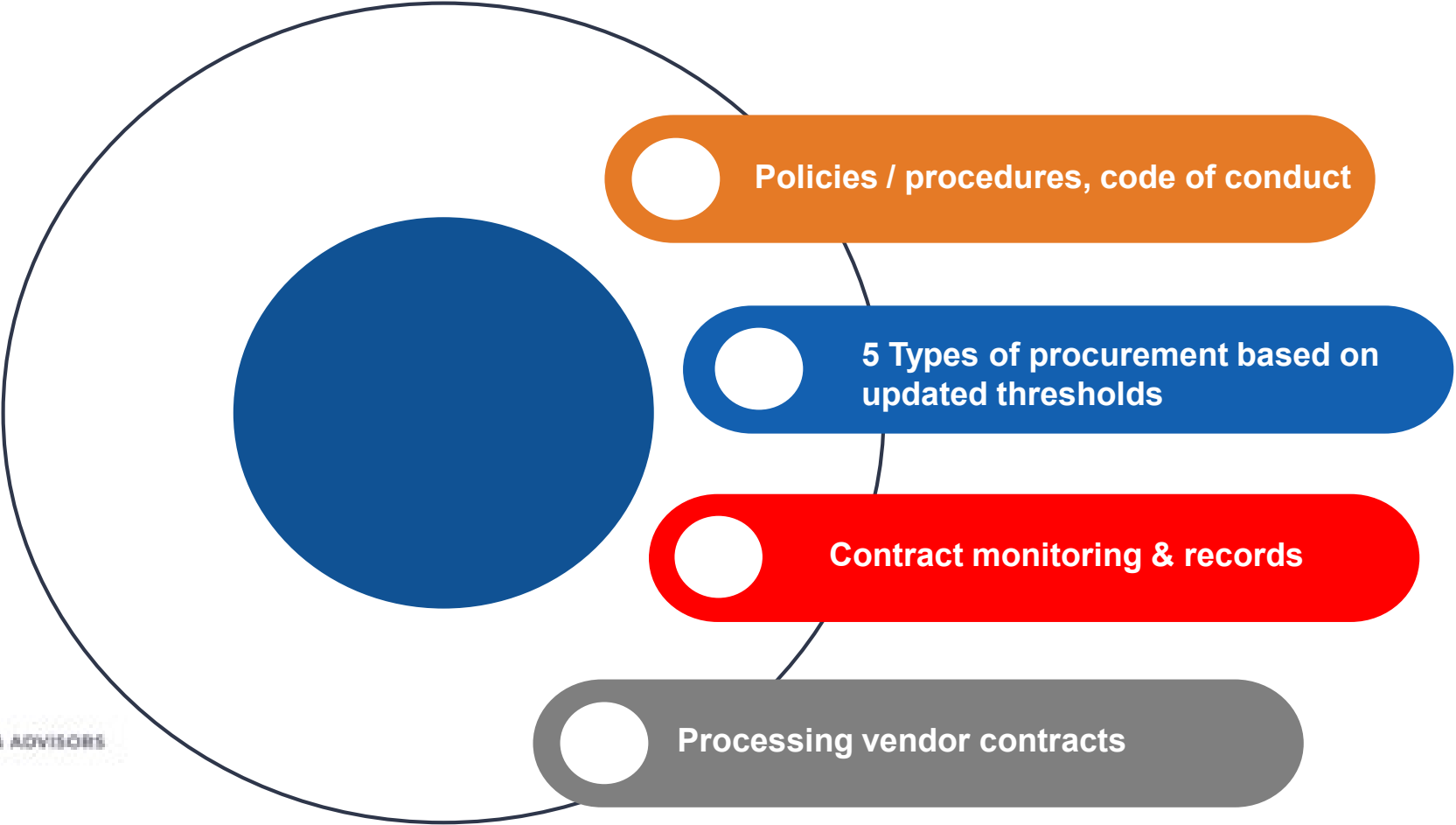


Per the Uniform Guidance 2 CFR 200.330(b). A contract is for the purpose of obtaining goods and services for an organization's own needs and creates a procurement relationship with the contractor.

A Functioning Procurement Policy

A Procurement Policy Should Address

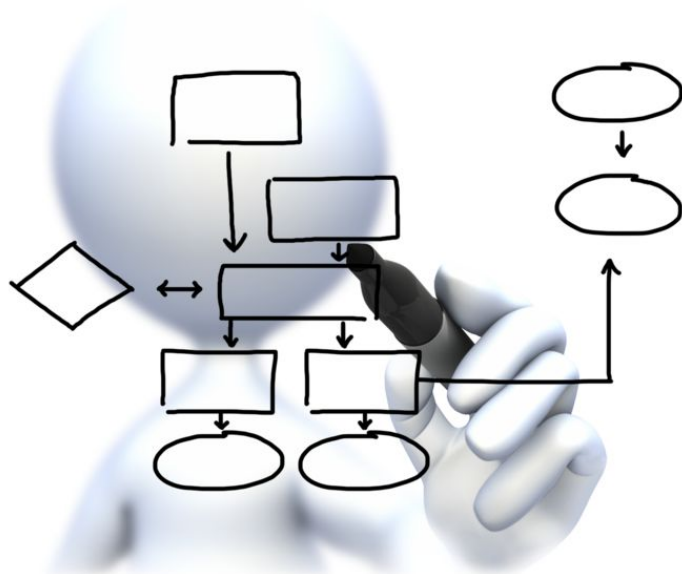
2 CFR 200.317 through 326



Procurement System Controls & Organization

Procurement System Should Include:

Best Practices for Procurement Controls/



1

Organization

Is there a formal staff position devoted to procurement, like a fiscal or business manager?



2

Lines of Authority

What are the roles and responsibilities, particularly delegation of authority for different procurement thresholds.



3

Internal Controls

Are there documented procedures for acquisitions at the various thresholds and contract monitoring?



4

Work Flow

How do you communicate and coordinate the processing and oversight of contracts?



5

Monitoring Methods

Compliance Supplement states: contract monitoring occurs during the pre-award, performance and close-out phases.

Organizational Responsibilities

Technical: PM / PI

- Vendor either approved in initial budget or
- Based on budget, initiate purchase request
- Ensure equipment/materials are per specs.

Finance: Director + Staff

- Review purchase request / PO per org. SOP
- Track direct purchases by vendor by grant
- Prepare monthly accounting reports to PI

Typical Duties

Contract Life-Cycle

Monitoring: Grants Adm/Fiscal Mgr

- Solicit item from vendors via simple or competitive method
- If competitive, develop formal solicitation, adequate bidders
- Set up selection team to review and analyze competitive responses
- Approve the P.O. with supplier or prepare contract for services

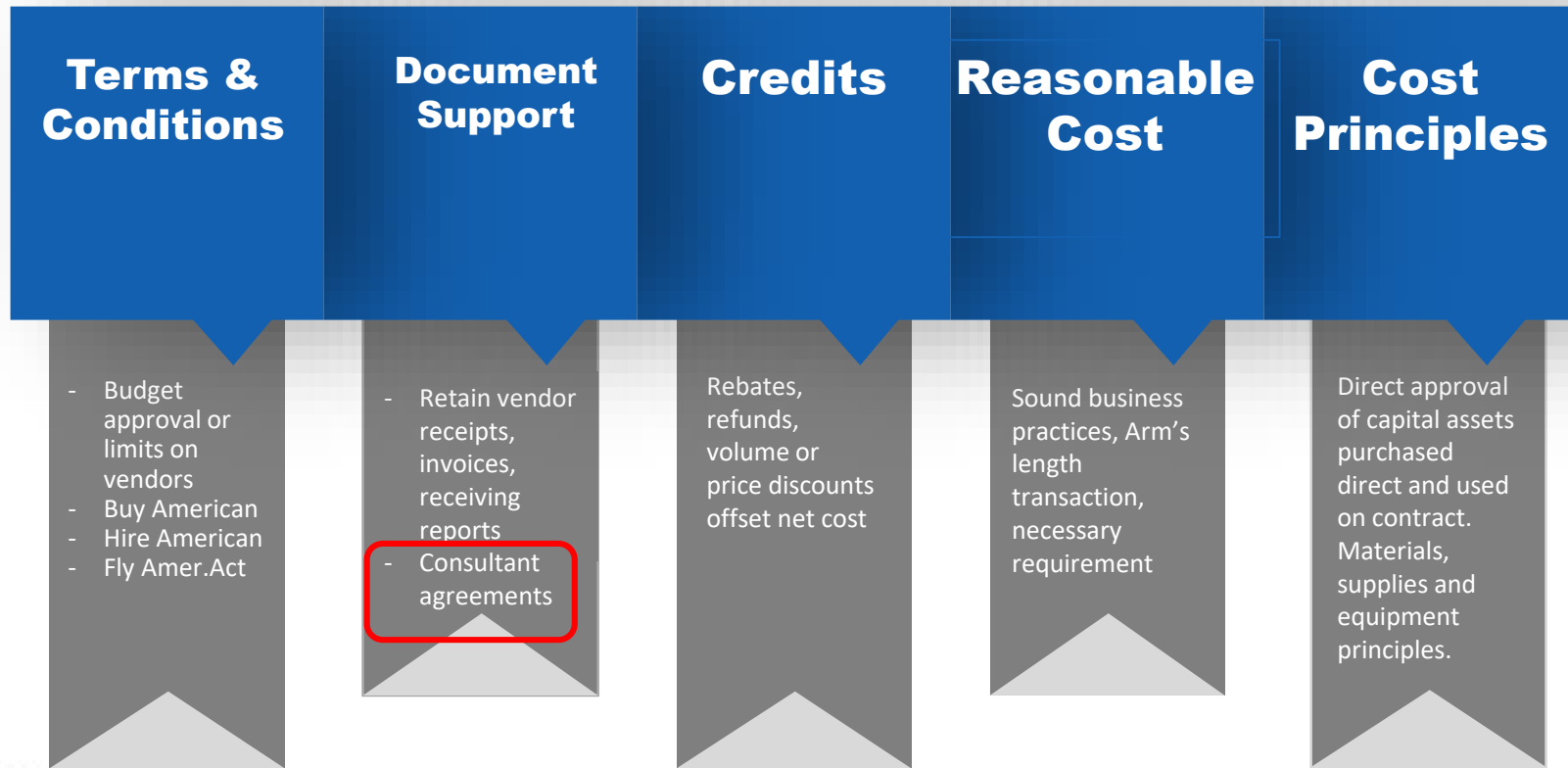
Technical: Program Manager - PI

- Review + approve prepared Purchase Order to vendor/supplier
- Assist with contract monitoring during performance from Technical perspective
- Alert fiscal mgr. that the contract is ready for close-out

Cost Requirements

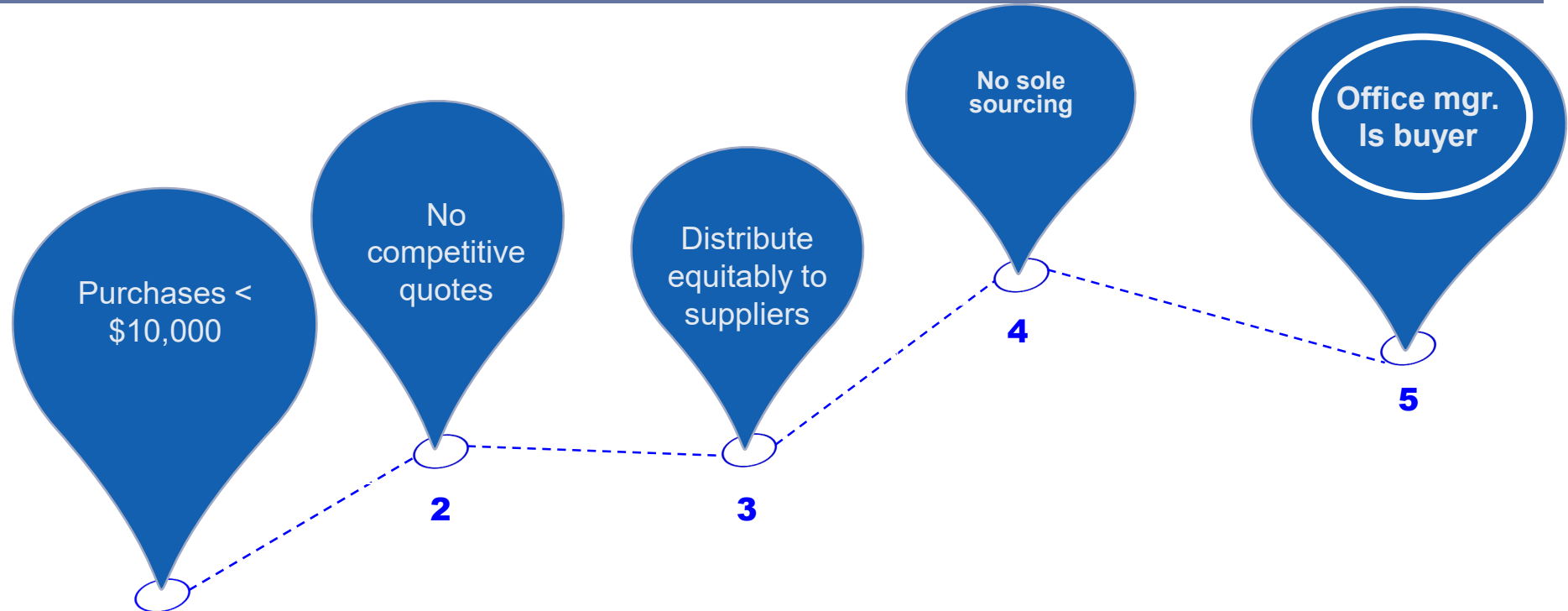
Impact of Cost Allowability

Subpart E (55) Cost Principles



Micro – Purchase Process

Who will control purchases < \$10,000



Usage of the Purchase Request & Purchase Order

Solicitation Process if > \$10,000

Procurement is a 3-dimensional process – multiple concurrent operations

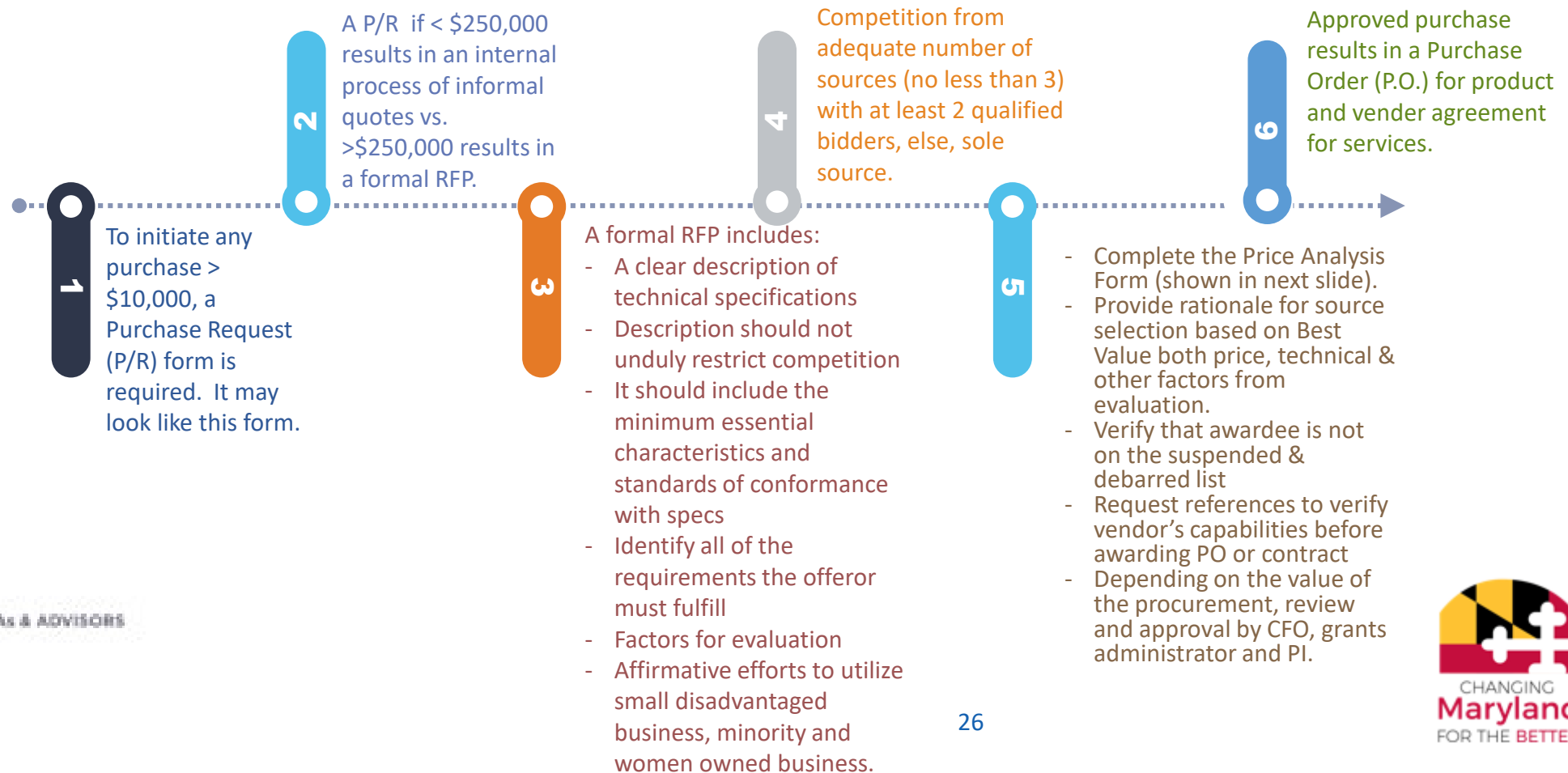


Diagram of Small Purchase Procedures

The Process of Small Purchase Procedures

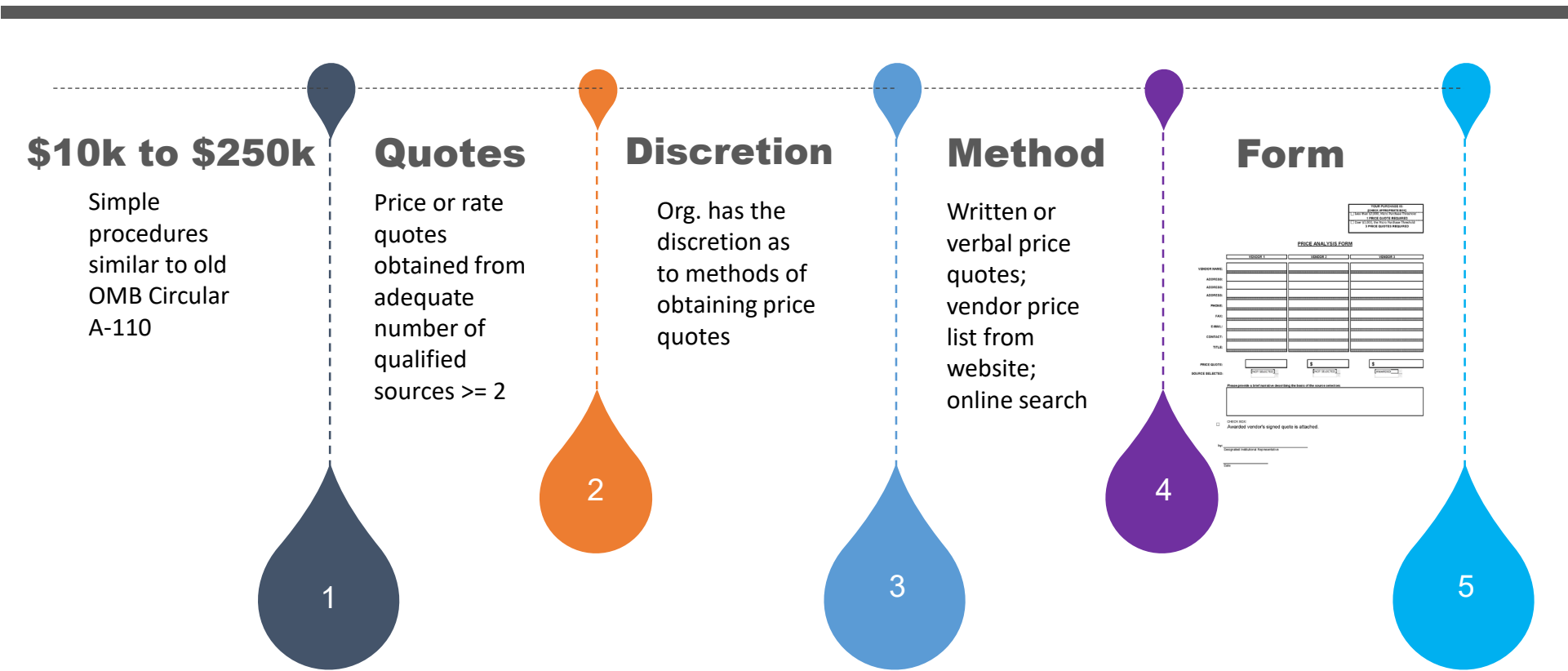


Diagram of Full & Open Competition or Sole Source

Competitive Proposals > \$250,000 SAT

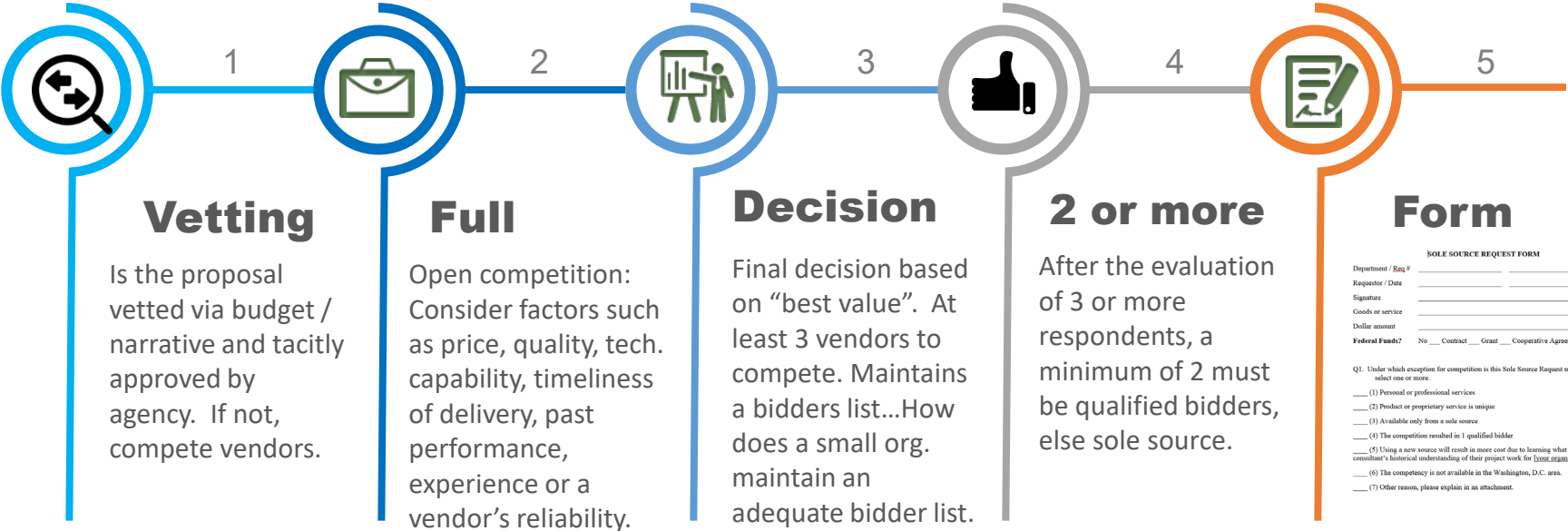


Diagram of Non-Competitive Proposals

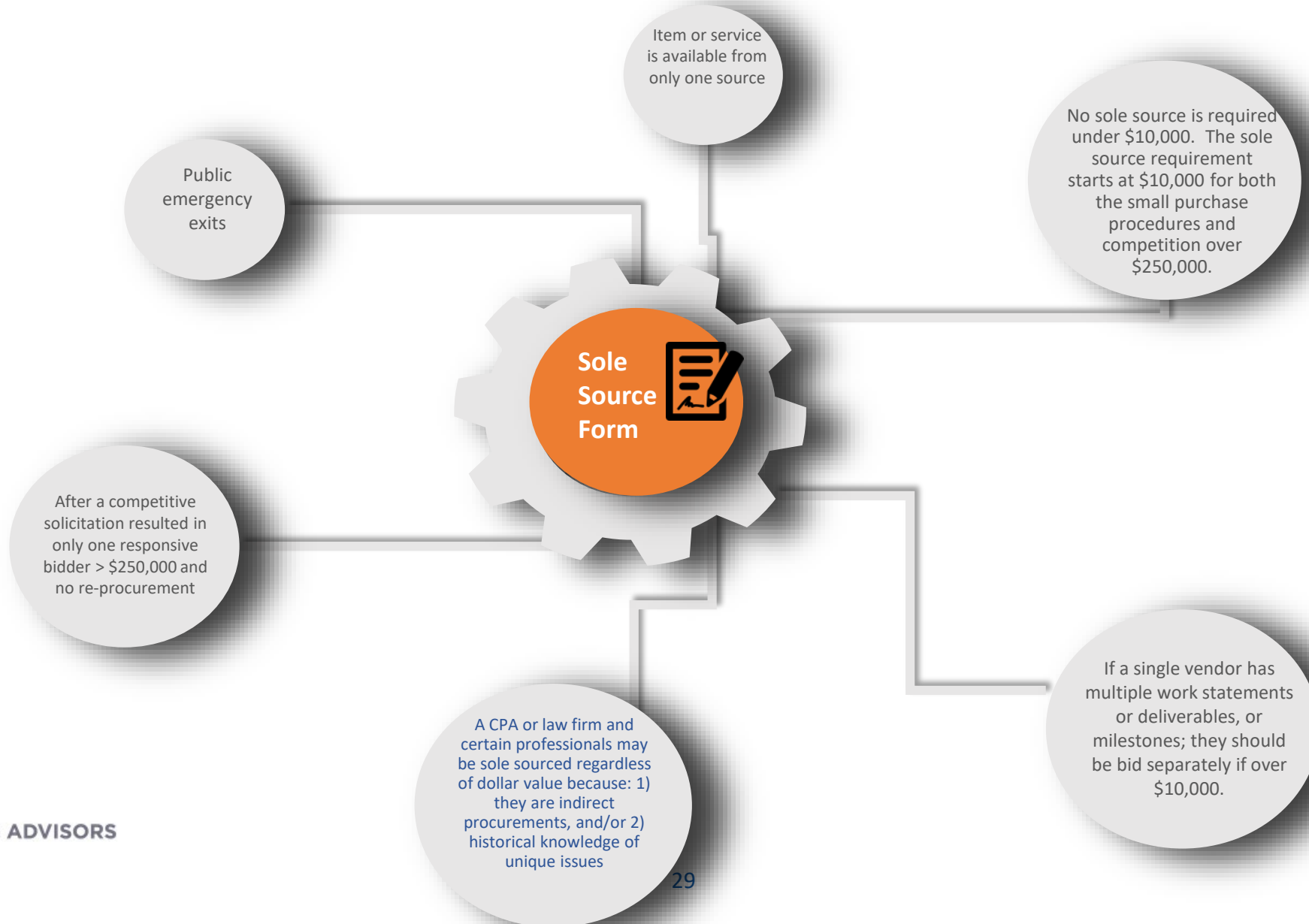


Diagram of Sealed Bid Procurements



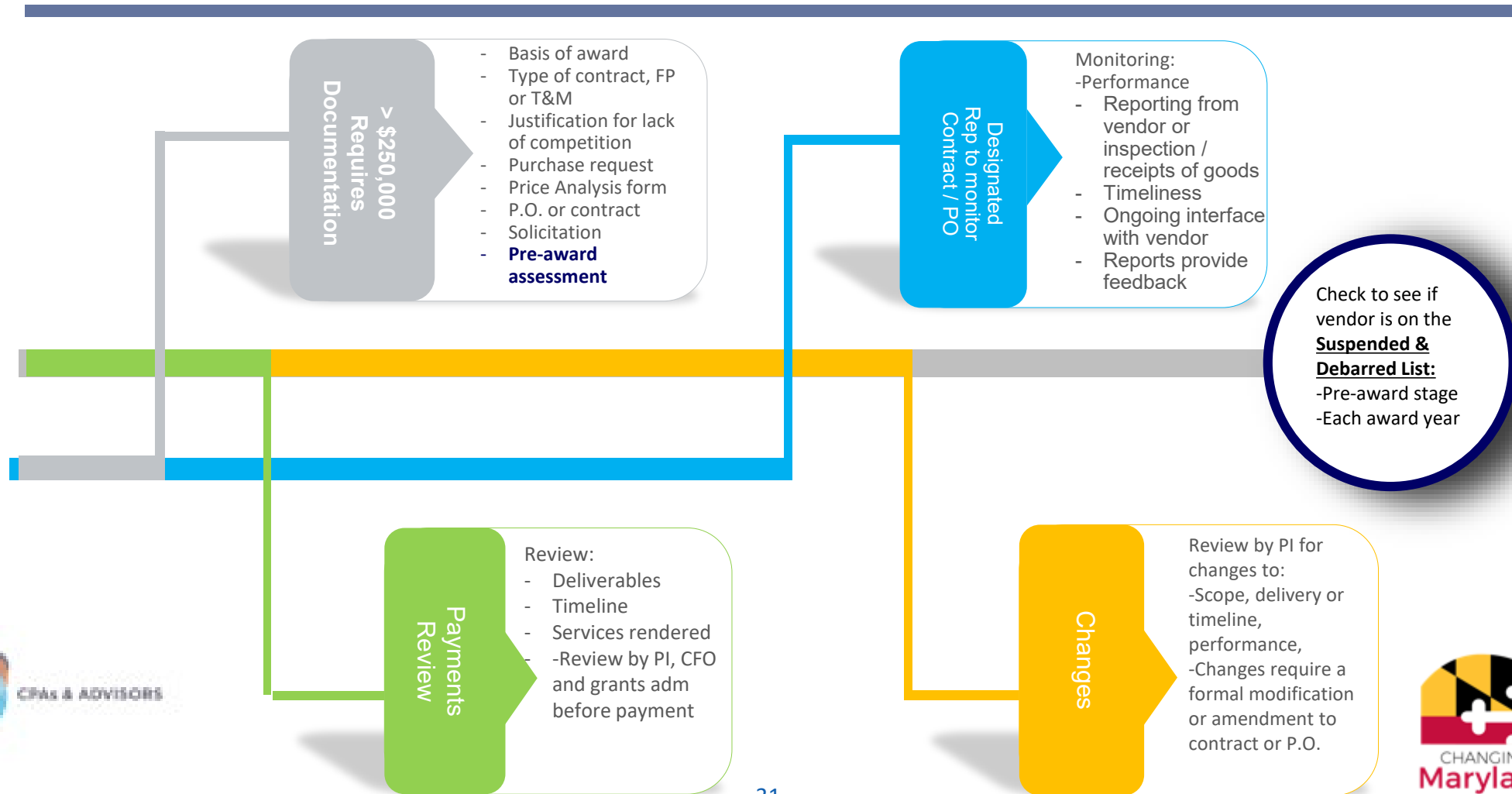
Fixed price > \$250,000. Publicly solicited on fixed price, lump sum, competitive basis.

First determine that the responsive bid is technically acceptable. Award to lowest price bidder.

Solicitation requires a complete specification or purchase description. Minimum level of competition is 2 responsive bidders.

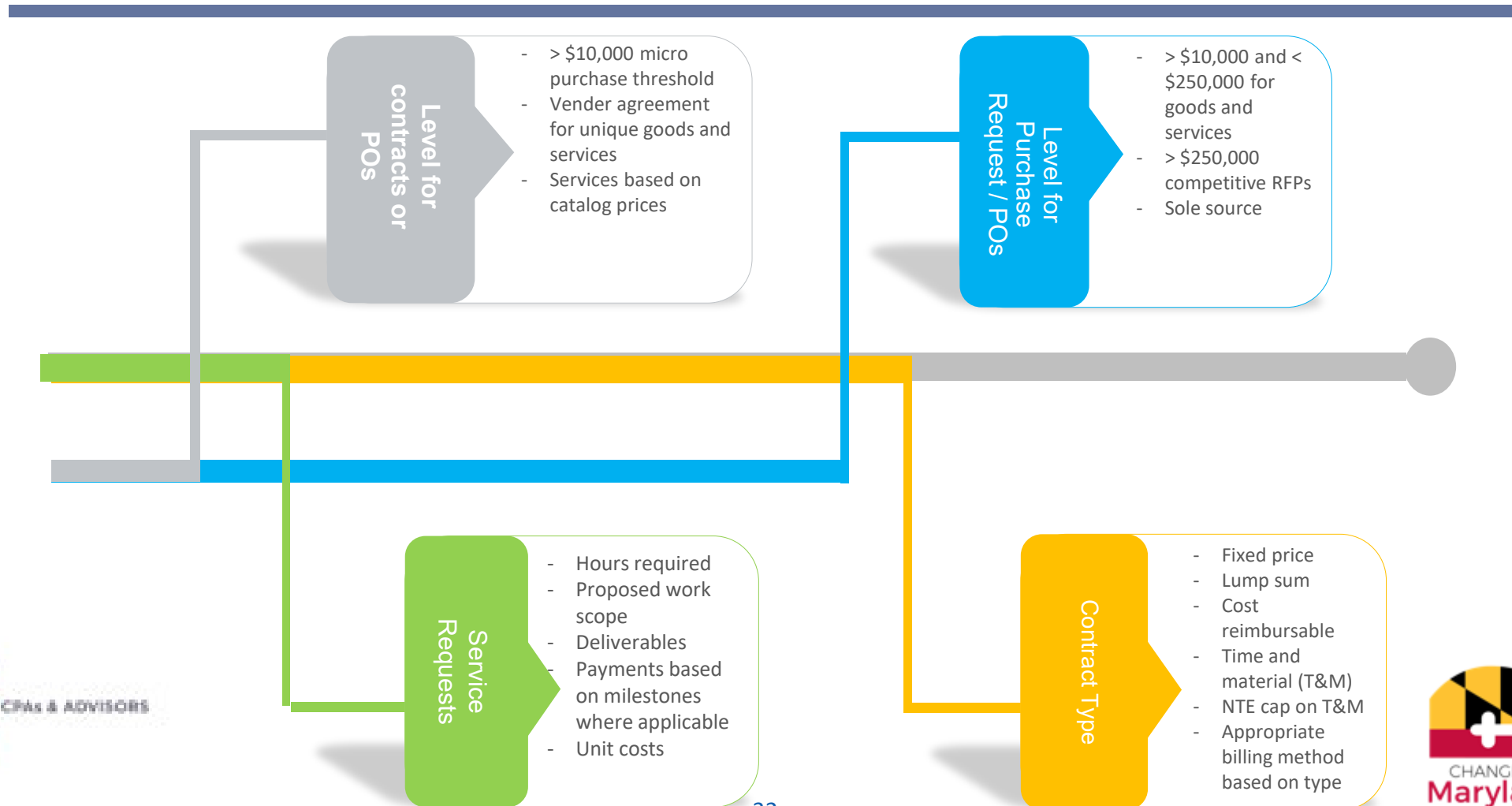
Requirements Diagram for Larger Procurements

Records and Contract Monitoring



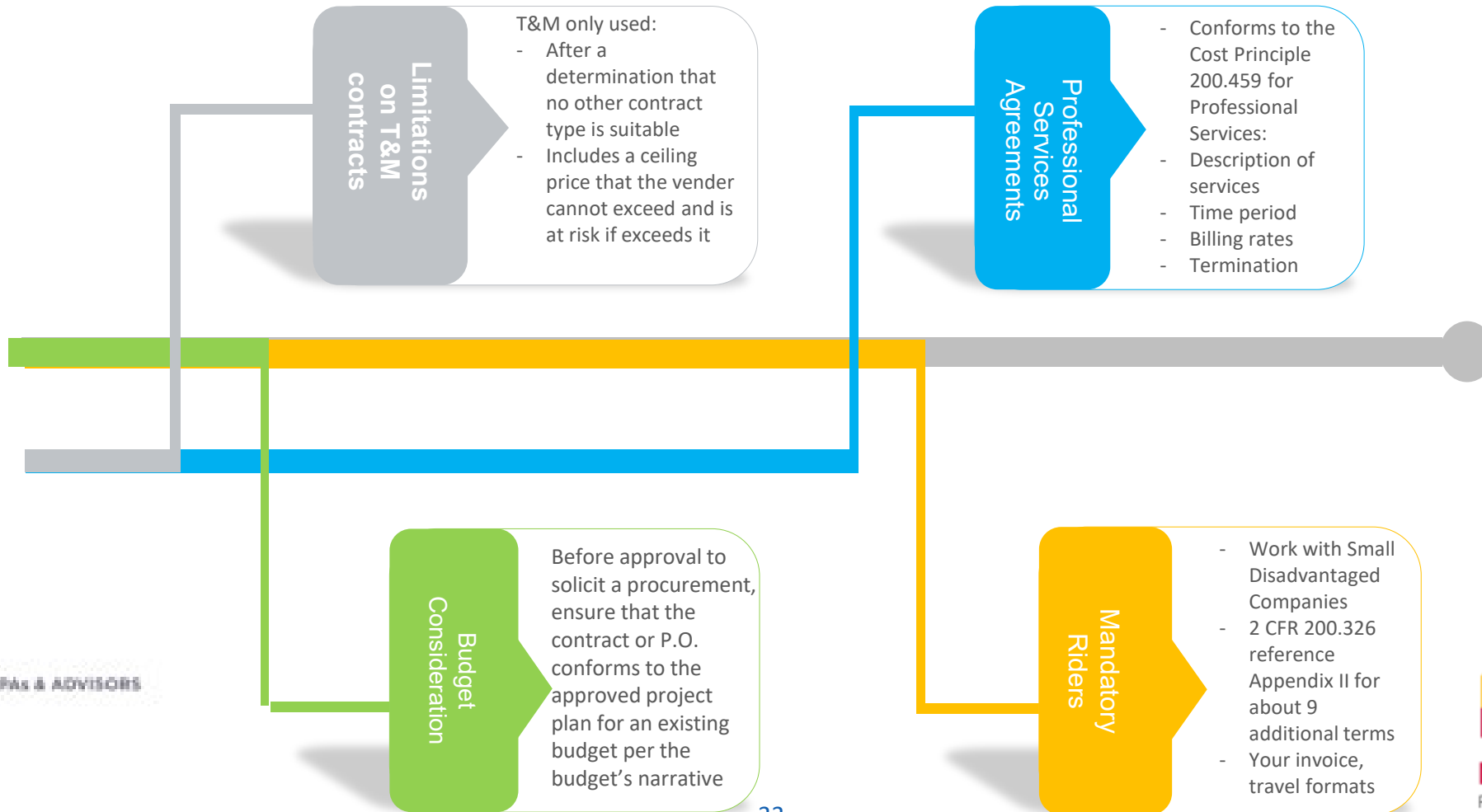
Processing Contract Agreements Part 1 of 2

Contract Levels, Service Requests, Contract Types



Processing Contract Agreements Part 2 of 2

T&M, Budgets, Consultants, Mandatory Clauses



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