



PUBLIC CONTRACTING OVERSIGHT DIVISION: FEDERAL FUNDING TIPS FOR LOCAL ENTITIES

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OSC recommends that you confer with legal counsel as necessary.

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TODAY'S AGENDA

- Office of the State Comptroller
- PCO Division
- Federal Funding: Overview
- Uniform Guidance
- Federal Funding: General Tips
- Procurement in New Jersey
- Conclusion: Top Five Procurement Takeaways
- Questions!



OFFICE OF THE STATE COMPTROLLER: REMINDERS



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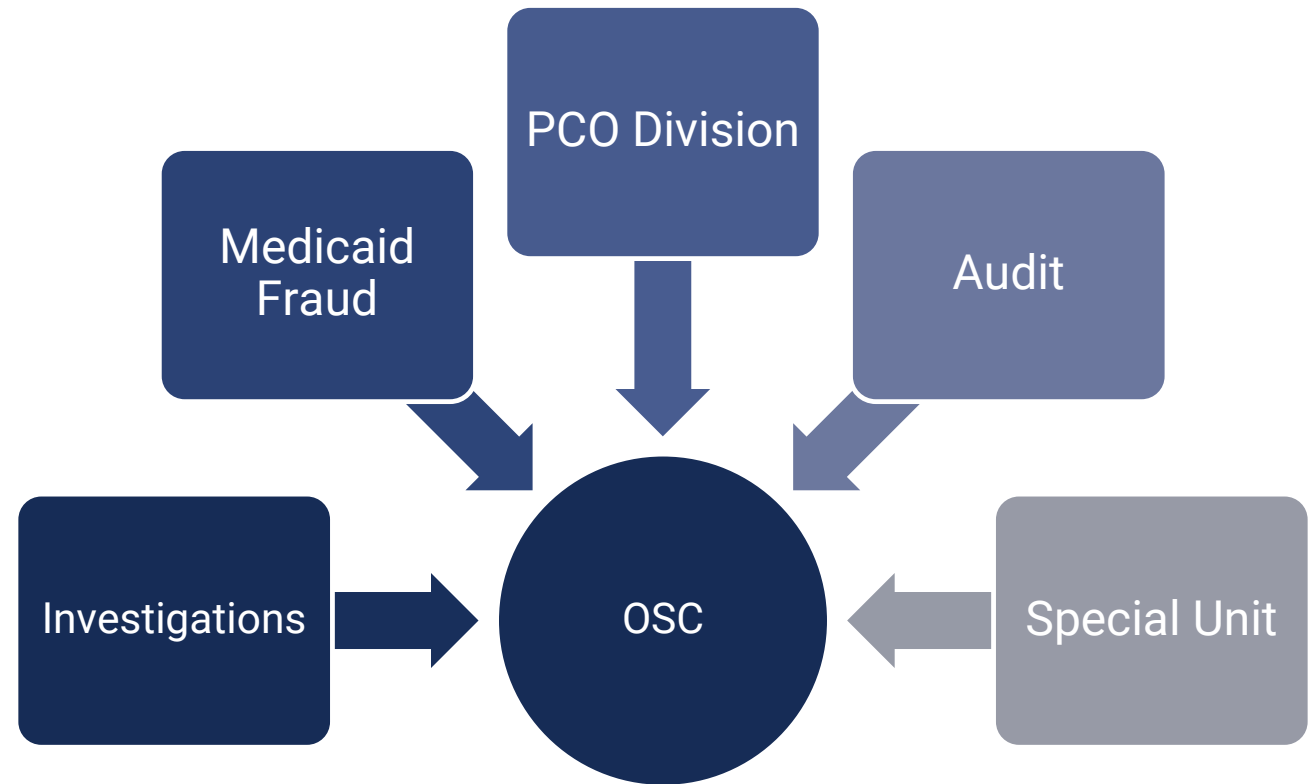
OFFICE OF THE STATE COMPTROLLER: ORGANIZATION AND HISTORY

Created in 2007 as an independent agency of the executive branch, reporting directly to the Governor

Oversees, monitors, and audits state agencies, independent state authorities, state colleges and universities, local governments, and boards of education

Reviews, monitors, and offers guidance on public contracting for over 1900 government entities

Provides technical assistance and training regarding best practices for financial management, internal controls, and preventing misuse of public funds



PCO DIVISION: NEW REGULATIONS

N.J.A.C. 19:70-1.1 et seq. → New citation!

- N.J.A.C. 19:70-1.6 → Record retention language
- N.J.A.C. 19:70-3.1 through 3.11 → PCO's section
 - Biggest rule clarification sections
- Please review the new public contracting oversight division regulations before procuring anything subject to OSC's review!



PCO DIVISION: NEW THRESHOLDS

NOTICE
OFFICE OF THE STATE COMPTROLLER
ADJUSTMENT TO CONTRACT REVIEW THRESHOLDS

Take notice that, pursuant to N.J.S.A. 52:15C-10(d), the Office of the State Comptroller, after consultation with the Department of the Treasury, has exercised statutory authority to adjust the threshold amounts set forth in N.J.S.A 52:15C-10 (a) and (b).

Accordingly, **as of July 1, 2025**, all “contracting units” as defined pursuant to N.J.S.A. 52:15C-10(a) shall notify the Office of the State Comptroller of contracts that meet or exceed the below thresholds as follows:

Post-award review threshold!



(1) For contracts involving consideration or an expenditure of **more than \$3,000,000, but less than \$15,200,000, no later than 20 business days after the contract award;**

Pre-award review threshold!



(2) For contracts involving consideration or an expenditure of **\$15,200,000 or more, at the earliest time practicable as the contracting unit commences the procurement process, but no later than the time the contracting unit commences preparation of: any bid specification or request for proposal; concession offering; proposal to purchase, sell, or lease real estate; or other related activities and contracts, but not less than 30 days prior to public advertisement or other public or private solicitation; and**

Emergency procurements!



(3) For contracts issued pursuant to an emergency or public exigency involving consideration or an expenditure of more than \$3,000,000, no later than 30 business days after the award of a contract.

PCO DIVISION: SUBMISSION REQUIREMENTS, RESOURCES, AND FORMS

OSC Homepage: <https://nj.gov/comptroller/>

Pre-advertisement Notification for contracts valued at
\$15.2 million or more (Forms B1 and B2)
Form B1: Due At least 30 days before advertisement
Form B2: Due Within 20 days after award

Pre-Advertisement Notification (Form B1)

<https://nj.gov/comptroller/about/work/contracting/contracts.shtml>

Post-Award Notification (Form B2)

<https://nj.gov/comptroller/about/work/contracting/contracts.shtml>

Post-award Notification for contracts valued at **\$3 million** or
more but less than **\$15.2 million** (Form A)
Due Within 20 business days after award

<https://nj.gov/comptroller/about/work/contracting/contracts.shtml>

Post-award Notification for emergency contracts valued at
\$3 million or more (Form D)
Due: Within 30 business days of award

<https://nj.gov/comptroller/about/work/contracting/contracts.shtml>

FEDERAL FUNDING OVERVIEW: COMMON SOURCES OF FEDERAL FUNDING



American Rescue Plan Act/Local
Fiscal Recovery Funds



FEMA – disaster recovery



CDBG – Community
Development Block Grant



Federal Highway Administration
through NJ DOT



Environmental Protection Agency
through I-Bank



FEDERAL FUNDING OVERVIEW: APPLICABLE GUIDANCE



Uniform Guidance 2 CFR
Part 200



Local Finance Notices
2021-11, 2021-13, 2021-21,
2022-07, 2022-08



Email:
SLFRP@treasury.gov



UNIFORM GUIDANCE: OVERVIEW

What is the Uniform Guidance?

- Full title: Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards
- 2 CFR Part 200 released in 2013 to consolidate and streamline Federal policies governing contract award and administration for all executive agencies
- Revised and updated every 5 years
- April 2024 – OMB published “the 2024 Update”
 - Effective October 1, 2024
 - Substantial revision to use “plain language”

UNIFORM GUIDANCE: PROCUREMENT-SPECIFIC TIPS



Procurements with federal funding

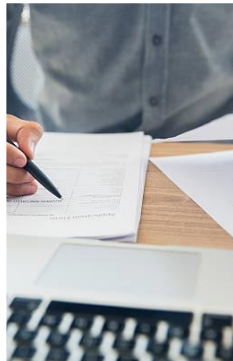
- Must comply with **2 CFR 200.318-200.327**
- And the Local Public Contracts Law
- Most restrictive rule



Comply with terms and conditions of funding source guidance and agreement



Use the appropriate procurement method subject to the “most restrictive rule”



Carefully review bid documents to ensure all Federally required contract provisions have been included - 2 CFR Part 200, Appendix II

UNIFORM GUIDANCE: GENERAL PROCUREMENT STANDARDS SECTION 318

2 CFR Part 200.318

- (a) → Documented procurement procedures
- (b) → Oversight of contractors
- (c) → Conflicts of interest
- (d), (e), (f), (g) → Provisions re: economy and efficiency
- (h) → Responsible contractors
- (i) → Procurement records
- (j) → Time-and-materials type contracts
- (k) → Settlement of contractual and administrative issues
- (l) → Examples of labor and employment practices



UNIFORM GUIDANCE: TAKEAWAYS PROCUREMENT STANDARDS SECTION 318

2 CFR Part 200.318 – Generally-Applicable Takeaways!

summary

- Document your procurement procedures – follow the most restrictive rule!
- Have concrete contractor oversight procedures in place
- Avoid conflicts of interest – maintain written standards; remember the broad language
- Strive for economy and efficiency
- ONLY award contracts to responsible contractors (see 2 CFR 200.318(h))
- Maintain procurement records for 3 years (but remember N.J.A.C. 19:70-1.6 too – 5 years!)

UNIFORM GUIDANCE: COMPETITION SECTION 319

2 CFR Part 200.319

- “All procurement transactions under the Federal award must be conducted in a manner that provides full and open competition and is consistent with the standards of this section and § 200.320.”
- How does one ensure full and open competition?
- What are some examples of situations that may restrict competition?

UNIFORM GUIDANCE: METHODS OF PROCUREMENT SECTION 320

2 CFR Part 200.320

- **Informal procurement methods** (when the value of the procurement transaction under the Federal award does not exceed the simplified acquisition threshold of \$250,000)
 - Micro-purchases and simplified acquisitions
- **Formal procurement methods** (when the value of the procurement transaction under a Federal award exceeds the simplified acquisition threshold of \$250,000)
 - 1) Sealed bids; and
 - 2) Proposals
- **Noncompetitive procurement**
 - Only to be used in specific circumstances

UNIFORM GUIDANCE: ADDITIONAL PROCUREMENT REQUIREMENTS

- 2 CFR Part 200.321 → Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms.
- 2 CFR Part 200.322 → Domestic preferences for procurements
- 2 CFR Part 200.323 → Procurement of recovered materials
- 2 CFR Part 200.324 → Contract cost and price
- 2 CFR Part 200.325 → Federal agency or pass-through entity review
- 2 CFR Part 200.326 → Bonding requirements (bid guarantee = 5% of the bid price; performance bond = 100% of the contract price; and payment bond = 100% of the contract price)
- 2 CFR Part 200.327 → Contract provisions (Appendix II)

UNIFORM GUIDANCE: OVERVIEW OF 2024 PROCUREMENT UPDATES 1

Procurement updates to Uniform Guidance:

- Removal of prohibition on geographic preferences in bid evaluation
- “Small purchase” procedures renamed to “simplified acquisition” (2 CFR 200.320 – Procurement Methods)
- New criteria for determining “responsible” contractors (2 CFR 200.318(h))
- Must consider SBEs, MBEs, WBEs, Labor surplus area firms and **veteran owned businesses** (“Affirmative steps” changed to “consider”)

UNIFORM GUIDANCE: OVERVIEW OF 2024 PROCUREMENT UPDATES 2

Procurement updates to Uniform Guidance:

- “Procurement of recovered materials” requirement revised
- Update to the cost and price analysis
- Clarifies that second tier-subrecipients and contractors do not need a Unique Entity Identifier (UEI)
- New Whistleblower protections
- Three year record retention period starts upon submission of final report

FEDERAL FUNDING: GENERAL TIPS FOR FEDERALLY-FUNDED PROCUREMENTS

- Know where your federal funds are coming from and what limitations / requirements the funding source or funding agreement place on the funds
- Include the federal provisions (2 CFR Part 200 Appendix II)
- Be aware that UG is revised every 5 years (next expected in 2029)
- Know that federal executive orders could impact funds – stay aware of any new ones
- Funds must generally be allocated or expended by a certain deadline – see the funding agreement
- Don't forget about state law requirements and the most restrictive rule!



PROCUREMENT IN NEW JERSEY: STATE LAW REQUIREMENTS (ALL)



Please note: this list may not be exhaustive and is not intended as legal advice.

- OSC Record Retention Language – N.J.A.C. 19:70-1.6
- Ownership Disclosure Statement – N.J.S.A.52:25-24.2
- Business Registration Certificate – N.J.S.A.52:32-44
- Brand Names Require “Or Equal” – N.J.S.A. 40A:11-13; N.J.A.C. 5:34-9.2
- Disclosure of Investment Activities in Iran – N.J.S.A. 52:32-55 *et seq.*; N.J.S.A. 40A:11-2.1 (*but see LFN 2023-11*)
- Certification re Prohibited Activities in Russia or Belarus – N.J.S.A. 52:32-60.1 (*but see LFN 2023-11*)
- Duration of Contracts – N.J.S.A. 40A:11-15
- *Annual Political Contribution Disclosure – N.J.S.A. 19:44A-20.27*
- Acknowledgement of Addenda – N.J.S.A. 40A:11- 23.1; 40A:11-23(c)(1) or (c)(2)
- Bidder's checklist – N.J.S.A. 40A:11-23.1(b)
- Prompt Payment Act – N.J.S.A. 2A:30A- 1 *et seq.*
- Mandatory Anti-Discrimination Language – N.J.S.A. 10:2-1
- WALL (Workplace Accountability in Labor List) – P.L. 2019, c.366

PROCUREMENT IN NEW JERSEY: STATE LAW REQUIREMENTS (CONSTRUCTION)



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- Affirmative Action and Equal Employment Opportunity;
 - “Exhibit B” – Construction (N.J.S.A. 10:5-31; NJAC 17:27-3.8)
- Federal Debarment Certification – N.J.S.A.52:32-44.1
- *Public Works Contractor Registration Act – N.J.S.A. 34:11-56.48 et seq.*
- N.J. Prevailing Wage Act – N.J.S.A. 34:11-56.25 *et seq.*
- Buy American – N.J.S.A. 40A:11-18
- Bid Guarantee – N.J.S.A. 40A:11-21 (LPCL says 10% but not more than \$20,000; if superseded by UG - use 5%)
- Consent of Surety – N.J.S.A. 40A:11-22
- Named Subcontractors in Bid for Listed Specialty Trades – N.J.S.A. 40A:11-16
- NJ Wage Hub – P.L. 2023, c. 138
- Prompt Payment Act N.J.S.A. 2A:30A-1 *et seq.*

PROCUREMENT IN NEW JERSEY: STATE LAW REQUIREMENTS (GOODS AND SERVICES)



- Prompt Payment Act – N.J.S.A. 40A:11-19.1
- Affirmative Action and Equal Employment Opportunity
 - “Exhibit A” – goods and services (N.J.S.A. 10:5-31; N.J.A.C. 17:27-3.7)

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may not be
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PROCUREMENT IN NEW JERSEY: STATE LAW REQUIREMENTS (SPECIAL PROHIBITIONS UNDER THE LPCL)



- Bids With Bid Guarantees Cannot Also Require Financial Statements (N.J.S.A. 40A:11-13)
- Site Visits / Pre-Bid Meetings Cannot Be Mandatory
- Rejection of Bids Must Be Per N.J.S.A. 40A:11-13.2
- Withdrawal of Bids is Allowable Per N.J.S.A. 40A:11-23.3

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CONCLUSION:

TOP FIVE PROCUREMENT TAKEAWAYS

Identify all your
funding sources

Prepare a
WRITTEN cost
estimate

Prepare a
timeline and
plan for your
procurements

If estimated
cost is over
\$15.2 Million -
plan for OSC
30-day review
prior to
advertising your
bid

Incorporate the
Federal
contract
provisions in
your bid
template.



QUESTIONS?



REPORTING FRAUD, WASTE, AND ABUSE

If you have any information about the fraud, waste, or abuse contact the New Jersey Office of the State Comptroller through:

- Online complaint form found at www.nj.gov/comptroller
- By email at ComptrollerTips@osc.nj.gov
- By calling the toll-free hotline, 1-855-OSC-TIPS



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