



## Final Transcript

### **HUD DEPT. OF HOUSING & URBAN DEV.: Overview of Procurement Policies & Procedures**

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#### **SPEAKERS**

Robin Booth

#### **PRESENTATION**

Moderator           Ladies and gentlemen, thank you for standing by. Welcome to the Overview of Procurement Policies & Procedures. At this time all participants are in a listen-only mode. [Operator instructions]. As a reminder, this conference is being recorded.

I would now like to turn the call over to Robin Booth. Please go ahead.

Robin                   Good afternoon and welcome to the Overview of Procurement Policies and Procedures sponsored by the US Department of Housing & Urban Development, Office of Housing Counseling. The call in information and

contact information is displayed. If you haven't logged in yet but you're on the call, please feel free to log in.

This webinar is being recorded. The playback number along with the presentation, handouts and an actual transcript will be available on the HUD exchange. Usually in about two business days that information will be available on the HUD exchange.

During the webinar your lines will be muted. We will not be taking a lot of questions today due to the number of participants, but your lines are automatically muted throughout the call. If you're registered, you should have received handouts prior to the webinar. However, if you didn't register but you're logged in, you should be able to obtain a copy of the presentation in pdf format in your control panel. You should see a pdf file that will allow you to click the document and download. Once again, all of these, the handout, the audio, the transcript, all of these things will be available on HUD exchange.

Within 48 hours, you're going to receive a thank you email. There will be no attachment. The email itself serves as your training certificate, so please make sure you download that and save it and keep it for your

records. There will not be a subsequent attachment or email providing you with an additional certificate.

If you have questions during this presentation there are two ways that you can ask them during the presentation, well, one way during the presentation. In your control panel, you can ask a live question. We do have staff on standby that will be responding to those questions as we proceed through the webinar, so please feel free to write your questions during the presentation and you should receive a response. If, for some reason, we do not know the answer or we need to defer to research, we will take note of your question and ask that you please submit it the second method for submitting questions, which is to send an email to [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov). In the subject line item, if you put Overview Procurement, it really allows HUD to easily distribute and disseminate the question to the appropriate individual. So please put that in the subject line item and at that point we will respond to your question. So if we can't answer a question, we'll let you know in the control panel during the question and please ask that you submit it subsequent to the webinar to that particular email.

It goes without saying that if anyone has a question that they realize after the webinar, you can use that same email address:

[housing.counseling@hud.gov](mailto:housing.counseling@hud.gov) with the appropriate subject line item and you'll be sure to get a response within a timely manner.

Immediately following the webinar, you will get a survey. We really appreciate if you could complete the survey and provide any feedback. Those surveys are used to help determine future trainings and to improve the overall training program, so we please ask you to complete them and to provide any comments you feel are feasible, and we thank you in advance for assisting us in that manner.

On to the presentation. So for some of you who may not have had to really deal with procurement prior to the full implementation of the uniformed guidance that's now very effective, so we no longer really talk about effective dates, the purpose of this entire webinar is to give you some additional information on what the requirements are, some suggestions and best practices for how to implement those requirements, and then those things you need to consider relative to these requirements. My name is Robin Booth. Our firm, Booth Management Consulting, is currently your quality and technical audit contractor. In addition to

providing HUD webinars, we also provide technical assistance, financial and administrative reviews, financial analysis as well as one-on-one training to housing counseling grant recipients at the direction of the Office of Housing Counseling. So later in the presentation we will give you some input on how you can request additional assistance if you need assistance with fully implementing these new procurement requirements and that can be requested through the Office of Housing Counseling and then ultimately to our firm to assist you.

Topics, we're going to go through some definitions, just some key definitions that I think anyone that are managing any federal awards and wanting to understand procurement really need to know. If the applicability doesn't apply to your organization, some of the key UG's, meaning uniform guidance, changes, some of the things that really change and why this has now become more of an emphasis under uniformed guidance and what's required of conflict of interest and conflict of interest statements and your process and those things. Defining a sub recipient versus a contractor. We get those questions a lot and really understanding what is the difference in the relationship and how they should be treated to be in compliance with the requirements.

We're going to give you some best practices on implementation approach, on lessons learned, go over some of the key weaknesses that we've seen with some of the procurement that we reviewed to date. And then, once again, we want to be able to give you some solutions and some resources to help your organization if necessary fully meet this requirement, and that's the available OHC [ph] assistance.

Procurement, this is the purchase of commercially available goods or services in connect with a grant. From a federal award perspective, under uniformed administrative requirements, which most of us know is out of the uniformed guidance, it's also referred to as 2CFR, but this was the guidance that combined or consolidated the former OMB A138 formula circulars into this comprehensive uniformed guidance. And under this new comprehensive streamlined uniformed guidance there's more of an emphasis on procurement. So if you wanted to even read more about it, you can go to Section 2326 to get even further clarity on these definitions.

So, one, we have procurement and that's the purchase of any commercially available goods or services, with emphasis on services. For a lot of you the procurement issue comes into play more with services than

it does on goods, because with services we're talking about consultants, we're talking about contractors, but we're not talking about sub recipients. Recipients are considered sub awards and they're not treated the same as commercially available goods or services. We'll talk about that later on when we get into the definition of sub recipient versus contractor.

Policy, a lot of people get confused about the difference between a policy and a procedure. A policy is a simple statement on how you have to conduct business. I was just advised that the entire presentation isn't moving. I am going to change the look of it, so maybe that makes it easier to see. Okay. Hopefully you all can see it from this. I'm having some technical difficulties. For those of you that have the handout, I'm on page 4 of the presentation. Hopefully you all are seeing it now that I changed the presentation from the slide show to just going through each slide, so hopefully you can see it at this point.

Policy. I was talking about the difference between a policy and a procedure. The policy is actually the statement or requirement on how the agency intends to conduct its services, actions or business. Really, it's the guiding principles. So policies are generally driven by some sort of regulation, some sort of requirement, and pretty much this is the principle

or the guidance that you're adhering to and those are the policies associated with that guidance.

The procedures describe how you're going to implement each policy. So really the procedure itself is an action; the policy is more of a statement. So with each procedure you want to, you know, the who, what, where, when and how – who will do what, what steps they need to take, which form of the document. So policy is a statement; procedures are your actions to comply with that statement. That's important, especially because one of the biggest requirements under the new uniformed guidance is that you have written policies and procedures.

Applicability. Some of the examples under the OHC grant of the types of expenditures that would be subject to the procurement policies and procedures are like your consultants – some of the common ones where you have to really implement your procurement policies and procedures are your consultants, your training, your supplies, your travel, your conferences and equipment. This does not apply to sub awards. Sub awards are not a commercially sold good or service. Sub awards are sub recipients of a federal award, so they're treated differently.

But when you think of procurement and you're like what areas of procurement do I really do under the OHC grant, you look at how do I get consultants. I look at my training, how am I doing my training? My supplies and materials, how am I purchasing that? My travel, my conferences and equipment. So they are the key expenditures or budgetary line items that if you are including them in your OHC funding and you used them to fund these, then you need to adhere to these procurement requirements.

It's still not progressing.

M Robin, if you'd like, I can take over, change the presenter to myself and follow along. I'll just need some guidance as you asking me to advance the slides.

Robin Okay. You can take over?

M Yes, I believe I can.

Robin Okay.

M Can you see where I am?

Robin I sure am. You're right where I was. You can go to the next slide, please.  
Then the next slide, please.

Applicability, I started kind of talking about that, and we apologize for the technical difficulties. In the prior slide I kind of gave examples of the types of expenditures that if you're including them in your budget for your OHC Housing Counseling grants, then they're applicable to the procurement. So if you're only including labor or salaries and wages, then you're not subject, it's not applicable to you because that's not the type, that's not a procurement activity. However, if your budget includes any training, any consultants, any of those other areas, other expenditures, then that is applicable to you.

At this point, there was a phase in period for organizations having to be compliant with these procurement requirements because the government recognized that it would be a process and it would be a somewhat arduous process. So although the uniformed guidance because effective in December 26, 2014, they actually gave agencies two years, and then in May 2017 they extended it to three years after your fiscal yearend to have

this implemented. So at this point, from 2014, so the latest fiscal yearend December 31, 2014 would have been December 31, 2017. So at this point everyone should have been implemented.

How here we're using an example if you have a June 30<sup>th</sup> fiscal yearend, then of course it would have been applicable to you and have to be implemented by June 30, 2017. But as I said, at this point because we're in 2018 and even with that additional year, everyone should have implemented these procurement policies and procedures at this juncture.

You can choose to utilize the extension. And if you did accept a third year extension, which would have been this third year, then at that point you should have documented internally, you don't have to submit it into anyone, but it requests that you should be able to show that the board or whomever your governing body is agreed that they were going to extend, accept or utilize that additional year extension to implement the procurement policies and procedures. All other sections of this particular remain the same as it relates to the implementation.

Once again, this is another very critical point. This applies to purchases of goods and services directly charged to a federal award. So one of the

questions I get is, okay, what if I have the direct costs or what if I'm charging indirect costs to the award? Well, there's only one or two ways that you're charging indirect costs. You're either charging them under some kind of negotiated indirect cost rate agreement or cost plan. And if you're charging it under one of those plans, you're subject to this type of review and scrutiny of your procurement and your negotiations for your indirect cost rate.

Now, if you're using the 10% de minimus rate, because the 10% de minimus rate is based on your modified total direct costs, the procurement applies to those total direct costs that you're including in your award. So no, it's not subject to that indirect cost amount, but indirectly because in order to determine your indirect costs you have to multiply that 10% by your direct costs, your direct costs are subject to these procurement policies and procedures. So it's directly charged to a federal award.

And it's all monies, expenditures received through federal grants directly or through an intermediary. So sub recipients, they're subject to these procurement policies and procedures. So for all you intermediaries or other agencies that have passthrough's, it is your responsibility somewhere in your oversight and monitoring to ensure that they have procurement

policies and procedures. And they have to be documented. That was one of the biggest emphasis under the uniformed guidance. An organization can't just say, oh, we follow uniformed guidance or we follow state requirements. You have to have your own documented procurement policies and procedures that are consistent with these uniformed guidance laws, federal and state laws. So it's not good enough to just say I follow somebody else's. You have to have your own documented policies and procedures. Next slide.

Now we'll go over some of the key UG procurement changes. Some of the general standards, just so you know, supposedly this will ensure that there's a more economical procurement process for necessary items. I always emphasize that whether it's a federal contract or a federal grant that these are taxpayer dollars, so there's a fiduciary responsibility that as a recipient of those taxpayer dollars in the form of a grant that you are using the same level of oversight, of policies and procedures to buy goods and services under your grant that the government would use when it's actually buying services and goods directly from the general commercial. So that's the whole mindset that there has to be the same level of policies and procedures, the same level of adherence, the same level of sensitivity to the fact that you're spending taxpayer dollars, even though those dollars

were given to you in a fiduciary role as a grant recipient. So that is why under the new UG they're making this more of a requirement with that in mind.

So agencies should consider the use of shared services and government agency agreements, and this is probably more so from multi-state organizations or maybe some intermediaries at larger organizations that they have different cost centers or maybe different grant funding sources and you can share services. Or if it's multistate organizations, a lot of you do that, you share the services of the state organizations, so it promotes that type of activity.

One of the key areas, though, is the whole conflict of interest policy. I know that a lot of you are aware of and complying with the conflict of interest policies specifically for your grant agreement, but you have to have a separate conflict of interest policy specific to procurement activities and that is because there's certain language that needs to be in that conflict of interest policies which is included in the uniformed guidance related to things like anti-kickbacks or gratuities or how you're procuring. And in this environment there's a lot of sensitivity to that because of the awareness that there's been a lot of procurement of goods and services that

have not gone through the level of scrutiny independence and objectivity that could have resulted in the mismanagement or misuse of federal funds. So that conflict of interest policy, there's certain specific language that needs to be in there relative to procurement in addition to what you all are already used to as it relates to conflict of interest for the grant agreement itself.

You have to have a certain level of oversight. Documentation is very important from your policies and procedures. And it still has to meet the standard of if it's necessary. You could have done everything right, you could have procured it the right way, it could be approved, all of those things, but then it comes down to was this a necessary expense that the federal government, through your grant, should have utilized taxpayer dollars for. So these were some of the biggest emphasis and changes in procurement under the new UG. It wasn't that it wasn't included in the prior OMB's, it just wasn't emphasized and there just wasn't as much direction. Now it is very clear, so the level of oversight and monitoring in this area has increased.

If you would like to go to the specific section of the uniformed guidance to further review some of these requirements, the changes that we're talking

about specifically, we're about to look at the Five Methods of Procurement. If you go to the uniformed guidance in Section 200, 318-326, you'll get more of the specifics. We're going to talk about some specific contract requirements, some of the general standards and then the whole concept of full and open competition. So if you wanted to do some further research on your own or independent research, these are the sections of the uniformed guidance you can look to for additional information.

Method. This is spelled out in the uniformed guidance in sections discussed in the prior slide. There are five methods. What that means is your procurement policies and procedures, at a minimum, should address these five methods in how you're going to procure, what is going to be your procurement procedures for these five methods. So when you're writing policy, and this is just a side note, your policy is going to pretty much mirror what the requirements are and it will indicate and just make a statement that this is your policy, that for micro purchases for \$3,000 or less, there's no quotation equitable distributions and the other standards. Then you have to talk about procedurally how you're going to meet these requirements, how are you going to meet these policies that you've

established. So we have micro purchases, we have small purchases, sealed bids, sole source and competitive proposals.

Now, the micro purchases, which is most probably applicable to the purchases you make under the HUD HOC grant will fall into the micro purchase category, so that will probably be the procurement method most used. And let's not get "method" confused with "payment." A lot of people get confused when we say method that if I use a credit card that that's somehow a procurement method. No, a credit card is a payment method. A lot of people think because I charged it and the charge itself represents documentation or supporting documentation for what I did to procure, no, the credit card is no different than a check, cash payment or ACH. All it reflects is the payment. You still have to go through the procurement method, meaning how did you identify the good or service you were going to purchase? Did it fall within the micro threshold? Were there any authorizations required? Then you paid it by using the credit card. So just a credit card statement that is not sufficient documentation to meet the test for procurement.

If we could go to the next slide. The next three slides I'm going to talk about each of these methods more specifically.

So, the first method, the micro purchases method for supplies and services not exceeding \$3000 or if it happens to be a construction subject to [indiscernible] it's \$2000. So one of the cautionary tales of this, one of the ways that organizations try to circumvent a micro purchase or an individual may try to circumvent a micro purchase is to break up a purchase so one payment doesn't exceed \$3000. We call that splitting a purchase. And actually, from an audit perspective, that's something we look at.

So let's say you want to buy, under the HUD grant you got approved to buy a laptop and that laptop was \$3600. But you really wanted to use the micro purchase method because under that method I didn't have to get quotes, as long as it's equitable I don't have to have as many approvals and authorizations, so I want to use a micro. Well the total of the purchase is \$3600, so even if you tried to charge \$3000 one day and then \$600 the other day, you're still in violation of that method because the method, the total purchase was \$3600. That's what we call splitting, because we look at the total value of the purchase and say then how was that paid? The purchase amount determines which method, not how you pay it. Not

whether you pay it in installments, whether you pay it all in one lump sum.

The total cost of whatever that purchase is determines what method.

So small purchases, and this is for services, supplies or other property, greater than \$3000. So we have the micro purchase which was less than \$3000, you don't need a quote. It still has to be reasonable and you still should have some kind of approval process, and that is what you all develop as a part of your procedures to meet this policy. But then we have small purchases and these are for things that are over \$3000 but under \$150,000, which is what we call the Simplified Acquisition Threshold. You may have seen that SAT, Simplified Acquisition Threshold, and that's actually a federal government threshold that if the total cost of a purchase of service or good exceeds \$150,000 there are specific things that you have to do.

So, when you're looking at between that micro purchase, which is \$3000 or less, or in that Simplified Acquisition Threshold purchase, which is \$150,000 or more, in between those two thresholds are your small purchases which are the vast majority of purchases for organizations, but not necessarily for the HUD OHC. I would think under this grant most of the purchases are going to fit into that \$3000 or less purchase, so there will

be more scrutiny on your policies and procedures relative to micro purchases. But there are instances where there's consultants or travel or conferences that do fall into the small purchases, and under that scenario you have to have a prior rate quote.

So what that means is you have to put out information to more than one, generally it's three, to more than one vendor and you have to give them all the same information for them to submit a price or quote. What it would be subject to is your method or your procedures for how you actually obtain those quotes. So your policy is that, yes, if a purchase falls over \$3000 but less than \$150,000, then it's a small purchase and you have to get a quote. Your procedures tell you how do you get those quotes, how do you identify qualified vendors, how do you release those quotes? Then, how do you evaluate those quotes? That's what your procedure would say.

So that is one of the biggest differences that now you have to have a quote, and we say more than one price or rate quote; two is minimum, three preferred.

Competitive proposals. You can do competitive proposals, like I said, your policies and procedures can drive how you do these proposals, but understand that your micro purchases and your small purchases are probably the least required documentation, and they're actually the easiest procurement method. When you start getting into these next set of the five methods, these following three, it's more documentation. Generally you have to have more knowledge and experience in procurement in order to make sure you're complying correctly and it's more oversight and monitoring and authorization. So, when you're doing a competitive proposal, generally these are only done for purchases of goods and services that exceed that \$150,000.

But internally you may say, no, we want to do it for purchases that are \$10,000 or more because for your agency's overall budget that \$10,000 has a greater impact than maybe an organization who's doing \$10 million where that \$10,000 financially doesn't have as much of a financial impact. So you have the flexibility to determine when you implement these methods, except for method 1, the micro thresholds. But small purchases and then competitive proposals, you determine when you implement these and you determine the dollar thresholds.

So as I said, generally for competitive proposals it's for purchases over \$150,000, because as you can see, there's a lot more required. You have to have written procedures for evaluating proposals. So all of you submitted application in response to this bid and they told you what those evaluation factors were. That would be what you would have to establish as well. You would have to establish what the evaluation factors or the evaluation factors would have to be in complete communicated to all qualified bidders. You would have to have a written proposal. That proposal would then have to be submitted to those bidders with the evaluation factors.

Then on the backend you would have to have your scorecards or your evaluation scorecards and an evaluation panel or individuals responsible for making the evaluation who would then be required to use what you advertised or publicized as the evaluation factors to then evaluate the proposals submitted. So just that whole process of writing the proposal, writing your evaluation factors, then receiving proposals and then conducting the evaluations to make the awards, as you can see, that is already much more rigorous than the other two procurement methods.

Competition must be formally publicized and including evaluation material. You have to have at least two proposals.

You have to do what's called a price cost analysis. So even before you submit the proposal, internally you should have already done a cost price analysis or sometimes it's called an independent government estimate or sometimes you just call it a budget, but you should have already done an estimate of what you think the price or the cost of these services are going to be, then use that as a benchmark once the proposals are submitted to see if it falls in line with what your cost price analysis is.

Then it has to be awarded to the firm whose proposal is most advantageous to the program with you taking the evaluation factors, price and then other factors. Then it has to result in either fixed price or cost reimbursable contract. These are the requirements. So when you're writing these policies and procedures and you're considering, oh, your dollar thresholds for when you're going to implement what specific method, please keep in mind what the requirements are if you select that method. That is why a lot of organizations elect to implement this method for purchases over \$150,000. That's because the guidance gives you the flexibility. It doesn't mandate that you do it at a certain dollar amount, so

they take advantage of not having to have that rigorous level of the entire process of awarding this type of contract under these procurement methods.

The next method, this is a sole source. Some of you have heard, this is noncompetitive. Really, if you're electing this, you have to do a great job of documenting in your procurement file on how you determined that the only way you could get this purchase commercially good or service is by not competing. Because if you look at it from the federal government, vendors should have the opportunity to compete, so this is pretty much saying that I've identified either what we're trying to do there's only one company that can do it or what we need is so unique that there's not another source that can build it or make it. So, the desired item is only available from a single source, there's nobody else that does it but this one source, so we have to go to them.

That can happen not necessarily under this OHC grant, because that's really not applicable because it usually has to do with some kind of customization or some item that was unique only to that organization. It could be an expert, you could suggest that this expert for something you're doing with counseling is the only person that has this information or has

this knowledge or has this experience or has this background, so we're going to try to take this as a single source if that's the only person.

Different from a sole source where the sole source, and that's why it's a difference, the sole source is that we've identified whatever that source is and this sole source is the only source that we could identify that had these services available.

The biggest thing with anything with a noncompetitive proposal is documentation in your file. You have got to document how you made that determination, so that should include market research, how did you come to this conclusion that you could not compete this proposal? And it has to be in response to written requests from a non-federal entity.

Then after the solicitation of several sources, competition is deemed inadequate. So if you're going to do this, you have to do research, you have to reach out and ask several sources to solicit. So let's say you submitted a proposal and only one person submitted a response. Then based on that you did additional research to see if there's maybe somebody else you could have sent it to that had the qualifications. So it's not easy to meet the level of scrutiny with the noncompetitive proposal,

but if in fact you can support that argument, it has to be very well written and very well documented in your procurement file.

Okay, so conflict of interest. Now, this is strictly, I'm not going to reread this to you, but this is the language that you need to make sure you have and this is starting in section 200-3108 about conflicts of interest.

Specifically if you look at where it says "starting from no employee, officer, agent may participate in the selection award or administration of a contract supported by a federal entity." Then it tells you this is what constitutes a conflict: an employee, officer, any member, partner is about to employ any of the parties. So, this language goes on.

What I would recommend is you go back directly in the uniformed guidance, review this language and then create your conflict of interest statement for anybody in your organization that is in any way involved with the purchase of goods and services. So if I'm a program area and I want to get a consultant and I'm going to my procurement area if you have a separate procurement area and I said I need a consultant, you are involved in the purchase of goods and services, even if the procurement area is actually the one who will take the next steps and put out the solicitation and identify the successful consultant.

But, in that program area, because you identified the need, you become a part of the procurement process. That's why we recommend that you have in everyone, especially if they're in any kind of supervisory or leadership role sign a conflict of interest. And you have to be sensitive to that. So if somebody says, "Oh, I have a relative who does XYZ," or "I have a relative who does janitorial service and our agency, we need a janitorial service for our building," you have to make sure that, for instance, a conflict could be if that employee that referred is an officer or they have some kind of interest or financial interest in that janitorial company, that's a conflict of interest. That's why you make everyone sign those statements so that to the extent that you won't be aware of everybody's conflict unless they disclose them, but if they fail to disclose them, then the burden or the responsibility is on the individual and not on your agency. So make sure that you take the time to go back and read all of the language, and then make sure any of your conflict of interest statements incorporate the language from this section of the uniformed guidance.

Written code of conduct. Now, I know you all have a code of conduct that you're required to upload on to HUD's website. You need to review your code of conduct to make sure it incorporates the requirements for

procurement, which are in that section. That code of conduct should speak to things like kickbacks, gratuities and all of those things. No solicitor acceptance of gratuities, favors or anything monetary. You need to make sure that your code of conduct incorporates the requirements from the uniformed guidance for procurement.

This is just information. Actually, on the HUD exchange site there is a very good bulletin that was put out and I believe it's still there, but you should go back and review that. It kind of talks about how do you handle conflicts of interest and helps you to set up your conflict of interest, what they call mitigation plan or how do you report conflict of interest. So just refer back to that bulletin. It has very good information and it should help you to make sure you're in compliance.

So now let's talk about a sub recipient versus a contractor, because it needs to be clear the difference in these relationships. When I say sub recipient, I'm talking about a sub award, if that's the language you'd rather use.

M

I apologize, I'm having some computer issues on my end.

Robin

We have a lot of bad weather. I'm in Maryland and we have a lot of rain and everything is super slow, so I'm thinking that may have done it.

Okay, a sub recipient is a sub award and they are carrying out a portion of the federal award and creates a federal assistance relationship. So you all are working together. They're taking some of the work directly from the federal award and they are performing those services.

For you to help make the determination of who is eligible to receive it, you award or grant these sub recipients based on these types of criteria: who's eligible to receive it, performance measured in relation to whether the objectives of the program are met. So you're looking at their performance, you're looking at their eligibility, you're looking at responsibility for the adherence of applicable federal award. If they're using funds to carry out the federal award. So everything associated with it, and it's really the sub recipient doing the work that you would otherwise do for this grant, but they're performing it on your behalf. So they should be performing portions of the actual federal award.

Now sometimes I know that can be gray when people use consultants and things like that, but remember also, sub recipient is an organization and

generally the sub recipients have to meet certain requirements. I know under OHC, if it's their local housing counseling authorities, they have to meet those requirements. So inherently, they have to meet whatever the requirements of the federal award are, unlike a contractor, which the next slide will talk to you about a contractor.

A contractor, now they're providing commercially available services that they will provide to anyone. These are the services they provide to the general public at large. They're non-federal entities and they own and use and create a procurement relationship. So this one is a procurement relationship versus a working relationship. So this is their normal course of business operations, they provide the same goods and services to multiple purchases, operate in a very competitive environment. These services are ancillary to the operation of the federal program. Unlike the sub award where they were inherent or they had to be directly associated or a portion of the federal award, these are ancillary to it. And these are not subject to compliance requirements of the federal program itself. So unlike a sub award, which are subject to the federal program requirements, contractors are not. So it's a totally independent relationship.

Generally, one of the tests that I always say is this is what they do, these are the services they provide into the general public, and they normally operate in a competitive environment. So that's the difference between that sub recipient and that contractor relationship.

So some of the things you can do for implementation. This is kind of as step-by-step approach that you can take to implement these new requirements. Some agencies they receive assistance through OHC, due to requesting through OHC firm to assist them in going through the multiple steps, but first you have to understand the guidance. If you haven't, you have to review the procurement requirement sections of the guidance and make sure you know it.

Then you need to understand what your agency does and how it impacts your agency, what areas. For the OHC grant, I've identified some of those key budgetary line items where these kinds of things, where procurement related issues would become a factor. You need to do that internally. This is for any federal award. So although the focus for this webinar is the OHC Housing Counseling grants, if you receive any federal award, you need to be taking that into account.

You need to plan it and the planning of it is directly driven from the uniformed guidance, because it gives you so many specifics on what's required to be a part of your procurement. At the agency level, you need to understand it and plan it further, and then you want to implement it, you want to get it started and then you want to have some type of evaluation. This gets into internal controls. A lot of you are subject to single audits, so procurement is one area that you get audited. But if you're not subject to single audits, you may internally just want to have a process that maybe a manager reviews periodically to make sure we're using the right procurement methods and following the policies and procedures. Then when necessary, you want to refine it and make sure, whether it's refining checklists, whether you filed documentation, supporting documentation, until you feel like you have a procurement program that meets the requirements.

The understanding part, again, this is kind of a cheat sheet. You're an agency, you want to identify systems, your policies and procedures, your business processes and then what trainings you need. Because what you may realize is that you don't necessarily have the experience in-house to be able to comply or to even understand. So as much as I've said the SC's are the policies and you have to write your procedures, well you have to

have the knowledge and experience to write the procedures that comply with the policy, and to write procedures that are compliant and that will meet the test or the standards for other areas like internal controls and those other factors that need to be inherent in your policies and procedures.

Then you want to plan. You want to look at your large scale opportunities and then you want to make sure you have your action plan, how we're going to move forward, how we're going to get this done, what's the timetable. And hopefully you've done that, because everybody supposedly has it implemented by now. But if you haven't, it's never too late, so this may be an approach that you want to take.

This is for your information. Hopefully you'll get this slide. This is part of the readiness checklist that when we assist, we being [indiscernible] assist agencies through OHC with their procurement, this is a part of our readiness assessment where we go through and ask questions. We do it through inquiry, we do it through review of your documentation and your processes, and we go through and see are you really ready? Where are you as it relates to complying with the procurement requirements? So this is something you should definitely take a look at and do a self-assessment

to see where you are. And to the extent you have gaps or holes, as I've said and will say for a little bit further along the presentation, you can get assistance on helping you to make sure that you're ready and in compliance with the procurement requirements.

Some best practices and lessons learned. Good procurement systems transparency. It should be documented, it should be made available to all employees or anyone that ultimately may ever purchase a service or good on behalf of the agency, either directly or indirectly.

You should have accountability. Accountability comes through authorizations and reviews and through the approvals and authorization process.

Integrity, your code of conduct, your conflict of interest, your award process after you're getting in proposals and you're evaluating; that should be inherent in your system. You want it to be competitive, you want the general public to feel like they have a shot if they meet the qualifications and submit a good proposal, they have a shot of obtaining this work. Not that all of your work is targeted or geared to a certain company or vendor who may have had a longstanding relationship.

You want it to be aligned with your organizational alignment and leadership, that they're aware of it. It's so important that your leadership is aware of what procurement policies and procedures are. Oftentimes directives are given at the highest level and they may not be sensitive to or even aware of what it will take to actually obtain whatever that good or service is, and so it's critical that there's an alignment from the top to the bottom.

When we look at human capital management, do you have the individuals – your procurement system has to be a cost benefit analysis. Based on your understanding of it, if you know, for instance, we're pretty much a micro purchase organization and we may sometimes have purchases for large purchases, but pretty much we're an organization that stays within these dollar amounts, then design your policies and procedures to meet that. And design them in such a way that you have the personnel or the human capital to implement them. Don't just go out and get a cookie cutter policies and procedures, with all of these procedures in no way can implement or adhere to because you don't have the necessary personnel or bodies to actually perform all of the procedures you put into your policies and procedures.

We can help, too, making that assessment and streamlining so that you have the kinds of internal controls and you have the kinds of procedures that you need, but it's within reason, within cost benefit analysis.

Then the more knowledge and information management, from, okay, how are we going to track our procurement activity? Do we need a procurement system? Can we somehow implement a manual system that will allow us to capture certain information? To what extent do we need that? Those kinds of questions. All of those things really create an effective procurement system.

Everything I've just said, from developing and updating your policies and procedures, looking at your thresholds, thresholds meaning dollar amount that you fall within the five procurement methods, understanding a conflict of interest, how do you get employees involved, how do you make sure that they're aware of it and they know when to report a conflict? Then if you have [indiscernible] and affiliates, do they know how to report conflict?

You then want to look at, well, how do we want to do this procurement thing? Do we want to centralize purchasing where all procurement runs through certain individuals? Or is it an individual and then at that point when it gets to maybe accounting or financing, there's a level of oversight and monitoring. But centralizing the process – and it depends on the size of your organization. Once again, this is where you can get the type of expertise and technical assistance through OHC, through us to help you make that kind of assessment.

Checklists are really, really great tools for procurement, because so many times it's very regulatory, so the criteria is very defined, so creating checklists to make sure you're meeting a minimum requirement is easy to do. And checklists are something that you can maintain in files, you can track, you can monitor, and it helps you to make sure that you've met the required documentation. So that's a good practice.

Some of the things we've seen, some lessons that we've seen, and not just form contracts to grants and just throughout when it relates to procurement. Lack of contract filed documentation. Your file does not maintain all of the documentation approvals. Especially with credit card purchases, oftentimes people just charge something on the credit card and

there was never an approval authorization of that charge prior to the actual purchase of it.

Don't follow any existing procedures. Sometimes because the procedures may be out of date or they're unrealistic for the size, so you don't necessarily have the personnel for various reason. I talked to you about the split purchases where you're trying to circumvent a threshold for a certain procurement type, so let's break out how we pay it. But it's not based on how you pay it, it's based on what the total purchase price of it is.

Lack of competition in small purchases. Unfortunately, sometimes we fall in love with vendors and we fail to take that independent and objective procurement method or procurement process to make sure that the government is getting the best value. And that ultimately it is the federal government and taxpayer.

Then we have these unauthorized commitment to vendors. Usually we see this at the management level where they've purchased something and not gone through the proper procurement policy. And maybe because, like I said, they have a credit card and that credit card they can charge up to \$10,000. So as opposed to going through the proper procurement policy,

they went and made a commitment or purchased something from a vendor and then you have to go back and really it's unauthorized because it fails to meet the requirements of the procurement process.

Some frequently asked questions. "Does the uniformed guidance require non-federal entities to limit charge card purchases to a particular threshold?" As I said throughout, no, actually the guidance doesn't. That can be an internal policy where you say, you know what, credit cards are used for only micro purchases. Or depending on your role or your responsibility or your title or your position with the agency, you have different credit card authorization limits and things of that nature. So no, the guidance doesn't do it, but like I said, you have to understand that whatever policies and procedures you set, you have to be able to adhere to and enforce.

"When is it allowable to hire contracts without competitive bidding?" So, if goods are only available from a single source, so one way is if it's a single course. That's that whole noncompetitive, which was one of the four procurement methods, if you can justify that this is a single or sole course, then you do not have to award it competitively. There's a federal threshold to simplify that procedures is contracts of 100,000 or more need

to go through competitive bidding. So that's the 45CFR, which is the Code of Federal Regulations. So we have the Simplified Acquisition Threshold of \$150,000, but that's the threshold for when you have to use certain processes. But the threshold for making it competitive is \$100,000. And what that means is that under \$150,000, you're no longer in Simplified Acquisition Threshold. But, for the federal government, it has to be competitively bid if it's over \$100,000. So noncompetitive, the only time you can do a noncompetitive is a single or sole source.

“So to what extent can we align these uniformed guidance requirements with federal acquisition regulations?” What federal acquisition regulations are, they're the rules and requirements for purchases of goods and services that contractors have to use. So there's a direct relationship between the two because they are the rules and regulations, and a lot of times you can use guidance like FAR to help you set up your procurement, especially your policies. But then, again, however procurement issues that arise in carrying out federal grants must be resolved on the basis of the requirements in the uniformed guidance.

There are some differences between FAR, which is Federal Acquisition Regulations, and between the uniformed guidance procurement

requirements. Actually, FAR is much more detailed. If you wanted to go and get some good suggestions and recommendations on the kinds of procedures and policies to help you with uniformed guidance, FAR is not a bad place to start, but it's very complicated, it's very in-depth. And generally, it would be for organizations or agencies that did a lot of procurement of a lot of different [indiscernible]. I would not recommend for a small organization that mostly does micro purchases to go jump into FAR to help them write their policies and procedures. That is a very in-depth, detailed, line-by-line kind of guidance. And although it's great as a reference, especially if you have a lot of procurement activity, I do not recommend it for agencies that are doing mostly small purchases and micro purchases.

“How can you get some assistance?” This process hasn't changed. These services are available to you by requesting them through your HUD POC [ph]. What happens is, you make the request to your HUD POC. Your HUD POC then makes the request to the contract administrator for this contract. There's actually Linda Bozeman and Tracy Fields and Gayle Osgood. Then you work directly with our company to provide these services. So these are just some examples of the types of services you can receive relative to procurement.

From training of your staff, the training materials, sub recipients to helping to write the policies and procedures as technical assistants, to reviewing your existing policies and procedures for compliance as a part of an action plan. So as technical assistants, we can help you update or modify or even develop your policies and procedures, then review your files, do some file reviews to make sure your files have the required supported documentation.

In training, we can help train your staff on procurement related policies and procedures, especially if they've never really had to focus in on or adhere to those. Then as an action plan, we can do an assessment, the whole assessment of where you are and make recommendations that could ultimately lead to some additional technical assistance or training.

As I said, the process, you probably know the process. You just email your HUD POC, you indicate what assistance you need and who would be the primary point of contact. And generally, within one to two business days turnaround from when the POC gets it to when they send it to the appropriate HUD POC, the HUD GTM or HUD lead for approval, usually

it's one to two business days you're hearing from us about beginning the services.

What it helps you to do? What OHC hopes to do is that by providing you with these kinds of assistance, it helps to minimize some of the financial burden of having to implement these new regulations, especially if you've never dealt with procurement, it can be complicated. And ultimately, we hope that we reduce your filings in doing performance or financial reviews because you've set up and complied with the requirements for procurement.

This knowledge also can be transferred to any federal award. So for you it has the added benefit of making sure you're compliant with OHC, but bigger than that you're compliant with federal requirements for procurement, which we think is big.

Then for intermediaries, we can provide assistance to your sub grantees, because understanding that it puts a big burden on a parent if they also have to ensure their sub recipients are in compliance, because, as we indicated, they have to be in compliance. We can then help alleviate some

of that burden by providing direct technical assistance to the sub recipient or training or an action plan to make sure that they're in compliance.

Just some other references and resources for your information. Feel free to either just link, when you get the handout you should be able to click on them to go to the respective link.

And, please feel free, because as you can see we took up some time and then we had technical difficulties, but please feel free to forward any questions you had that weren't answered during the chat to, if you asked them during the live chat, to [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov) and put Overview of Procurement Requirements in the subject line item and you will receive a response.

We thank you for your time and have a good afternoon.

Moderator

Ladies and gentlemen, that will conclude our conference for today. Thank you for your participation and for using AT&T Teleconference. You may now disconnect.