



Legislation Text

File #: [21-0816], Version: 1

Increase the Town's Micro-Purchase Threshold.

Staff:

Amy Oland, Director
Zakia Alam, Purchasing & Contracts Manager

Department:

Business Management

Overview: The purpose of this item is to provide background information on the Town's procurement practices related to the expenditure of federal funds, to discuss changes in the federal procurement thresholds, and to offer a recommendation to increase the Town's micro-purchase thresholds (informal and non-competitive procurement method).



Recommendation(s):

That the Council adopt the resolution authorizing an increase in the Town's micro-purchase thresholds related to the expenditure of federal funds.

Key Issues:

On August 13, 2020, the Office of Management and Budget (OMB) published revisions to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the "Uniform Guidance"). Among other things, the revisions to the Uniform Guidance allow non-Federal entities to raise, via annual self-certification, the micro-purchase threshold to a "higher threshold consistent with State law".

Many units of local government in North Carolina receive federal funding subject to the procurement standards in Subpart D of the Uniform Guidance. Those procurement standards follow three categories of procurement methods:

- 1) Informal procurement -goods or services that cost up to \$250,000
- 2) Formal procurement -goods or services that cost \$250,000 or more
- 3) Noncompetitive procurement - micro-purchase, single source, emergency, express approval by federal awarding agency, or inadequate competition after solicitation

A "micro-purchase" is both an informal procurement method and a noncompetitive procurement method. When spending federal funds subject to Subpart D, a non-federal entity may, on a noncompetitive basis, acquire supplies or services, the aggregate dollar amount of which does not exceed the "micro-purchase threshold" (as defined in the Uniform Guidance).

In 2018, OMB set the micro-purchase threshold at \$10,000.

For certain categories of local government contracts, North Carolina law establishes competitive bidding thresholds higher than those currently identified in the Federal Acquisition Regulations.

Under North Carolina law, units of local government need not engage in a competitive bidding process for either the purchase of "apparatus, supplies, materials, or equipment" or the purchase of "construction or

repair work” unless the cost of each such purchase exceeds \$30,000. North Carolina law also does not require units of local government to engage in a competitive bidding process for the purchase of services other than services subject to the qualifications-based selection process or the “Mini-Brooks Act” (e.g., architectural, engineering, surveying, and certain construction services).

The new micro-purchase threshold regulation suggests that a unit of local government in North Carolina may raise its micro-purchase threshold via annual self-certification to \$30,000 for the purchase of “apparatus, supplies, materials, or equipment” or the purchase of “construction or repair work,” and to \$50,000 for service contracts other than those subject to the Mini-Brooks Act.

State law enables units of local government to exercise an exemption to the qualification-based selection process in the Mini-Brooks Act, in writing, for particular projects where the aggregate cost of services does not exceed \$50,000.

In conjunction with the increased micro-purchase threshold flexibility in [2 C.F.R.200.320\(a\)\(1\)\(iv\)\(C\) <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320>](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320), a unit could set a micro-purchase threshold of \$50,000 for services subject to the Mini-Brooks Act as long as the unit exempts the project, in writing, from the qualification-based selection process in the Mini-Brooks Act. Such an action and higher threshold would be “consistent with State law”.



Attachment:

- Resolution

A RESOLUTION AUTHORIZING AN INCREASE IN THE TOWN'S MICRO-PURCHASE THRESHOLD (2021-10-27/R-5)

WHEREAS, from time to time, the Town of Chapel Hill (the "Town") purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R. Part 200, Subpart D; and

WHEREAS, the Town's procurement of such goods and services is subject to the Town's Purchasing Procedures Manual, as most recently amended on June 2018; and

WHEREAS, the Town is a non-Federal entity under the definition set forth in 2 C.F.R. 200.1; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. 200.334; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a "higher threshold consistent with State law"; and

WHEREAS, G.S. 143-129(a) and G.S. 143-131(a) require the Town to conduct a competitive bidding process for the purchase of (1) "apparatus, supplies, materials, or equipment" where the cost of such purchase is equal to or greater than \$30,000, and (2) "construction or repair work" where the cost of such purchase is greater than or equal to \$30,000; and

WHEREAS, North Carolina law does not require a unit of local government to competitively bid for purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 of the North Carolina General Statutes (the "Mini-Brooks Act"); and

WHEREAS, G.S. 143-64.32 permits units of local government to exercise, in writing, an exemption to the qualifications-based selection process for services subject to the Mini-Brooks Act for particular projects where the aggregate cost of such services do not exceed \$50,000; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(iv), the Town Council of the Town of Chapel Hill now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. 2.101.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill:

1. The Town of Chapel Hill has qualified as a low-risk auditee in accordance with the criteria set forth in 2 C.F.R. 200.520. Therefore, in accordance with 2 C.F.R. 200.320(a)(1)(iv)(A) and the applicable provisions of North Carolina law, the Town of Chapel Hill hereby self-certifies the following micro-purchase thresholds:

- A. \$30,000, for the purchase of apparatus, supplies, materials, or equipment; and
- B. \$30,000, for the purchase of construction or repair work; and

C. \$50,000, for the purchase of services not subject to competitive bidding under North Carolina law; and

D. \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the Town has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$0.

2. The self-certification made herein shall be effective hereof and shall be applicable until June 30, 2022, but shall not be applicable to Federal financial assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).

3. In the event that the Town receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the Unit shall comply with the more restrictive threshold when expending such funds.

4. The Unit shall maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. 200.334.

5. The Town Manager and the Finance Director of the Town are hereby authorized, individually and collectively, to revise the Purchasing Policy of the Unit to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution.

This the 27th day of October, 2021.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

By adopting the resolution, the Council authorizes an increase in the Town's micro-purchase thresholds related to the expenditure of federal funds.