

Federal Uniform Guidance	State Township Laws	ARPA: Best Practices
<b>General Rule → Follow Most Restrictive Requirements</b>		
<b>Administration</b>		
Twp must maintain a contract administrative system for oversight of contract compliance. <i>2 C.F.R. § 200.318(b)</i>	No state equivalent	Enact written procurement policy consistent with Uniform Guidance
Avoid unnecessary/duplicative purchases <i>2 C.F.R. § 200.318(d)</i>	No bid splitting pursuant to the Ohio Attorney General Best Practices	Comply with Uniform Guidance
Twp is <i>encouraged</i> to use federal surplus property where feasible instead of purchasing new property. <i>2 C.F.R. § 200.318(f)</i>	Competitive bidding not required when the purchase is from the federal government. <i>R.C. 9.48</i>	Comply with Uniform Guidance
Encouraged to use value engineering for construction contracts where applicable. <i>2 C.F.R. § 200.318(g)</i>	No state equivalent	Comply with Uniform Guidance
Twp (not federal government) is responsible for the settlement of all contractual and administrative issues arising out of procurements, including protests, disputes, and claims. <i>2 C.F.R. § 200.318(k)</i>	No state equivalent	Comply with Uniform Guidance
<b>Conflicts of Interest</b>		
Must have a written code of standards of conduct addressing conflicts of interest and gifts from contractors.  Written standards of conduct must provide for disciplinary actions for violations of such standards. Actual, apparent, or potential conflicts of interest must be disclosed in writing to the federal award agency. <i>2 C.F.R. § 200.318(c)(1); 2 C.F.R. § 200.112</i>	Townships prohibited from having inappropriate interest in contract, or solicit, accept or use authority of the public position for personal gain or gifts.  <i>R.C. 102.03 and 2921.01, and 2921.43.</i>	Comply with Uniform Guidance
Written standards of conduct must also cover organizational conflicts of interest <i>2 C.F.R. 200.318(c)(2)</i>	State ethics laws	Comply with Uniform Guidance

<p>Contractors, designers, vendors, or suppliers who assist in developing or drafting specifications, requirements, statements of work, or solicitations for a contract cannot bid on or be awarded the contract. 2 C.F.R. §200.319(b)</p>	<p>State ethics laws</p>	<p>Comply with Uniform Guidance</p>
<p><b>Cost and Price Requirements</b></p>		
<p>Twp must:</p> <ul style="list-style-type: none"> <li>• Perform a cost/price analysis for procurement over SAT (\$250,000) (depth of the analysis is dependent on the facts of the procurement).</li> <li>• Perform an independent estimate of costs for every procurement over SAT (\$250,000) prior to receiving bids or proposals.</li> <li>• Negotiate profit as a separate element of price where non-competitive procurement is used.</li> <li>• Costs must conform to the cost principles in 2 C.F.R. §§ 200.400-475 (i.e. be “reasonable and necessary”).</li> </ul> <p>2 C.F.R. § 200.324</p>	<p>Township cannot enter into a contract if the price exceeds 10% of the entire estimate. R.C. §153.12</p>	<p>Comply with Uniform Guidance</p>
<p><b>Procurement Procedures – General</b></p>		
<p>Must ensure full and open competition and avoid measures that restrict competition, including:</p> <ul style="list-style-type: none"> <li>• Unreasonable requirements</li> <li>• Unnecessary experience and bonding requirements</li> <li>• Noncompetitive pricing between companies</li> <li>• Noncompetitive awards to consultants on retainer</li> <li>• Organizational conflicts of interest</li> <li>• Specifying only brand name without permitting equal products</li> <li>• Arbitrary actions</li> </ul> <p>2 C.F.R 200.319(b)</p>	<p>No state equivalent</p>	<p>Comply with Uniform Guidance</p>
<p>Must have written selection procedures that:</p> <ul style="list-style-type: none"> <li>• incorporate a clear and accurate description of good/service; and</li> <li>• identify all bidder/proposer requirements and all evaluation criteria</li> </ul> <p>2 C.F.R. § 200.319(c)</p>	<p>Consistent with State Procurement Statutes for bidding, Construction Manager at Risk, and Design Build selection processes. R.C. 9.334 and R.C. 153.693</p>	<p>Comply with Uniform Guidance</p>

<p>If Prequalified Bidder lists used, enough qualified firms must be included to ensure maximum competition; cannot preclude potential bidders from qualifying during the solicitation period. <i>2 C.F.R. § 200.319(e)</i></p>	<p>No state equivalent</p>	<p>Comply with Uniform Guidance</p>
<p><b>Allowable Procurement Methods</b></p>		
<p><b>“Micro-Purchases”</b> Competitive procurement is not necessary for micro purchase. Twp need only determine that the price is “reasonable.”</p> <p>Default threshold is \$10,000, but Township may raise this threshold to \$50,000 through self-certification process. <i>2 C.F.R. §§ 200.67, 200.320(a)(1)</i></p>	<p>No bidding necessary for purchases under \$50,000  (No bid splitting pursuant to Ohio Attorney General and Ohio Auditor)</p>	<p>Township should self-certify “micro purchase” thresh hold to \$50,000 pursuant to 2 CFR 200.320(a)(1)(iv)</p>
<p><b>“Small purchases”</b> Purchases \$10,000 to \$250,000 Applies to:</p> <ul style="list-style-type: none"> <li>• All purchase of goods, service contracts, and construction or repair projects</li> <li>• Up to the simplified acquisition threshold (SAT) (\$250,000) or the equivalent local/state threshold if more restrictive; and</li> <li>• Fixed price or not-to-exceed contract type.</li> </ul> <p>Require “adequate” number of price quotes (min of 2 quotes)</p> <p>Process: Obtain price or rate quotes from an adequate number of qualified sources (min 2); cost or price analysis is not required prior to bidding if below SAT (\$250,000),</p> <p>Standard of Award: Lowest cost responsive and responsible bidder</p> <p>Note: Cannot divide contract to bring contract cost under the threshold; changes</p>	<p><b>Twp Competitive Bidding</b></p> <p>Twp must bid all purchases in excess of \$50,000 (or \$45,000 for road repair contracts), unless exception applies or another procurement method is used.</p> <ol style="list-style-type: none"> <li>1. Purchase of materials, machinery and tools to be used in constructing, maintaining and repairing roads and culverts, where the amount involved exceeds \$50,000. <i>R.C. 5549.21</i>. The board must advertise once, not later than two weeks prior to the letting of the contract, in a newspaper of general circulation in the township. The award must be to the lowest responsible bidder. <i>R.C 5575.01</i>.</li> <li>2. Contracts for the maintenance or repair of roads, where the amount involved exceeds \$45,000. The board must advertise once, not later than two weeks prior to the letting of the contract, in a newspaper of general</li> </ol>	<p>Townships must engage in competitive bidding for any purchase over \$50,000 (or \$45,000 road repair projects) for any of the nine enumerated purchases outlined in the adjacent column, Township must follow state law, which encompasses R.C. 9.48.</p> <p>For all other purchases over \$50,000, but under \$250,000, Townships must follow the Small Purchases requirement set forth in the Uniform Guidance. If utilizing a bid from a cooperative or DAS, best practice is to obtain at least one other quote.</p>

2 C.F.R §200.320(b), 2 C.F.R. §200.324(a).

circulation in the township. The award must be to the lowest responsible bidder. *R.C 5575.01.*

3. Contracts for the construction and erection of a memorial building or monument when the amount involved exceeds \$50,000. *R.C. 511.12(B).* Advertising for the contract must be placed in newspaper of general circulation not less than two consecutive weeks, or may advertise in newspaper once and advertise on Township website.
4. Contracts for equipment for fire protection, mechanical resuscitation, underwater rescue and recovery, and communication estimated to exceed \$50,000. *R.C. 505.37 and 505.376.* Advertising for the contract must be placed in newspaper of general circulation not less than two consecutive weeks, or may advertise in newspaper once and advertise on Township website.
5. Contracts for street lighting systems where the cost exceeds \$50,000. *R.C. 515.01.* Advertising for the contract must be placed in newspaper of general circulation not less than two consecutive weeks.
6. Contracts for street lighting improvements where the cost exceeds \$50,000. Advertising must be placed in 3 conspicuous locations for 30 days. The board shall accept the lowest and best bid, if the successful bidder meets the requirements of section 153.54 of the Revised Code. The board may reject all bids. *R.C. 515.07.*
7. Contracts for building modifications for energy savings pursuant to R.C. 505.264, where the estimated cost exceeds \$50,000 (with certain exceptions). Award must be to the lowest and best bidder in accordance with the provisions of *R.C. 307.86 to 307.92.*

	<p>8. Contracts for private sewage collection tiles where the cost exceeds \$50,000. R.C. 521.05. Advertising for the contract must be placed in newspaper of general circulation not less than two consecutive weeks. The successful bidder must meet the requirements of R.C. 153.54.</p> <p>9. Contracts for collection, transfer, and disposal of garbage waste R.C. 505.27</p>	
<p><b>Sealed Bidding</b></p> <p>Applies to:</p> <ul style="list-style-type: none"> <li>• Purchase and service contracts over SAT (\$250,000)</li> <li>• Preferred method for construction contracts costing above the simplified acquisition threshold.</li> </ul> <p>Conditions for sealed bidding to be feasible:</p> <ul style="list-style-type: none"> <li>• A complete, adequate, and realistic specification or purchase description is available;</li> <li>• At least 2 responsible bidders are willing and able to effectively compete;</li> <li>• Procurement lends itself to a firm fixed price contract and selection can be made principally on the basis of price</li> </ul> <p>Process:</p> <ul style="list-style-type: none"> <li>• Conduct price/cost analysis prior to advertising for bids</li> <li>• Public advertisement providing sufficient time for bidders to respond before bid opening</li> <li>• Complete specifications/plans made available to bidders</li> <li>• At least 2 responsible bidders required for bid opening</li> <li>• Solicit bids from “adequate number of known suppliers”</li> <li>• Public bid opening at date and time advertised</li> <li>• Contract awarded on a firm-fixed-price basis in writing</li> </ul>	<p><b>See above</b></p>	<p>Follow Uniform Guidance for all purchases over \$250,000</p>

<ul style="list-style-type: none"> <li>• Determination of the lowest price must include consideration of factors such as discounts, transportation costs, and lifecycle costs</li> <li>• Can reject any and all bids for “sound documented reasons”</li> </ul> <p>Standard of Award: Lowest</p> <p><i>2 C.F.R. §200.320(b)(1)</i></p>		
<p><b>Competitive Proposals</b></p> <p>Applies to:</p> <ul style="list-style-type: none"> <li>• Any contract over SAT (\$250,000)</li> </ul> <p>Procedure:</p> <ul style="list-style-type: none"> <li>• RFP must be publicly advertised</li> <li>• Evaluation criteria and relative importance identified in RFP</li> <li>• Any responses to the publicized RFP must be considered to the maximum extent practical</li> <li>• Proposals solicited from an “adequate number of qualified sources”</li> <li>• Must have written method for conducting technical evaluations of proposals and selecting a contractor</li> </ul> <p>Standard of Award: Responsible firm with most advantageous proposal, taking into account price and other factors identified in the RFP</p> <p><i>2 C.F.R. §200.320(b)(2)</i></p>	<p><b>See above</b></p>	<p>Follow Uniform Guidance for all purchases over \$250,000</p>
<p><b>Competitive Proposals Procedure for Soliciting Architectural and Engineering (A/E) Services</b></p> <p>Applies to:</p> <ul style="list-style-type: none"> <li>• Architectural and Engineering professional services</li> <li>• Required above \$250,000; can be used for contracts below that amount</li> </ul> <p>Process:</p> <ul style="list-style-type: none"> <li>• RFP publicly advertised</li> <li>• Twp must consider all qualifications received “to the maximum extent practical”;</li> </ul>	<p><b>Professional Design Services</b></p> <p>Townships procuring professional design services, over the competitive bidding threshold, do not need to follow the competitive bidding process. However, contracts for professional design services must adhere to the provisions of <i>R.C. §§ 153.65 through 153.71</i></p> <p>If fewer than three firms submit qualifications, and the firm is determined to be qualified, the qualifications received are to be evaluated and ranked to determine the most qualified firm per <i>R.C. 153.69(A)</i>. The public authority</p>	<p>Comply with Uniform Guidance</p>

<ul style="list-style-type: none"> <li>• Twp must solicit qualifications from an “adequate number of qualified sources”;</li> <li>• RFQ must include all factors to be considered in evaluation, but price may not be included as a factor;</li> <li>• May consider geographic location</li> <li>• Twp may then attempt to negotiate a contract with the “most qualified” firm.</li> </ul> <p><b>Limitations:</b></p> <ul style="list-style-type: none"> <li>• Competitive proposal method for selecting A/E services can only be used for architectural and engineering professional services</li> <li>• Cannot be used for other services even if those services can be performed by architectural and engineering firms (such as general consulting services)</li> </ul> <p><i>2 C.F.R. §200.320(b)(2)(iv) and 2 C.F.R. §200.319(c)</i></p>	<p>is also required to state in writing that fewer than three qualified firms were available at the time the design services were needed</p>	
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## Cooperative Purchasing

<p><b>Cooperative Purchasing</b> UG encourages use of state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.</p> <p>Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements cooperative agreements where appropriate.</p> <p><i>2 C.F.R. § 200.318(e)</i></p>	<p><b>Cooperative Purchasing</b></p> <ul style="list-style-type: none"> <li>• <i>Joint Contracts.</i> Twp may participate in joint contact with other political subdivisions. <i>R.C. 9.48(B)(1)</i></li> <li>• <i>Joint Purchasing Program.</i> Twp may participate in joint purchasing program in national or state association of political subdivisions. <i>R.C. 9.48(B)(2)</i></li> <li>• <i>Federal Contracts.</i> Twp may participate in contracts from the federal contracts from the General Services Administrative (GSA). <i>R.C. 9.48(B)(3)</i></li> <li>• <i>Joint Purchasing.</i> Twp that participates in a joint purchasing contract is exempt from using competitive bidding <i>§9.48(C)-(D)</i></li> <li>• <i>Joint Purchasing</i> permitted under R.C. 9.48 is not applicable to construction services per OGA</li> <li>• ODAS: Twp may participate in contracts entered by the Dept of Admin Services or other state agency for purchase of supplies/services. <i>R.C. 125.04</i></li> <li>• Competitive bidding not required if Twp can demonstrate can purchase supplies/services of equivalent condition and specification at a price lower than ODAS <i>§125.04(C)</i></li> </ul>	<p>Must follow most restrictive.</p> <p><b>Small purchases</b> – obtain a minimum of 2 quotes, may use DAS as one of the quotes, however, to avoid audit, obtain at least one additional quote, unless it is an intergovernmental or inter-entity purchase</p> <p><b>Large purchases</b> – must follow sealed bidding or competitive purchasing unless it is an intergovernmental or inter-entity purchase</p> <p><b>“Piggy backing”</b> is expressly permitted – may use contract negotiated by another government entity</p>
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	<ul style="list-style-type: none"> <li>• COG: May participate in contract entered into by COG if Twp is member. <i>R.C. 167.081</i></li> </ul> <p>--may not be used if Twp already solicited bids for similar work</p>	
<b>Bidding Exceptions</b>		
<p><b>Exceptions: exceptions for contracts over \$250,000</b></p> <ol style="list-style-type: none"> <li>1. Only available from a single source</li> <li>2. Public emergency</li> <li>3. Waiver granted by Treasury Dept</li> <li>4. Twp attempts to bid but only gets one</li> </ol> <p><i>2 C.F.R. §200.320(c); 2 C.F.R. §200.318(E)</i></p>	<p><b>Exceptions</b></p> <ul style="list-style-type: none"> <li>• Public emergency <i>§505.08</i></li> <li>• Purchase of motor vehicle, materials, equipment or supplies from any political subdivision in the state <i>§505.101</i></li> <li>• Cooperative Purchasing</li> </ul>	Comply with Uniform Guidance
<b>Awarding Contract</b>		
<p><b>Standard of Award</b></p> <p>Must award contracts to responsible contractor possessing the ability to perform successfully under the contract, including such factors as integrity, compliance with public policy, record of past performance, and financial and technical resources. <i>2 C.F.R. § 200.318(h)</i></p> <p>Micropurchase: reasonable price based upon research, experience, purchase history, and other relevant information. <i>2 C.F.R. 200.320(a)(1)(ii)</i></p> <p>Sealed Bids: Lowest responsive and responsible bidder. <i>2 C.F.R. 200.320(b)(1)(ii)(D)</i></p> <p>Proposals: Responsible offeror whose proposal is most advantageous to Twp, with price and other factors considered. <i>2 C.F.R. 200.320(b)(2)(iii)</i></p>	<p><b>Standard</b></p> <p>Twp must award to lowest responsive and responsible bidder</p> <p><i>R.C. 9.312</i></p>	Follow Uniform Guidance for Micropurchases, Sealed Bids, and Proposals, follow Ohio requirements for Small Purchases
<p><b>Documentation</b></p> <p>Twp must maintain procurement records, <i>2 CFR 200.318(h)</i></p>	<p><b>Documentation</b></p> <p>Twp must maintain all records, <i>R.C. 149.43</i></p>	Treat all documents relating to procurement as public records pursuant to the Ohio Public Records Act, and all subrecipients must



		similarly treat all such documents as public records
<b>Debarred Contractors</b> County cannot award contracts to companies debarred or suspended by federal agency <i>2 C.F.R. § 200.318(h)</i>	<b>Debarred Contractors</b> Cannot enter into contracts with companies debarred by the State of Ohio. <i>R.C. 153.02, 9.312</i>	Refer to both federal and Ohio debarment lists
<b>Time and Material Contracts</b> Limit use of time and materials contracts to when no other contract is suitable and contract includes a ceiling price that the contractor exceeds at its own risk. <i>2 C.F.R. § 200.318(j)</i>	<b>Time and Material Contracts</b> Twp cannot enter into “time and materials” contract unless contract expressly includes “not to exceed” provision. Note: Construction manager at risk and design-build do not trigger this prohibition, as those entities compensation are limited by a “guaranteed maximum price.” <i>R.C. §5705.41(D)(3).</i>	Follow Uniform Guidance, time and material contracts should not be used unless necessary and contain ceiling price
<b>Local Preference</b>		
Twp cannot use in-state or local geographic preferences (except for architectural/engineering services). <i>2 C.F.R. § 200.319(b)</i>	Cannot give local preference <i>R.C. 9.75</i>	Follow Uniform Guidance
<b>Minority Business Requirements</b>		
Twp must take affirmative steps to <i>encourage</i> small and minority firms and women-owned businesses to participate in procurements (but no preference given), including all of the following: <ul style="list-style-type: none"> <li>• include on solicitation lists</li> <li>• Solicit when such firms are potential bidders</li> <li>• Divide total contract requirements where economically feasible to enable more minority participation</li> <li>• Establish delivery schedules to encourage participation</li> <li>• Use SBA and Minority Business Development Agency of US Dept. of Commerce</li> <li>• Require prime contractors to take the same affirmative steps.</li> </ul> <i>2 C.F.R. § 200.321</i>	Twp cannot discriminate against minority owned businesses. <i>R.C. 153.59</i>	Follow Uniform Guidance

Bonding Requirements		
<p>For contracts subject to sealed bidding or competitive proposals, bidders must provide:</p> <ul style="list-style-type: none"> <li>• A bid bond with a penal sum equal to at least 5% of bid; and</li> <li>• Performance and payment bonds equal to 100% of contract price for winning bidder.</li> </ul> <p>For all other projects, follow state guidelines  <i>2 C.F.R. § 200.325</i></p>	<p>For sealed bidding, all bidders must provide a bid guaranty in the form of either:</p> <ul style="list-style-type: none"> <li>• The statutory bid bond, with a penal sum equal to at least 10% of the bid; or</li> <li>• A certified check, cashier's check, or irrevocable letter of credit in an amount equal to 10% of the bid.</li> </ul> <p>Where a successful bidder provided a certified check, cashier's check, or letter of credit with its bid, the bidder must provide Township with a contract bond, in the statutory form, prior to commencement of construction. Construction managers at risk and design-builders must provide payment and performance bonds, equal to 100% of the GMP, in the statutory form. <i>R.C. 154.54, 153.57, 153.571, but see 153.693.</i></p>	<p>Comply with Uniform Guidance</p>
Contract Requirements		
<p>Include all applicable contract provisions from 2 C.F.R. 200, Appx II.</p> <ul style="list-style-type: none"> <li>• Termination for Cause and Convenience: Applies to contracts above \$10,000. <i>2 C.F.R. §200, App'x II(B)</i></li> <li>• Equal Employment Opportunity: Applies to "federally assisted construction contracts" as defined by 41 C.F.R. § 60-1.3, except as otherwise provided under 41 C.F.R. pt. 60.  <i>2 C.F.R. §200, App'x II(C)</i></li> <li>• Bacon-Davis Act wage requirements: Applies to all construction contracts above \$2,000.  <i>2 C.F.R. §200, App'x II(D)</i></li> <li>• Copeland "Anti-Kickback" Act (40 U.S.C. 3145): Applies to all construction contracts above \$2000. <i>2 C.F.R. §200, App'x II(D)</i></li> <li>• Contract Work Hours and Safety Standards Act: Applies to contracts above \$100,000 involving the employment</li> </ul>	<p>No state equivalent</p>	<p>Comply with Uniform Guidance</p>

<p>of mechanics or laborers and must include a provision for compliance with 40 U.S.C. §§3702 and 3704. 2 C.F.R. §200, App'x II(E)</p> <ul style="list-style-type: none"> <li>• Clean Air Act and Federal Water Pollution Control Act: Applies to contracts above SAT (\$250,000). 2 C.F.R. §200, App'x II(G)</li> <li>• Debarment and Suspension: Applies to all contracts and subcontracts. 2 C.F.R. §200, App'x II(H)</li> <li>• Byrd Anti-Lobbying Amendment: Applies to contracts above \$100,000. 2 C.F.R. §200, App'x II(I)</li> <li>• Procurement of Recovered Materials: Applies to procurement of prime contracts and subcontracts. 2 C.F.R. §200, App'x II(J) and 2 C.F.R. §200.323</li> </ul> <p><b>Additional provisions required:</b></p> <ul style="list-style-type: none"> <li>• Access to Records: Applies to all contracts. 2 C.F.R. §200.318(i)</li> <li>• Compliance with Federal Law, Regulations, and Executive Orders: Applies to all contracts. 2 C.F.R. §200.318(a)</li> </ul> <p>No Obligation by Federal Government: Applies to all contracts (the non-Federal entity is solely responsible). 2 C.F.R. §20.318(k)</p>		
<p><b>Prevailing Wage</b> The Davis-Bacon act does not apply to projects <i>solely</i> funded by ARPA finds. <i>Final Rule, 31 C.F.R. 35</i>, however, the Contract Work and Safety Standards Act applies to all contracts above \$100,000 involving laborers or mechanics</p>	<p><b>FLSA</b> Contractors must pay all laborers state prevailing wage rates, and comply with other wage and hour requirements <i>R.C. 4115</i></p>	<p>Follow Ohio Chapter 4115, as well as Contract Work and Safety Standards Act when applicable</p>