

Procurement Plan

Formal Procurement

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Formal Procurement Methods

- ❖ Invitation for Bid (IFB)

- ❖ Competitive Proposal (RFP)

Advertising the Procurement

- **The announcement of an IFB or RFP must be announced in ways that do not restrict free and open competition**
- **Utilize more than one announcement method to reach the widest possible audience**
- **Direct mailings limit free and open competition**

Advertising the Procurement

- Regional Newspapers
- Trade Periodicals
- Procurement Websites
- Direct Mailings to known vendors



The advertisement must contain:

- General description of items to be purchased
- Deadline for submitting questions and the date written responses will be provided
- Date of pre-bid meeting if applicable and if attendance is required
- Deadline for submission of proposals
- Address where complete **solicitation, including specifications and bid forms** can be obtained

Advertising the Bid

Must be:

- Published twice in a newspaper in the locality
- First advertisement must be at least 15 days before the bid opening
- In addition to the newspaper, the SFA may also publish by electronic media

Revised Statute 38:2212.1

The solicitation must clearly define the purchase conditions and must include:

- Contract Period
- Date, time, and location of bid opening
- How vendor will be informed of bid results
- Terms and conditions each bidder must fulfill to be evaluated
- Benefits to SFA if contractor does not perform as contracted
- Statement regarding the return of purchase incentives, discounts, rebates, credits
- Piggybacking, if it will be allowed
- Escalation/De-Escalation clause based on cost index, if applicable
- Method of evaluation and type of contract
- Specific bid procedures
- Access requirement by SFA, SA, USDA, Comptroller General
- Provision requiring contractor to maintain all required records for 3 years after final payment
- Description of order process
- Signed statement of non-collusion
- Signed Debarment/Suspension Certificate
- Specifications and estimated quantities of product and services

Additional Requirements for Commodity Processing Bid

- The value pass-through method to be used
- Provision for information in bid/responses for food recall procedures
- Requirement that vendor provide contact information for contact and backup for handling food recalls
- Provide name of SFA contact and backup for handling food recalls

Additional Requirements for a Cost Reimbursable Contract

- **Allowable costs will be paid** from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;
- **The contractor must separately identify for each cost submitted for payment** to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account);

7 CFR Part 210.21(f)

Additional Requirements for a Cost Reimbursable Contract

- The contractor **must exclude all unallowable costs from its billing** documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification
- The contractor **must identify the amount of each discount, rebate and other applicable credit** on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the State agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually

7 CFR Part 210.21(f)

Additional Requirements for a Request for Proposal (RFP)

- The RFP contains a set of weighted award criteria in the form of a weighted evaluation sheet (see sample in procurement plan)
- Price is not the only factor but **must be the primary factor** in awarding a contract (i.e. price must count for more than any other factor)

Additional Requirements for a Request for Proposal (RFP)

The contract is awarded to the bidder whose proposal is:

1. Responsive
2. Most advantageous to the SFA with price and other factors considered.

SAMPLE REQUEST FOR PROPOSAL SCORE CARD

NAME OF VENDOR:

(COMPLETE ONE FOR EACH VENDOR)

Criteria	Possible Points	Points Received by Vendor	Justification for Scoring
Cost (Vendor with the lowest price receives the maximum points. The other vendors receive points equal to the lowest price divided by their meal price x maximum points. Do not round).			
Years of Experience 5 years=5 points 4 years=4 points 3 years=3 points 2 years=2 points 1 year=1 point			
Service Capability Plan			
Financial Conditions/Stability, Business Practices			
Delivery Plan			
References (Provide 3 references)			
Employee Training Program			
	100 Points		

***Complete the Maximum Points for each category. Price must be the primary factor. Score each vendor and provide detailed justification for scoring in each category.**

****Score cards without justification are not allowed.**

Signature of Committee Member

Title

Date

Additional Requirements for a Food Service Management Contract

- (1) **Adhere to the procurement standards** specified in §210.21 when contracting with the FSMC
- (2) Ensure that the FSMC operation is in conformance with the **school food authority's agreement** under the Program
- (3) **Monitor** the food service operation through periodic on-site visits (**these visits must be documented**)
- (4) **Retain control** of the quality, extent, and general nature of its food service, and the prices to be charged the children for meals

Additional Requirements for a Food Service Management Contract

- (5) **Retain signature authority** on the State agency-school food authority agreement, free and reduced price policy statement and claims
- (6) Ensure that **all federally donated foods** received by the school food authority and made available to the food service management company **accrue only to the benefit of the school food authority's** nonprofit school food service and are fully utilized therein
- (7) **Maintain applicable health certification** and assure that all State and local regulations are being met by an FSMC preparing or serving meals at a school food authority facility
- (8) Establish an **advisory board** composed of parents, teachers, and students to assist in menu planning

Additional Requirements for a Food Service Management Contract

(9) **Obtain written approval of invitations for bids and requests for proposals** before their issuance when required by the State agency. The SFA must incorporate all State agency required changes to its solicitation documents before issuing those documents

(10) **Ensure that the State agency has reviewed and approved the contract terms** and that the school food authority has incorporated all State agency required changes into the contract or amendment before any contract or amendment to an existing food service management company contract is executed. Any changes made by the school food authority or a FSMC to a State agency pre-approved prototype contract or State agency approved contract term must be approved in writing by the State agency before the contract is executed. When requested, the SFA must submit all procurement documents, including responses submitted by potential contractors, to the State agency, by the due date established by the State agency. **The LDOE requires the use of a prototype FSMC bid that has been approved by USDA. No changes or alterations are allowed.**

(11) **Conduct a reconciliation at least annually and at contract termination** to ensure the FSMC has credited it for the full value of all USDA food received

Required Provisions from Appendix II to 2 CFR 200

- Administrative, contractual, or legal remedies for breach of contract
- Termination for cause and convenience
- Equal Employment Opportunity Provision
- Davis-Bacon Act



Required Provisions from Appendix II to 2 CFR 200

- Contract Work Hours and Safety Standards
- Rights to Inventions
- Clean Air Act and Federal Water Pollution Control Act
- Debarment and Suspension
- Byrd Anti-Lobbying Amendment and Certificate

Required Provisions from 2 CFR 200

- Procurement of Recovered Materials (2 CFR Part 200.322)
- Minority Businesses, Women's Enterprises, and Labor Surplus firms (2 CFR Part 200.321)



Required Provisions from 7 CFR 210



Other Required Contract Provisions

The vendor shall comply with the following **civil rights laws**, as amended:

- Title VI of the Civil Rights Act of 1964;
- Title IX of the Education Amendments of 1972;
- Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975;
- Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act;
- FNS Instruction 113-1, Civil Rights Compliance and Enforcement in School Nutrition Programs.

Procurement Plan

Small Purchase Procedures

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Small Purchase Procurement

EXAMPLE

Federal Small Purchase Threshold	\$150,000
State Small Purchase Threshold	\$30,000
Local Small Purchase Threshold	?????????

Small Purchase Procurement

Requirements :

- a) Develop written specifications and provide to each vendor
- b) Provide clear and accurate descriptions of the technical requirements
- c) Where applicable, specifications must include Buy American
- d) Obtain price quotes from at least three responsible and responsive vendors; and
- e) Document all quotes.



Small Purchase Procurement

Award to responsive and responsible bidder with lowest price

- a) Responsive means that the vendor submits a bid that conforms to all specifications and terms of the solicitation.
- b) Responsible means that the vendor is capable of performing successfully under the terms of the contract.
- c) Document all procedures



Determining Sources To Be Contacted

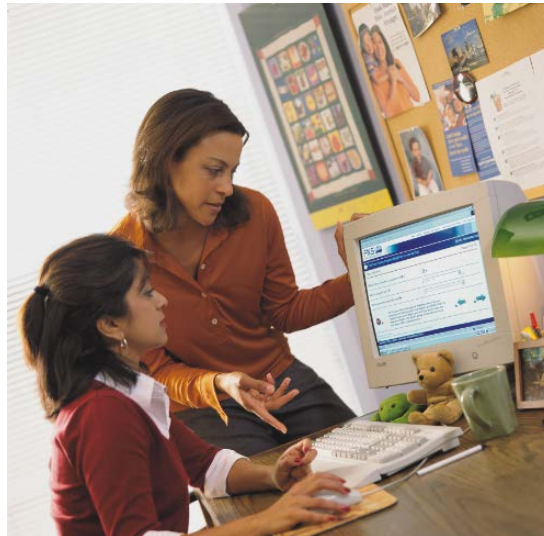
What constitutes an adequate number of sources?

- A minimum of three sources should always be contacted.
- It is a good practice to obtain in writing three sources that are eligible, able, and willing to provide the product, goods, and/or services.
- Maintain the solicitation document and keep records of the informal solicitation process.

Determining Sources To Be Contacted

The state agency must determine whether, in their judgement, free and open competition has occurred

Documentation is needed to support the award process and decision should a bidder file a protest



Procurement Plan

Micro-purchases

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Micro-purchases

- The Micro-purchase method of procurement is normally used to purchase supplies or services where the dollar amount does not exceed \$3500
- To the extent practicable, the SFA must distribute micro-purchases equitably among qualified suppliers
- Micro-purchases may be awarded without soliciting competitive quotations if the SFA considers the price to be reasonable.

(2 CFR Part 200.320)

Procurement Plan

Noncompetitive Proposal

Noncompetitive Proposal

This procurement method is used if items are available only from a single source when the award of a contract is not feasible under small purchase, sealed bid or competitive negotiation

When can a Noncompetitive Proposal be used?

- The item is available only from a single source
- The public exigency or emergency does not permit a delay resulting from competitive solicitation
- The awarding agency authorizes noncompetitive proposals
- After solicitation of a number of sources, competition is determined inadequate

When can a Noncompetitive Proposal be used?

Noncompetitive proposals can be used when a single solicitation or offer is received in response to a properly conducted competitive solicitation, the procurement process has been competitive, but has led to a circumstance that justifies the use of noncompetitive proposals as the final stage of the competitive procurement process

Decision-making Process

- ? Was only one response received because the solicitation document was poorly written or too restrictive, thereby limiting the number of companies willing to respond?
- ? Would a different description of the product or service specifications yield more than one offer?

Decision-making Process

Solicitation adequate

- Award the contract to the single respondent, or
- Attempt to negotiate better prices and/or terms with the single respondent

If the solicitation inadvertently limited competition, the SFA may:

- Re-advertise the procurement with a new solicitation
- If time is limited, the SFA may inform the sole respondent that the contract will be limited to the period of time stated in the initial solicitation document and must not be renewed
- Maintain documentation as to why the non-responders did not submit a proposal

One-Time Purchases of New Food Item

- Non-competitive negotiations can be used for one-time purchases of a new food item to determine acceptance by students and for samples for testing purposes. A record must be maintained by the SFA and shall include:
 - **item name**
 - **dollar amount**
 - **vendor, and**
 - **reason for non-competitive procurement**
- A member or representative of the local Board of Education or Governing Board will approve, in advance, all procurements that result from non-competitive negotiations



Noncompetitive Proposals in an Emergency

- The emergency purchase must be approved by an SFA official
- A log of emergency purchases must be maintained by the SFA
- At a minimum, the following emergency procurement procedures shall be documented:
 1. item name
 2. dollar amount
 3. vendor, and
 4. reason for emergency

Piggybacking in an Emergency



- The SFA originating the competitive procurement must have a piggyback provision in the solicitation
- Documentation of the emergency must be maintained
- Approval from the purchasing SFA's governing board must be maintained
- Approval from the Vendor must be maintained

Piggybacking in an Emergency

A contract with the vendor must be developed and must include the following requirements:

1. The contractor shall agree to retain all books, records, and other documents for 3 years after final payment of until audited by SFA, whichever is sooner.
2. The vendor will give the SFA, state agency, and/or USDA auditors full access to and the right to examine all materials related to the procurement

FNS Requirement For Sole Source Procurements

- All sole source procurements be approved prior to award by the state agency
- This does not mean that the state agency must always grant prior approval to any contract involving noncompetitive proposals
- When a noncompetitive proposal is used due to the SFA's use of a brand name specification, or a claim that the product is available from only one source, the state agency must concur with the need for a **brand name** or **single source procurement** if the contract is to be funded out of the nonprofit school nutrition account



Retention of Documents for Sole Source Procurements

- Written rationale for the method of procurement
- A copy of the original solicitation
- The selection of contract type
- The bidding and negotiation history and working papers
- The basis for contractor selection
- Approval from the State agency to support the lack of competition

Retention of Documents for Sole Source Procurements

- The basis for award cost or price
- The terms and conditions of the contract
- Any changes to the contract and negotiation history
- Billing and payment records
- A history of any contractor claims
- A history of any contractor breaches

Noncompetitive Proposal

- ✓ Remember that negotiations must include both price and terms using the same procedures that would be followed for competitive proposals
- ✓ Follow procurement procedures for the procurement method being used (formal or informal)

State of Louisiana Contracts

- Contracts that have been awarded by the State of Louisiana Office of State Purchasing may not be utilized by the SFA unless all federal requirements are met.
- As of January, 2018, all required federal requirements have not been met therefore SFAs are not allowed to use state contracts.

IT'S ACTIVITY TIME!



Questions?

