

Notice of Intent to Award/Notice of Non-Award Guidance

This guidance establishes recommended procedures for issuing a Notice of Intent to Award and a Notice of Non-Award following the evaluation of proposals for Self-Operated procurements. These notices promote transparency, support fair and open competition, and strengthen procurement documentation in accordance with, but not limited to, 2 CFR Part 200 and 7 CFR 210.16.

This guidance should not be construed as legal advice. School Food Authorities (SFAs) remain responsible for ensuring that all procurement documents, notices, and contract actions comply with applicable federal, state, and local laws and regulations. Consultation with legal counsel is recommended before adopting or relying upon the sample language contained herein.

Notice of Intent to Award

The Notice of Intent to Award informs all responsive offerors of the SFA's preliminary selection before execution of the contract.

Purpose

Issuing this notice:

- Promotes transparency
- Provides unsuccessful offerors an opportunity to seek clarification or file a protest under established procedures
- Notifies offerors that the SFA intends to award the contract, subject to review and approval by any required local board, and execution of a fully executed contract
- Demonstrates fairness in the procurement process
- Creates a documented procurement record

Timing

When to issue this notice:

- After completion of the evaluation process
- After required internal approvals (if applicable)
- Before contract execution
- Sufficiently in advance to allow any protest period established by the SFA's written procurement protest procedures

Minimum Content

The Notice of Intent to Award should include:

- Date of the notice
- Procurement or solicitation number (if applicable)
- Procurement title
- Name of the selected Vendor
- Anticipated contract execution date
- Instructions for submitting procurement protests
- Protest deadline

- Procurement contact information

Sample Language

Following completion of the evaluation process, [School Food Authority] intends to award the [Mainline Distributor, Milk, Bread, Produce, etc.] contract to [Company Name], subject to review and approval by any required local board approvals, and execution of a written contract.

This Notice of Intent to Award does not constitute a contract award or create any contractual rights. No contract shall become effective until all required approvals have been obtained, and the contract has been fully executed by all parties.

Any procurement protest must be submitted in writing no later than [insert number] business days from the date of this notice in accordance with the School Food Authority Procurement Protest Procedures.

Notice of Non-Award

The Notice of Non-Award informs unsuccessful offerors that another responsive and responsible offeror has been identified for the intended contract award.

Purpose

Issuing this notice:

- Closes the procurement process
- Provides transparency
- Identifies available protest procedures
- Documents notification

Timing

The Notice of Non-Award should generally be issued simultaneously with the Notice of Intent to Award.

Minimum Content

The notice should include:

- Procurement title
- Statement that another offeror has been selected
- Appreciation for participation
- Notice that evaluation was conducted according to published criteria
- Instructions for submitting procurement protests
- Protest deadline
- Procurement contact information

Sample Language

Thank you for submitting a [proposal/bid] in response to the [Mainline Distributor, Milk, Bread, Produce, etc.] procurement issued by [School Food Authority Name].

Following the evaluation of all responsive [proposals/bids] in accordance with the evaluation criteria set forth in the solicitation, another responsive and responsible offeror has been identified for the intended contract award.

This notice does not constitute a contract award or create any contractual rights or obligations. The intended award remains subject to review and approval by any required local board approvals, and execution of a written contract by all required parties.

We appreciate your participation in this competitive procurement and thank you for your interest in serving the students of [School Food Authority Name].

If you believe this procurement was not conducted in accordance with applicable procurement requirements or the terms of the solicitation, you may submit a written protest in accordance with the School Food Authority's Procurement Protest Procedures no later than [insert number] business days from the date of this notice.

Documentation Requirements

The SFA should maintain documentation sufficient to demonstrate compliance with applicable federal, state, and local procurement requirements. Consistent with 2 CFR 200.318, the procurement file should include, at a minimum, the following documents:

- Notice of Intent to Award
- Notice(s) of Non-Award
- Distribution list
- Date notices were issued
- Evaluation summary
- Evaluation score sheets
- Consensus evaluation documentation
- Award recommendation
- Protest documentation (if any)
- Executed contract

Recommended Best Practices

School Food Authorities should:

- Ensure all notices are issued in writing and retained in the procurement file
- Not execute the contract or permit performance to begin until all required approvals have been obtained
- Issue written notices to all responsive offerors on the same day
- Use consistent language for all notifications
- Avoid announcing contract awards publicly until any protest period has expired and required approvals have been obtained
- Document all communications related to award decisions (refer to local procurement communications policy)
- Follow state agency requirements when they are more restrictive than federal regulations
- Ensure all procurement actions remain consistent with the solicitation, written procurement procedures, and applicable state and local law