



# General Procurement

Illinois State Board of Education

Nutrition Programs – Back to School Conference

August 7, 2018



*NUTRITIONAL*  
**PURSUIT**

SNP Back to School Conference  
ISBE Nutrition Division



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# Procurement

Procurement means the process of obtaining goods and/or services in accordance with applicable rules and regulations.



## Principles of Good Procurement

- Free and Open Competition
- Fairness and Integrity
- Responsive and Responsible



NUTRITION AND WELLNESS  
Contracts/Procurement for School-Based Child Nutrition Programs

**Contract Information**

## NUTRITION & WELLNESS CONTRACT INFORMATION

This page is designed to provide school food authorities (SFAs) with information regarding the proper procedures to be used in the procurement of contracts for foods and goods (not meal services contracts) in the School-Based Child Nutrition Programs. Numerous references and resources are also provided.

### THE CODE OF FEDERAL REGULATIONS (CFR)

- [2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)
- [7 CFR Part 210 National School Lunch Program](#)

For further information, refer to the following questions and answers.

- [Q&A: Purchasing Goods and Services Using Cooperative Agreements, Agents, and Third Party Services](#)
- [USDA Clarification on Group Purchasing Organizations](#)
- [USDA Memo: Market Basket Analysis When Procuring Program Goods and Modifying Contracted-For Product Lists](#)

General Procurement Requirements

Competitive Sealed Bid Requirements

Competitive Sealed Bid Procedures

Informal Bid Procedures

Geographic Preferences

Buy American

Contract Certification Forms

Bid Protests



## The Code of Federal Regulations (CFR)

### 2 CFR Part 200

- Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards

### 7 CFR Part 210

- National School Lunch Program



# General Procurement Federal Guidelines

## 2 CFR Part 200

- Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards

## 7 CFR Part 210

- National School Lunch Program



## General Procurement Federal Guidelines

- All Procurement transactions must be conducted in a manner that provides maximum open and free competition.
- Procurement procedures must ensure they do not foster noncompetitive practices between firms, do not create organizational conflicts of interest, and do not restrict or eliminate competition.
- Procurement must not place unreasonable requirements on firms, require unnecessary experience, or establish unrealistic bonding requirements.
- Cost plus a percentage of purchase is not an allowable contract method.





## Code of Conduct

2 CFR 200.318 (c)(1)

- The school district must have its own documented procurement procedures that conform to all federal, state and local laws.
- The school district must have oversight procedures and documentation.
- The school district must have written standards of conduct covering conflicts of interest that prohibit officers, employees and agents from soliciting or accepting gratuities, favors or anything of monetary value from contractors or parties of subcontracts.



# Code of Conduct

2 CFR 200.318 (c)(1)

- The procedures must avoid acquisition of unnecessary or duplicate items.
- The school district must award contracts only to responsible contractors.
- The school district must maintain records sufficient to detail the history of the procurement.



## Code of Conduct

- Procedures must provide for disciplinary actions for violations by officers, employees, or agents.
- SFA/LEA must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications.
- SFA/LEA must take steps to assure that small, minority and women's businesses enterprises and labor surplus firms are used when possible.



# The School Code of Illinois

- In excess of \$ 25,000 (with a few exceptions)
- Competitive sealed bids
- At least one public notice at least ten days before the bid date in a newspaper published in the district, or in a newspaper of general circulation in the area of the district
- Bids are publicly opened by Board or employees of the Board



# Procurement Methods

## Formal vs. Informal

### Formal

Sealed Bids  
(IFB's)/  
Competitive

### Informal

Micro-  
Purchases  
and Small  
Purchases



# Micro-Purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$ 3,500.

- Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable. (2 CFR 200.320)
- Must distribute micro-purchases equitably among qualified suppliers
- Simple purchase





## Small Purchases

Small purchases procedures, also known as informal procurement, are those relatively simple and informal procurement methods for securing services, supplies, or property that may be used when the anticipated acquisition will fall below the small purchase threshold.

- The federal small purchase threshold is \$ 150,000.
- State of Illinois small purchase threshold in \$ 25,000 or \$ 150,000.
- In applying the small purchase threshold, the school food authority must adhere to the most restrictive, lowest limit set.
- If the small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources of 3 or more.





## Illinois Cost Level

For public schools only...

The Illinois School Code states that all purchases, except perishable foods and beverages in excess of \$ 25,000 (or a lower amount as required by district board policy), must be competitively bid and awarded to the lowest responsible bidder. The \$ 25,000 level refers to aggregate purchases on an annual basis.







## Annual Levels for Formal Bids

The chart below details when formal competitive bidding must be conducted.

TYPES OF ITEMS	ANNUAL AMOUNT OF PURCHASES
Milk or fresh dairy products	In excess of \$150,000
Fresh bread	In excess of \$150,000
Fresh produce	In excess of \$150,000
General groceries	In excess of \$150,000
Vended meals	In excess of \$150,000
Supplies	In excess of \$25,000
Equipment	In excess of \$25,000



# Informal Purchase Procedures

Purchases do not exceed \$ 150,000 (or \$ 25,000) as described above, informal bid procedures may be used. The following steps should be part of the informal bid process:

- Develop a written purchase description of the services/items being solicited;
- Solicit quotes/bids from three or more potential vendors based on the purchase description; document vendor names along with the date and method of contact - be sure to maintain free and open competition;



# Informal Purchase Procedures

(cont.)

- Record all quotes/bids received and any notification received from vendors declining to bid;
- Evaluate the quotes for conformance to the purchase description;
- Award the purchase/contract (record the justification for the award; and
- Maintain all documents on file for potential audit purposes.



# Formal Procurement

When the value of the purchase is expected to exceed the simplified acquisition threshold, SFA's must use the following method:

- Competitive Sealed Bidding (2 CFR 200.320 ( c )





# What is Competitive Sealed Bidding

(IFB)

2 CFR 200.320 ( c )

Bids that are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price





## What are some components of Competitive Sealed Bidding (i.e. IFB)

Bids must be solicited from an adequate number of known suppliers,

- Providing them sufficient response time prior to the date set for opening the bids, for all organizations,
- The invitation for bids must be publically advertised for at least 10 days before the bid date.





## What are some components of Competitive Sealed Bidding (i.e. IFB)

- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond

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Hello, Procurement? There appears to have been a mix up with my request for a new computer.



## What are some components of Competitive Sealed Bidding (i.e. IFB)

- All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly
- A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder
- Any or all bids may be rejected if there is a sound documented reason





## Additional Provisions when Contract is to be Awarded (7 CFR Part 210.21 ( f ))

- 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 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); or



## Additional Provisions when Contract is to be Awarded (7 CFR Part 210.21 ( f ))

- 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 SFA may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;



## Additional Provisions when Contract is to be Awarded (7 CFR Part 210.21 ( f ))

- The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and
- The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency or the Department of Agriculture.



## Additional Provisions: 7 CFR Part 210.21 ( d )

### Buy American

(d) Buy American... the term 'domestic commodity or product' means:

- An agricultural commodity that is produced in the United States; and food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

Requirement: Regulations require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.



## Additional Provisions: 7 CFR Part 210.21 ( d )

### Buy American

Exceptions to the Buy American provision:

- Two situations which may warrant a waiver to permit purchases of foreign food products are:
  - The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; or
  - Competitive bids reveal the costs of a U.S. product are significantly higher than the foreign product.



## Geographic Preference

### 7 CFR Part 210.21 (g)

- Prohibited in Federal procurements except where applicable Federal Laws expressly permit their use
- National School Lunch Act: apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products.



## Contracts to be Awarded

- Competitive Sealed Bid (IFB) results in a Fixed Price Contract only.



## Fixed Price

- Fixed Price contract:
  - Provides a stated price that is fixed
  - Provides the maximum incentive for the contractor to control costs and perform effectively
  - Imposes the least administrative burden on the contracting parties
  - May contain an economic price adjustment tied to an appropriate index





## Fixed Price – Cont.

- Fixed Price contract:
  - Price is fixed for the duration of the contract
  - Price adjustments authorization and procedures, if any must be included in the solicitation:
    - Must be tied to a standard index such as the Consumer Price Index, and
    - The frequency of adjustment included
  - Contract duration may be less than one year depending on market conditions.



## Elements of a Solicitation

- 2 CFR Part 200.319 provides the language for the minimum requirements of a solicitation. This includes:
  - A clear and accurate description of the technical requirements for the material, product, or service to be procured. Price adjustments authorization and procedures, if any must be included in the solicitation:
  - A statement of the qualitative nature of the material, product or service to be procured.
  - Detailed product specifications should be avoided if at all possible.
    - When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated



## Elements of a Solicitation

- Evaluation factors:
  - Identify all requirements which the responders must fulfill and the criteria to be used in evaluating bids or proposals.
    - Including geographic preference





## Terms and Conditions and Provisions

- Federal Provisions that apply:
  - Appendix II Contract Provisions for 2 CFR Part 200 (formerly from 7 CFR Part 3016.36(i). These are the same as before so you know these as:
    - Administrative, contractual, or legal remedies
    - Termination clause
    - Equal Employment Opportunity Executive Order 11245
    - Copeland Anti-Kickback”
    - Davis-Bacon
    - Contract Work Hours and Safety Standards
    - Reporting



## Terms and Conditions and Provisions

### More Federal

- Awarding agency requirements and regulations (this includes allowable cost provisions in 7 CFR Part 210.21 (Buy American, allowable cost provisions in cost-reimbursable contracts
- Look at the books – Comptroller General of the United States, et.al.
- Clean Air and Water Act
- Debarment and Suspension
- Lobbying
- New: 2 CFR Part 200.322 – Procurement of recovered materials
- For a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act.....



## Terms and Conditions and Provisions

### Other

- Common terms that may be used:
  - Vendor invoicing requirements
  - LEA payment frequency and method – every two weeks, 2/month, 30 days, etc.
- Delivery requirements, if any, and frequency
- Installation
  - Equipment (provide the utility requirements in the specifications (emphasis added))
- Others???



## Elements Restricting Competition

2 CFR 200.319

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;







## Receive and Evaluate Responses

- Receiving Responses
  - Fixed Price Contracts
    - Bids received sealed
    - Public bid opening

A yellow, scalloped-edged circular graphic with a drop shadow, containing the text "Sealed Bid Document" in bold black font.

**Sealed Bid  
Document**



## Evaluate Responses

- Evaluating Responses
  - Fixed Price Contracts:
    - Evaluation is for lowest responsive and responsible alone, no other dimension than price

**Sealed Bid  
Document**



## Award and Execute Contract

- Once evaluated, a contract may be awarded and the contract executed.
- Remember, contracts for FSMCs require prior approval by the State agency.
- Any pre-issuance requirements by the State agency also apply





## Manage Contracts

- 2 CFR Part 200.318(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders





# Questions