

Passage of House Bill 4813 – Procurement Options

Recently, House Bill 4813 passed and was signed by the governor, making it a law ([Public Act 102-1101](#)). This in turn modified section 105 ILCS 5/10-20.21 of the Illinois School Code to provide for additional procurement method options when procuring goods, services, or management in the operation of a school's food service, if a good faith effort is made on behalf of the school district to give preference to all of the following:

- contracts that procure food that promotes the health and well-being of students, in compliance with United States Department of Agriculture nutrition standards for school meals. Contracts should also promote the production of scratch made, minimally processed foods;
- contracts that give a preference to State or regional suppliers that source local food products;
- contracts that give a preference to food suppliers that utilize producers that adopt hormone and pest management practices recommended by the United States Department of Agriculture;
- contracts that give a preference to food suppliers that value animal welfare; and
- contracts that increase opportunities for businesses owned and operated by minorities, women, or persons with disabilities.

Prior to this change, School Food Authorities (SFAs) used the Invitation for Bid (IFB) procurement method solely. Now, due to the passage of this legislation SFAs may continue to use the IFB procurement method or they may utilize a different procurement method called a Request for Proposal (RFP). It is important to note, that the RFP procurement method can only be utilized if the SFA gives scorable preference to the items bulleted above.

Guidance and templates for IFBs are readily available on our [procurement website](#) and our ISBE Nutrition Programs Procurement staff are working diligently to develop guidance and templates for SFAs that will chose to use the RFP procurement method. We appreciate your patience as these resources are a work in progress and will take some time to develop. We are aware that SFAs may have many questions and there are some questions we have begun to receive, that we believe do need immediate clarification for our SFAs. Please see the attached Q&A.

Nutrition Programs Procurement staff are available to answer any questions that SFAs may have regarding general procurement, procurement of services, procurement of vended meals and/or Food Service Management Contracts and any questions regarding the management of your contract(s). We are here as a free service and resource to assist SFAs, which includes staff directly employed by the public-school district, ROE or nonpublic school with any procurement related questions. This open communication helps us to develop helpful guidance, templates and training that are beneficial to our SFAs. Please do not hesitate to reach out to us – we are here to help our schools. You can reach out to us at nutritionprocurement@isbe.net or 800/545-7892.

Does this mean we no longer have to conduct bids for purchases?

- No. This update to the law allows for the use of the IFB procurement method or the RFP procurement method if certain criteria are met. SFAs must continue to solicit bids or proposals in the purchasing of goods, services and/or food service management. There has been no change to the dollar thresholds that determine whether the purchase/contract can utilize the micro purchase, informal or formal procurement method. There has also been no change to the required 3 step process for the procurement of vended meals and/or Food Service Management Company contracts. It does however allow for the SFA to determine if the IFB or RFP would be the best option for their SFA.

I have heard that we can just pick who to award the contract to now - is that correct?

- No. SFAs will need to determine which procurement method will be best for their SFA and complete the procurement process. SFAs must ensure that the award of each contract follows federal, state and local rules and regulations, their code of conduct, procurement procedures and make determinations in a transparent & ethical manner. While also ensuring that the SFA is a good steward of federal and state funds. It is important that SFAs should utilize their legal department to ensure compliance and in order to respond to any bid protests that may occur.
- Full and open competition must be maintained and the procurement must not restrict or eliminate competition.
- If choosing the IFB method, the SFA will develop their specifications and bidders that are responsible, responsive and can meet their requirements at the lowest price would be awarded the contract.
- If choosing to utilize the RFP method, the SFA will develop a scoring matrix that will be used in the review of submitted proposals and price must be a primary factor in the scoring.

Do RFPs make meals healthier for our students?

- SFAs determine what their meal programs look like. The SFA needs to define the content of their meals in their solicitation. All meals served as part of the federal meal programs must at a minimum meet the federal meal pattern requirements. SFAs may have additional requirements or preferences regarding meal content with both an IFB or an RFP.
- Both IFBs and RFPs allow for SFAs to define the wanted/required food content of their meals. If an SFA wants fresh local fruits and vegetables served 3 days per week, that should be listed in their IFB or RFP solicitation. If an SFA wants unprocessed scratch cooked meals, the SFA should list that in their IFB or RFP solicitation.
- Once the contract is awarded, the SFA must ensure that they (the SFA) is ACTIVELY managing their meal program to ensure continued compliance with their contract requirements, regardless of the procurement method used. The SFA should be actively involved in overseeing their contract in order to ensure they are getting what they are paying for. This includes the SFA being knowledgeable about program requirements, conducting ongoing document reviews, on-site visits, participating in required advisory boards & questioning and communicating deficiencies with the contractor.

Are RFPs better for the SFA than IFBs?

- Neither and RFP or an IFB is "better" than the other. They both have their purpose and the SFA needs to look at a variety of factors in order to determine which procurement method would be best for each procurement they conduct. Some of the factors that play into the SFA determining which method is best for each procurement include but are not limited to the SFAs:
 - Timeline - how quickly do you need what you are procuring?
 - Does the SFA have a clear understanding of the product or project needs or does the SFA want ideas or suggestions?
 - Does the SFA possess the technical skills necessary to develop the written evaluation and scoring criteria, complete a review of the responses received in order to evaluate and score the proposals as specified in the solicitation, and negotiate with proposers?
 - Do you want a process in which you have requirements that MUST be met or do you want a sliding scale for preferences that you would like to have met?
 - How much time do you have to manage your contract throughout the year?
- These are just a few of the factors that the SFA should consider when determining which procurement method they should use for each procurement. Keep in mind that the SFA needs to make this decision based on their needs and if the SFA wishes to talk through the options ISBE procurement staff are available to talk through it and assist the SFA in determining what is best for the the SFA and their school(s).