



Procurement Review



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Procurement

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



Procurement Methods

Informal

- Micro-Purchases: the acquisition of supplies or services in which the aggregate dollar amount does not exceed \$10,000
- Small Purchases (Simplified acquisition): the acquisition of supplies or services in which the aggregate dollar amount does not exceed \$250,000 (or \$25,000 as per the Illinois School Code).

Formal

- Competitive Sealed Bids/ Invitation for Bid (IFB): when the value of the purchase is expected to exceed the simplified acquisition.
 - Are publicly solicited and a firm fixed price contract is awarded to responsible bidder whose bid, conforming with all the material terms and conditions of the IFB, is the lowest in price.



Procurement Review

The purpose of a procurement review is for State Agencies to ensure the procurement process conducted by school food authorities (SFAs) complies with Program and the government-wide procurement standards. Procurement standards must be conducted in a manner providing full and open competitive (2 CFR 200.319(a)).



Why is there a Procurement Review?

Procurement is a major responsibility of each SFA – almost half of the SFA’s reimbursement is used on the procuring of goods and/ or services.

Procurement has a major impact on financial stability of the SFA’s nonprofit school food service account.

Not just another “food service” requirement. 2 CFR 200 applies to ALL federal grants and most SFAs receive Federal grants other than just from the Child Nutrition Program.



Rules and Regulations

Program

- 7 CFR Parts 210.21, 215.14a, 220.16, 225.17. and 226.22, as applicable

Government-wide

- 7 CFR Parts 3016 and 3019, as applicable
- 2 CFR Part 200

State

- 105 ILCS 5/10-20.21: The Illinois Public School Code states that all purchases, except perishable foods and beverages in excess of \$25,000 (or lower 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.



Overview of a Procurement Review

- Obtaining the most economical purchase should be considered in all purchases when using Federal funds.
- All Procurement transactions must be conducted in a manner that provides maximum open and free competition.
- Federal, state and local laws and regulations specify the procurement method, terms and conditions SFAs must follow to competitively procure goods and services, award contracts, and oversee contractor performance, (2 CFR 200.318(b)).
- State agencies are required to ensure that SFAs comply with applicable provisions through audits, administrative reviews, technical assistance, training guidance materials and by other means (7 CFR 210.169(a)(3)).



State Agency Review Process

Includes reviewing the SFA's procurement documentation and assessing compliance with the procurement standards.

The State Agency (ISBE) has the discretion to conduct the procurement review off-site, on-site, or off-site/on-site as long as all procurement documentation needed to conduct the review can be obtained by the State Agency.

The procurement review may be conducted as part of the Administrative Review, or as a separate review, as determined by the State Agency. State Agencies must conduct a procurement review on all SFAs once in each review cycle.

Once review is complete, the State Agency (ISBE) may provide technical assistance and establish findings and required corrective action, as applicable.



Snapshot of a Procurement Review

The State Agency, the Illinois State Board of Education (ISBE), will conduct the procurement review using a step-by-step approach. From notifying each SFA of a procurement review to closing the review, each step is intended to assess compliance while providing technical assistance in the area of procurement.

Overall, the State agency will:

- Notify SFA of a procurement review
- Schedule the review
- Send the SFA a Procurement Tool to complete and request a list of documentation needed to conduct the review
- Conduct the review either on-site or off-site, or both
- Report review results with the SFA
- Require corrective action, as applicable
- Review and approve the corrective action, as applicable
- Close the review



USDA Most Common Findings

1. No documentation to support the review process (2 CFR 2200.318)
 - Such as solicitation quotes, vendors contacted, invoices, vendor paid list, price per unit, etc.

SFA Can:

- Organize and retain documents to support procurement practices
- Conduct compliant and competitive procurement process
- DOCUMENT! DOCUMENT! DOCUMENT!



USDA Most Common Findings

2. No written Procurement Procedures (2 CFR 200.318(a))

- SFA does not have written procurement procedures reflective of Local, State and Federal requirements
- Written procurement procedures not updated
- Written procurement procedures too broad:
 - does not address all purchasing methods applicable to SFA (micro purchase, small purchase, formal purchase),
 - Does not all for free and open competition
- SFA can:
 - Create and implement written procurement procedures as per Federal Regulation
 - Review annually and update as necessary
 - DOCUMENT! DOCUMENT! DOCUMENT!



Procurement Policy

2 CFR 200.318 (a)

- 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.
- 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.



USDA Most Common Findings

3. No Code of Conduct (2 CFR 200.318(c)(1))

- SFA does not have written Code of Conduct
- Does not include/ address 3 provisions:
 - Conflict of interest
 - No solicitation or acceptance of gratuities favors, or anything of monetary value
 - Disciplinary action to be applied or violations
- SFA can:
 - Create and implement written procurement procedures as per Federal Regulation
 - Review annually and update as necessary
 - There is a clause that non-federal entities may set standards for situations in which the financial interest is not substantial or the gift is of nominal value. The SFA MUST define nominal value
 - DOCUMENT! DOCUMENT! DOCUMENT!



Code of Conduct

2 CFR 200.318 (c) (1)

- 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.
- 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.



USDA Most Common Findings

4. No Buy American Provision (2 CFR 210.21(d))
 - Not included in solicitations and contracts
 - SFA can:
 - Utilize SP 38-2017: Compliance with and Enforcement of the Buy American Provision in the NSLP for template language
 - DOCUMENT! DOCUMENT! DOCUMENT!



USDA Most Common Findings

5. No Contract Oversight

- SFA not overseeing contract and ensuring that all terms are being met
- SFA can:
 - Monitor contractors for compliance with specifications, terms and conditions of contracts



What can you do to prepare?

- ✓ Conduct compliant procurement processes
- ✓ DOCUMENT! DOCUMENT! DOCUMENT!
- ✓ Ensure you have written, detailed procurement procedures
- ✓ Ensure you have a compliant code of conduct
- ✓ Incorporate language in your procurement procedures, solicitations and contracts for food specification to ensure compliance with the Buy American provision
- ✓ Monitor contractors for compliance with specification, terms, and conditions of contracts
- ✓ Review your procurement process and procedures annually



Questions?

