



Procurement

Idaho School Nutrition Reference Guide

OVERVIEW

Procurement involves the planning that goes into purchasing food, supplies, goods, and services. In terms of Child Nutrition Programs which are federally funded, sponsors must comply with federal procurement standards found in 2 CFR §200 and 7 CFR §210.21, as well as any additional applicable state and local procurement regulations (which may be more restrictive than federal standards). *School districts are to follow whichever regulations are the most restrictive.* These standards are meant to prevent fraud, waste, and program abuse. Sponsors must have a written code of conduct, which describes allowable and unallowable practices involved in purchasing goods and services. Each school food authority (SFA) will have to ask their financial or administrative office how to handle procurement at their particular school district and ensure all regulations are followed.

Procurement is a way to plan for purchases to help ensure that money is spent wisely. Careful selection of products and meals in the procurement process can be critical to the financial success of a program. Sponsors may want to consider any number of the following when developing bid specifications: taste, grade, appearance, brand preference with an equal or equivalent option to be allowed, seasonality, pack sizes, delivery schedules and geographic location.

After the procurement is awarded and a contract is in place, the Contract Administration or Performance Management process starts. After awarding a contract, the sponsor must make sure the terms and conditions of the contract are being followed.

TERMS TO KNOW

Code of conduct – A document required of all sponsors that outlines allowable and unallowable practices in the procurement of goods and services.

Contract monitoring (aka Contract Administration/Performance Management Process) – Making sure the terms and conditions of the contract are being followed once the contract has been awarded; an ongoing process.

Invitation for bid (IFB) - A solicitation to prospective vendors containing contract requirements and product or service specifications. Contracts are awarded to the lowest responsive, responsible bidder.

Local purchasing - There are many options for defining “local,” and definitions vary widely depending on the unique geography and climate where a sponsor and its meal sites are located.

Sponsors can define local as within a certain number of miles, within the county, state, or region of the country.

Micro purchase – A **purchase** of supplies and/or services under the dollar value of \$10,000. Micro-purchases may be awarded without soliciting competitive price or rate quotations, if the Program operator “considers the price to be reasonable based on research, experience, purchase history or other information and documents it accordingly.” Sponsors should distribute micro-purchases equitably among qualified suppliers.

Procurement – Planning that goes into purchasing the right amount of products, at the right time, and at the price afforded. The act of obtaining goods or services in exchange for money or value conducted with free and open competition on a level playing field. All USDA Child Nutrition Programs must have written procurement procedures.

Procurement by competitive proposals – Competitive proposals are publicly solicited from a number of qualified sources with more than one source submitting an offer, and either a fixed-price or cost-reimbursable type contract is awarded. The solicitation must include a written method of conducting technical evaluations and contracts are awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

Procurement by sealed bids (formal advertising) - When purchases are estimated to exceed the most restrictive small purchase threshold (State of Idaho is at or below \$49,999 for public school districts), sponsors must conduct a cost or price analysis (2 CFR Part 200.323). Bids are publicly solicited from two or more responsible bidders and a firm fixed-price contract (lump) sum or unit price is awarded to the responsible bidder whose bid, conforms to all contract specifications, terms, conditions, and required provisions. Federal contract provisions are found at 2 CFR Part 200, Appendix II.

Request for proposal (RFP) – A document to solicit proposals for goods and/or services that describes in a general way the needed items and requests that vendors submit a proposal for serving the needs of the district. Contracts are awarded based on criteria defined in the solicitations document.

Small purchase threshold –The State of Idaho Small Purchase Threshold for public schools is set at \$49,999. For Private non-profit sponsors The Federal Small Purchase threshold, as it relates to all Food and Nutrition Services (FNS) program procurements, is set at \$150,000 per 2 CFR 200.320(b). Purchases may be subject to required Federal contract provisions found at 2 CFR Part 200, Appendix II.

WHAT IS PROCUREMENT?

A multi-step process for obtaining high quality products and services at the lowest possible cost. Procurement is a way to plan for purchases to help ensure that money is spent wisely.

Careful selection of products and meals in the procurement process can be critical to the financial success of a program. The purchasing of food, supplies, goods and other services by sponsors using USDA program funds by sponsors is guided by 2 CFR Part 200 as well as all applicable program regulations. These standards are meant to prevent fraud, waste, and program abuse.

Federal rules require that sponsors have written procurement procedures in place per 2 CFR 200.318. The development of these procedures provides the specific roadmap for how the sponsor is conducting procurement and ensures regulations are followed. These procedures include:

- Written code of conduct that will help to prevent conflicts of interest
- The use of noncompetitive practices resulting in protests that delay contract award, or require the solicitation process to be terminated, re-written, and re-issued
- Who conducts the contract monitoring and how issues will be addressed, if identified

Code of Conduct

Sponsors must develop a code of conduct describing allowable and unallowable behavior for all employees, officers, and agents involved in procurement to ensure that goods and services are procured in an allowable manner. Federal language requires that penalties are included for violations of the code of conduct.

Procurement Plan and Procedures

Each sponsor will have to ask their financial or administrative office the following questions in order to know how to handle procurement at that particular school district:

- What is the Local Small Purchase threshold? (Idaho public school district threshold is \$49,999. Some districts may have lower thresholds)
- What is the local Capital Equipment threshold? (USDA has defined \$5,000 as the threshold, but school districts may have lower thresholds)

The procurement procedure that must be followed may then be determined:

- Below the Small Purchase Threshold
 - Micro Purchase (\$10,000 or less) – A purchase at or below \$10,000 which may be made without obtaining price quotes as long as the price is reasonable and purchases are distributed equitably among qualified suppliers to the extent practicable (i.e., a sponsor may not make all purchases from one source; rather, the sponsor must make purchases from all qualified sources equally). Micro purchases may be awarded without soliciting competitive quotations if the school district considers the price to be reasonable. The school district must maintain evidence of this reasonableness in records of all Micro purchases.
2CRF 200.320 (a) and defined by 2 CFR 200.67
 - Small Purchase Procedure (Federal: \$10,001 to \$250,000: private and parochial; public school districts in Idaho: \$10,000 to \$49,999) – Verbal quotes obtained from vendors (three, but if there are not that many in the area, then two will suffice). If

small purchase procedures are used, verbal price or rate quotations must be obtained from an adequate number of qualified sources. Document all responses.
2 CFR 200.320 (b) Procurement by small purchase procedures

- Above the Small Purchase Threshold
 - Semi-Formal Bidding (\$50,000 to \$99,999) – Issue written requests for bids describing goods or services desired to at least three vendors. Allow three days for a written response, unless an emergency exists; allow one day for objections.
IC 67-2806 (1)
 - Formal Bidding (\$100,000 and above for public schools, private and parochial school thresholds over \$250,000 require formal bidding) Publish notice at least two weeks in advance of bid opening. Make bid specifications available; written objections allowed. May request bid security/bond. USDA: all bids will be publicly opened at the time and place prescribed in the invitation for bids. A firm, fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bid, is the lowest in price. Any or all bids may be rejected if there is a sound documented reason.
IC 67-2806 (2) Idaho requirements. 2 CFR Part 200.319 provides the language for the minimum requirements of a solicitation; must follow the most restrictive requirements

Written Procurement Plan to Include

- Code of ethics / conduct and conflict of interest policy
- Specified person(s) authorized to make CN purchases
- Award method to be used
- Advertisement procedures
- How vendor is to be notified of award / declination
- Procurement method to be used, including procedures for each method
- Buy American Provision
- Small, minority and women owned businesses
- Cost/price analysis
- Unnecessary or duplicative purchases

Letter of invitation includes

- Intent of procurement activity
- Contract time period
- Bid submission procedures (i.e., sealed bid, written, etc.)
- Pre-bid / proposal meeting date / time / location
- Bid opening date / time / location
- Contract information

Bid document to include terms and conditions for

- Certification regarding disclosure of lobbying (\$100,000+)
- Debarment / suspension certification language (\$25,000+)
- Non-collusion statement
- Buy American Provision (*SP 38-2017: Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program*)
- Assurance of ethical practices
- Escalation / de-escalation clause (3rd party market based)
- Termination for Cause (\$10,000+)

Contract Administration/Performance Management Process

Once the sponsor has evaluated and made the award (and a contract is in place in the case of a formal procedure), contract monitoring begins (i.e., making sure the terms and conditions of the contract are followed).

WHY IS PROCUREMENT IMPORTANT?

Procurement is essential to promote cost-effective use of Federal funds by conducting purchasing which provides the maximum of free and open competition and eliminates unfair competitive advantages. Procurement procedures play a critical step in the overall purchasing process because these procedures determine the type of procurement method that will be used and the types of contracts that will result. To help achieve success, an SFA plans and evaluates food service operations and food service needs and works with the district's business and administrative team.

RESOURCES

Additional resources may be available for this topic. Please check the Idaho School Nutrition Reference Guide website for copies of manuals, user guides, and helpful links to relevant subject matters.

For Questions Contact

Child Nutrition Programs
Idaho State Department of Education
650 W State Street, Boise, ID 83702
208 332 6820 | www.sde.idaho.gov

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