

## ***Lunch Line dedicated to Recipient Agency Procurement Considerations***

**Please share this information with the procurement specialist at your school district.**

The procurement of goods and services in the National School Lunch Program (NSLP) must be conducted in a manner that ensures free and open competition, in accordance with Federal regulations under 7 CFR Part 3016 or 7 CFR Part 3019, as applicable, and must also comply with procurement requirements in 7 CFR 210.21.

On February 13, 2012, USDA provided written guidance in the form of a Policy Memo, [http://www.fns.usda.gov/fdd/policymemo/pmfd119\\_NSLP\\_PROC-SolicitingBids.pdf](http://www.fns.usda.gov/fdd/policymemo/pmfd119_NSLP_PROC-SolicitingBids.pdf)

### ***Recipient Agency Procurement Considerations***

In Connecticut, we allow all of the value-pass through systems, i.e. Net Off Invoice, Fee For Service, and Direct Discount. RA's should know which value pass through system is approved by going to the Marketplace <http://das.ct.gov/cr1.aspx?page=29> and clicking the "Approved Processors" link. RA's should review this information before issuing any request for proposal or sealed bid or ordering any raw materials for direct diversion to a Processor.

Bidding for both commercial and commodity processed items is required under Federal Regulation 7CFR3016.

This guidance does not seek or intend to create a procurement system. This guidance is intended to provide information for consideration when creating a procurement solicitation.

Each district's needs and bidding requirements may be, and often are, specific to that district. Local regulations may be more stringent than the State and Federal Regulations and these must be incorporated into the procurement plan.

### **The following topics are recommended to be addressed in the procurement document:**

**Scope and Intent of Bid/RFP:** A brief explanation of what the goal of the solicitation is. This message gives the prospective respondent the first impression of the business and what the needs might be.

**Bid/RFP Covenants:** State the minimum requirements/conditions to do business with a recipient agency or co-op. Work with recipient agency purchasing personnel/department to insure minimum covenants are covered.

**Bid/RFP Period:** Indicates the time frame for which the bid/RFP is intended.

**Renewal Clause:** Indicates the time frame for which the bid/RFP may be mutually renewed.

**Quantity Desired:** The realistic quantity the supplier can count on the district purchasing. The more accurate the figures, the more aggressive it will allow both manufacturer and distributor to be on cost. This may be expressed in raw poundage expected to process, servings per item, or finished cases needed.

Record Keeping: Some processors offer Internet based systems designed at maintaining customer's accounts. The RA should ask the Processor if they offer some type of on-line system to help manage the account. Some more advanced sites offer a commodity "calculator." This feature allows the RA to enter a total amount of finished product needed by manufacturer product number to meet menu needs and the system will calculate how many pounds of USDA commodity are needed to produce the finished cases needed.

Cash Flow: In some cases, processors are limited in the number of deliveries that they can make throughout the school year. The timing of these deliveries has many factors but the net result is that once delivered to the distributing agent, the invoice is payable to the processor. If the RA is unable to accept some or the entire product from the distributor for whatever reason, the RA ends up paying for product that they cannot access for sometime. This may or may not fit into the cash management goals of the district.

Analysis of Costs: RA needs to fully understand what the service and distribution fee will be for the product chosen. When creating a solicitation document, if specifying a preference for NOI, RA's should request the gross case bid/RFP price, the USDA Foods value per case, and the net price to be identified separately in the bid/RFP response. If RA receives only the net case price, an RA cannot be certain that it is receiving the correct/full value of the USDA Foods per case.

Any non-profit discount, volume discount should be reflected separate from the USDA Foods discount or reflected in the gross price listed.

The use of NOI may eliminate the need for storage costs. The RA will however need to assess any increase in service and delivery fee a distributor may require for this type of transaction to cover possible associated administrative costs. A detailed understanding and analysis must be completed when assessing the benefits of both FFS and NOI.

This type of analysis of costs will allow the district to determine the cost competitiveness of the delivery and service fee as compared to all other delivery and service fees for commercial products.

Storage Fees: Most all third party warehouse and distribution arrangements include some period where storage is included in the delivery fee. Once that period has passed, typically the warehouse or distributor charges a monthly storage fee based on a case rate. These fees may or may not include summer months and are usually charged on a calendar month.

The RA must also know the warehouse or distributor delivery frequency and storage charges before making any diversion decisions. Storage costs can be significant if not managed and they can greatly decrease the advantage of further processing, over purchasing commercial product.

In Connecticut, the warehousing contract states the Contractor may assess a charge, per unit, per month, for each unit of food remaining in storage for July and August. The invoice must include the date the USDA Foods was received, the date the USDA Foods was shipped, and unit storage price per case. The storage charges for USDA Foods for the life of the State of Connecticut contract are as follows:

Frozen: \$0.90 per case  
Refrigerated \$0.80 per case  
Dry \$0.70 per case

Availability: Many factors affect when a processor will be able to make deliveries of product.

These include but are not limited to timing of raw material purchases by USDA: market conditions that might prevent raw material purchases; lack of volume to gain delivery efficiency back to the designated warehouse or distributor whether or not a processor is vertically integrated or is awaiting a USDA award for raw material from another supplier; etc.

These factors contribute to a variable delivery system, which may affect delivery of both Fee for Service and NOI products.

Insurance: If a third party distribution agent other than that offered through contract to the State is chosen by the RA, it is strongly recommended that the RA request that the distributor extend proper insurance to cover the recipient's product and to protect against loss or damage.

Delivery Requirements: Describes when, where, frequency, how many locations, when deliveries will and will not be accepted and whom to call to schedule

delivery. If the RA has chosen to secure their own distribution channel, the RA needs to make delivery expectations very clear.

It is recommended that the RA require a demonstration of ability to provide product for predictable deliveries throughout the school year.

Evaluative Criteria: Describes the determining factor(s) in awarding the bid. Indicate if other factors such as taste, quality, delivery flexibility, product yield or other criteria will be considered in the decision. It is recommended that a solicitation award matrix be outlined, which identifies criteria for bid/RFP award and respective weights to each criterion. Setting clear expectations and communicating them effectively will lead to awards that are more successful.

Product Specifications: Describe specifically what product is requested for purchase. Include in the description desired portion size or range in size, breading content, ability to bake the product, fully cooked or raw, bulk packed or individually wrapped, etc.

Nutritional Information: State whether the product needs to have CN labeling. State whether a nutritional analysis is required for each product offered. Clearly, identify any additional nutritional requirements such as maximum grams of fat, sodium levels etc.

USDA Foods Ingredients: Indicate USDA Foods ingredient(s) that will be processed.

Yield: Request product yield information and indicate how/if yield will be used to evaluate the bid/RFP. Yield information helps estimate projected costs and to determine your total needs for a year. RA's should request the SEPDS to determine product yield

Standard Yield or Guaranteed Return: If these are not required, how are shortages and overages to be handled by the processor? (This pertains to Minimum Guaranteed Return items)

Value Pass through Method: What method is best for the district? Does the supplier work in more than one method? Is the supplier approved for more than one method? In Connecticut, the Marketplace website has a list of approved processors and the value pass through method(s) the process is approved for in our state.

Inventory Reconciliation: It is recommended that the

Distributor's ability to provide a system to reconcile inventory at predetermined intervals be included in the solicitation document. It is important that it is clarified if you are requesting that a physical or book inventory is required.

Brands: Product testing is an effective way to determine customer preferences. What brands and quality levels has the district used or tested and found to be acceptable? Communicate expectations clearly that the goal is to obtain a product equal or greater in quality and value. Does the district require commodity/commercial matched products in terms of fat, nutritional, portion size, pack, case weight to insure smooth transition when further processed USDA Foods is not available to meet menu obligations?

Penalties: Consider stating penalties for missing delivery appointments, failure to submit needed information to appropriate parties, etc. This can be monetary or removal from contract award, but should only be used for major infractions. These may include but are not limited to failure to deliver the products in a timely manner, or delivering products that are different from the sample product approved, or events that affect the RA level of service to student customers. Insure that the district interests are covered.

Regulatory: Include Certificates of Debarment; Certification on Lobbying; Certification of adherence to Clean Water/Clean Air Act; Any other state or local required certifications or licenses.

BUY AMERICAN: All USDA Foods provided to schools and other outlets must be of 100% domestic origin. Any substitutions for those USDA Foods made by a processor must be 100% domestic origin. Processing agreements can allow for the combining of commodities with other non-domestic ingredients to achieve a new product as long as 51% of the final processed product consists of agricultural commodities that were grown or raised domestically. All RA's shall, in regard to USDA Foods and commercial products, obtain assurance from solicitation respondents that the item (s) are processed domestically and are grown domestically, or contain at a minimum of 51% domestically grown products in accordance with 7 CFR 210.21(d). Exceptions to this requirement based on cost, availability and/or quality must be justified by the solicitation respondent and approved by the RA. This can be in the form of a provision contained in the bid/RFP or a separate document that the solicitation respondent must sign to complete the bid/RFP package.

Ex: “By signing this solicitation, our company makes the assurance that the item(s) that we have offered proposed pricing on in this solicitation are processed domestically and are grown domestically, or contain at a minimum of 51% domestically grown products in accordance to 7 CFR 210.21(d).”

Risk and Safety: Are any Indemnification Agreements required? Are any third party sanitation inspections required? Insurance Certificates? Do they list the school district as an additional insured? What level of coverage does the school district require? Are copies of the suppliers recall program required? HACCP program? PCCP? Guaranteed Return (GR) program?

Payment Terms: What is the school district’s payment policy? Does the district pay from delivery tickets, bills of lading or is a formal invoice required? Are monthly statements required? Can the school district offer the supplier electronic payment? Does the district take advantage of early payment discounts if available? Does the supplier offer a drop size incentive?

Miscellaneous: Does the district require copies of a Processor’s SEPDS? Is there an option on the bid to exercise an option to continue the bid for an additional year at the districts discretion? If so, how is that done? Does that include provisions for price re-determination? What is the cancellation policy for both parties?

Will samples be provided upon request? It is imperative when requesting samples for testing that the samples be required to be equivalent to the commodity product.

Are references available for both current and recently lost customers?

If you have any questions regarding this guidance material, please contact the Food Distribution Program at 860-713-5147.

## **Web Resources:**

### **Connecticut Food Distribution Program:**

<http://das.ct.gov/cr1.aspx?page=29>

### **USDA Food Distribution Home Page:**

[www.fns.usda.gov/fdd](http://www.fns.usda.gov/fdd)

### **USDA Food Distribution Policy Memorandum:**

[http://www.fns.usda.gov/fdd/Policy/allfd\\_policies.htm](http://www.fns.usda.gov/fdd/Policy/allfd_policies.htm)

### **USDA Commodity Files:**

<http://www.fns.usda.gov/fdd/pcims/Nov15CommodityFiles.htm>

### **USDA Food Distribution Training Power Point Presentations:**

<http://www.fns.usda.gov/fdd/ppt-slides/default.htm>

**USDA Food Buying Guide:** (this is a great resource for specifications)

<http://teamnnutrition.usda.gov/Resources/foodbuyingguide.html>

### **USDA Approved National Processing Agreement Manufacturers**

<http://www.fns.usda.gov/fdd/programs/national/NPA-ApprovedProcessors.htm>

### **School Nutrition Association**

[www.schoolnutrition.org](http://www.schoolnutrition.org)

### **Commodity Foods Network:**

[www.commodityfoods.usda.gov](http://www.commodityfoods.usda.gov)

### **American Commodity Distribution Association:**

[www.commodityfoods.org](http://www.commodityfoods.org)

### **National Food Service Management Institute**

<http://www.nfsmi.org>