

FINANCIAL MANAGEMENT & PROCUREMENT SEMINAR

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Objective

- *Review procurement regulations and guidelines for school districts and other recipient agencies*
 - *Fully describe procurement process*
 - *Fully describe commodity processing*
- *Simplification of process and procedures*

Outline

- *Procurement Compliance*
- *Approved Procurement Methods*
- *The Commodity Processing Procedure*
- *Product Specifications*
- *Value Pass Through Methods*

Disclaimer

Keep in mind that we are child nutrition professionals who specialize in procurement. We do not have professional legal expertise so we will not be answering questions regarding specific contract issues or other issues that require the attention of a legal professional.

Procurement Compliance



- ***Office of Inspector General Findings:***
 - Food and Nutrition Service Oversight Challenged
 - States Failure to Enforce Compliance
 - School Districts Failure to Comply with Procurement Rules
 - “Limited Open and Fair Competition”
 - Some School Food Authorities Lack Knowledge on Procurement Rules and Regulations

Procurement Compliance

- ***Applies to all Purchases Using Federal Funds***
- ***Services have to be Procured as well as Products***

Procurement Compliance

- ***Bid standards must be comprehensive and exhaustive***
- ***“Open and Fair” are Key Concepts***



Procurement Compliance

- *Standards for Procurements will have to be Established*
- *Values will have to be Measured*



Ethics in Procurement

- *Procurement regulations developed to maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts.*
- *In simple terms this means they are to prevent purchasing products and services for personal gain*

Procurement Compliance

What Regulations Must Be Followed?

7CFR3016.36 & 7CFR3019.40

These are the Code of Federal Regulations pertaining to procurement for Child Nutrition Programs. State and local authorities may impose more restrictive regulations.

Procurement Compliance



Buy American

**How would a SFA determine a
"domestic commodity or product"?**

Section 12(n) of the NSLA defines "domestic commodity or product" as one that is produced and processed in the United States substantially using agricultural commodities that are produced in the United States. One of the reports accompanying the legislation noted that "substantially" means that over 51% of the final processed product consists of agricultural commodities that were grown domestically.

Buy American

Are there any exceptions to the requirements of the Buy American provision?

Yes. While rare, two situations which may warrant a waiver to permit purchases of foreign food products include:

- 1) The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality.***
- 2) Competitive bids reveal the costs of a U.S. product is significantly higher than the foreign product.***

Buy American Provisions

- *Do not assume American brand names are domestic*
- *Nutrition Labeling Act 1990 mandates that country of origin for both domestic and imported food products be identified on label*
- *Ask supplier, manufacturer, distributor, for specific information about % of US content*
- *SFA can include in bidding process a requirement for certification.*

Buy American Provisions

- ***Bid language suggestions:***

“We require that suppliers certify the percentage of U.S. content in products supplied to us. By signing this solicitation your company makes the assurance that the items offered with the proposed pricing on this solicitation are grown and processed domestically, or contain at a minimum of 51% domestically grown products in accordance to 7 CFR210.21(d)”

***REMEMBER IT IS THE SFA's
RESPONSIBILITY TO MONITOR***

What procurement method is right for your district?

7 CFR 3016.36 addresses Four acceptable methods of procurement.

What procurement method is right for your district?

1.) Procurement by Small Purchase Procedure (d)(1):

Pertains to combined purchases made below \$100,000 for a school year. Districts must follow State and local procurement regulations where the threshold may be lower.

What procurement method is right for your district?

2.) Procurement by Sealed Bids

(d)(2):

Publicly solicited and publicly opened, no expectation of further negotiation. Decision is made principally on price since they lend themselves to firm fixed pricing.

What procurement method is right for your district?

3.) Procurement by Competitive Proposals (d)(3):

Used where sealed bids are not feasible.

What procurement method is right for your district?

4.) Procurement by Non-Competitive Proposals (d)(4):

Used where only single sources are available or competition is lacking.

Procurement by Small Purchase Procedure (d)(1):

- ***Also referred to as simple or informal procurement method. Procurements above the threshold must follow “formal” procurement procedures.***
- ***The Federal threshold means total procurements below this amount can be conducted using this method. (found in 3016.)***

Procurement by Small Purchase Procedure (d)(1):

- ***Splitting purchases into segments less than \$100,000 does not permit a district to use small purchase procedures.***
 - ***Ex: three purchases of \$40,000 each, which are paid for with non-profit program dollars.***
- ***Price or rate quotations must still be obtained from two or more sources to quantify costs.***

Approved Procurement Processes

- ***State and local authorities can enforce a more restrictive threshold and many do.***
- ***Check with your district and State office of child nutrition for guidance***

Procurement by Sealed Bids (d)(2):

- ***Must be publicly advertised.***
- ***Used for lump sum, fixed price or quantity specific purchases.***
- ***Requires complete, realistic specification or description of product.***
- ***Two or more qualified bidders are able to participate.***

Procurement by Sealed Bids (d)(2):

- ***The purchase lends itself to award primarily on the basis of price.***
- ***All pertinent information regarding the item and or service is given to all bidders.***
- ***All bids will be opened publicly as announced in the “Request For Bid”.***

Procurement by Sealed Bids (d)(2):

- ***Any and all bids may be rejected with sound documentation.***
 - ***Examples: small wares, pest control services, office supplies***

Procurement by Competitive Proposal – RFP (d)(3):

- ***Must be publicly advertised.***
- ***Must include all evaluation criteria and their relative importance if weight is given.***
- ***Must be conducted with two or more qualified sources. (can pre-qualify sources).***

Procurement by Competitive Proposal – RFP (d)(3):

- ***District must have process for evaluating the response.***
- ***Awards are made to responsible bidders following districts requirements and specifications.***
- ***Awards are made based upon price once all other factors are satisfied.***

Procurement by Competitive Proposal – RFP (d)(3):

- ***Examples: general food supplies from broad line commercial distributors. Often used where “distributor choice” items are permitted. Further analysis is required to determine best value.***

Procurement by Non-Competitive Proposal (d)(4):

- ***Used when competition is deemed inadequate.***
- ***Only sole sources exist for the procurement.***
- ***The situation is deemed an emergency and other competitive procurement methods are detrimental due to time constraints.***

Procurement by Non-Competitive Proposal (d)(4):

- ***Not used often. Technology has increased competition. More difficult to defend lack of qualified bidders.***
- ***Example: Compressor needs to be replaced for a freezer. Limited distributors of the specific part, emergency situation exists.***

***BUILDING YOUR
SOLICITATION
DOCUMENT***



Things to Consider

- ***Menus***
- ***Product Selection***
- ***Cutting/Testing***
- ***Annual Usage***
- ***Orders and Delivery***
- ***Attend Food Shows***
- ***USDA Foods Balances***



Things to Consider:

- 1. Plan ahead – know what items you will purchase***
- 2. Consider menu history***
- 3. Cutting and Testing Results***
- 4. Annual Usage***



Product Specifications

Product specifications should be a thorough description, inclusive of the following factors:

- CN Labeling and Nutritional Information – Identify the labeling requirement and any nutrient maximums. (“not to exceed % fat”, etc.)**
- Commodity ingredients – Indicate which USDA raw ingredient will be reprocessed.**



Product Specifications

- 3. Yield** – Request product yield info and indicate how/if yield will be used to evaluate the bid.
- 4. Brands** – As a result of product testing, list approved brands. If no testing results generic specs are used.
- 5. Quantity desired** – Be realistic. The more accurate the numbers, the more aggressive it will allow the manufacture and distributor to be on cost.



Product Specification

- ***Cutting/Testing***
 1. ***Request samples of new products and test with students (and adults) for acceptability***
 2. ***Compare new brands with existing brands to determine preferences (blind cutting) Must compare “apples to apples”***
 3. ***Keep records of the products tested (brands and code numbers) and the results of the tests***



Value Pass Through Methods

Definition:

A USDA approved process for transferring diverted commodity value from a processor to a school.

Primary Types of Value Pass Through Methods:

Fee For Service: A fee charged to the school by the processor for further processing USDA Foods into preferable finished products. Fee includes: labor, packaging, transportation, profit, etc. The price does NOT include the value of the USDA Foods.

Refund: A rebate from the processor equal to the amount of USDA Foods contained within finished product. Paid with proof of purchase.

Net Off Invoice: A discount is offered at the time of invoice from distributor. Discount is equal to USDA Foods contained within finished product.

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Pricing

- *Design your bid document to accommodate desired units of delivered product by:*
 - *Unit - cartons of milk, heads of lettuce*
 - *Pound - cold cuts, vegetables*
 - *Case - most items, have serving per case provided*
- *Ask on the bid form to list commercial and commodity equivalent if available.*



Procurement Specification Section

- ***Determine what your needs are criteria are.***
- ***What do you want to define as the scope of services you will require.***
- ***Make sure you check with your purchasing department/agent for language they require***
- ***Things to consider are...***



Procurement Specification Section

- ***Describe the program – give a background***
- ***Delivery Requirements***
- ***How orders will be placed***
- ***Payment methods***
- ***Reporting Requirements***
- ***Clarify how distributor will communicate Velocity Reports to processor***



Procurement Specification Section

- ***Fuel Surcharges***
- ***Risk and Safety (HACCP, Recalls)***
- ***Samples***
- ***Substitutions / Fill Rates***
- ***Delivery Requirements***
- ***Contract Length***
- ***Nutritional Information***



Award Criteria

- *Price*
- *Quality*
- *Nutritionals*
- *Service and Capability*
- *Company Viability*
- *References*
- *Fill Rates*
- *Minimum Delivery Requirements*



Other Procurement Document Requirements

- *Insurance*
- *Penalties*
- *Regulatory such as Debarment Certification*
- *Response Requirements*
- *Affirmative Action*
- *Conflict of Interest*
- *Record Keeping*
- *Storage Fees*



- ***MAKE SURE YOU REVIEW YOUR DISTRICT / TOWN PURCHASING REQUIREMENTS / LANGUAGE***
- ***KNOW YOUR DISTRICT PURCHASING THRESHOLDS!***



Summary

- *Design fantastic menus*
- *Know what you want and how much you need*
- *Divert, divert, divert and maximize dollars*
- *Procure with integrity to fit your districts needs*
- *Manage your balances*
- *Be a good customer*



Some Issues to Consider When Bidding

Know what you want to buy.

Does your bid:

- *Reflect current district wellness policies?*
- *Address payment terms? Early pay discounts?*
- *Reflect realistic volume? Address minimum purchase quantities?*
- *Is bid opening on a normal work day?*
- *Communicate your expectations for service? Process for evaluation?*
- *Address items added to your bid?*
- *Address how orders are to be placed? Electronically or other?*
- *Address who has control over your order guide?*
- *Address how substitutions are to be made?*



What Size Customer Are You?

Can you be a more attractive customer?

- *EX: Which is a more attractive customer to a distributor?*

A school district with \$500,000 purchases p/yr

Local restaurant with \$300,000 purchases p/yr

Answer: The school has 19 locations, 25 deliveries per week.

36 weeks per year = \$555. drop size.

The restaurant has 1 location 2 deliveries per week.

52 weeks per year = \$2885. drop size.

Are you as efficient as you can be with your deliveries?

Can you work toward a drop size incentive program with your distributor?



Geographic Preference

- *The purchasing institution must not define local in a manner that unnecessarily restricts free and open competition.*
- *USDA Policy Memo Geographic Preference Q&A -*
http://www.fns.usda.gov/cnd/governance/Policy-Memos/2011/SP18-2011_os.pdf



Additional Resources

DAS Procurement - <http://das.ct.gov/cr1.aspx?page=8>

DAS Food Distribution - <http://das.ct.gov/cr1.aspx?page=29>

NFSMI - <http://www.nfsmi.org/>

➤ *State Agency Procurement Guidance Topic 1*

➤ *State Agency Procurement Guidance Topic 2*

Recipient Agency Processing Handbook

➤ <http://das.ct.gov/FedFoodDocs/RA%20Handbook.pdf>

➤ ***USDA Regulations 7 CFR 3016 & 3019*** -

➤ http://das.ct.gov/FedFood/News/BiddingSeminar/7CFR_3016.pdf

➤ http://das.ct.gov/FedFood/News/BiddingSeminar/7CFR_3019.pdf

USDA Regulation 7 CFR 210 -

➤ <http://www.gpo.gov/fdsys/pkg/CFR-2011-title7-vol4/pdf/CFR-2011-title7-vol4-part210.pdf>

Buy American USDA Q&A –

➤ <http://www.fns.usda.gov/cnd/governance/Policy-Memos/2012/SP14-2012os.pdf>

