

## Managers' Update – School Programs summer short course

Thursday, June 16, 2016

### Procurement Questions and Answers

The following are responses to questions received at the *Buy It Right! Developing a Written Procurement Plan* session.

#### WRITTEN PROCUREMENT PLAN

1. Why can the state not write one general procurement plan template and send out to every school district for them to edit to fit their program. I feel this would save everybody a lot of time.
2. Is there going to be a sample policy written on the DOE website that we can adjust to our school district?
3. Is there an updated procurement plan template online that we can use?
4. Do you have a form with correct wording that we could refer to when developing our school foodservice written procurement plan?

The Procurement Plan template developed by the Bureau of Nutrition and Health Services is an Excel File. The template is posted on the School Nutrition Procurement webpage on the Iowa Department of Education website. Go to [hyperlink to the Iowa Department of Education website](#) Click on A–Z Index, select “P,” click on *Procurement*, then select School Nutrition. Scroll down the School Nutrition Procurement webpage to the *Templates/Prototypes/Forms*. The Procurement Plan Template is the first item in this section. There are three worksheets and four informational tabs in the Procurement Plan Template – Signature Page, Procurement Plan, Procurement Decision Tree, Micro-purchase, Informal Purchasing, Formal Purchasing, Suspension and Debarment Certification, and Code of Conduct. The School Food Authorities (SFA) are not required to use the prototype Procurement Plan template, however, all elements as provided in the Procurement Plan Decision Tree must be incorporated in the SFA’s school food service procurement plan. The SFA must either refer to or provide a link to the disciplinary actions approved by the SFA’s board of directors for violation of the written code of conduct related to the selection, award, and administration of a contract.

The bureau prototype plan will be changed as updated USDA guidance is available. Changes will be announced in the School Program memos and updates emails.

**Please note:** Some SFA’s may not be able to modify the bureau’s prototype plan if using an earlier version of Excel. The prototype plan was created using Excel 2013. If this is the case, the SFA may choose to use the Kansas State Department of Education Procurement Plan prototype available in word. The plan can be accessed at the following website [hyperlink to the Kansas State Department of Education website](#). Click on *Programs and Services* from the top menu, select *School Nutrition Programs* under Child Nutrition and Wellness menu. From the *Key Links* menu posted on the left, select *Food Service Fact*. Scroll down the page to 13 – Business Ethics and Purchasing. Select the *blue diamond* button, you will find two word documents – the prototype Purchasing Plan and the prototype Written Code of Conduct. 13-A is the Certification regarding Debarment Suspension, Ineligibility, and Voluntary Exclusion.

While a template for the SFA to use for a written Procurement Plan is provided, it is not possible to provide a sample purchasing policy since each SFA's purchasing policy is individual. Each individual SFA will have a different local purchase threshold and method(s) in the purchasing policy used to procure various goods and services.

5. Is it possible for us to get copies of the checklist for steps to procurement?

The checklists are posted on the School Nutrition Procurement webpage under the *Procurement Resources* section of the School Nutrition Procurement webpage. Please see the bureau's response to Q #1 on how to get to the webpage.

#### MICRO-PURCHASE

6. Our small town has a grocery store, but I can get cheaper prices out of town. How do I apply micro-purchasing here?
7. If a purchase is under \$3,500, do we have to get three price quotes?
8. I thought we were supposed to spread our business around the community?

- i. Please refer to the Procurement Decision Tree. Micro-purchase is an informal method of procurement where the "aggregate" or "total amount" of the procurement event is less than \$3,500. The procurement event is a:
  - purchase transaction of a single good or service OR
  - purchase transaction of a group of related items such as groceries OR
  - purchase transaction of a group of unrelated items such as groceries and cleaning supplies.

Competition when purchasing goods and services using the micro-purchase method is achieved when purchases are spread equitably among qualified vendors. By "spreading the wealth" equitably there is fairness in the purchasing practice. Spreading purchases "equitably" means that close to the same amount is spent when all purchases are added up for each vendor at the end of the school year.

When micro-purchase method is used, there is no requirement to get three price quotes.

- ii. How do you determine price is reasonable?

According to the Office of Management and Budget guidance at 2 CFR 200.404 Reasonable Costs states "a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost." Guidelines for determining if a cost is reasonable are:

- a) ordinary and necessary for the operation of program(s);
- b) factors such as sound business practice, arm's length bargaining, federal, state, and local laws and regulations; and the terms and conditions of the Child Nutrition Programs are considered;
- c) market prices for comparable goods or services for the geographic area;
- d) the individual acted with prudence considering their responsibilities as related to the interest of the School Food Authority, its employees, students, the public at large, and the federal government, and

- e) whether there was a significant deviation from the SFA's established practices and policies.

The decision whether to use micro-purchase or small purchase method should be based on what is in the best interest of the program relative to economy and efficiency.

- 9. I am worried about the small purchases. We know how to procure the large items – prime vendor, milk, and bread.
  - i. What about office supplies? Our district gets discount pricing from one company. Can we use it?  
If you are unsure how the district procured the office supplies you can conduct a small purchase procedure and compare the results with your district's pricing and select the best value for your program.
  - ii. What about printing materials? We have a print shop in our district. Do we have to cost compare with outside vendors?  
For printing of documents such as eligibility applications and menus etc. get three price quotes from vendor including the print shop and go with the lowest price.
  - iii. Our district has a contract for printers/supplier for printer paper. They just come, fill printer paper as needed and school foodservice is charged? Do I have to bid out when this is something the district already has contract with?  
Since this appears to be a direct cost and not indirect cost, you will need to find out how the contract was procured.

- 10. Farm-to-School Vendors- I have three vendors. I can purchase only apples from Vendor A, Vendors A, B, & C provide lettuce, tomatoes, and cucumbers, Vendors A & B provides potatoes but C does not. Do these qualify as micro-purchase? I purchase about the same dollar amount from each.

A purchase qualifies as a micro-purchase based when the following conditions are met:

- i. The aggregate or "total" value of the procurement event is less than \$3,500 or the local purchase threshold, whichever is more restrictive
- ii. The purchase is reasonable.
- iii. The purchases are spread "equitably" among qualified vendors.

The type of local produce available does not determine if the purchase justifies using the micro-purchase method.

## BID RESPONSES

- 11. Can you default and always do a formal bid? What if no one responds to a bid? They decline to participate.

A SFA school food service can choose to always use a formal method of procurement, either the Invitation for Bid (IFB) or the Request for Proposal (RFP) regardless that the estimated value of the procurement is below the most restrictive threshold and an informal or small purchase method can be used.

If no vendor responds to a bid or a vendor declines to participate, the school food service and SFA authority responsible for purchasing may want to review the bid proposal specifications, terms and condition to determine if it too restrictive.

The SFA may want to also include a *No Bid* statement requesting vendors who choose not to bid to complete and return to the SFA purchasing contact. The *No Bid* statement may include a place for vendors to record why they do not want to submit a response to the SFA bid request.

#### VENDOR CONTRACT TIME PERIOD

12. Is it allowable to have a two year contract with the prime vendor or should it be an annual process?
13. Are there any requirements for the time period of a contract?

USDA- FNS has provided specific guidance on SFA's contract duration and renewal when contracting with a Food Service Management Company (FSMC). There is no specific guidance provided when contracting with other vendors. In the past, the state agency has stated a contract with vendor(s) must be limited to one year, with the effective beginning and end dates stated on the contract and in the solicitation document. A maximum of four one-year renewals are permitted, as long as there is no material change to the original contract.

#### USDA FOODS

14. Do we breakout FFavors as own procurement or is it included with USDA Foods?

FFavors Web is the web-based Fresh Fruit and Vegetable Order/Receipt System for USDA Foods. This vendor was competitively procured by the Department of Defense and therefore SFA do not have to include this in their procurement plan.

#### BUYING COOPERATIVE

15. What if you are connected to a Food Buying Group?

To simplify, each SFA must have a written procurement plan. Each SFA has its own local purchasing policy with a board approved local purchase threshold. A SFA can be a member of a Group Purchasing Organization (GPO). The GPO acts as the purchasing agent for its member SFA procuring prime vendor services. The SFA, may procure a majority of goods and services from the prime vendor but there may be a few goods and services that a SFA may purchase individually. A written procurement policy is a roadmap for the SFAs purchasing practices using the non-profit school food service account.

16. Can a buying group "share" a procurement plan if local thresholds are different?

No a Group Purchasing Organization (GPO) cannot "share" a procurement plan with member SFAs. Each SFA must have a written procurement plan. The procurement plan will include the GPO procurement as part of the SFA food service written procurement plan. The GPO checklist

will provide information the SFA needs to know and is posted under Procurement Resources on the School Nutrition Procurement webpage.

If you are in a buying cooperative, once you get their prices for the week, month, or year, do you have to compare to any other price?

The SFA does not need to compare prices with other vendors. The GPO awarded the contract to a vendor after acquiring their services competitively. However, it is the responsibility of the SFA to monitor prices and check against invoices received before payment is made.

## COMPETITION

### 17. What happens when you cannot get three bidders?

Federal requirement at 2 CFR 200.320(b) state when procuring using the small purchase procedure, “price or rate quotations must be obtained from an adequate number of qualified suppliers.” Federal requirement at 2 CFR 200.320(c)(1)(ii) state when procuring using sealed bids (formal advertising), “two or more responsible bidders are willing and able to compete effectively for the business.”

United States Department of Agriculture – Food and Nutrition Services (USDA-FNS) recommendation is to obtain price quotes from at least three qualified vendors.

## GIFTS AND CODE OF CONDUCT

### 18. State Department of Education (DOE) auditor saw a box that contained food samples from XYZ Company. They stated it was a “no-no” as it was over the \$3.00 gift limit. We receive food samples for taste-testing frequently. How is this a gift? If okay to receive food samples for taste testing, how can we educate the DOE financial auditors?

When writing the Procurement Plan for school food service, the plan should refer to the local board approved policy if employees are allowed to receive unsolicited gifts of a nominal value. The school food service procurement plan should add a statement periodically you receive food samples from food manufacturers and brokers for student taste-testing purposes. This allows school food service to consider adding products students find acceptable. Therefore, receiving food samples is in the best interest of the program as long as they are used for the benefit of the students and not staff or personal use.

## USDA NON-DISCRIMINATION STATEMENT

### 19. Where is the non-discrimination statement and code of conduct located?

### 20. If the nondiscrimination statement link is acceptable on procurement document, is the link acceptable for other documents requiring the statement listed?

### 21. Does the USDA non-discrimination statement have to be on the Request for Proposal (RFP)?

The full USDA non-discrimination statement can be found at the following link:

[Hyperlink to the USDA Non-discrimination Statement](#)

Use the statement that states, “SNAP and FDIIR State or local agencies, and their subrecipients, must post the following Nondiscrimination Statement.” The full USDA non-discrimination statement is provided below.

A link to the USDA statement is not acceptable, a solicitation document must contain the full USDA non-discrimination statement. A link to the USDA non-discrimination statement or the alternative statement, “This institution is an equal opportunity provider.” is only permitted when the material is too small to permit a full statement.

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To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: [hyperlink to the USDA Program Discrimination Complaint Form](#), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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## PROCUREMENT TRAININGS RESOURCES

22. Can you post slides online so we have a guide?

The *Buying it Right!* PowerPoint slides are posted on the Learning Tools – Nutrition webpage of the Iowa Department of Education website.