Procurement – An Introduction

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Objectives

• What is procurement

• Identify the federal, state, and local procurement laws that apply to School Nutrition Programs procurement

• What is the Super Circular
Objectives

• Introduction to the procurement process

• Introduction to the methods of procurement

• Identify the federal, state, and local thresholds

• Introduction to the procurement webpage on Iowa Department of Education website.
What is Purchasing?

Purchasing is simply the act of obtaining of goods or services in exchange for money or value.
What is Procurement?

It is a systematic and multi-step approach to acquire goods, supplies, and services. The steps are:

- Identify needs and estimated value
- Select solicitation method
- Follow the process
- Evaluate and award the Contract, and
- Manage the Contract

Maintain Integrity and Fairness – Practice Ethical Behavior
Why is procurement important?

**Congress**
- Laws establishing School Nutrition Programs (SNP)
- Laws establishing financial requirements

**USDA**
- Develop and apply program regulations 7CFR Parts 210, 215, and 220
- Develop and apply program guidance and instructions

**Office of Management and Budget (OMB)**
- Issue OMB Circulars

**State Agencies**
- Comply with OMB Super Circular
- Comply with USDA Program Regulations
- Comply with USDA Guidance and Administration
- Comply with state law, regulations, policies that are not in conflict with Federal Regulations
Pass Down Requirements

- USDA
- State Agencies

**School Food Authorities (SFA)**
- Comply with OMB Super Circular
- Comply with USDA Program Regulations
- Comply with USDA Guidance and Administration
- Comply with state laws, regulations, policies that are not in conflict with Federal Regulations
- Comply with local laws, regulations, policies that are not in conflict with Federal Regulations
National School Lunch Program

- 7 CFR 210.21

➢ School Food Authorities (SFA) must comply with procurement requirements stated in this section of the Richard B. Russell National School Lunch Act and applicable Office of Management and Budget (OMB) Circulars.
Procurement Regulations - Federal

- School Breakfast Program 7 CFR 220.16
- Summer Food Service Program 7 CFR 225.17
- Special Milk Program 7 CFR 215.14a
Regulations- Federal

Title 2 of the Code of Federal Register (CFR) 200

Super Circular
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Published in the CFR on December 26, 2013
- New rules apply to federal awards made on or after December 26, 2014 for all federal awards.
Regulations - Federal

7 CFR Parts 3015, 3016, 3019 and 3052
Super Circular 2 CFR 200

- Streamline guidance for Federal awards to reduce administrative burdens
- Strengthen oversight over Federal funds to reduce the risks for waste, fraud, and abuse.

Free and open competition

2 CFR 200.319

- All procurement transactions must be *open and competitive*
- Level playing field for all processors/suppliers and have the same opportunity to compete
- Fairness and Integrity
- Responsive and Responsible
Why Competition?

- The cost of goods and services will be lower in price.
- The goods and services will be of a higher quality.
What Discourages Competition

- Placing unreasonable requirements on processors/distributors in order for them to qualify to do business
- Conflicts of interest
- Placing unnecessary bonding and experience requirements
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered.
- Non-competitive pricing practices between affiliated companies.
Unethical Behaviors in Procurement

- Providing cost information to another supplier
- Accepting gifts
- Showing preference to one vendor due to pressure from the school board or superintendent
- Giving preference based on past purchasing
- Sharing proprietary information
Written Standards of Conduct

2 CFR 318(c)(1)

SFAs must maintain written standards of conduct covering conflicts of interest to govern the performance of employees engaged in the selection, award, and administration of contracts.
Responsive and Responsible

- **Responsive** processor/distributor is one that responds to a solicitation and potentially enters into a contract with the SFA.

- **Responsible** processor/distributor must be capable of performing successfully under the terms and conditions of the contract.
Procurement Decision Tree

Below the Small Purchase Threshold
(most restrictive – Federal or local)

Micro-purchase (threshold < $3,000)

Informal

Develop solicitation documents
(includes: specifications, estimated quantities, terms, conditions & provisions)

Obtain & document quotes

Evaluate & Award

Written Code of Standards of Conduct for all staff involved in procurement

Above the Small Purchase Threshold
(most restrictive – Federal or local)

Formal

Develop solicitation documents
(IFB, RFP)(specifications, estimated quantities, terms/conditions/provisions)

Publicly publish solicitation

Evaluate & Award
Fixed price or cost-reimbursable contract

Contract Performance Management Process during the entire length of the contract
Procurement Methods

- Micro-purchases – **NEW**

**INFORMAL**
- Small Purchase Procedures

**FORMAL**
- Competitive Sealed Bids
- Competitive Proposals

**SOLE SOURCE**
- Noncompetitive Proposals
Micro-Purchases

2 CFR 200.320(a)
Micro-Purchase Threshold = <$3000

➢ Aggregate dollar amount of the procurement event does not exceed the micro-purchase threshold.

➢ Must distribute micro-purchases *equitably* among qualified suppliers

➢ May be awarded without soliciting competitive quotations if the SFA considers the price to be reasonable
Informal Procurement

2 CFR 200.320(b)
Federal small purchase threshold = < $150,000
Local purchase threshold – check local board policies

- Informal procurement method for securing services, supplies, or other property costing less than the lowest dollar threshold

- Obtain price quotations from an adequate number of qualified sources – at least three sources
Formal Procurement

When the value of the procurement event is expected to exceed $150,000 or applicable local threshold, one of the following methods must be used:

- Competitive Sealed Bidding ((2 CFR 200.320(c)(1)(i-iii)) – Invitation for Bid (IFB)

- Competitive Proposal (2 CFR 200.320(d)(1)) – Request for Proposal (RFP)
Consolidate Procurements

2 CFR 200.318(d)

- Procurement procedures must avoid unnecessary or duplicative items
- To obtain goods and services economically, procurements should be consolidated
- An appropriate analysis should be conducted to determine the most economical approach, for example to lease or purchase a ware washing machine.
Procurement Procedures

2 CFR 200.319(c)(1-2)

- SFAs must have *written* procedures for procurement transactions.

- When a formal method of procurement is used, then the procedures must:
  - Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.
  - Written product description must not contain features which restrict competition
  - A “brand name or equivalent” description may be used
  - Identify all requirements which the processor/supplier must fulfill and all other factors to be used in evaluating the proposals.
Sole Source

• 2 CFR 200.320(f)(3)
  The state agency must approve any sole source procurement
Contract Evaluation

2 CFR 200.319(b)

State or local geographical preferences, are prohibited in the evaluation of bids, except in cases where applicable Federal statutes allow geographic preference.

➢ SFA cannot explicitly have a policy of purchasing from a local business
Geographic Preference

Geographic preference is allowed to procure unprocessed locally grown or locally raised agriculture products.

Unprocessed means that the product maintains its inherent character.

Ways to define local
Contract Awards

2 CFR 200.318(h), 2 CFR 200.318(i)

- Contract awards
  - responsible processor/distributor
  - can successfully meet the terms and conditions

- Consideration should be given to pricing and can include matters such as integrity, records of past performance, and financial and technical resources
Contract Awards

• 2CFR 200.318(k)
  ➢ The SFA is responsible for settlement of all procurement contractual and administrative issues.
    ❖ Source evaluation
    ❖ Protests
    ❖ Disputes, and
    ❖ Claims
SFAs are required to maintain *oversight* to ensure processors and suppliers perform according to the terms, conditions, and specifications of the contract and delivery orders.
Procurement Documentation

• 200.318(i)
• Record keeping

The SFA must maintain records sufficient to detail the significant history of procurement, including but not limited to:

• Rationale for the method of procurement
• Selection of contract type
• Processor/distributor selection or rejection, and
• The basis for the contract price
Written Procurement Plan

2 CFR 200.318(a),

- SFAs are required to have *written* procurement plan that comply with applicable federal laws contained in this section

- Written procurement procedures must also reflect applicable state and local laws and regulations
Procurement webpage

Iowa Department of Education website https://educateiowa.gov
➢ A – Z Index, select P, click on Procurement in Child Nutrition Programs
  • School Nutrition
Procurement webpage

Iowa Department of Education website [https://educateiowa.gov](https://educateiowa.gov)

- A–Z Index, select P, click on *Procurement in Child Nutrition Programs*
  - Food Service Management Contract
Procurement Webinars

All upcoming webinars scheduled from 2:00 p.m. – 3:00 p.m.

December 16, 2015 – Components of a written Procurement Plan

February 25, 2016 – Specifics of the different procurement methods – formal and informal, and micro-purchasing.

April 21, 2016 – Contract Management and preview of the USDA Local Procurement Review tool.
Questions

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