

Procurement – An Introduction

Keerti Patel

Bureau of Nutrition and Health Services

Iowa Department of Education

October 22, 2015



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.

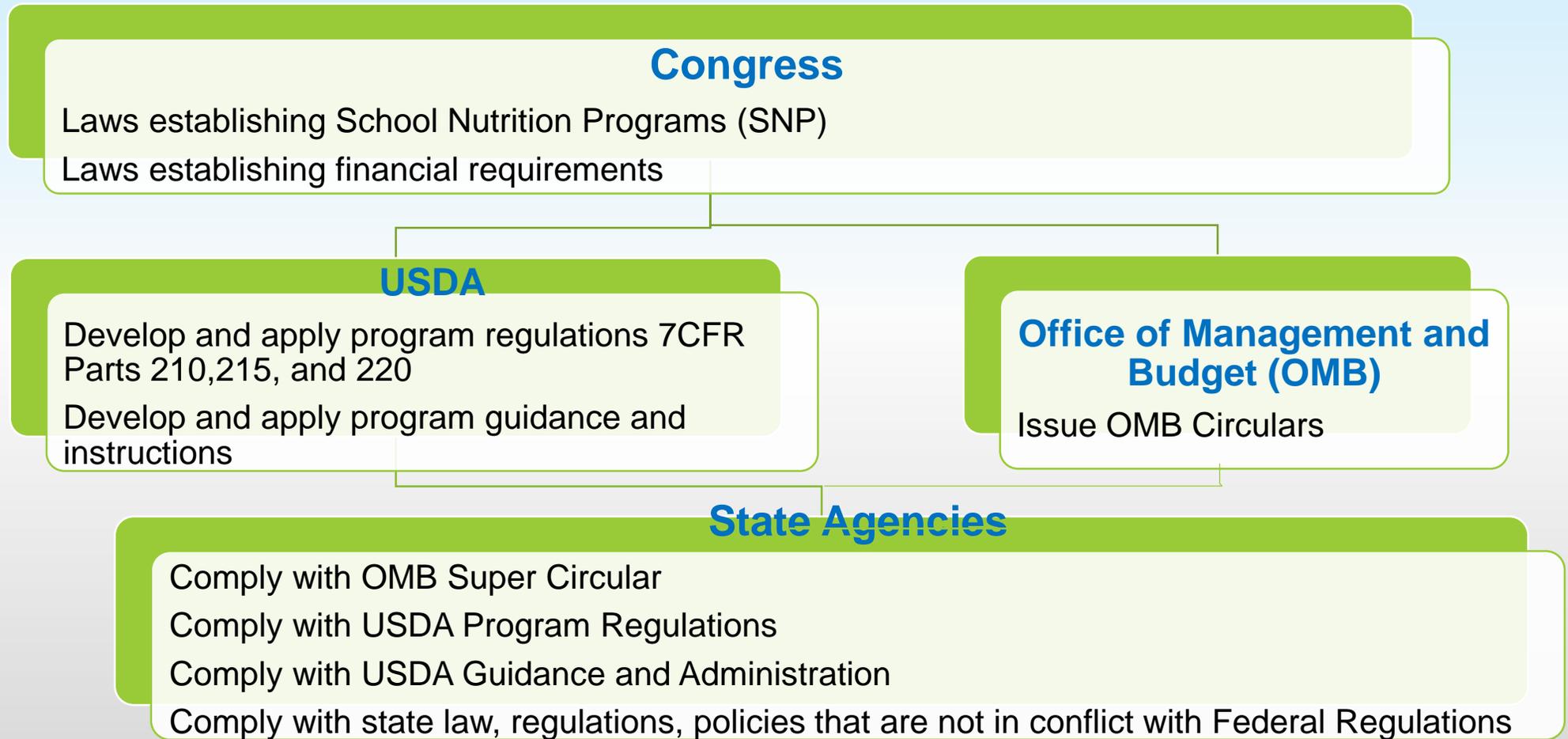
What is Procurement?

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

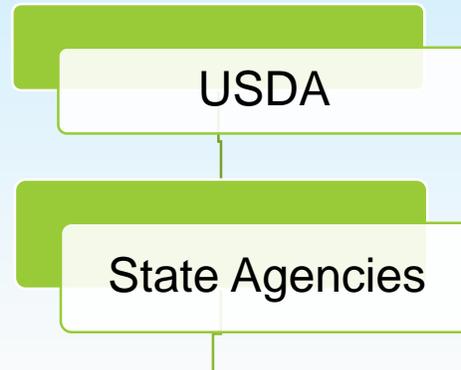
- Identify needs and estimated value
- Select solicitation method
- Follow the process
- Evaluate and award the Contract, and
- Manage the Contract

Maintain Integrity and
Fairness –
Practice Ethical Behavior

Why is procurement important?



Pass Down Requirements



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

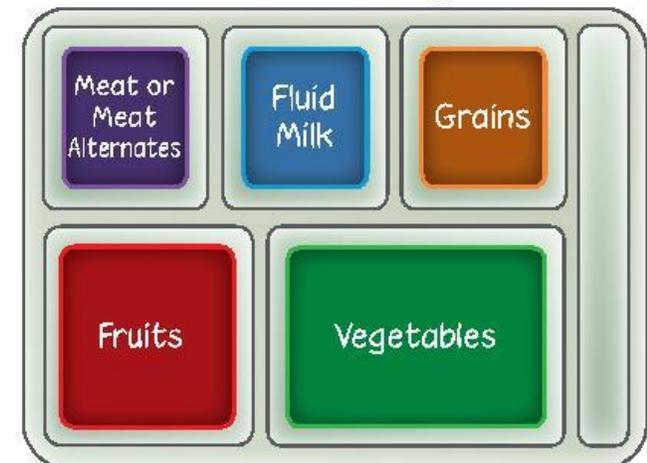
Comply with local laws, regulations, policies that are not in conflict with Federal Regulations

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.

Build a Healthy Lunch



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

Cost principles in OMB
Circulars A-21, A-50, A-87,
A-89, A-102, A-110, A-122,
and A-133

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.



2 CFR 200.318-326

All School Food Authorities (SFA) will follow procurement rules in 2 CFR 200.318 General Procurement Standards through 2 CFR 200.326 Contract Provisions.

<http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>

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

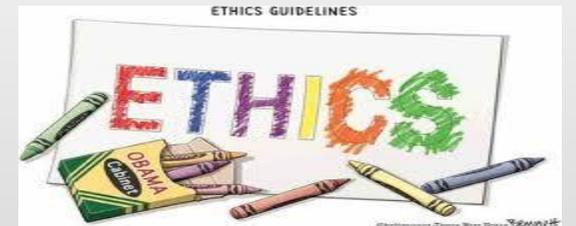


What Discourages Competition

- 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

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

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

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

Micro-purchase
(threshold \leq \$3,000)

Informal

Formal

Keep a log or file to document purchased item, price and vendor

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

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

Publicly publish solicitation

Obtain & document quotes

Evaluate & Award
Fixed price or cost-reimbursable contract

Evaluate & Award

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.

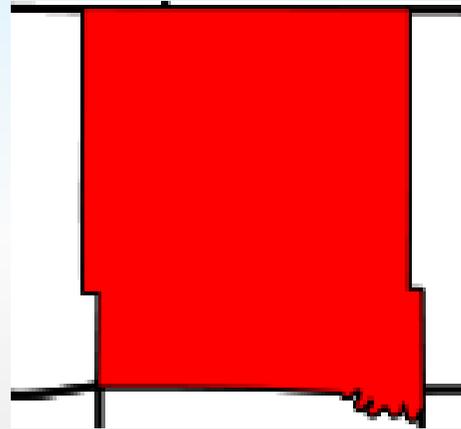
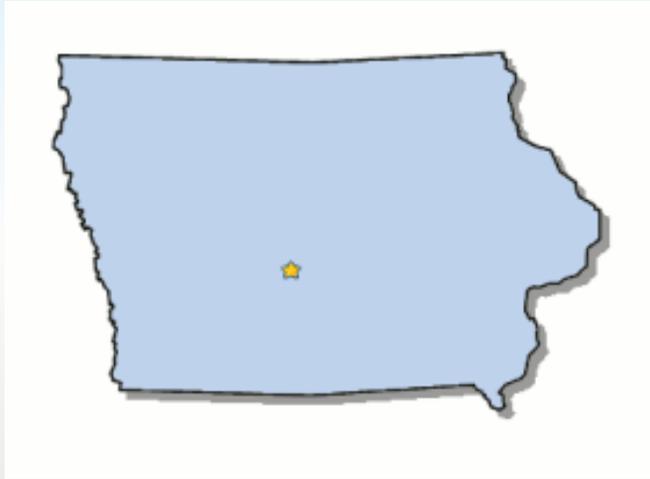
- SFA cannot explicitly have a policy of purchasing from a local business

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.

http://www.fns.usda.gov/sites/default/files/f2s/FactSheet_Geographic_Preference.pdf

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

Contract Management

2 CFR 200.318(b)

- 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



The screenshot shows a web browser window displaying the Iowa Department of Education website. The address bar shows the URL: <https://www.educateiowa.gov/pk-12/nutrition-programs/school-pro>. The page title is "School Nutrition Procurement". The navigation menu includes "Home", "Adult, Career & Community College", "PK-12", "Data & Reporting", "Resources", and "Education Jobs". The main content area is titled "School Nutrition Procurement" and features a list of links under "On this page...":

- [Procurement Plan - required](#)
- [Procurement Methods & Documentation](#)
- [Buying Groups](#)
- [Procuring Equipment](#)
- [Procurement Resources](#)
- [Procurement Templates/Prototypes/Forms](#)

There is also a "Contact(s)" section with the following information:

Keerti Patel
515-281-3353
keerti.patel@iowa.gov

Procurement webpage

Iowa Department of Education website <https://educateiowa.gov>

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



The screenshot shows a web browser window displaying the Iowa Department of Education website. The address bar shows the URL: <https://www.educateiowa.gov/pk-12/nutrition-programs/procurement>. The page title is "Food Service Management Company (FSMC) Procurement". The navigation menu includes "Home", "Adult, Career & Community College", "PK-12", "Data & Reporting", "Resources", and "Education Jobs". The main content area features a "Nutrition Programs" sidebar with links to "Quick Links - Nutrition", "Afterschool Snack Programs", "Child and Adult Care Food Programs", "Child Nutrition Recognition", "Community Eligibility Provision for Schools (CEP)", "Farm to School and Childcare", and "Food Safety". The main content area is titled "Food Service Management Company (FSMC) Procurement" and includes a section "On this page..." with links to "FSMC Procurement Process and Timeline", "FSMC Post Award and Renewal", "FSMC Procurement Resources", and "FSMC Procurement Templates/Prototypes/Forms". A "Contact(s)" box lists Cheryl Benson, 515-868-2847, and cheryl.benson@iowa.gov.

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

- Keerti Patel, Education Program Consultant
 - Keerti.patel@iowa.gov
 - 515-281-3353
- Cheryl Benson, Education Program Consultant
 - Cheryl.benson@iowa.gov
 - 641-676-4215

Ann Feilmann, Chief

Ann.Feilmann@iowa.gov

515-281-4757