

Nov. 2016

Procurement in the Child Nutrition Programs

State and Federal Rules



Child and Adult Nutrition Services



Who is required to follow procurement rules?

Common Myths

- My school is too small...
- My school doesn't use a management company...
- I can only get one vendor to service my school...
- My school is BIE or is a private school...

3

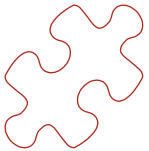
Procurement Rules apply
to
all Schools and Agencies
operating the National
School Lunch Program,
or any other Child
Nutrition Program



Why?

Use of federal
taxpayer dollars
requires SFA's to
maximize
*free and open
competition*

5



Procurement Rules

- **Results in better quality, price, & service for your school!**
- You must use the most restrictive of state, local, and federal guidelines
- For large and small purchases

6

Requirements



7



Procurement Plan

SFA's must have **documented procurement procedures** which reflect State, local, tribal, and federal laws and regulations, when applicable.

200.318(a)

8



Buy American



Using federal funds requires you to **purchase foods and supplies that are grown, made, and processed in America**, whenever possible.

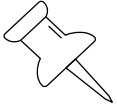
210.21(d) 



Buy American Best Practices

- Include clause in **all** procurement docs
 - Spec's, bid solicitations, RFP's, PO's, etc.
- Be sure to monitor performance
 - Check labels!
- Require suppliers to **certify the origin** of product
 - Ask the supplier for documentation about the % of U.S. content in the food product



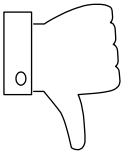


Written Standards of Conduct

SFA's are required to have a written code of conduct covering **conflicts of interest** and ensuring fair use of school foodservice funds.

200.318

11



Conflicts of Interest



- No one person can benefit at the expense of their school/agency or public interest
- Excuse yourself if involved in the conflict of interest
- Check district requirements for signing conflict of interest statement
- **Vendors that help write the bid, cannot respond to the bid.**

12

Conflict of Interest



Employees will neither ask for or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub agreements.

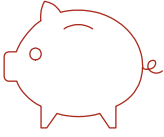


13

Where do you draw the line for a conflict of interest?



14



Nonprofit School Food Service Funds

- Can only be used to purchase allowable goods and services
- All funds that go into nonprofit school foodservice account must be used within program regulations

210.2, 210.14(e), 210.14(f), 220.2

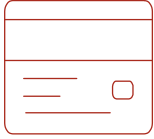
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Group Buying Organizations, Group Purchasing Organizations, Cooperative Purchasing Between Multiple Organizations, etc.

- **All groups must follow the same CN program procurement requirements as schools**
- If a group does not follow CN program procurement requirements, an SFA **cannot** make purchases using school foodservice dollars
- FNS [memo SP05-2017](#) contains more info

16



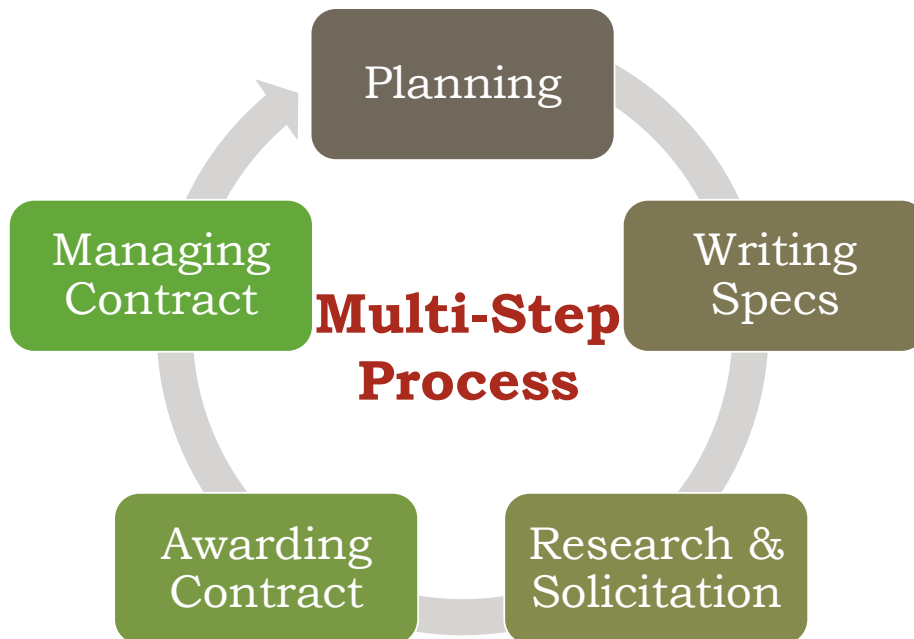
Applicable credits



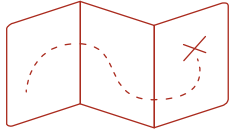
Discounts, rebates and credits must be credited to your nonprofit school foodservice account as a cost reduction or cash refund.

7 CFR Part 210.21(f)
2 CFR part 200.406

17



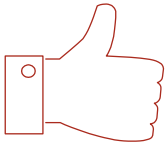
18



Step 1: Preparation for Procurement

- Write menus
- Review your SFA's procurement plan
- **Forecast** what you need to purchase
 - Identify what product & quantities
 - Include USDA Foods entitlement
- Estimate costs
- Develop or update vendors/bidders list

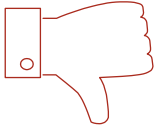
19



Step 2: Writing Specs

- Specifications are accurate, clear, and not overly restrictive
- Specifying a brand name item and specifying "brand name or equal"
 - Better to specify a grade or quality level
- Describe quality & quantity of foods

20



Overly Restrictive Specs

- Specifying 1 brand name
- Drafting specs, terms & conditions, and award criteria so only 1 source can respond
- Allowing a vendor to draft terms/specs
- Changing award criteria without notifying all potential vendors

21



Step 3: Research & Solicitation

- Determine procurement method
 - Formal vs. Informal vs. Micro
- Develop solicitation document

22

Services

SD Law

- **Informal:** < \$25,000
- **Formal:** ≥\$25,000

Supplies

(not perishable)

SD Law

- **Informal:** < \$25,000
- **Formal:** ≥\$25,000

Food Perishable

Federal Law

- **Informal:** <\$150,000
- **Formal:** ≥\$150,000

23



Think about it: How do you normally break up your food service purchases?

	Estimated category purchases are:	Informal	Formal
Grannies Bread Co	\$75,000 / 9 month school year	X	
Dairy Air Milk Co	\$275,000 / 9 month school year		X
Services			
Groceries			

24

Informal Procurement Methods

Services
less than
\$25,000

SDCL 5-18A-14

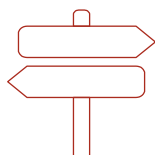
Supplies
(not perishable)
less than
\$25,000

SDCL 5-18A-14
SDCL 5-18A-22(12)

**Food/
Perishables**
less than
\$150,000

2 CFR 200.88

25



Informal

- Get quotes by phone, email, fax, or catalogs
- 2-3 vendors must be included in the solicitation
- Purchase from lowest, fixed price response
- Keep these documents for 3 yrs. past current year or longer if an audit is open

2 CFR 200.320

26

Request for Fax Quote
*****This is not an order*****

Part 1

TO: (Distributor)	FROM: (SFA Name)
TO: (Distributor Contact Person)	FROM: (SFA Contact Person)
FAX: (Distributor)	PHONE: (SFA Contact Person Phone #)
Number of Pages:	Date: (Today's Date)
Quote good for: (# of days)	

Part 2
Return to _____ (Name) by _____ (Time) on _____ (Date) to _____ Fax Number _____
Date that product is needed at SFA: _____

Buy American Provision, to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States must be purchased. Substantially means the final processed product contains over 51% domestically grown agricultural products.

Alternate bids will be considered on products, which meet or exceed products indicated on quote. If bidding alternate items, please include dietary specifications for the product to include: CN Label or Product Formulation Statement, and Nutrition Facts. If these dietary specifications are not included, bid will be considered incomplete. Distributor is to mark clearly alternate proposals.

Any reference to brand names is meant as descriptive, not restrictive.

"OR EQUAL": any brand name listed in the specifications as "or equal" or "or equivalent" shall establish the minimum requirements for quality, utility, durability, function, purpose, etc. Other product brands may be offered that are equal to or better than the product brand name. Bidder may show cost differences, alternates, and options in the space provided in the quote. This clause is not meant to be restrictive, but to set the minimum standard. AGENCY SHALL DETERMINE, IN ITS SOLE DISCRETION, WHETHER A PRODUCT OFFERED IS "EQUAL". When the designation is "or equal" or "equivalent" Agency shall make its decision after Bid Closing.

Part 3

A. Description	B. Mfg. #	C. Quantity	D. Price Per Unit	E. Total

Signature of Distributor: _____

Informal Procurement Documentation

- Fax Quote
- Phone Quote
- Running Quote
- Excel Log

www.doe.sd.gov/cans 

Informal Procurement Methods: Micro-purchase

Services
less than
\$3,500

Supplies
less than
\$3,500

**Food/
Perishables**
less than
\$3,500

2 CFR 200.67





Micro-purchase

- Aggregate purchase amount cannot exceed \$3,500
- Micro-purchases to be distributed equally to suppliers
- Prices must be reasonable
- Can be awarded **without** informally soliciting complete quotes

2 CFR 200.320 (a)

29

Micro-purchase *Misconceptions*

- Using one vendor is ok as long as all purchases are under \$3,500
- My SFA can shop for the best price using this method
- My SFA doesn't need to "share the wealth" and distribute purchases

These statements are all FALSE!!

30

Formal Procurement Methods:

Services
≥\$25,000

SDCL 5-18A-14

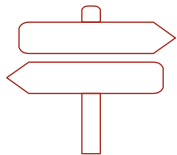
Supplies
(not perishable)
≥\$25,000

SDCL 5-18A-14
SDCL 5-18A-22(12)

**Food/
Perishables**
≥\$150,000

2 CFR 200.88

31



Formal

- Solicitations for contracts using sealed bids or competitive proposals
- Published, provide specs, include requirements of terms & conditions, include evaluation & award process
- Keep docs 3 yrs. past current year

32

Competitive Sealed Bidding: Invitation for Bid (IFB)

- Specs easily developed
- Product/service is easy to identify
- Responses will differ only by **price**
- More than 1 source is willing & able to compete
- No negotiating contract terms or price
- Results in a fixed price contract

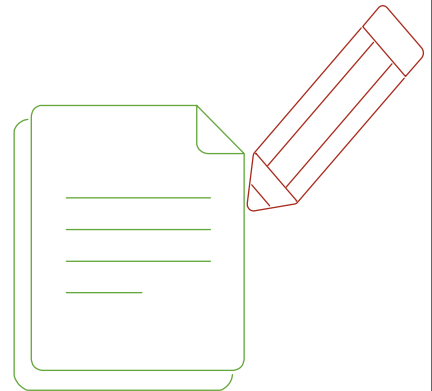
33

Competitive Proposals: Request for Proposal (RFP)

- Specs developed
- Award based on scored factors including low cost
- More than 1 source is willing & able to compete
- Negotiation is allowed
- Results in a fixed price or cost plus a fixed fee contract

34

Other Contract Considerations



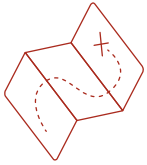
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Overly Responsive

- Response includes items that were not in original solicitation
 - e.g. new signage for your cafeteria
- **Items cannot go into consideration for contract award if it was not in original solicitation!**

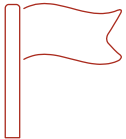
36



Geographic Preference

- Program operators can define & use local area to buy unprocessed locally grown or locally raised agricultural products
- SFA can determine the local area
- Memo SP18 – 2011 Procurement Geographic Preference Q&As dated February 1, 2011 contains more information

37



Step 4: Awarding the Contract

Awards must be made only to responsive and responsible vendors

Responsive
vendors product or
service meets the
SFA's specs

Responsible
vendor can & will fulfill
the terms & conditions of
the contract

38

Contract Awarded!

I'm finally done, right?



39



Step 5: Contract Management

- Make sure your vendors follow through with the contract
- You provide your vendors with regular feedback on their performance throughout the life of the contract

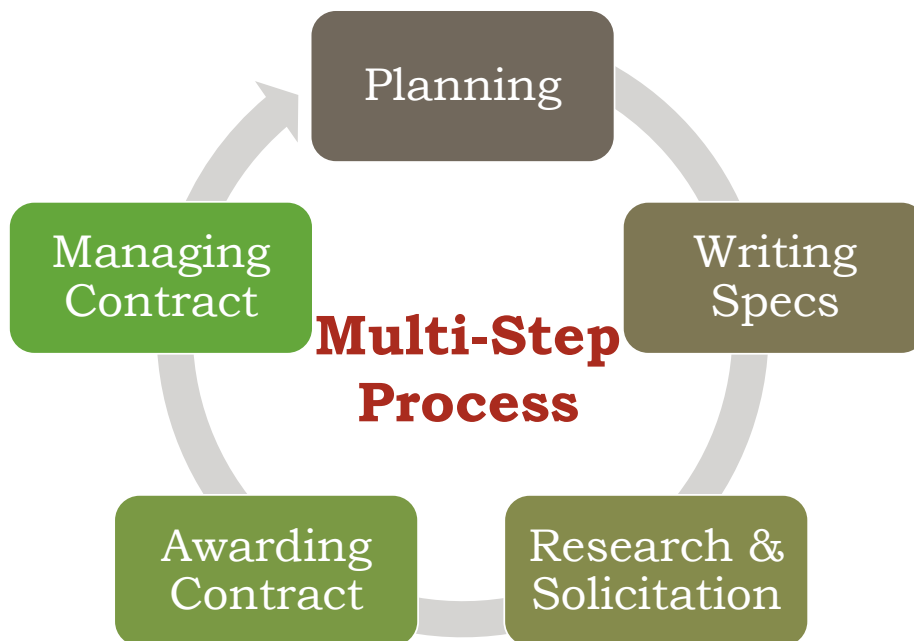
40



Report to Your Vendor

- Incorrect quantities delivered
- Deliveries were not on time
- Deliveries to the wrong location(s)
- Food fails to meet the quality specs
- Vendor is not following the contract substitution policy

41



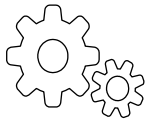
42



Administrative Review

SY 16-17: a new Procurement review module is included with the **Administrative Reviews**

43



Authorities

www.ecfr.gov

7 CFR 210	National School Lunch Program
7 CFR 215	Special Milk Program
7 CFR 220	School Breakfast Program
7 CFR 225	Summer Food Service Program
7 CFR 226	Child and Adult Care Food program
7 CFR 250	Donation of Foods for Use in the US ... (USDA Foods)
2 CFR 200	Uniform Administrative Requirements, Cost Principles, & Audit Requirements for Federal Awards

44

Procurement Templates

CANS website: doe.sd.gov/cans

PROCUREMENT IN THE 21ST CENTURY & WORKSHOP - AND FINANCIAL MANAGEMENT TRAINING
Registration

Federal Procurement Standards Power Point, USDA 2/2016 – 38 slides	Procurement Power Point 4/2016 – 46 slides
Procurement Plan Example	ICN Procurement in the 21st Century
Informal Bid Quote Worksheet <i>Example</i>	Email Quote Request (Fillable) <i>Example</i>
Fax Quote Request (Handwritten) <i>Example</i>	Fax Quote Request (Fillable) <i>Example</i>
Phone Quotes (Printable) <i>Example</i>	Running Quote Log (Fillable) <i>Example</i>
Running Quote Log (Word/Printable) <i>Example</i>	Running Quote Log (PDF/Printable) <i>Example</i>
Bid Specification <i>Examples</i>	Instructions to complete Request for Proposal <i>Example</i>
Request for Proposal (Fillable) <i>Example</i>	Micro Purchases Explanation
Procurement Terms in Plain English	Code of Conduct Example
Food Procurement Flow Chart	

45



SD Bid Booklet

South Dakota Local Government Guide For
Acquisitions, Disposables, and Exchanges

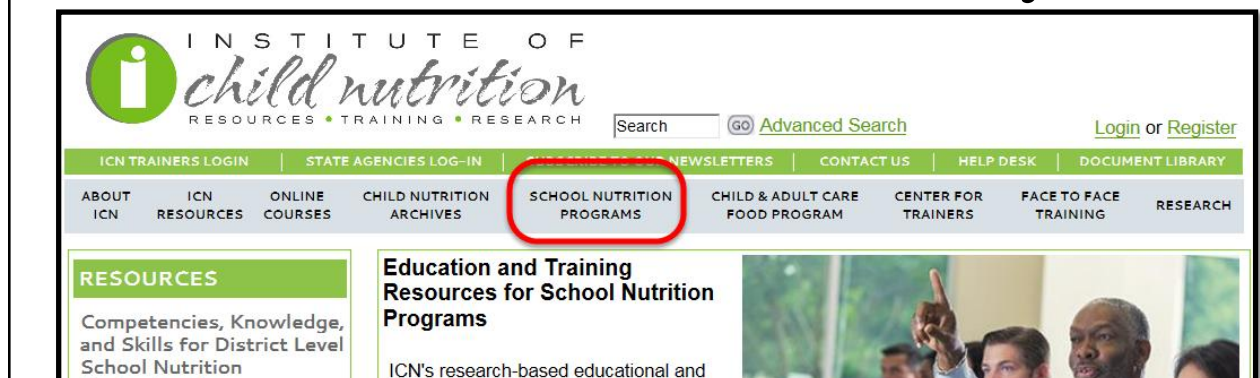
<http://legislativeaudit.sd.gov/docs/Bid%20Booklet%202013.pdf>

46



Additional Resources

- Institute of Child Nutrition (ICN)
www.theicn.org
- Procurement in the 21st Century



Training Opportunities

More Procurement training opportunities are being planned by **Child and Adult Nutrition Services** throughout this school year and into the summer!

Procurement in Child Nutrition: State & Federal Rules Nov. 2016

This training credits for 1 hour of training in

Key Area 2 Operations

2410: Product Specifications, 2420: Bid Solicitation & Eval,
2430: Purchase Food, Supplies & Equip, 2440: Food & Supplies Orders

Your Name:

Date of Training:



49

Questions?

CANS

Email:

DOE.SchoolLunch@state.sd.us

Phone: 605-773-3413

Fax: 605-773-6846

SNA SD

Chris Beach

Email:

chris.beach@k12.sd.us

Phone: 605-743-9031

Gay Anderson

Email: gay.anderson@k12.sd.us

Phone: 605-582-3926

This institution is an equal opportunity provider.

50