

Procurement in the Child Nutrition Programs

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Division of Food and Nutrition
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School Nutrition Program Fundamentals

- Schools participating in School Nutrition Programs receive federal and state funds.
 - Federal regulations
 - Government-wide (OMB Circular A-87, A-122, 2 CFR 200, etc.)
 - Cost principles (allowable/unallowable costs)
 - Procurement
 - Program specific (7 CFR 210, 220, 3016, 3019, etc.)
 - Eligibility
 - Meal requirements
 - Food service account
 - Procurement
 - Allowable/Unallowable costs
 - www.ecfr.gov
 - Pennsylvania School Code
 - Applies to all public schools
 - Sections apply to school meal programs
 - Reimbursement
 - Procurement



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Food Service Account


- All LEAs must have a food service account where all program revenues accrue.
 - Meal reimbursement
 - Meal revenue
 - A la carte revenue
- Any expenses incurred by the food service account must follow applicable government-wide and program-specific regulations. In order to be allowable, a cost must be:
 - Necessary to carry out the program
 - Allocable
 - Directly attributed to program operation
 - Net of all rebates, discounts and credits
 - Reasonable
 - Consistent with costs incurred by a prudent person under the circumstances prevailing at the time



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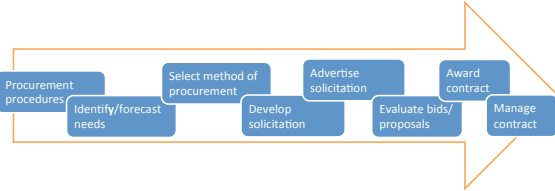
Procurement

- Procurement is the act of obtaining goods or services in exchange for money or value.
- As recipients of federal dollars, all schools are expected to procure goods and services in the proper manner.
- All procurement, regardless of the dollar amount, must provide for full and open competition.
- All procurement must adhere to federal requirements. In addition, when state requirements are stricter, they must be followed too.




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Procurement Process

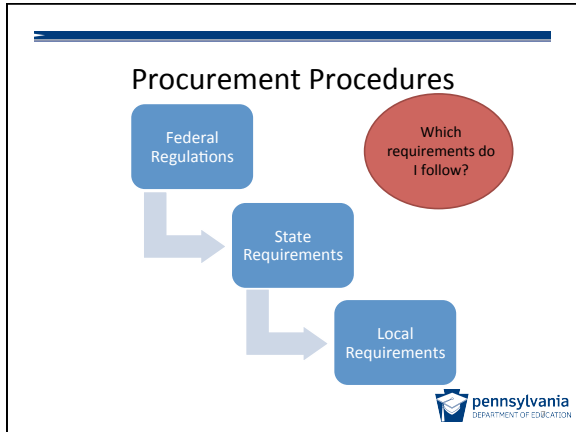


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Procurement procedures



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- Procurement Procedures**
- Must have documented procurement procedures that conform to federal requirements and reflect applicable state and local standards.
 - Federal procurement requirements
 - 2 CFR 200.318–326
 - 7 CFR 210.16 (FSMC)
 - State procurement requirements
 - 24 PS 5-504
 - 24 PS 8-807.1
 - Local requirements
 - School board policies
 - Local government policies (i.e., county policies for county run entities)
 - Must have written standards of conduct (2 CFR 200.318 (c)(1)).
 - Conflicts of interest (real or apparent), acceptance of gifts/favors, etc.
 - Disciplinary actions that will result if code of conduct is violated.
 - Bid protest procedures must be available.
 - Documentation throughout the process is key for transparency. Build it into the procedure.
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Identify/Forecast Needs

- Conduct an independent cost analysis to determine what the anticipated cost may be (e.g., ask colleagues, check websites).
 - The anticipated cost will determine method of procurement (e.g., formal vs. informal)
- Gather information related to product or service (research, review market, discuss with colleagues, attend professional trainings, etc.) in order to write a comprehensive solicitation.
- Contractors that develop or draft specifications, requirements, statements of work, solicitation documents must be excluded from competing for the procurement.



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Select method of procurement



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Select Procurement Method

Threshold	Procurement Thresholds					
	<\$3,500	≥\$3,500 - <\$10,500*	≥\$10,500* - <\$19,400*	≥\$19,400* - <\$150,000	≥\$150,000	
Procurement Method	NEW Micro-purchase	Informal	Informal	Perishable Informal	Non-perishable Formal	Formal
Citation	2 CFR Part 200	2 CFR Part 200	24 PS 8.807.1	24 PS 5.504 (d)	24 PS 8.807.1	2 CFR Part 200
Source	Federal	Federal	State	State	State	Federal


*adjusted annually by CPI Index (not to exceed 3%) 24 PS 1-120



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Types of Procurement


- The type of procurement is determined by the dollar threshold:
 - Micro-purchase;
 - Informal procurement; and
 - Formal procurement.



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NEW Micro-Purchase Threshold NEW

- Micro-purchase procurement is the acquisition of supplies or services, where the aggregate dollar amount by transaction does not exceed \$3,500.
- To the extent practical, purchases utilizing the micro-purchase threshold should be distributed equitably among qualified suppliers.




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Procurement Thresholds

Procurement Thresholds						
Threshold	<\$3,500 <i>NEW</i>	≥\$3,500 < \$10,500*	≥\$10,500* < \$19,400*	≥\$19,400* <=\$150,000 <i>Perishable</i>	≥\$19,400* < \$150,000 <i>Non-perishable</i>	≥\$150,000
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Informal Procurement

- Specifications/product description provides enough detail for vendor to respond adequately.
- Telephone or written quotations from three qualified and responsible vendors:
 - Date of quote
 - Name of vendor and representative
 - Description of item being quoted
 - Quantity
 - Price of item
 - Date item needed
- If less than three vendors exist to provide the product or service, thoroughly document how this determination was made, such as research conducted to reach this conclusion, etc.
- The lowest responsible bidder is awarded the contract (2CFR 200.318(h)).
- Retain all documentation for three years plus the current school year.




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Informal Procurement-Scenarios

Bread

- Perishable item
- Aggregate purchase thresholds:
 - ≥\$3,500 - <\$150,000 = Informal Procurement
 - ≥\$150,000 = Formal Procurement
- Based on previous year's purchases, aggregate purchase amount should be < \$150,000
- Specification document developed (weight per portion, whole grain rich, delivery times/days, quantity, etc.)
 - In this scenario, you need delivery 3 times/week to each of 5 schools
- Four vendors are called, given the specifications and provide quotes by e-mail:
 - Vendor 1: Lowest price but won't deliver 3 times/week to each of 5 schools
 - Vendor 2: Responded and indicated your schools are outside of their service radius
 - Vendor 3: Meets all of your specifications
 - Vendor 4: Meets all specifications, however, you used this company last year and had to stop service with them because they repeatedly delivered stale product




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 - Vendor 1: Lowest price but won't deliver 3 times/week to each of 5 schools = Not responsible to the specification
 - Vendor 2: Responded and indicated your schools are outside of their service radius = Not responsible to the specification
 - Vendor 3: Meets all of your specifications
 - Vendor 4: Meets all specifications, however, you used this company last year and had to stop service with them because they repeatedly delivered stale product even after several discussions with the company
- **The awarded vendor is:**
 - **Vendor 3: The lowest responsible bidder**



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Informal Procurement-Scenarios

Milk

- Perishable item
- Aggregate purchase thresholds:
 - ≥\$3,500 - <\$150,000 = Informal Procurement
 - ≥\$150,000 = Formal Procurement
- Based on previous year's purchases, aggregate purchase amount should be < \$150,000
- Specification document developed (portions, flavors, delivery times/days, quantity, etc.)
 - In this scenario, you need delivery 3 times/week between 6-7 A.M. to each of 5 schools
- Three vendors are called, given the specifications and provide quotes by e-mail:
 - Vendor 1: Provides quote, will only deliver 1 day/week
 - Vendor 2: Provides quote, meets specifications
 - Vendor 3: Provides quote, meets specifications



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Informal Procurement-Scenarios

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- Aggregate purchase thresholds:
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- Specification document developed (portions, flavors, delivery times/days, quantity, etc.)
 - In this scenario, you need delivery 3 times/week between 6-7 A.M. to each of 5 schools
- Three vendors are called, given the specifications and provide quotes by e-mail:
 - Vendor 1: Provides quote, will only deliver 1 day/week = Not responsible to the specification
 - Vendor 2: Provides quote, meets specifications
 - Vendor 3: Provides quote, meets specifications
- **The awarded vendor is:**
 - **Vendor 2 or 3: Lowest of the responsible bidders**



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Informal Procurement-Scenarios

Paper

- Non-Perishable item
- Aggregate purchase thresholds:
 - ≥\$3,500 - <\$10,500 = Informal Procurement
 - ≥\$10,500 - <\$19,400 = Informal Procurement
 - ≥\$19,400 = Formal Procurement
- Based on previous year's purchases, aggregate purchase amount was \$17,500
- Specification document developed (sizes, weight/ounces, quantity, etc.)
- Three vendors are called, given the specifications and provide quotes by e-mail:
 - Vendor 1: Provides quote, meets specifications
 - Vendor 2: Provides quote, meets specifications
 - Vendor 3: Provides quote, meets specifications



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Informal Procurement-Scenarios

Paper

- Non-Perishable item
- Aggregate purchase thresholds:
 - ≥\$3,500 - <\$10,500 = Informal Procurement
 - ≥\$10,500 - <\$19,400 = Informal Procurement
 - ≥\$19,400 = Formal Procurement
- Based on previous year's purchases, aggregate purchase amount was \$17,500
- Specification document developed (sizes, weight/ounces, quantity, etc.)
- Three vendors are called, given the specifications and provide quotes by e-mail:
 - Vendor 1: Provides quote, meets specifications
 - Vendor 2: Provides quote, meets specifications
 - Vendor 3: Provides quote, meets specifications
- **The awarded vendor is:**
 - **Vendor 1, 2, or 3: Lowest of the responsible bidders**



Procurement Thresholds

Procurement Thresholds						
Threshold	<\$3,500 <i>NEW</i>	≥\$3,500-< \$10,500*	≥\$10,500*-< \$19,400*	≥\$19,400* - < \$150,000 <i>Perishable</i>	≥\$19,400* - < \$150,000 <i>Non-perishable</i>	≥\$150,000
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Formal Procurement

- Two methods
 - Invitation for Bid (IFB)
 - Request for Proposal (RFP)
 - Required for Food Service Management Company contracts



Invitation for Bid (IFB)

- Typically used to procure a product/good, not a service.
- Product/good can be adequately identified with complete specifications (dimensions, grade, quality, pack size, etc.).
- Specifications should be specific enough to obtain the quality of product desired, but not overly restrictive. Cannot specify a brand name unless an "equal" product is also permitted.
- Awarded to responsive bidder based solely on cost.
- Also known as "sealed bid."
- Factors such as discounts, transportation costs, and life cycle costs can be determined in lowest cost if these factors were specified in the IFB.
- Bids are opened publically at the date and time specified in the IFB.
- Results in a fixed price contract (lump sum or unit price).



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Request for Proposal (RFP)

- Typically used to procure a qualitative service.
- Statement of work includes sufficient detail.
- Cost is a major consideration of the award (primary factor), but not the sole factor.
- Experience, past performance, approach, financial and technical resources, etc. are considered in the award through scoring.
- Evaluation method, evaluation factors and their importance are identified (e.g., point scale, scoring matrix, etc.).
- Results in a fixed price or cost-reimbursable contract.



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Formal Procurement-Scenarios

Employees (contracting food service line-staff employees only, not the food service operation)

- Non-perishable
- ≥ \$19,400 = Formal procurement
- Since it is a very specific service, IFB should suffice
- Specification document developed (number of employees, work to be performed, hours for each, training, etc.)
- IFB is advertised publically
- Three vendors submit sealed bids:
 - Vendor 1: Provides quote, meets specifications
 - Vendor 2: Provides quote, meets specifications, the school district used the services of this vendor in the past and didn't experience good results
 - Vendor 3: Provides quote, meets specification



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Formal Procurement-Scenarios

Employees only (contracting employees only, not the food service operation)

- Non-perishable
- $\geq \$19,400$ = Formal procurement
- Since it is a very specific service, IFB should suffice
- Specification document developed (number of employees, work to be performed, hours for each, training, etc.)
- IFB is advertised publically
- Three vendors submit sealed bids:
 - Vendor 1: Provides quote, meets specifications
 - Vendor 2: Provides quote, meets specifications, the school district used the services of this vendor in the past and didn't experience good results
 - Vendor 3: Provides quote, meets specification
- **The awarded vendor is:**
 - **Vendor 1 or 3: Lowest of the responsible bidders**



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Formal Procurement-Scenarios

Consultant (to fill in while Food Service Director is on extended leave)

- Non-perishable
- Based on research the type of service will cost $\geq \$19,400$ = Formal procurement
- IFB will be used since duties are very specific
- Specification document developed (number of hours/week, experience and qualifications required, duties to be performed, etc.)
- IFB is advertised publically
- Three vendors submit quotes:
 - Vendor 1: Provides quote but not for the number of hours requested each week
 - Vendor 2: Provides quote, meets specifications
 - Vendor 3: Provides quote, does not have the required experience or qualifications



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Formal Procurement-Scenarios

Consultant (to fill in while Food Service Director is on extended leave)

- Non-perishable
- Based on research the type of service should cost around \$23,000/10 months
- $\geq \$19,400$ = Informal procurement
- IFB will be used since duties are very specific
- Specification document developed (number of hours/week, experience and qualifications required, duties to be performed, etc.)
- IFB is advertised publically
- Three vendors submit quotes:
 - Vendor 1: Provides quote but not for the number of hours requested each week = Not responsible to the specifications
 - Vendor 2: Provides quote, meets specifications
 - Vendor 3: Provides quote, does not have the required experience or qualifications = Not responsible to the specifications
- **The awarded vendor is:**
 - **Vendor 2: Lowest responsible bidder**



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Non-competitive Procurement

- Sole source contracts
 - Permitted in very limited situations:
 - Product/good/service is only available from single source;
 - After solicitation, competition is determined inadequate.
- Emergency waivers
 - Emergency situation does not provide time for competitive procurement.
 - Approval for emergency waiver for FSMC contracts must be obtained from DFN.
- Cost analysis is still required to determine if the vendor's cost is reasonable.
- Documentation must be retained to support need for non-competitive procurement and cost analysis.



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Non-Competitive Procurement

- Intergovernmental agreements
 - Foster greater economy and efficiency when using common goods and services (2CFR.318(e)).
 - Example: PDE 3086 Agreements to purchase meals from another Child Nutrition Program sponsor (not applicable for Food Service Management Company contracts).
 - Example: Purchases between county-based entities within the same county.
 - Piggybacking into a contract is permitted as long as the solicitation document identified the parties involved or to be involved in future (can't be open ended).
 - Cost analysis is still required to determine if the vendor's cost is reasonable.



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Develop solicitation



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Solicitation/RFP Elements

- Also known as the statement of work
- There is a balance of providing enough information to obtain the quality product/service that is desired, but not overly prescriptive that limits free and open competition.
- Must be comprehensive because the services/product provided through the awarded contract cannot deviate from the solicitation.
- Evaluation method, evaluation factors and their importance are identified (e.g., point scale, scoring matrix, etc.).



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Solicitation Elements

The following items should be included in the Statement of Work, Specification, or Purchase Description:

- Duration of anticipated contract;
- Scope of work;
- Product specifications;
- Type of contract;
- Renewal options (if applicable);
- Bid and performance bonds;
- Required compliance certifications and sanctions;
- Recordkeeping requirements;
- Laws and regulations that govern the contract;
- Clear expectations for reporting/tracking costs;
- Sanitation and licensing requirements;
- Professional certification requirements or minimum levels of experience or education;
- Termination clauses;
- Disclosures and forms required in 2 CFR 200 Appendix II; and
- Standard Terms and Conditions that will be part of the contract.
- NOTE: Food Service Management Company contracts and contracts for vended meals have specific solicitation/contract documents that must be used.



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Buy American


- Applies to both formal and informal procurement.
- Purchase domestically grown and processed foods to the maximum extent possible.
- Applies to all food purchased for School Nutrition Programs from the food service account.
- Produced and processed in U.S. substantially using agricultural commodities from the U.S.
- Two exceptions:
 - Not produced or manufactured domestically in sufficient quantities;
 - Competitive bids reveal cost of domestic product is significantly higher.
- Bid specifications for all foods and beverages should specifically state this requirement.
- It is the SFA's responsibility to ensure that all vendors comply with this requirement.



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Geographic Preference


- Can apply geographic preference when procuring unprocessed locally grown or raised agriculture products.
- Cannot be restricted to locally grown/raised products (only a preference not a requirement).
- Proper procurement process must still be followed.
- Applies to both formal and informal procurement.



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Other Terms and Definitions

- Cost-Reimbursable
- Cost-Reimbursable with a Fixed Fee Component
- Firm Fixed Price
- Escalation
- De-escalation
- Overly responsive
- Value added



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Advertise solicitation



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Advertise Solicitation (Formal Procurement)

- Advertise publically once a week for three weeks in two major newspapers of broad circulation (FSMC RFP's must also be provided to at least five potential vendors):
 - General nature of good/service being procured
 - Method of procurement
 - How to obtain the solicitation or more information
 - Due date
 - Allow time for presentations, walk through, etc., dependent on procurement situation;
 - Complexity of solicitation requirements
 - Simple: Two weeks (piece of equipment)
 - Complex: Four-Six weeks (Food Service Management Company contract)



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Evaluate bids/proposals



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Evaluate bids/proposals

- Determine responsiveness
- Evaluate according to published criteria (RFP)



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Award contracts

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Contract Elements

Solicitation
+ Proposal
= Contract

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Contract Elements

- Scope of work;
- Product specifications;
- Type of contract;
- Renewal options (if applicable);
- Bid and performance bonds;
- Required compliance certifications and sanctions;
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- Laws and regulations that govern the contract;
- Clear expectations for reporting/tracking costs;
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- Termination clauses;
- Disclosures and forms required in 2 CFR 200 Appendix II; and
- Standard Terms and Conditions.

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Contractual Changes

- Any changes to a contract or renewal must be within the scope of the original procurement.
- Material changes require a new procurement.



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Manage contracts




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Contract Management

The SFA must maintain oversight to ensure that contractor performs in accordance with terms, conditions, and specifications of their contracts. (2 CFR 200.318(b))

The SFA will monitor contractor performance to make sure it:


- Receives the quantity and quality of the goods and services requested;
- Receives the goods and services on time; and
- Is charged correct prices as bid and within budget:
 - Only allowable cost,
 - Net rebates, discounts, credits.



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Contact Information


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Questions


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