

# PROCUREMENT

including

# Food Service Management Companies

Spring/Summer 2015

# PROCUREMENT REQUIREMENTS

- ❖ Free and open competition
- ❖ Avoiding conflicts of interest
- ❖ Timeline
- ❖ Documentation

# METHODS OF PROCUREMENT

**Informal**

So, could you  
quote me a  
price on that?



**VS.**

**Formal**

**RFP**

**IFB**

# PROCUREMENT SIMILARITIES

**Informal and Formal procurement procedures share some similarities:**

- ❖ Solicitation
- ❖ Competition
- ❖ Free of anticompetitive practices
- ❖ Documentation must be maintained
- ❖ Contracts cannot be a cost plus percentage of cost
- ❖ Monitoring



# OTHER PROCUREMENT CONSIDERATIONS

- Planning is essential
- The sponsor cannot purposely divide procurement groups to avoid the formal procurement requirements
- Contract Renewals
- Material Change



# OTHER PROCUREMENT CONSIDERATIONS

## Third Party Purchasing Organizations

- USDA Memo SP 35-2012
- Competition is Key
- Cooperatives and SFAs

## Piggybacking



# GEOGRAPHIC PREFERENCE

- A school food authority participating in the Program may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products.
- Geographic Preference not Requirement
- Who defines local?

# PROCUREMENT REGULATIONS

- **2 CFR Part 200** (used to be 7 CFR Part 3016 and 3019)
- **7 CFR Part 210 (NSLP)**
- **7 CFR Part 225 (SFSP)**

**[www.ecfr.gov](http://www.ecfr.gov)**

# OMB SUPER-CIRCULAR

- Subpart D: Procurement (2 CFR 200.67, 88, 317 - 326)
- SFAs, institutions, and sponsors must use the procurement rules set out in Sections 200.318 through 200.326 of the Super-Circular.
- True both for programs the non-state entities operate as subgrantees of State agencies *and* for programs they operate as direct grantees of Federal agencies.
- **NEW!** “Micro-purchases” procurement method for purchases with the aggregate value up to \$3,000.

# OMB SUPER-CIRCULAR (CONT.)

- Section 200.88 raises the small purchase process -**Simplified Acquisition Threshold** to **\$150,000**
- Existing guidance at 7 CFR 3016.36(f)(1) required an SFA, institution, or sponsor to **perform a cost or price analysis with *every* procurement action**, including contract modifications.
- Subsection 200.323(a) changes the requirement to conduct a cost/price analysis for procurements from all purchases to **only those *in excess* of the Simplified Acquisition Threshold**.



# FOOD SERVICE MANAGEMENT COMPANIES AND VENDOR/CATERERS

- **Food Service Management Companies (FSMCs) are typically the larger firms that prepare your meals on-site based on a contract.**
- **Vendors are often smaller firms that sell you pre-prepared meals (either unitized or bulk), usually prepared off site. These contractors would typically be used by a smaller private/parochial school or charter school.**



# PLAN AHEAD

**PROCURING ANY OF THESE SERVICES BY YOUR SCHOOL DISTRICT IS HIGHLY REGULATED BY USDA**

- **Give yourself plenty of time**
- **We have many resources listed on our website including the RFP Template that you must use**
- **Final contract needs to be into us at least a month before the start of the contract period**



# FSMC VARIATIONS:

## Two main styles:

- **Fixed Per-meal Price Contracts**
- **Cost Reimbursable**

## Other contract variations

- **Employees**
- **Responsibilities**



# REMEMBER:

- **Must be competitively bid.**
- **Maintain Transparency in all processes.**
- **State what the evaluation criteria will be upfront.**
- **Include your bid protest procedures.**
- **Contractors who intend to respond to the solicitation cannot help write the RFP. Our agency provides the template. Also, don't let your contractor write the contract.**



## **ADDITIONAL CONSIDERATIONS:**

- **Availability of records after the contract is over**
- **USDA donated foods**
- **Contract Term**

# FINAL CONSIDERATIONS:

**The LEA/SFA, are still responsible for the Child Nutrition Program and must maintain adequate controls over the contractor. Our program agreement is with YOU, not the contractor.**

**From the contract template...**

- H. The SFA shall be legally responsible for the conduct of the food service program, and shall supervise the food service operations in such a manner as will ensure compliance with the rules and regulations of IDOE and the United States Department of Agriculture (USDA) regarding each of the CN Programs covered by this contract.
- I. The SFA shall retain control of the CN Program's food service account and overall financial responsibility for the CN Programs.

# WEB RESOURCES:

On our division's web page <http://doe.in.gov/food>, you can find the following link at the bottom of the page. All of our resources, including templates can be found here.

## Other Resources

- [CNPweb Resources](#)
- [Civil Rights Requirements](#)
- [Division Brochure](#) 
- [Federal Regulations and Related Links](#)
- [Financial Management](#)
- [Pandemic Flu Preparedness](#) 
- [Procurement](#) (Food Service Management Company Contracts, Food Purchases, etc.)
- [Purpose, Mission, and Vision Statement](#)
- [Recalls.gov](#) 
- [Wellness Policy Resources](#)

# STATE AGENCY CONTACT

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