Purchasing for School Nutrition
2 CFR 200.318 – .320
7 CFR 210.21(d)

The Regulations

2 CR 200

General Procurement Standards .318

Competition .319

Methods of Procurement .320

Buy American .21(d)

7 CR 210

2 CFR 200: UGG – Uniform Grant Guidance

- National School Lunch (NSLP)
- School Breakfast Program (SBP)
- Special Milk Program (SMP)
- Fresh Fruits and Vegetables Program (FFVP)
- Child and Adult Care Food Program (CACFP)
- Summer Food Service Program (SFSP)

- Special Education
- Title Programs
- Afterschool 21st Century Programs
- Charter School Grants
General Standards
2 CFR 200.318

- Documented Procedures
- Maintain oversight
- Standards of conduct
- Avoid acquisition of unnecessary items
- Foster greater economy
- Surplus property
- Value engineering
- Responsible contractors
- History of procurement
- Time/Materials Contracts
- Settlement of contract issues

Procurement Standards (Procedures)

- Different from School Board Code of Ethics
- Standards of Conduct vs. Code of Ethics
- Specific for staff that do purchasing
- May or may not be connected to a policy
- Standards apply to:
  - employees
  - officers
  - agents

Standards of Conduct
Standards of Conduct – Point 1: Conflict of Interest

No employee shall participate in the selection, award or administration of a contract if they have a real or apparent conflict of interest.

- Financial or other interest
- Tangible personal benefit
- Employee, family member or partner or organization
- Employs or is about to employ

Conflict of Interest Example

Standards of Conduct - Point 2: Gratuities, Favors and Gifts

- Officers, employees and agents may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.
- Standards may be set for situations in which:
  - The financial interest is not substantial
  - The gift is unsolicited and of nominal value.
Gratuities, Favors and Gifts Example

- A loan for shoes
- Dinner rolls and a luncheon

Standards of Conduct – Point 3: Disciplinary Actions

- Outline disciplinary actions for standard of conduct violations
- Communicated to all officers, employees and agents
- Example action:
  - Accepting gift with over a $XX value, verbal warning
  - Awarding purchase to immediate family – written warning
  - Personally gaining from purchasing decision - ???

Standards of Conduct Summary

- Conflict of Interest
- Gratuities
- Disciplinary Actions
Procurement Standards (Procedures)

1. Documented Procedures
2. Maintain oversight
3. Standards of conduct
4. Avoid acquisition of unnecessary items
5. Foster greater economy
6. Surplus property
7. Value engineering
8. Responsible contractors
9. History of procurement
10. Time/Materials Contracts
11. Settlement of contract issues

What is a procedure?

Policy
- Support Goals/Objectives of Operation
- List of rules/regulations
- Governs workplace conduct

Procedure
- Steps to carry out a policy
- Actions/Operations
- Sequential – workflow
  - First
  - Then
  - Next

Example: Bathroom Cleaning

Policy
- The house will be cleaned once a week.

Procedure
- The bathroom is cleaned on Friday.
  - Bathtub scrubbed with cleanser
  - Bowl disinfected
  - Floor washed with non-abrasive cleaner.
Procurement Procedure

Procurement Steps: Large Equipment

1. Determine what type of equipment is needed and when it is needed.
2. Check websites for estimated cost of equipment.
3. Check federal surplus websites for potential equipment.
4. Prepare specifications for equipment.
5. Identify potential suppliers.
6. Email the specifications/quotation request to suppliers two months before needed.
7. Award purchase to lowest price bidder.
8. Inspect equipment when delivered to ensure it meets specifications. Contact the vendor with any issues.
9. File all documentation including: specification, vendor contacts, quotations, award notification and school board approval.

Procurement Procedure Task

- Procurement Action
  - Milk
  - Produce
  - Small Equipment
  - Office Supplies
  - Bakery

- Write out the steps to procuring the product or service.
  - First
  - Then
  - Next
### Procurement Standards (Procedures)

- **Documented Procedures**
- **Maintain oversight**
- **Standards of conduct**
- **Avoid acquisition of unnecessary items**
- **Foster greater economy**
- **Surplus property**

### Value engineering

- **Responsible contractors**
- **History of procurement**
- **Time/Materials Contracts**
- **Settlement of contract issues**

---

### Maintain Oversight

Must maintain oversight to ensure contractor performance.

**Procedures:**
- Grocery invoices are checked weekly against bid sheets quotes
- Delivery shortages are documented and checked against invoices for credits
- Meal vendors kitchen is monitored annually
- Equipment deliveries are inspected upon arrival for damage
- Credits are reconciled on invoices monthly

---

### Procurement Steps: Large Equipment

1. Determine what type of equipment is needed and when it is needed.
2. Check websites for estimated cost of equipment.
3. Check Federal surplus websites for potential equipment.
4. Prepare specifications for equipment.
5. Identify potential suppliers.
6. Email the specifications/quotation request to suppliers two months before needed.
7. Award purchase to lowest price bidder.
8. Inspect equipment when delivered to ensure it meets specifications. Contact the vendor with any issues.
9. File all documentation including: specification, vendor contacts, quotations, award notification and school board approval.
**Procurement Standards (Procedures)**

- Documented Procedures
- Maintenance oversight
- Standards of conduct
- Avoid acquisition of unnecessary items
- Foster greater economy
- Surplus property
- Value engineering
- Responsible contractors
- History of procurement
- Time/Materials Contracts
- Settlement of contract issues

**Acquisition of Unnecessary Items**

Must avoid acquisition of unnecessary or duplicative items. Consider breaking out procurements for more economical purchases.

**Procedures:**
- Purchases of single items costing over $1000 will be approved by the business manager
- A justification log is completed for all equipment purchases over $500
- Produce purchases are bid separately and as part of a prime vendor bid to determine the best pricing options

**Foster Greater Economy**

Encouraged to enter into state and local intergovernmental/inter-agency agreements for procurement of goods and services.

**Procedures:**
- Milk purchasing decisions will be made cooperatively with the High Five Milk cooperative. Bids are completed annually in March and awarded in April
- Charter school meals will be purchased through the local school district
- Food service director duties will be shared by ABC District and XYZ District
Encouraged to use Federal surplus property in lieu of purchasing new where feasible and cost are reduced

Procedures:
- For single equipment purchases over $1000 check for the availability of Federal or State surplus equipment
- Survey for bonus USDA foods when feasible

Websearch: Surplus Property

Procurement Standards (Procedures)
- a) Documented Procedures
- b) Maintain oversight
- c) Standards of conduct
- d) Avoid acquisition of unnecessary items
- e) Foster greater economy
- f) Surplus property
- g) Value engineering
- h) Responsible contractors
- i) History of procurement
- j) Time/Materials Contracts
- k) Settlement of contract issues
**Responsible Contractors**

Must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

**Procedures:**
- A minimum of three references will be required for procurements over $10,000
- A minimum of 3 years experience with school nutrition programs will be required for vended meal contracts
- In the bid response vendors must provide delivery fleet information
- A minimum of three references will be required for bids over $25,000

**History of Procurement**

Must maintain records sufficient to detail the history of procurement.

**Procedures:**
- All responses to solicitation, including rejected responses, will be kept on file for a minimum of three years.
- The evaluation matrix for all responding bidders will be filed with the documents for each procurement
- Farm to school micro-purchases will be recorded on the micro-purchase sheet to ensure equitable distribution between local farmers

**Time/Materials Contracts**

Time and material contracts may only be used after it is determined that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at their own risk. Must assert a high degree of oversight.

**Procedures:**
- All equipment repairs will require an estimate prior to work being done
- Preventive maintenance contracts will be based on a cost per job rate
- Kitchen Managers will remain with repair vendors until the job is done and record the time the vendor left the facility
Settlement of Contract Issues

Non-federal entity alone must be responsible for settlement of all contractual and administrative issues arising out of procurements.

Procedures:
- A contract review meeting will be held with all vendor contracts over $10,000 before contracts are signed.
- Quarterly conference calls with the grocery sales manager will be held.
- The meal vendors will be contacted immediately when deliveries are short or missing food components.
- All deliveries will be check-in against delivery receipts.

Competition Matters

2 CFR 200.319

Circle Competition Key Items: a) – d)

- (a) Full and Open Competition
- (b) Geographical Preference
- (c) Written Procurement Procedures
- (d) Prequalified List
“Full” means ....

- Containing or holding as much or as many as possible
- Having no empty space.
- Not lacking or omitting anything
- Containing all that is normal or possible
- Complete in every particular

Full/Open Competition Restrictors

Contractor developed specifications
1) Unreasonable requirements
2) Unnecessary experience/excessive bonding
3) Noncompetitive pricing practices between firms
4) Noncompetitive contracts to consultants on retainer contracts
5) Organizational conflicts of interest
6) “Brand name only”
7) Any arbitrary action

Vendor Concerns

Contractor developed specifications
1) Unreasonable requirements
2) Unnecessary experience/excessive bonding
3) Noncompetitive pricing practices between firms
4) Noncompetitive contracts to consultants on retainer contracts
5) Organizational conflicts of interest
6) “Brand name only”
Purchaser Concerns

Contractor developed specifications
1) Unreasonable requirements
2) Unnecessary experience/excessive bonding
3) Noncompetitive pricing practices between firms
4) Noncompetitive contracts to consultants on retainer contracts
5) Organizational conflicts of interest
6) “Brand name only”
7) Any arbitrary action

Specification Concerns

Contractor developed specifications
1) Unreasonable requirements
2) Unnecessary experience/excessive bonding
3) Noncompetitive pricing practices between firms
4) Noncompetitive contracts to consultants on retainer contracts
5) Organizational conflicts of interest
6) “Brand name only”
7) Any arbitrary action

Geographical Preference 2 CFR 200.19 (b)

- Prohibited
- Program Specific Regulations (SNP - 7 CFR 210.21):
  - “May” apply geographic preference when procuring:
    - Unprocessed locally grown or raised agricultural products
    - Unprocessed = only those products that retain their inherent character, Sub-information (2)
Procuring Local Foods

Procurement Transactions 2 CFR 200.19 (c)

1) Clear and accurate descriptions of technical requirements
   - Must not be unduly restrictive
   - May include statement of qualitative nature
   - Must set forth minimum essential characteristics
   - May use "brand name or equal" when impractical or uneconomical to make clear/accurate description

2) Identify all requirements which must be fulfilled and all factors to be used in evaluation

Prequalified List 2 CFR 200.19 (d)

- Must be current and include enough qualified sources
- Must not preclude (exclude) potential bidders from qualifying
True of all procurements

- Full/open competition
- Award to the most responsible/responsive
- No cost + % of cost
- No geographical preference
- Written procedures for all solicitations
  - Clear specifications
  - Identify all evaluation factors

Contact Us

Minnesota Department of Education
Nutrition, Health and Youth Development
(651) 582-8526
(800) 366-8922
mde.fns@state.mn.us
Training Funding

This project has been funded at least in part with Federal funds from the U.S. Department of Agriculture. The contents of this publication do not necessarily reflect the view or policies of the U.S. Department of Agriculture, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

Non-Discrimination

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410, or by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.