

Farm to School Purchasing 101

Purchasing and Using Geographic Preference in School Nutrition Programs

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Overview

- Procurement Rules: Which ones do you follow? Federal? State? Local?
- All* Colorado school district nutrition programs must follow specific methods of procurement
- Purchasing locally produced farm products (Geographic Preference)



Applicable Federal Regulations

- 7 CFR 3016
- 7 CFR 210 NATIONAL SCHOOL LUNCH PROGRAM (NSLP)
- 7 CFR 220 SCHOOL BREAKFAST PROGRAM(SBP)

Definitions:

School Food Authority (SFA): governing body (school district) responsible for administration of one or more schools; with legal authority to operate the (School Nutrition) Program; usually not individual school

Procurement: Any SFA purchasing



Federal Regulations

7 CFR 3016.36(b) *Procurement standards.*

(1) (CDE and School Districts) will use their own procurement procedures which reflect applicable State and local laws and regulations, provided they conform to applicable Federal law and standards identified

Note: Schools must follow the most restrictive of Federal, state or local laws and regulations



School Nutrition Program Purchasing

7 CFR 210.21 and 7 CFR 220.16 and 7 CFR 3016 (CDE and SFAs) shall comply with requirements of this part concerning procurement of all goods and services with nonprofit school food service account funds.



What Purchasing Rules Must SFAs Follow?

- Full and Open Competition
- Use local procurement rules and the following methods of procurement
 - Small Purchase Procedures
 - Sealed Bids or Formal Advertising
 - Competitive/ Request for Proposal (RFP)



Full and Open Competition

- 3016.36(c) All procurement transactions conducted to provide full and open competition.
- Situations considered to be restrictive include but not limited to:
 - (i) Unreasonable requirements on firms to qualify to do business
 - (ii) Unnecessary experience/excessive bonding
 - (iii) Noncompetitive pricing practices between firms or affiliated companies (collusion)

Full and Open Competition

- (iv) Noncompetitive awards to consultants that are on retainer contracts
- (v) Organizational conflicts of interest
- (vi) Specifying a "brand name" product without allowing "an equal" product to be offered
- (vii) Any arbitrary action in the procurement process

Full and Open Competition

-3016.36 (c) Prohibits the use of statutory or administrative in-State or local geographical preferences in evaluation of bids or proposals

-Except applicable Federal statutes that mandate or encourage geographic preference

-*USDA does allow Geographic Preference for unprocessed locally grown or locally raised agricultural products.*

Local rule

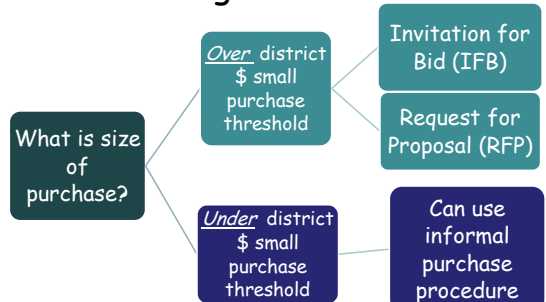
7 CFR 210.21(c): A school food authority may use its own procurement procedures which must include a written code of standards of conduct meeting the minimum standards of §3016.36(b)(3)

Methods of Procurement

Allowed methods:

1. Small purchase / Informal procedures
2. Sealed Bids/Formal Advertising (Invitation for Bid - IFB)
3. Competitive Proposals (Request for Proposal - RFP)

Determining Purchase Process

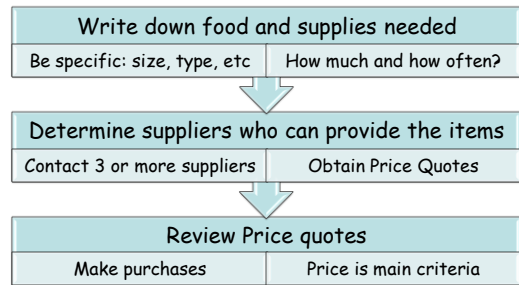


Small Purchase Procedures 3016.36(d)(1)

1. Simple / informal methods for purchasing services, supplies, etc. costing less than small purchase threshold
2. Federal is set at \$100,000, Colorado at \$150,000
3. Some local (district) thresholds are < \$5,000
4. Obtain price or rate quotes from an adequate number of qualified sources. **(USDA FNS recommends three or more qualified sources.)**



Small Purchase Process



Invitation to Bid 3016.36(d)(2)

- (i) The following conditions should be present:
- (A) Complete, adequate, realistic spec or purchase description available
 - (B) Two or more responsible bidders can compete effectively
 - (C) The purchase works with firm fixed price contract and successful bidder can be selected mostly on price
- (ii) IFB requirements
- (A) Publicly advertised and solicited from adequate number of known suppliers
Sufficient time prior to set date for opening the sealed bids;



Invitation to Bid 3016.36(d)(2)

- (B) Include any specifications, pertinent attachments, and definitions of the items /services for the bidder to properly respond
- (C) All bids publicly opened at time/place in the IFB
- (D) A firm fixed-price written contract award to lowest responsive /responsible bidder. Discounts, transport cost, etc considered in determining lowest bid only if in bid documents and experience shows discounts used
- (E) Any/all bids may be rejected with sound documented reason



Request for Proposal (RFP) 3016.36(d)(3)

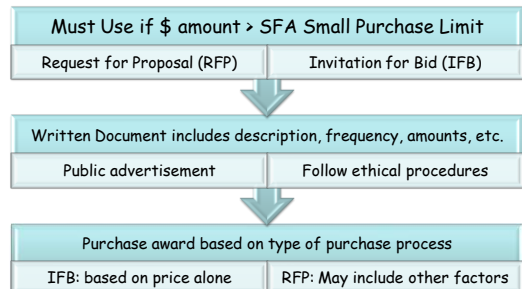
Generally used when sealed bids are not appropriate

Requirements

- (i) Publicized and all evaluation factors identified with their relative importance. Any response shall be honored to the maximum extent practical
- (iv) Awards made to responsible firm whose proposal is most advantageous to the SFA, with price and other factors considered



Formal Bid Process



Geographic Preference

7 CFR 210.21(g) and 7 CFR 220.16(f)

(1) SFAs may apply a geographic preference when procuring *unprocessed locally grown or locally raised agricultural products*.

- (ii) Proposals solicited from adequate number of qualified sources
- (iii) Have a method for conducting technical evaluations of the proposals received and for selecting awardees



Geographic Preference

(2) For the purpose of applying optional geographic procurement preference in paragraph (g)(1) of this section

"unprocessed locally grown or locally raised agricultural products" means only those agricultural products that retain their inherent character



Geographic Preference

The following processes do not change the inherent character:

- Cooling; Refrigerating; Freezing
- Size adjustment by peeling, slicing, dicing, cutting, chopping, shucking, and grinding
- Washing
- Packaging (Ex: placing eggs in cartons)
- Addition of ascorbic acid or preservatives to prevent oxidation of produce



Geographic Preference

The following processes do not change the inherent character (continued):

- Drying/ dehydration
- Vacuum packing /bagging (Ex: placing produce in bags)
- Combining types of produce in single package)
- Pasteurization of milk
- Forming ground products into patties without any additives or fillers
- Butchering livestock / poultry
- Cleaning fish



Geographic Preference

Unallowable food handling/preservation techniques

- Heating/canning - the inherent character of the product is not retained because the heating process involved in canning changes the agricultural product into a product of a different kind or character



Geographic Preference

What is Local????

- The SFA making the purchase has the discretion to determine the local area for geographic preference
- "Local" may not be defined in a way that unnecessarily limits competition



What is "Preference"?

- The SFA can award "points" when comparing prices in a bid for products that meet the local preference outlined in the bid documents
- When all bids/quotes are obtained, the price basis for the bid award can apply local preference "points" to local products
- The actual price is not affected

Tool: Colorado Market Maker



<http://co.marketmaker.uiuc.edu/>

Local Purchasing Option

The following are potential venues for obtaining quotes or soliciting bids or RFPs

1. Direct from Producer
2. Food HUB
3. Purchasing Cooperative
4. Distributor: Mainline or specialty

Direct from Producer (Farmer)

- SFA solicits quotes / bids from local farmers/ producers (Market Maker resource?)
- Negotiate delivery, invoice, ordering systems, etc.
- Check food safety handling and practices

Food Hub

- Check for Food Hubs in your area and what services are offered
- Able to purchase several local products from various producers from one source
- Possible established delivery, ordering and invoicing
- Traceability for comingled products
- Must follow free and open competition in vendor selection

Purchasing Cooperative

- Several available in the state for schools
- Able to purchase several local products from various producers from one source
- Possible established delivery, ordering and invoicing
- Traceability for comingled products
- Must follow free and open competition in vendor selection

Distributor

- SFA must use free and open competition in purchasing
- Multiple products from a single source
- Check on availability of local producers
- Established delivery, ordering and invoicing
- Traceability for comingled products

Questions?

