



## Simplified Summer Food Program

# PROCUREMENT STANDARDS

The provisions of these procurement standards apply to private institutions and are a combination of the provisions contained in U.S. Department of Agriculture, Food and Nutrition Service regulation, 7 CFR Part 225 Summer Food Service Program, 7 CFR 3019 Uniform Administrative Requirement for Non-Profit Organizations, OMB Circular A-122 Allowable Costs for Non-Profit Organizations, and FNS Instruction 796-4 Allowable Cost Rules.

The provisions public institutions participating in the Simplified Summer Food Program (SSFP) must comply with are contained in U.S. Department of Agriculture, Food and Nutrition Service regulation, 7 CFR Part 225 Summer Food Service Program, 7 CFR 3016 Uniform Administrative Requirement for Public Organizations, and OMB Circular A-87 and FNS Instruction 796-4.

Local Education Agencies (LEAs) are also governed by state regulation, RCW 28A.335.190, which sets the threshold at \$75,000 instead of the \$10,000 described below.

These standards are a mandatory requirement and apply to all items purchased by sponsors for food, supplies, equipment, and other goods and services. This document applies to all officers, employees, and agents acting on behalf of the sponsor. If a conflict arises between these procedures and those established by a government body, those procedures that bear legal superiority will take precedence.

### I. Procurement Procedures

There are two types of procurement procedures depending on the total costs:

- A. OVER \$10,000 is considered a large purchase and must include one or more of the following methods of procurement: Invitation for Bid (IFB) or Request for Proposal (RFP) or sole source. Descriptions of each procedure are provided below (see also General Provisions):

#### 1. Invitation for Bid (IFB)

This procedure will be used when an adequate and realistic product or service description is available. It will not be used unless there are two or more responsible suppliers willing and able to compete effectively for the business and there is every intention of selecting the successful bidder principally on the basis of price. No awards will be made under this procedure unless at least two bids have been received.

Formal advertised, sealed bids are publicly solicited and a firm fixed price contract is awarded to the responsible bidder whose bid conforms to the terms and conditions of the IFB.

- a. Sponsors must meet the following requirements when formally advertising an invitation for bid:

- (1) Sponsors must advertise and publicly announce the proposed contract at least 14 calendar days before the opening of bids. The announcement must include the time and place of the bid opening and information about obtaining a copy of the complete specification for the institution's proposed purchase.
- (2) At least two weeks before the bid opening date, bids will be solicited from an adequate number of known suppliers. These shall include suppliers listed in the local telephone book, purchasing directors, or names of suppliers on solicitation lists to include minority, small, and women's business enterprises. In addition, the invitation to bid will be posted in a public place or otherwise advertised.

- (3) A complete, adequate, and realistic specification or purchase description will be part of the IFB. Menus will be part of any solicitation for a food service management company.
  - (a) The IFB must be so clear and accurate that all prospective bidders will have an equal chance of award of the contract.
  - (b) The IFB may not provide for loans or other monetary benefits, terms, or conditions to be made to institutions by commercial vendors.
- (4) Factors such as price, quality, ability to perform, character, deadlines, prior experience, etc., as well as discounts, transportation costs, and life cycle costs will be considered in determining which bid is low only if so specified in the IFB.
- (5) Any or all bids may be rejected when there are sound, documented, business reasons in the best interest of the program.
- (6) A written notice of award shall be made to that responsible bidder whose bid, conforming to the IFB, is lowest.
- (7) All bids shall be opened publicly at the time and place stated in the IFB.
- (8) If the sponsor is not accepting the lowest bid, a justification for awarding the contract to a higher bidder must be provided.

## 2. Request for Proposal (RFP)

This procedure, also called competitive negotiation, will be used when it is impossible to prepare a realistic specification or the award cannot be made principally on the basis of price. In competitive negotiation, a request for proposal will be publicized and a number of suitable sources will be requested to submit proposals. Negotiations will be conducted with two or more of the firms submitting offers. This method may be used only if conditions are not appropriate for the use of formal advertising (IFBs).

### a. Procedures are as follows:

- (1) Requests for proposal shall outline the procedures and evaluation factors that will be used to identify and select responsible offerors for negotiation as well as the criteria that will be used to make the final selection for contract award.
- (2) Award will be made to the responsible offeror whose proposal will be most advantageous to the sponsor with price and other factors considered. Unsuccessful offerors will be notified immediately when a contractor is selected.

## 3. Sole Source

This is noncompetitive negotiation through solicitation of a proposal from only one source. Noncompetitive negotiation may be used only when award of the contract is not feasible under the IFB or RFP procedures.

### a. Noncompetitive negotiations are limited to the following:

- (1) The item is available only from a single source.
- (2) An emergency requirement exists.

- (3) Competition is determined to be inadequate.
- (4) OSPI authorizes noncompetitive negotiation.

B. UNDER \$10,000 for an aggregate amount is termed a small purchase. An aggregate amount is the sum total of materials or services which can logically be purchased from one vendor during one fiscal year. Sponsors must have documented evidence of open and free competition at the best price. Price or rate quotations must be obtained from an adequate number of qualified sources. Small purchases shall be documented. At a minimum, documentation shall include the date, vendors contacted, item description, prices quoted, and any delivery data. Whenever only one quotation is received, documentation must include written justification for the purchase. The following procedure must be observed:

#### Small Purchase Procedures

1. If \$10,000 or less, price comparisons may be used.
2. If over \$10,000, the IFB or RFB procedures must be used. Sponsor policy and procedure requiring an IFB or RFB at a threshold lower than \$100,000 is permissible and encouraged.

## II. General Provisions—for IFB, RFP, Sole Source

### Award Approval

Contracts that meet the following criteria must be approved by OSPI. The procurement is proposed as a sole source procurement and will be awarded without competition.

## III. Code of Conduct

This code of conduct shall govern the performance of all officers, employees, and agents engaged in the award and administration of contracts supported by federal funds.

- A. It shall be a breach of ethical standards for any employee, officer, or agent to participate directly or indirectly in the selection, award, or administration of a contract supported by federal funds when the employee knows that:
  1. The employee, officer, agent, or any member of his immediate family has a financial or other interest pertaining to the procurement.
  2. A business or organization in which the officer, employee, agent, or any member of his immediate family has a financial or other interest pertaining to the procurement.
  3. Any other person, business, or organization which the employee, officer, agent, or any member of his immediate family is negotiating with or has an arrangement concerning prospective employment is involved in the procurement.
- B. All officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.
- C. In the event of violations of this code, officers, employees, or agents are subject to the following penalties or disciplinary action:
  1. Reprimand.
  2. Suspension.
  3. Termination of employment.

#### IV. Responsibilities

These standards shall not relieve the sponsor(s) of any contractual responsibilities under their contracts. The sponsor is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of the program. These include but are not limited to:

##### A. Contractual responsibilities/administrative issues:

1. Source evaluation.
2. Protests of award.
3. Disputes.
4. Claims.

##### B. Other responsibilities are as follows:

1. All proposed procurement actions shall be reviewed to avoid purchases of unnecessary or duplicative items.
2. Procurement procedures shall not restrict or eliminate competition. Examples of restrictive practices include, but are not limited to:
  - a. Placing unreasonable requirements on potential bidders' firms in order for them to qualify for the contract award.
  - b. Noncompetitive practices between bidders.
  - c. Organizational conflicts of interest.
  - d. Unnecessary experience and bonding requirements.
  - e. Placing geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference.
3. Technical requirements for the material, product, or service to be procured shall be clearly and accurately described. The description will not contain features that unduly restrict competition.
4. Contracts shall be awarded only to responsible contractors that possess the potential to perform successfully under the terms and conditions of the proposed procurement. Consideration will be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
5. The cost plus a percentage of cost method of contracting is prohibited.

#### V. Procurement Records

The following records shall be retained for each procurement:

- A. Records sufficient to detail the significant history of a procurement shall be maintained for three years from the end of the federal fiscal year to which these records pertain.

B. These records shall include, but are not necessarily limited to:

1. Information pertinent to the rationale for the method of procurement.
2. Selection of contract type.
3. Contractor selection or rejection.
4. The basis for the cost or price.

C. Recommended documentation:

1. The advertisement or public notice used to publicize the procurement or an affidavit of publication.
2. The solicitation letter forwarded to prospective vendors along with any replies received from prospective vendors.
3. The IFB or RFP.
4. The proposed contract (completed by the vendor in response to IFB or RFP).
5. Any other information necessary to explain or justify the particular procurement method(s) utilized, cost benefits determination, etc.

**CERTIFICATION STATEMENT**

I have read and understand my responsibilities as listed on these procurement standards. Our organization will adopt these procurement standards for all purchases using USDA funds. Our organization understands that more restrictive procurements may be required by state law or adopted by our organization.

\_\_\_\_\_  
Signature of Authorized Representative or Owner(s)

\_\_\_\_\_  
Date

**RETURN ADDRESS:**

Office of Superintendent of Public Instruction  
Child Nutrition Services – Summer Feeding Programs  
Old Capitol Building  
Po Box 47200  
Olympia Wa 98504-7200