

## Tools & Resources from SNA to Help Improve Procurement Practices

### School Nutrition Procurement for School Business Officials—A Primer

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The reliance on government funding for public schools means that school business officials must navigate various regulatory steps in the purchase of everything from furniture and supplies, to books and other teaching tools, not to mention vehicles, services and much more. But your district's school meals program has its own set of highly complex purchasing rules, making it a special subset of the school procurement puzzle.

In 2015, the U.S. Department of Agriculture (USDA), the federal agency that administers the National School Lunch and School Breakfast Programs (NSLP/SBP), added a procurement section to its periodic Administrative Review process. This means school districts must be ever-more vigilant in understanding the requirements, while developing and implementing effective purchasing practices. After all, an effective procurement not only ensures you stay compliant under the law, but helps you to control costs and provide the best meals possible for the students you serve.

The goal of this brief document and other new tools from the School Nutrition Association (SNA) is to help *anyone* involved in purchasing goods and services for a school foodservice program to gain a better overall understanding of the purchasing rules required of districts. This includes business managers, purchasing directors and other school business officials. In most school districts, procurement is a joint activity of the school business office and the school foodservice department.

#### **The Law**

Title 2 of the Code of Federal Regulations, Section 200.318-326 contains the rules governing procurement for your school meal programs. These are written in “plain language,” and are easy to understand. Please make time to read these; they're not long and they provide the fundamentals that are an important baseline for improving your familiarity with this area of procurement.

While the NSLP and other school-based federal child nutrition programs are administered by USDA, in the vast majority of states, the program is the responsibility of the state department of education or its equivalent. This reflects that the meals served in schools are a critical element of children's education.

Keep in mind, however, that the **Federalism Principle** applies to school meal program procurement. In short, this means that states can write their own rules for procurement, *as long as they're not less restrictive than the federal rules*; local agencies can further establish procurement limits. Imagine a pyramid, with the federal law establishing the base, followed by state laws and then local policies.

But at a minimum, school foodservice operations must follow the procurement rules found in the Code of Federal Regulations. Start your research here and then investigate the state and local rules that may differ.

## **Critical Elements of School Nutrition Procurement**

- School food authorities (SFAs) must have a *written procurement procedures manual*, which outlines all the steps your district takes in buying for the school meals program. This includes the methods of procurement you use, how you solicit, how you award and other relevant factors.
- School districts must have a *written Code of Ethics/Conduct*, which establishes policies for the behavior of everyone involved in the procurement process, from the buying agent to the person receiving the goods. It helps avoid conflicts of interest and protect you against the appearance of such conflicts. For example, does your district allow a vendor to take the buyer to lunch? Give you or your program a gift of a certain value? Your district may have a Code of Conduct document for the Board of Education or other administrators; ensure it applies to your purchasing and school foodservice staff.
- School districts must *follow one or more of five specific methods of procurement*:
  - o Micro purchases (for purchases under \$10,000)
  - o Informal procurement (for purchases between \$10,000 and the Small Purchase Threshold, which is the amount a district can spend on a purchase without undertaking a formal process; federal law sets the threshold at \$250,000 right now, but many states and districts set it at a lower amount.
  - o Invitations for Bid (IFB)
  - o Competitive Proposals aka Requests for Proposal (RFP)
  - o Sole Source purchases (must be pre-approved by the state agency)

## **Procurement Fundamentals**

The underlying principle for all school meal procurements is that they must be **fair, open, and competitive**. Additionally, the procurement process should be **transparent**.

**Fair:** A SFA can't put requirements in a procurement that will bias the award one way or another.

**Open:** Every company that wants to and can be a supplier to your district, must have an equal opportunity to do so. In soliciting responses to whatever method of procurement you employ, you must cast a wide net to ensure that any and all potential vendors are aware of your intentions and be allowed to respond.

**Competitive:** Criteria for the procurement award must be objective and not favor any company over another.

**Transparent:** Your procurement must be handled in a manner that is visible to any interested party. You cannot hide or be vague about how you will go about the solicitation or award processes.

Finally, when awarding a contract, respondents must be **responsive**. That means both the bid and the proposal submitted must address all of the specifics in the solicitation. Documents must include all the goods and services at the required standards established in the solicitation. A vendor also must be **responsible**. A district is not required to award a contract to a company that has demonstrated a failure to perform. SFAs can establish minimum performance standards for vendors. Remember that standards can't be restrictive and must be objective and measurable.

## **For More Information**

The School Nutrition Association has developed a body of training and technical assistance materials to help our members further navigate the world of procurement and procurement ethics. Visit [www.SchoolNutrition.org/Procurement](http://www.SchoolNutrition.org/Procurement) for more resources.