



Procurement Training Start & End Your Year Strong

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FFGCoP 7/18/2023

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What is Procurement?



- Procurement involves the planning that goes into purchasing food, supplies, goods, and services that are used by LEAs ([2 CFR 200.1 Definitions](#))
- Procurement involves several steps from planning, issuing Requests for Proposal (if applicable), vendor selection, and vendor performance monitoring

What is Procurement? Continued



- LEAs must consider both state and federal procurement guidelines as above items maybe purchased with federal and/or state funds
- LEAs must follow whichever regulations are the most restrictive

Why is Procurement Important?



- To plan for purchases ensuring funds are wisely spent
- To ensure that LEAs are stocked with the supplies they need
- To ensure that LEAs receive the services they contracted for
- To mitigate shortcomings that otherwise may impact students

Ethical Procurement



- Procurement should foster the public's confidence in state and local government processes:
 - Avoid the appearance of impropriety
 - Demonstrate loyalty to unbiased decision making
 - Conduct all activities in a manner essential to preserve the public trust
 - Refrain from personal gain
 - Identify cost-saving methods to Idaho tax-payers when possible

Ethical Procurement Continued



- Procurement should foster the public's confidence in state and local government processes:
 - Promote positive competition in the marketplace through open competition
 - Mitigate the risk of waste, abuse, fraud, and overpayment for goods
 - Display the highest level of integrity to the public procurement process, and
 - Enhance student academic achievement through contracting

Federal Procurement Methods



2 CFR 200.320

- Informal procurement methods may be used when value does not exceed **\$250,000** or a **lower threshold** established by a non-federal entity (such as a state)
- Thresholds are further delineated into
 - **Micro** Purchases up to **\$10,000**
 - **Small Purchases** from **\$10,001 - \$49,999**

Micro Purchases (up to \$10,000)



2 CFR 200.320 (a)(1)

- **Distribution.** “To the maximum extent practicable, the non-federal entity should distribute ... among qualified suppliers.”
- **Awards.** May be awarded without price or rate quotes if nonfederal entity “considers the price to be reasonable based on research, experience, purchase history or other information and documents its files accordingly.”

Micro Purchases (up to \$10,000) Continued



2 CFR 200.320 (a)(1)

- **Thresholds.** Determined and documented by grantee, based on internal controls, risk, and procedures. Authorized by state, local laws. May be higher than threshold in FAR (\$10,000).
 - Nonfederal entity may self-certify threshold up to \$50,000, if:
 - Low-risk auditee for most recent audit
 - Annual internal institutional risk assessment to identify, mitigate and manage financial risks; or
 - For public institutions, a higher threshold consistent with state law
 - Over \$50,000, must have approval of cognizant agency indirect costs

Small Purchases (\$10,001 - \$49,999)



2 CFR 200.320 (a)(2)

- Used when for purchases greater than micro-purchase threshold, but less than simplified acquisition threshold (\$250,000)
- Price or rate quotations from “adequate number of qualified sources” as determined appropriate by non-federal entity



2 CFR 200.320 (a)(2)

- **Thresholds.** Established based on internal controls, risk and procedures, and documented. Cannot exceed the threshold in the Federal Acquisition Requirement (FAR) of \$250,000 but may be lowered.

Formal Procurement Methods



2 CFR 200.319

2 CFR 200.320

- Formal procurement methods may be used when value does exceed **\$250,000** or a **lower threshold** established by a non-federal entity.
- These purchases require documented procedures and public advertising, ensuring competition.

Non-Competitive Proposals



2 CFR 200.320 (c)

- Micro-purchases
- Item only available from a single source
- Public emergency for the requirement that will not permit delay resulting from publicizing a competitive solicitation

Non-Competitive Proposals Continued



2 CFR 200.320 (c)

- Federal awarding agency or pass-through expressly authorizes noncompetitive procurement in response to a written request from non-Federal entity; or
- After soliciting a number of sources, competition is determined inadequate



2 CFR 200.322

- “To the greatest extent practicable” must provide a preference for the purchase of goods and materials produced in the U.S.
- This must include this section in all sub-awards, contracts and purchase orders.

Build America, Buy America Act (BABAA)



S. 1303 – 117th Congress

- Federal, financial assistance for infrastructure projects is provided when “all of the iron, steel, manufactured products, and constructions materials used in the project are produced in the United States.”
- This must include this section in all sub-awards, contracts and purchase orders.

What is Considered Infrastructure under BABAA?



S. 1303 – 117th Congress

- “(A) roads, highways, and bridges; (B) public transportation; (C) dams, ports, harbors, and other maritime facilities; (D) intercity passenger and freight railroads; (E) freight and intermodal facilities; (F) airports; (G) water systems, including drinking water and wastewater systems; (H) electrical transmission facilities and systems; (I) utilities; (J) broadband infrastructure; **and (K) buildings and real property.**

Applicability of BABAA



Do we have to worry about BABAA?

- BABAA does not apply to ESSER/ ARPA
- USED allows for waivers and provides a fact sheet
- List of USED Grant Programs subject to BABAA
 - **State Grants - B (611) including IDEA ARPA**
 - **State Grants - B Preschool (619) including IDEA ARPA**

State of Idaho Procurement Methods



Idaho Code section 67-2806

- **Threshold** ranging from \$0 to \$50,000
- Not regulated in Idaho code therefore federal statutes for **micro and small purchases** would be applied if goods and services would be purchased with federal funds



Idaho Code section 67-2806

- **Threshold** does not exceed \$99,000 but is above \$50,000
- Issue written requests for bids describing goods or services desired to at least three vendors. Allow three days for a written response, unless an emergency exists; one day for objections.

Idaho Code section 67-2806(2)

- **Threshold** exceeds \$100,000
- Publish notice at least two weeks in advance of bid opening. Make bid specifications available; written objections allowed. May request bid security/bond. All bids will be publicly opened at the time and place prescribed in the invitation for bids.

Changes to Idaho Procurement



Idaho Code section 67-2346

- Anti-Boycott Against Israel Act
- New Legislation in 2021
- If a contract is one hundred thousand dollars (\$100,000) or more and/or seller employs ten (10) or more persons, seller will need to certify that it is not currently engaged in and will not for the duration of the contract engage in, a boycott of goods or services from Israel or territories under its control.



Idaho Code section 67-2803 (1) (Purchasing by political subdivisions)

Idaho Code section 67-2807 (1) (Cooperative purchasing)

- LEAs may purchase from already advertised and awarded bids
- “Original” bids must have reference to the **Public Agency Clause**

Idaho Statewide Contracts – Public Agency Clause



- Contract prices, terms, and conditions shall be extended to State of Idaho agencies, departments, divisions, bureaus, universities, institutions, and so forth as per the specifications of the contract. Contract prices, terms, and conditions may be extended to other **public agencies** as defined in Idaho Code section 67-2327

What is a Public Agency?



Idaho Code section 67-2327

- "Public agency" means ... including, but not limited to counties; **school districts**; ... created under the laws of the state of Idaho; any agency of the state government; and any city or political subdivision of another state. "State" means a state of the United States and the District of Columbia."

Procurement in Practice & Planning



Written plan should include:

- Code of Ethics
- Conduct and Conflict of Interest policy
- Name of authorized purchaser
- Award method to be used
- Advertisement procedures
- Award notification/ declination process



Procurement Planning Continued



Written plan should include:

- Procurement method to be used, including procedures for each method
- Buy American Provision
- Small, minority and women owned businesses
- Cost/price analysis
- Unnecessary or duplicative purchases

SDE Purchasing Code of Ethics



SDE Procurement Code of Ethics

- Any person employed or contracted by the Idaho State Department of Education who is involved in the process of procuring property (meaning goods, services, parts, supplies and equipment, both tangible and intangible, including, but not limited to, designs, plans, programs, systems, techniques and any rights or interests in such property) for the Idaho State Department of Education or the State of Idaho shall conduct themselves in a manner that protects the public interest and fosters confidence in the integrity of the process and shall be bound by this Code of Ethics.

SDE Purchasing Code of Ethics Continued



In any matter relating to procurement at the State Department of Education, all State Department of Education employees or contractors shall:

- a) Avoid the appearance of impropriety
- b) Demonstrate loyalty to unbiased decision making
- c) Conduct all activities in a manner essential to preserve the public trust
- d) Refrain from personal gain
- e) Identify cost-saving methods to Idaho taxpayers when possible
- f) Never accept bribes or any material gain as a result of a contract relationship
- g) Promote positive competition in the marketplace through open competition
- h) Display the highest level of integrity to the public procurement process
- i) Enhance student academic achievement through contracting

Invitation to Bid



Letters of invitation should include:

- Intent of procurement activity
- Contract time period
- Bid submission procedures
- Pre-bid/ proposal meeting date/ time/ location
- Bid opening date/ time/ location
- Contract information

Request for Proposal (RFP)



Idaho Code section 67-2806A

- RFP as alternative to competitive bidding “when the political subdivision contemplates a procurement for goods or services for which:
 - (a) Fixed specifications might preclude the discovery of a cost-effective solution;
 - (b) A specific problem is amenable to several solutions; or
 - (c) Price is not the sole determining factor for selection.”

What needs to be included an in RFP?



- At a minimum, a request for proposal shall state the instructions of the process, the scope of work for the goods or services contemplated, the selection criteria, contract terms and the scoring methodology applying relative weights to factors considered.
- Evaluation factors may include (but are not limited to) an innovative solution that is offered, unique product features, price, vendor experience in the market, financial stability of a vendor, differences among vendors in their ability to perform contract requirements in a timely or efficient manner, ability to meet product specifications, product quality, product performance records, past performance by a vendor, future product maintenance or service requirements, product warranties.

Best Practices



- Separation of Duties (also [2 CFR 200.302](#))
 - Tasks such as requesting purchases, performing the purchase, issuing payment for the purchase, and inventorying the purchase should not be performed by one person.
 - The purpose of the separation of duties is to prevent fraud and abuse.
- Use purchase orders (including terms and conditions) for goods
- Use contracts for services
- Regularly review and update policies and procedures manuals as the Uniform Grant Guidance and state laws change
- Request a legal review of procurements documents from your legal counsel



Purchasing Reflections



- Purchasing has many components
- Most LEAs have several staff assigned as purchasers that may need purchasing training (and refreshers)
- Purchasing requires approval chains
- Purchasing requires policies and procedures be in place
- Various funding sources and grant funded programs may have additional restrictions and requirements

