

USDA Procurement Changes

❖ New Procurement Method → Micro-purchasing

❖ Required Written Procurement Policies and Procedures

❖ Federal Regulations →

[Office of Management and Budget \(OMB\) Super-Circular 2 CFR §200 - Procurement Standards](#)

Allowed Procurement Methods:

The term “contract” is in reference to formal and informal contracts (written, verbal, or implied).

Micro-purchasing (*Informal Method*)

- Aggregate \$ amount < \$3,500
- Soliciting competitive quotations or obtaining comparisons → not required
- Prices must be “reasonable” (*compared to previous or similar purchases*)
- “Spread the wealth” → *Rotate purchases among qualified suppliers*

Small Purchase (*Informal Method*)

- Aggregate \$ amount < \$150,000
- Contact at least 3 suppliers for obtaining competitive price quotations (verbally or in writing)

Competitive Sealed Bids (*Formal Method*)

- Aggregate \$ amount ≥ \$150,000
- Product/service can be fully described in the bid specifications
- Contract award → primarily on the basis of price alone

Competitive Proposals (*Formal Method*)

- Aggregate \$ amount ≥ \$150,000
- Product/service cannot be fully described in bid specifications due to its complexity
- Contract award → can be based on other factors than price alone

Noncompetitive Negotiation → only permitted when:

- A public emergency (i.e. natural disaster) prevents/delays publicizing bid/proposal
- Only one source of the product/service exists
- Only one bid or proposal is received
- DPI/USDA has approved sponsor’s written request

USDA Procurement – Additional Points

Contracts must contain applicable provisions described in:

2 CFR Part 200: Appendix II - Contract Provisions for non-Federal Entity Contracts under Federal Awards

- **Debarment and Suspension** → applies to all signed contracts (Provision H):
Contract awards must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), which contains names of business entities and individuals that have been debarred, suspended, & declared ineligible under statutory or regulatory authority.
 - Check businesses on SAM prior to making purchases or awarding contracts.
System for Award Management (SAM)
 - Formal contracts should include a debarment and suspension certification statement.
- **Contract Termination for Cause & Convenience** → applies to all contracts > \$10,000 (Provision B):
 - Must provide conditions for termination for cause and termination for convenience.

Geographical Preference →

The regulatory term that refers to procuring unprocessed locally grown or locally raised agriculture products. “Local” can be defined by the agency (i.e. by county, within a certain mileage), as long as it does not restrict free and open competition that results in having only one or two prospective suppliers.

- Unprocessed locally grown and locally raised agriculture products are those that retain their inherent character.

Family Day Care Home Providers → Procurement of Goods and Purchasing Local Foods

- Providers are not required to follow Federal procurement regulations when using their CACFP funds for food purchases.
- Sponsors should encourage purchasing local foods and having gardens.

Providers may:

- Use CACFP funds for purchasing seeds, fertilizer, labor, plot rental etc. for growing food.
- Purchase local foods directly from farmers, farmer’s markets, farmer’s markets, food hubs, & Community Supported Agricultures (CSAs).
- Use local foods donated from local gardens or farms when preparing meals.

Locally purchased meat, poultry, eggs, and dairy products:

- Must be properly inspected and/or pasteurized (*Refer to Guidance Memo L*)

Home canned goods

- Providers must never use home canned goods from any source, including their own, farmers, or farmer’s markets.

Requirements for Procurement Policies and Procedures

Sponsors must include the following standards within their written procurement procedures:

A. Standards of Conduct

Address conflicts of interest and govern the actions of its employees engaged in procurement activities.

These standards must:

1. Prohibit employees having real or apparent conflict of interest involving vested financial interest/ tangible personal benefit;
2. Prohibit employees soliciting or accepting gifts, gratuities, favors, travel packages, or any other incentives
 - May set parameters for accepting unsolicited gifts of nominal value or insubstantial financial interest.
3. Establish disciplinary procedures when their employees violate these standards of conduct.

B. Necessary and cost-effective Purchases

Describe approaches used & specify staff responsible for reviewing procurement activities to assure cost-effective & necessary purchases. Examples of approaches:

- Consolidate purchases together or break them out into smaller aggregates?
- Lease or purchase?
- Piggyback on another organization's contract?

C. Full and Open Competition

Specify how your agency allows full and open competition.

1. Avoid unreasonable or unfair restrictions, like:

- a. Doing business with only one source
- b. Having unreasonable requirements to qualify as a potential supplier
- c. Requiring unnecessary experience & excessive bonding
- d. Allowing prospective contractors to develop or draft specifications or requirements
- e. Specifying only "brand name" items qualify instead of allowing "of equal" products
- f. Imposing geographical preferences

2. Selection Process

Establish selection procedures when formal procurement methods (sealed bids and competitive proposals) are used: $\geq \$150,000$

Include the following:

- a. Clear and accurate description requirements: required characteristics & satisfaction standards;
- b. Factors used in formal bid/proposal evaluations
- c. Prospective contractors list: must ensure maximum open and free competition.

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Requirements for Procurement Policies and Procedures (Cont'd)

D. Small & Minority Businesses, Women's Businesses, & those in Labor Surplus Areas:

Specify steps taken to include these businesses when possible. Steps may include:

1. Include within prospective suppliers list
2. Use the *Small Business Administration* and the *Minority Business Development Agency* of the *Department of Commerce* as a resource of these suppliers
3. When economically feasible, divide goods/services into smaller tasks or quantities
4. When practical, adjust delivery or service schedules

E. Contracts → Awards, Oversight, & Problem Resolution

1. Awarding Contracts/Making Purchase Decisions

Specify how your agency “awards” contracts, or communicates/acts on its purchasing decisions.

A contract is “awarded” when choosing suppliers; can be implied or verbally communicated for informal purchases. Awards must be in writing when using a formal procurement method.

→ An “awarded contract” is implied when you purchase goods at a specific store. The “contract” presents itself when purchases are made.

Responsive and Responsible Purveyors:

Only purchase from responsive & responsible suppliers.

- Responsible: capable of successfully providing the expected goods/services. Purchase goods/services from suppliers in good standing with the community and past customers.
- Responsive: capable of providing the needed goods/services.

2. Contract/Product Oversight

Monitor performance, quality, & compliance with terms and conditions.

→ Are prices accurate? Deliveries made as required? Are the purchased products of expected quality and specification?

3. Problem Resolution

Use sound business judgement for resolving any unsatisfactory purchases and breaches of contract. Refer law violations to the proper authorities.

F. Procurement Records

Document all procurement activities. Records must include, *but are not limited to*:

→ When using the micro-purchasing method (a purchase transaction is < \$3,500), the invoice/receipt for purchases are in themselves acceptable “procurement records”.

1. Rationale for choosing specific procurement methods (*micro-purchasing, small purchase, competitive sealed bid, competitive proposal*)
2. What kind of goods or services are being procured
3. Lists of the contractors/suppliers contacted, selected and rejected
4. The basis for the agreed to prices

