

## Procurement Questions 1-10

### 1. New – Micro Purchase Method

### 2. Does the SFA utilize a buying group for its purchasing?

### 3. Does SFA purchase items outside of the cooperative?

Cooperative procurement may be reviewed by Randy Jones, Contract Specialist, to confirm all procurement regulations have been followed.

### 4. Were all purchases costing more than \$3,500 competitively procured (e.g., SFA received three bids or three proposals)?

The aim of this question is to assess: *Competition* which is the foundation for all properly conducted procurements, regardless of dollar value. Competition is not a method of procurement, but a condition of the environment in which the procurement occurs. Thus, "competitive procurement" means that all procurement transactions, including small purchases, must be conducted in a manner that maximizes free and open competition.

### 5. Compliance with the open and free competition requirement for procurement(s) costing more than \$3,500

The aim of this question is to assess: *Free and open competition* which means that all suppliers are "playing on a level playing field," and have the same opportunity to compete. Furthermore, the procurement procedures must not unduly restrict competition or eliminate competition.

### 6. Compliance with the Buy American Provision

The aim of this question is to assess: *Buy American provision* which was added to the National School Lunch Act by Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-786).

- That provision [in Section 12(n) of the National School Lunch Act] requires schools to purchase domestically grown and processed foods, to the maximum extent practicable.
- The law defines "domestic commodity or product" as one that is produced and processed in the United States substantially using agricultural commodities that are produced in the United States.
- The report accompanying the Law stipulated that "substantially" means that over 51 percent of the final processed product consists of agricultural commodities that were grown in the United States.

SFAs must make sure that any procurement for food paid for wholly or in part with funds from the nonprofit school food service account must comply with the "Buy American" provision.

### 7. Simplified Acquisition Threshold

### 8. Procurement Methods (Formal/Informal)

The aim of questions 7 and 8 are to assess: If the SFA used proper procurement methods (informal or formal); choosing the appropriate procurement method is tied to the estimated value of the contract. The first key factor that should be considered in determining whether procurement should be formally or informally solicited is the estimated value of the procurement contract. Note the value of the contract includes USDA Foods and donated USDA Foods.

If the estimated value of the procurement contract is at or above the simplified acquisition threshold (whether federal, state, or local), the SFA must use a formal procurement method (competitive sealed bidding [IFB] or competitive proposals [RFP]).

If the estimated value of the procurement contract is below the simplified acquisition threshold (whether federal, state, or local), the SFA may use the informal procurement method (the small purchase method sometime referred to as "three bids and buy"). However, the SFA is not required to use the small purchase method even if the value of the procurement falls below the applicable simplified acquisition threshold; it can opt to use either the informal procurement method or a formal procurement method. For additional information, reference the procurement methods chart located on DPI's procurement website: [http://fns.dpi.wi.gov/fns\\_procurement](http://fns.dpi.wi.gov/fns_procurement).

A pre-procurement planning process conducted by the SFA will help to determine the estimated value of a procurement contract. Once the SFA has completed its estimate of student participation, revenues, and market costs and has analyzed the product inventory and decided upon the services that it is likely to have available, it will be able to determine the estimated dollar value of its various procurements for the coming year or season. Remember that the value of the contract includes USDA Foods and donated USDA Foods. Thus, the pre-procurement planning process will go far to help the SFA determine the appropriate procurement method to use.

**9. Is SFA using a Food Service Management Company (FSMC)?**

The aim of this question is to assess: Use of FSMC contracts, program regulations for the NSLP and the School Breakfast Program (SBP) [7 CFR Part 210.16(a)(10), Part 210.19(a)(6), and Part 220.7(d)(1)] require DPI to annually review and approve each contract between any SFA and FSMC before execution of the contract by either party. Additionally, the program regulations for the NSLP [7 CFR Part 210.19(a)(6)] require that DPI annually review all supporting documentation to a contract (i.e., solicitation documents, responses submitted by bidders, etc.) between any SFA and FSMC before execution of the contract by either party.

It cannot be stressed enough how important it is for the SFA to ensure program accountability. Regardless of what responsibilities a contractor has, even if it is a FSMC acting as the SFA's procurement agent, the SFA must always be aware and have control over the operations of the program. The SFA should not rely on the FSMC to understand the program operations and implement the regulations.

**10. New - Requirement for written procurement procedures**