Who must follow procurement rules?
My school is too small that doesn’t apply to my school.
My school doesn’t use a management company, so that doesn’t apply to me.
I can only get one vendor to service my school, so those rules don’t apply to me.
My school is BIE or is a private school, those rules do not apply here.

Procurement Rules apply to all Schools and Agencies operating the National School Lunch Program, or any other Child Nutrition Program.
Why?

Using federal taxpayer dollars requires you to use those dollars to maximize free and open competition.

Why?

- Result in better quality, price, & service for the school
- Ensure fair and open competition
- You must use the most restrictive of state, local, or federal guidelines
- For large and small purchases
Nonprofit School Food Service Funds

- Can only be used to purchase allowable goods and services
- All funds that go into nonprofit school foodservice account must be used within program regulations
Step 1: Preparation for Procurement

- Review your procurement plan
- Identify what you will purchase
- Estimate the cost of those items
- Develop or update bidders list
- Identify the procurement method to use

Step 2: Writing Specs

- Specifications are accurate, clear, and not overly restrictive
- Specifying a brand name item and specifying "brand name or equal"
  - It is better to specify a grade or quality level
- Describe quality and quantity of foods
Overly Restrictive Specs

- Specifying 1 brand name
- Drafting specs, terms & conditions, and award criteria so only 1 source can respond
- Allowing a vendor to draft terms/specs
- Changing award criteria without notifying all potential vendors

Step 3: Research & Solicitation

- Determine procurement method:
  - Formal vs. Informal vs. Micro
- Develop solicitation
- Evaluate responses
• **Informal:** < $25,000
  • **Formal:** ≥ $25,000

**Supplies**
(Not perishable)
• **Informal:** < $25,000
  • **Formal:** ≥ $25,000

**Food**
Perishable
• **Informal:** < $150,000
  • **Formal:** ≥ $150,000

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Think about it: How do you break up your purchases?

<table>
<thead>
<tr>
<th>Estimated category purchases are:</th>
<th>Informal</th>
<th>Formal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grannies Bread Co</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>$75,000 / 9 month school year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dairy Air Milk Co</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>$275,000 / 9 month school year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Groceries</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Informal Procurement Methods

<table>
<thead>
<tr>
<th>Services less than $25,000</th>
<th>Supplies (not perishable) less than $25,000</th>
<th>Food/Perishables less than $150,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>SDCL 5-18A-14</td>
<td>SDCL 5-18A-14</td>
<td>2 CFR 200.88</td>
</tr>
<tr>
<td></td>
<td>SDCL 5-18A-22(12)</td>
<td></td>
</tr>
</tbody>
</table>

- Get quotes by phone, email, fax, or catalogs
- 2-3 vendors must be included in the solicitation
- Keep these documents for 3 yrs. past current year or longer if an audit is open

2 CFR 200.320
Informal Procurement Methods:

**Micro-purchase**

- Services less than $3,500
- Supplies less than $3,500
- Food/Perishables less than $3,500

2 CFR 200.67
**Micro-purchase**

- Aggregate purchase amount cannot exceed $3,500
- Micro-purchases must be distributed equally to suppliers
- Prices must be reasonable
- Can be awarded **without** informally soliciting competitive quotes

2 CFR 200.320 (a)

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**Formal Procurement Methods:**

**IFB or RFP**

<table>
<thead>
<tr>
<th>Services</th>
<th>Supplies (not perishable)</th>
<th>Food/Perishables</th>
</tr>
</thead>
<tbody>
<tr>
<td>≥$25,000</td>
<td>≥$25,000</td>
<td>≥$150,000</td>
</tr>
</tbody>
</table>

SDCL 5-18A-14  SDCL 5-18A-14  SDCL 5-18A-22(12)

2 CFR 200.88
Formal

- Solicitations for contracts using sealed bids or competitive proposals
- Published, provide specs, include requirements of terms & conditions, include evaluation & award process
- Keep docs 3 yrs. past current year

Competitive Sealed Bidding: Invitation for Bid (IFB)

- Specs easily developed
- Product/service is easy to identify
- Responses will differ only by price
- More than 1 source is willing & able to compete
- No negotiating contract terms or price
Competitive Proposals: Request for Proposal (RFP)

- Award based on scored factors that must include low cost
- The SFA can negotiate after evaluating proposals

Group Buying Organizations, Group Purchasing Organizations, Cooperative Purchasing Between Multiple Organizations, etc.

- **All groups must follow same procurement requirements**
- Examples in SD: Avera PACE, Buy Board, SFAs coordinating purchasing together
Using federal funds requires you to purchase foods and supplies that are grown, made, and processed in America, whenever possible.

210.21(d)
**Written Standards of Conduct**

SFA’s are required to have a written code of conduct covering **conflicts of interest** and ensuring fair use of school foodservice funds.

200.318

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**Conflicts of Interest**

- No one person can benefit at the expense of their school/agency or public interest
- Excuse yourself if involved in the conflict of interest
- Check district requirements for signing conflict of interest statement
- **Vendors that help write the bid, cannot respond to the bid.**
Conflict of Interest

Where do you draw the line for a conflict of interest?
Applicable credits

Discounts, rebates and credits must be credited to your nonprofit school foodservice account as a cost reduction or cash refund.

7 CFR Part 210.21(f)
2 CFR part 200.406

Other Contract Considerations
Overly Responsive

- Response includes items that were not in original solicitation
  - e.g. new signage for your cafeteria
- **Items cannot go into consideration for contract award if it was not in original solicitation!**

Geographic Preference

- Program operators can define & use local area to buy unprocessed locally grown or locally raised agricultural products
- SFA can determine the local area
- Memo SP18 – 2011 *Procurement Geographic Preference Q&As* dated February 1, 2011 contains more information
Step 4: Awarding the Contract

Awards must be made only to **responsive** and **responsible** vendors

<table>
<thead>
<tr>
<th>Responsive vendors product or service meets the SFA's specs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible vendor can &amp; will fulfill the terms &amp; conditions of the contract</td>
</tr>
</tbody>
</table>

Contract Awarded!

I’m FINALLY DONE, right?
Step 5: Contract Management

- Make sure your vendors follow through with the contract
- You provide your vendors with regular feedback on their performance throughout the life of the contract

Report to Your Vendor

- Incorrect quantities delivered
- Deliveries were not on time
- Deliveries to the wrong location(s)
- Food fails to meet the quality specs
- Vendor is not following the contract substitution policy
Planning

Managing Contract

Writing Specs

Awarding Contract

Advertising / Researching

Administrative Review

**SY 16-17:** a new Procurement Module will be included in all Administrative Reviews
## Authorities

<table>
<thead>
<tr>
<th>CFR 210</th>
<th>National School Lunch Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>CFR 215</td>
<td>Special Milk Program</td>
</tr>
<tr>
<td>CFR 220</td>
<td>School Breakfast Program</td>
</tr>
<tr>
<td>CFR 225</td>
<td>Summer Food Service Program</td>
</tr>
<tr>
<td>CFR 226</td>
<td>Child and Adult Care Food program</td>
</tr>
<tr>
<td>CFR 250</td>
<td>Donation of Foods for Use in the US ... (USDA Foods)</td>
</tr>
<tr>
<td>CFR 200</td>
<td>Uniform Administrative Requirements, Cost Principles, &amp; Audit Requirements for Federal Awards</td>
</tr>
</tbody>
</table>

## SD Bid Booklet

South Dakota Local Government Guide For Acquisitions, Disposables, and Exchanges

[http://legislativeaudit.sd.gov/General%20resources/Bid%20Booklet%202013.pdf](http://legislativeaudit.sd.gov/General%20resources/Bid%20Booklet%202013.pdf)
Additional Resources

- Institute of Child Nutrition (ICN) nfsmi.org
- Procurement in the 21st Century

Summer Training Opportunities

CANS is hosting ICN Procurement in the 21st Century & ½ day Procurement Workshop
July 18 – 20 at Rapid City School Dist.
August 1 – 3 at Augustana Sioux Falls
August 8 – 10 at Pierre Visitor Center

SNA SD is hosting ICN Procurement in the 21st Century
July 26 – 28 in Watertown
Procurement:
State and Federal Rules
Professional Standards Training Credit
Print, sign, & date this certificate for your records.

This training credits for 1.5 hours of training in
Key Area 2: Operations 2000:
2410: Product Specifications, 2420: Bid Solicitation & Eval,
2430: Purchase Food, Supplies & Equip, 2440: Food & Supplies Orders

Your Name:
Date of Training:

Questions?
Email: DOE.SchoolLunch@state.sd.us
Phone: 605-773-3413
Fax: 605-773-6846

This institution is an equal opportunity provider.