



Central Union High School District Nutrition Services Department

Procurement Procedures

The following employees are authorized to procure food, supplies and equipment on behalf of the Central Union High School District, Nutrition Services Department.

These procurement procedures are effective on: January 27, 2017

The undersigned employees that are authorized to purchase on behalf the Central Union High School District, Nutrition Services Department agree to comply with all applicable Federal, State and local statutes and regulations regarding procurement including District procedures outlined in the attached document containing 10 pages.

Arnold Preciado
Assistant Superintendent, Business & Support Services

Date

Erika Allen
Nutrition Services Director

Date

Vicente Ruiz
Nutrition Services Assistant III

Date

Patricia Palomares
Nutrition Services Assistant III

Date

Forecasting and Evaluating

Annually the Nutrition Services Director in conjunction with the Nutrition Services Assistants III will forecast food, supply and equipment needs. Utilizing data from past production records, enrollment estimates and anticipated participation, they will estimate the needs of the department.

The Nutrition Services Director and the Assistant Superintendent, Business & Support Services will forecast the Nutrition Services departmental budget. Working within that budget, the Nutrition Services Director will determine the appropriate purchasing method for each item. Allowable methods of procurement include:

- Cooperative Procurement
- Intergovernmental Purchasing (USDA Commodities)
- Micro Purchasing
- Small Purchasing
- Formal Purchasing
- Noncompetitive Proposal (Must be approved by California Department of Education)

Surplus Property

The Central Union High School District- Nutrition Services Department (CUHSD-NSD) will consider purchasing government surplus property in lieu of new equipment when it is determined that available surplus property is in “like new” condition, offered at a substantially reduced cost and meets departmental needs. The District encourages the department to purchase surplus property and supplies in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

The Assistant Superintendent, Business & Support Services and/or the Nutrition Services Director will inquire as to the availability of excess or surplus property utilizing contacts through the California Association of School Business Officials (CASBO), California School Nutrition Association (CSNA) and Imperial County School Food Service Directors.

When excess or surplus property is located, the Assistant Superintendent, Business & Support Services and/or the Nutrition Services Director will evaluate if the reduced cost of surplus property warrants the risk of purchase without manufacturer’s warranty. If it is determined that the purchase of surplus property is appropriate and meets the needs of the department, the purchase will be made in accordance with departmental purchasing procedures as determined by the Assistant Superintendent, Business & Support Services. (2 *CFR*, Section 200.318 [f])

Duplication of Goods/Services

To prevent the acquisition of unnecessary or duplicate goods or services already available within the District, the Assistant Superintendent, Business & Support Services and/or the Nutrition Services Director will contact site administrators and department supervisors to determine if there are goods or services available within the District that could be utilized by the NSD. Such inquiries will be made utilizing the District's in-house email system. (2 *CFR*, Section 200.318[d])

Small and Minority Businesses, Women Business Enterprises, and Labor Surplus Area Firms

The NSD will maintain a list of local vendors including small and minority businesses, women's business enterprises and labor surplus firms which will be included in the procurement process. The department will use the services and assistance of such organizations as the Small Business Administration and Minority Business Development Agency of the Department of Commerce. Contact information will be posted on the departmental webpage including instructions on how to request placement on the NSD bid list.

When economically feasible, the NSD will divide purchasing projects into smaller tasks or quantities to permit maximum participation by local vendors, small and minority businesses and women's business enterprises. To the extent possible, the NSD will establish delivery schedules which encourage participation by local vendors, small and minority business and women's business enterprises and will require prime contractors to take the affirmative steps listed above when subcontracting for service. (2 *CFR*, Section 200.321):

Intergovernmental Procurement:

The CUHSD-NSD utilizes procurement opportunities through the United States Department of Agriculture's (USDA) commodity program. To the extent possible, the department will purchase surplus commodities through the USDA Pomona Distribution Center in an effort to lower costs and improve efficiency. (2 *CFR*, Section 200.318[e])

Cooperative Procurement

To foster greater economy and efficiency and in accordance with efforts to promote a more cost effective use of shared services, the CUHSD-NSD will seek opportunities to join with other districts to purchase goods collectively. When collectively purchasing goods with other districts, the CUHSD-NSD will enter into a Memorandum of Understanding (MOU) that defines the parameters of procurement and ensures that the all cooperative purchases are conducted in accordance with Federal, State and local regulations. (2 *CFR*, Section 200.318 [e])

Micro-purchase Procedures

“Micro-purchase” refers to the process for procuring goods and/or services when the dollar amount does not exceed \$3,500 (or the current micro-purchase threshold) per procurement transaction. When the micro-purchase threshold is adjusted, the Assistant Superintendent, Business & Support Services will notify the Nutrition Services Director in writing of the adjusted threshold amount.

The Director of Nutrition Services and the Food Service Assistants III will utilize the micro-purchase method to procure goods and supplies. Items may include small amounts of seasonal fresh fruit and vegetables, and smaller quantity items not included in the annual bid.

To the extent practicable, the District will distribute micro-purchases equally among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the District considers the price to be reasonable. (2 *CFR*, Section 200.320[a])

Small Purchase Procedures

“Small Purchase” refers to the process for procuring goods, and/or services when the total dollar amount exceeds the micro-purchase threshold but is **less than \$88,300**.

The Director of Nutrition Services and the Food Service Assistants III will utilize the small-purchase method to procure goods and supplies. Items may include larger amounts of seasonal fresh fruit and vegetables, and larger quantities items not included in the annual bid.

When small purchase procedures are used, written or verbal quotations must be obtained from 2 qualified sources. Documentation of small purchase transactions must be maintained in accordance with Federal, State and local records retention requirements. (2 *CFR*, Section 200.320[b])

Formal Purchase Procedures

“Formal Purchase” refers to the process for procuring goods and/or services when the dollar amount is **more than** your agency’s relevant small purchase threshold per procurement transaction. Procurement is conducted by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. **The Assistant Superintendent, Business & Support Services will oversee all formal bids.** In order for sealed bidding to be feasible, the following conditions should be present:

- (1) A complete, adequate, and realistic specification or purchase description is available.

- (2) Two or more responsible bidders are willing and able to compete effectively for the business.
- (3) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If **sealed bids** are used, the following requirements apply:

- (1) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised.
- (2) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond.
- (3) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly.
- (4) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
- (5) Any or all bids may be rejected if there is a sound documented reason.

Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
- (2) Proposals must be solicited from an adequate number of qualified sources.
- (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort. (2 *CFR*, Section 200.320[c] and [d])

Noncompetitive Procurement

Noncompetitive procurement is the process for procuring goods and/or services that cannot be conducted through normal competitive procurement methods and the lack of a contract would seriously threaten the function of the agency, including emergency or sole source procurement.

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source.
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity.
- (4) After solicitation of a number of sources, competition is determined inadequate.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 54409, Sept. 10, 2015 (2 *CFR*, Section 200.320[c] and [d]) (2 *CFR*, Section 200.320[f])

Cost and Price Analysis

The CUHSD-NSD will perform a cost or price analysis in connection with every procurement action in excess of the simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point the District will:

- (1) Make independent estimates before receiving bids or proposals
- (2) Negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair

and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance and industry profit rates in the surrounding geographical area for similar work

- (3) Costs or prices based on estimated for costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the District.
- (4) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 *CFR*, Section 200.323

Clear Description

The CUHSD-NSD will incorporate a clear and accurate description of the technical requirements for material products or services to be procured. Such descriptions will not contain features which unduly restrict competition. The description will include:

- (A) A statement of the qualitative nature of the material, product or service to be procured and when necessary will set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its indented use.
- (B) Identify all requirements which bidders must fulfill and all other factors to be used in the evaluating bids or proposals.

The CUHSD-NSD will ensure that all prequalified lists of persons, firms or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free completion. The District must not preclude potential bidders from qualifying during the solicitation period. (2 *CFR*, Section 200.319[c])

Contractor Involvement

All procurement transactions must be conducted in a manner providing full and open competition. In order to ensure objective contractor performance and eliminate unfair competitive advantage contractors that develop or draft specifications, requirement statements of work or invitations for bids or request for proposals must be excluded from competing for such procurements. (2 *CFR*, Section 200.319[a])

Geographic Preference

The CUHSD-NSD may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the term unprocessed locally grown or a locally raised agricultural product means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product in to a product of a different kind or character: Cooling, refrigerating, freezing, size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, grinding, forming ground products into patties without any additives or fillers, drying, dehydrating, washing, packing, vacuum packing, bagging, the addition of ascorbic acid or other preservatives to prevent oxidation of produce, butchering livestock and poultry, cleaning fish and pasteurizing of milk. (7 *CFR*, Section 210.21[g]):

Buy American Provision

The CUHSD-NSD will to the maximum extent practicable purchase domestic commodities or products. A domestic commodity is an agricultural commodity that is produced in the United States and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States

7 *CFR*, Section 210.21 [d][1-3]; USDA Policy Memo SP-24-2016) (for school food authorities only)

Brand Name or Equivalent

Specification and product descriptions will not specify only a “brand name” product. Instead specifications will allow “an equal” product to be offered. Specifications will describe the performance or other relevant requirements of the procurement. (2 *CFR*, Section 200.319[a][6])

Discounts, Rebates, and Credits

Contractors and vendors must identify the amount of any discount, rebate or other applicable credit on bills and invoices presented to the District for payment and individually identify the amount as a discount, rebate or in the case of other applicable credits, the nature of the credit.

Contractors and vendors must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the District or State agency. 7 *CFR* 210.21 [f][iv]

Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the CUHSD-FNS will require contractors to meet Federal, State and local bonding requirements. (2 *CFR*, Section 200.325):

Certifications

All acquisitions and construction projects solicited through formal purchasing procedures will clearly define all required certifications. Typical certifications may be related to Energy Policy, Clean Air Act, Debarment and Suspension, Certification of Lobbying, Disclosure of Lobbying Activities, Equal Employment Opportunity, Drug Free Workplace, Independent Price Determination, and Iran Contracting Act of 2010 (for California public agencies with contracts over \$1,000,000). (2 *CFR*, Appendix II):

Evaluation Procedures

Written bid solicitations will identify all requirements which bidders must fulfill to include all factors to be used in evaluating bids or proposals. The Assistant Superintendent, Business & Support Services, the Nutrition Services Director and other District employees with pertinent knowledge and expertise will evaluate sealed bids and competitive proposals, based on the factors of evaluation contained in the written solicitation and including consideration of contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. 2 *CFR*, Section 200.319[c][2])

Suspension and Debarment

A contract may not be awarded to parties listed on the government wide exclusions in the System for Award Management (SAM). The SAM exclusion list contains the names of parties debarred, suspended or otherwise excluded by agencies as well as parties declared ineligible under statutory or regulatory authority. . 2 *CFR*, Appendix II, Section [H])

Bid Protest

The District is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include but are not limited to source evaluation, protests, disputes and claims. All written bid solicitations will clearly state procedures for protesting a bid award including, the contact name, email address, phone number, mailing address and timeframes. (2 *CFR*, Section 200.318[k])

Maintenance of Records

The District's Business and Support Services Department is responsible for the maintenance of all records pertaining to the procurement of goods and services. Records will include, but are not limited to: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. All budget documents, purchase orders, invoices and records of payment will be maintained in accordance with Federal, State and local records retention regulations. (2 *CFR*, Section 200.318 [i])

Advertisements

All proposals must be solicited from an adequate number of qualified sources. At a minimum, bids must be advertised in a newspaper of general circulation and placed on the District's webpage. Contractors and vendors, who have requested to be placed on the CUHSD-NSD bid list and other bidders known to the District, will be notified. (2 *CFR*, Section 200.320 [2] and California *Public Contract Code*, Section 20118)