

FORMAL PROCUREMENT (SEALED BID) PROCEDURES

This procurement method is used when the value of the award exceeds the applicable small purchase threshold, which currently is \$150,000. Child Nutrition Program participants are expected to use reasonable practices to obtain the best product at the best price and terms. Sealed bids must be free from anticompetitive practices and provide for full and open competition. The sealed bidding method uses an IFB (Invitation for Bid) through which a firm fixed price contract, fixed price contract with economic price adjustment or fixed price contract with prospective price redetermination is awarded to the lowest priced responsible, responsive bidder.

The major elements of the sealed bidding process are:

A. **Preparation of the IFB** - A comprehensive, well-prepared IFB is critical for a successful competitive sealed bid procurement because the award will be made to the lowest priced responsible bidder meeting the terms and conditions of the solicitation. Failure to develop comprehensive solicitation documents impairs a potential contractor's ability to submit a responsive bid. Considerations for IFB preparation include:

1. Developing specifications that identify all of the characteristics needed to obtain the quality and quantity of goods or services.
2. Other terms and conditions that identify all of the factors needed to provide the goods or services in the required quality, time and manner.
3. Contractor capability criteria that is not open ended. A responsive bidder must respond to each of the required elements and each response must be evaluated on a pass/fail basis. Contractors cannot receive additional consideration or credit for supplying information that is not required in the IFB. The criteria must:
 - a. Include all relevant factors necessary to determine if the bidder is responsible and has the capability to perform successfully;
 - b. Establish the minimum standards a responsive bidder must meet; and
 - c. Identify the means by which potential contractors can demonstrate compliance with those standards.
4. Post bid verification requirements, when applicable. For example, verifying the status of required licensing with the appropriate licensing authority or obtaining a professional evaluation of financial statements. The IFB must explain how post bid verification will be used to determine bidder responsiveness and bid award. Post bid verification does not include seeking clarifications from nonresponsive bidders, allowing bidders to amend bids or submit missing information after the bids are opened. Post bid opening verifications should be limited to those elements that are critical to determining bidder responsiveness and are:

- a. Subject to change during the period between the bid due date and bid opening;
 - b. Require evaluation by a professional, such as an accountant; or
 - c. When the time required to determine the adequacy of the submission extends beyond the period for the bid opening, for example, evaluating financial statements to determine bidder solvency.
5. Specific clauses in the IFB that identify:
- a. Time and place bids are due;
 - b. The time and place the public bid opening will occur;
 - c. Clarification and bid withdrawal procedures;
 - d. A statement that a contract will be awarded to the bidder, whose bid conforming to all material requirements of the invitation is lowest in price;
 - e. An explanation of when the contract will be awarded, i.e., at bid opening or upon the approval or ratification by officials of the organization;
 - f. A statement that sealed bids must be submitted;
 - g. A statement that all nonresponsive bids will be rejected;
 - h. A statement about the pricing structure of the contract, i.e., fixed price. When a fixed price contract with economic adjustment contract or prospective price redetermination will be awarded, in addition to identifying this contract cost method, the IFB must also:
 - (1) Identify the period during which the initial bid price is fixed;
 - (2) Include a provision for both upward and downward price adjustments;
 - (3) The occurrences that will result in an adjustment;
 - (4) The standards or indexes that will be used for adjustments; and
 - (5) The base to which the standards or indexes are applied. For contracts subject to more than one adjustment event during contract duration, the bid documents must identify if the base for price adjustment is the initial bid price or subsequently adjusted price.
6. A statement establishing the CN program participant's right to reject all bids for sound business practices.

B. **Advertising the IFB** - To promote full and open competition the CN participant must comply with minimum standards set forth in Federal guidance, and:

1. Applicable State requirements.
2. Applicable local agency requirements.

- C. **Responsive Bids** - Must meet all material requirements of the IFB. All required elements of a sealed bid must be evaluated on a pass/fail basis. The use of scoring or ranking cannot be used to evaluate sealed bids. Any bid that fails to meet a material requirement is nonresponsive.
- D. **Unresponsive Bids** - Must be rejected and the bidder cannot be considered for award. Examples of unresponsive bids include:
1. Bids received unsealed.
 2. Bids which do not conform to the bid specifications, such as product grade, quality, pack size, etc.
 3. Bids that change the terms and conditions of the IFB, for example, bids that change delivery schedules.
 4. Bids that fail to contain required bid bonds, certifications, etc.
 5. Bids that fail to comply with applicable State, local, Federal requirements.
 6. Bids submitted late.
- E. **Lowest Price** - Must be computed using the factors specified in the IFB. These specified factors can include volume purchase and prompt payment discounts, rebates, pallet or carton return credits, and transportation costs, when these factors are both relevant and routinely used. All mathematical computations, including extensions, subtotals, totals and net costs submitted in the bid must be verified through independent computations at the bid opening. The computation of lowest price cannot include factors not identified in the IFB, credits, rebates, or discounts not routinely utilized, or any unallowable cost or credit. Unallowable costs and credits include:
1. Donations to a general operating fund, scholarship fund, professional or charitable organizations.
 2. Gifts, incentives or awards to individuals or the organization.
- F. **Bid Award** - Occurs after the bids are publicly opened.
1. The bid opening should be conducted formally, with the following procedures observed:
 - a. An announcement at the start of the bid opening identifying the purpose of the meeting (bid opening), the solicitation by name, number and purpose;
 - b. Each attendee stating his/her name, title, and company or organization represented;
 - c. A statement by the bid opening official if the actual award of a contract must be approved or ratified by officials of the organization;
 - d. The name of each bidder read aloud and recorded as the bid is opened;
 - e. An announcement by the bid official of any unsealed bid, naming the bidder and rejecting the bid; and

- f. Written record, that is retained, identifying the solicitation, all attendees at the bid opening, and the results of the bid opening.
2. The bid should be checked to determine all required forms, certification and information has been submitted.
3. All bids missing required information must be rejected at the time the bids are opened.
4. Any nonresponsive bids must be rejected.
5. The bid price from all responsive bidders must be announced publicly when the bid is opened.
6. The mathematical accuracy of the bid prices should be verified and announced.
7. The verified lowest price bidder must be announced publicly when the bids are opened.
8. Awards are made when bids are opened, unless:
 - a. Verification of bidder information has been reserved; or
 - b. Officials of the organization must ratify the award.
9. Contracts can be executed immediately after contract award or, at later date, when post award verification or ratification is required.



Formal Bid Procurement Log

Instructions: This form is to be completed and submitted to the Minnesota Department of Education Food and Nutrition Service to document the procedures that were followed to obtain and evaluate bids through the formal procurement process.

Name of Sponsoring Authority: _____

Sponsor Number: _____

Attach copies of:

Names of known vendors to whom the invitation for bid was sent.

Name and date of publication in which the invitation for bid was advertised, and copy of the advertisement.

Written procedures for bid opening.

How many bids were received? _____

Were any bids rejected? Yes No

If rejected, describe why:

Name of Bidder	Date of Bid	Specifics of Bid	Bid Price

Additional Comments:

Awarded Vendor: _____ Award Date: _____

I certify that Sponsor has met state and federal procurement requirements.

Sponsor Signature: _____

Printed Name: _____ Title: _____