

Procurement

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ALSDE Child Nutrition Programs
Procurement Training
January 2024



Webex Recording

[CLICK HERE TO ACCESS THE WEBEX RECORDING](#)

Agenda



- Monthly Checklist
- Procurement Overview
- Procurement Plan
- Reminders

Monthly Checklist

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BREAK *for a* **PLATE**

ALABAMA

Learning Code

Event Name: Procurement

Event Date: January 31, 2024

Hours: .75 hrs

Professional Learning Code: 2400

Procurement

LEAs must follow federal procurement regulations
(2 CFR § 200)



Sponsors must have written procurement policies and
procedures, including a code of conduct



Procurement process must ensure free and open
competition



Document all vendor communications



Consider small and minority-owned businesses

SPECIAL PROVISIONS

Buy American

Geographic
Preference

Prior Written Approval from SA

Preapproved equipment list

- Allowed per USDA policy SP 39-2016
- Includes common kitchen equipment
- No prior approval required if purchase is solely for program use

Pre-Approved Equipment List

CNP CAPITAL EQUIPMENT PRE-APPROVED LIST



ALSDE has pre-approved the equipment established on the capital equipment list below. The SFA may purchase those equipment items, following competitive Federal, State, or local procurement procedures, as applicable, without submitting a request to ALSDE. **For any capital equipment expenditure of \$5,000 or more not included on the pre-approved list, please contact CNP School Programs at ALSDE for guidance.**

SFAs must consult with the local Chief School Financial Officer to determine a suitable budget for Child Nutrition. Any equipment replacements made prior to the equipment's projected end of useful life or the expiration of the warranty period, require documentation/justification for the replacement(s). If the revenues generated by CNP operations are less than the expenditures, non-federal funds must be utilized to cover those expenses, including equipment. ALSDE retains primary responsibility for determining whether a capital project expenditure is considered an allowable cost. ****Equipment that involves renovation or improvement of facilities such as: new kitchen exhaust systems/hoods and new walk-in refrigeration and freezers require ALSDE approval through submission of the Fixed Asset Equipment Purchase Request Form.**

APPROVED SCHOOL FOOD SERVICE CAPITAL EQUIPMENT

Food Preparation Equipment		Dishwasher/Sanitation/Safety Equipment	Food Serving Equipment
- Commercial Worktables - Refrigerated Prep Tables - Fruit & Vegetable Sinks	- Commercial Ranges - Ovens/ Combi Ovens - Steamers - Holding/Proofing Cabinets	- Commercial Dishwashers 3-Compartment Sinks	- Hot/Cold Serving Lines - Pass thru warmers and refrigerators - Countertop/Drawer Warmers
Countertop Equipment: - Slicers/Choppers - Microwaves/Toasters - Blenders - Hot Water Dispensers	- Commercial Food Mixers - Char Broilers - Pizza Ovens	- Handwash Sinks - Water Heater Boosters - Dish Tables/Drain Racks - Industrial Floor Scrubbers - Waste Disposal/Grease Traps - Floor Troughs - Washers/ Dryers (for CNP use only)	- Kiosks, Vending Machines - Breakfast Serving Carts - Dining tables & chairs
- Commercial Kettles - Braising Skillets		**Parts for existing Kitchen Exhaust Systems/Hoods	- Refrigerated Merchandisers - Milk Coolers - Ice Machines (for CNP use only)
Food Storage Equipment/Supplies		Packaging	General Purpose Equipment/Supplies
** Parts for Walk-in Freezers and Refrigeration	Storage racks for dry and refrigerated storage	- Tray sealers - Vacuum Packaging Systems - Shrink Wrap	- Office Furnishings - HVAC systems for kitchen
- Reach in Refrigerators and Freezers Blast Chillers/Flash Freezers - Generators	Refrigeration Parts: - Compressors - Condensers	- Dough Presses - Muffin and Cookie depositors - Conveyer system	

BACKGROUND

USDA regulation 2 CFR 200.1 defines "equipment" as tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser capitalization level established for financial statement purposes, \$5,000, set by State or local level regulations. 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), 2 CFR §220.439 (Equipment and other capital expenditures) require a School Food Authority (SFA) to obtain the prior written approval of its state agency before incurring the cost of a capital expenditure. On March 28, 2014, the USDA issued Policy Memorandum SP 31-2014: State Agency Prior Approval Process for School Food Authority Equipment Purchases. This policy memo allows state agencies to develop an approved list and criteria for capital expenditure purchases that are routinely purchased by the SFA. On June 2, 2016, USDA issued Policy Memorandum SP 39-2016 to include new regulation citations and continue this flexibility for State agencies.



Procurement Methods



Federal Purchasing Threshold

Informal

<\$250,000

No public advertisement

More Flexibility

Formal

>\$250,000

Requires public advertisement

Contract can be renewed



Alabama Purchasing Threshold

Informal

- ❖ <\$40,000
- ❖ No public advertisement
- ❖ More Flexibility

Formal

- ❖ >\$40,000
- ❖ Requires public advertisement
- ❖ Can be renewed





This institution is an equal opportunity provider.

Follow your
procedures!

Informal Procurement Methods

Micro Purchase

- Goods or services less than \$10,000 per transaction
- No quotes required, but price must be reasonable
- Purchases must be distributed equitably among qualified suppliers

Small Purchase

- Less than \$250,000 federal - <\$40,000 state of AL
- Minimum of 2-3 quotes
- Award based on price or combination of price and other specified criteria

Formal Procurement Methods

Sealed Bids

Well-defined goods or services

Public opening

Award to lowest responsive bid

Competitive Proposals

Allows vendors to propose service ideas

Specific, objective evaluation criteria

Award to highest score on evaluation

SPECIFICATIONS

Specifications tell suppliers what you need.

- If you don't tell them, they don't know!

Specifications should be specific...

- Include what matters to you (size, quantity, quality, etc.)
- If there is a characteristic that doesn't matter (e.g. color), you can even specify that it doesn't matter!

...but not too specific!

- Specifications cannot restrict competition!
- Do not specify brand names or proprietary items without providing an “*or equivalent*” option.

SPECIFICATIONS

Brand name or equivalent

- Must still identify relevant characteristics
- Must leave room for equivalent products
- Must have a process to establish equivalence



Formal Procurement Methods

Sealed Bids

Well-defined goods or services

Public opening

Award to lowest responsive bid

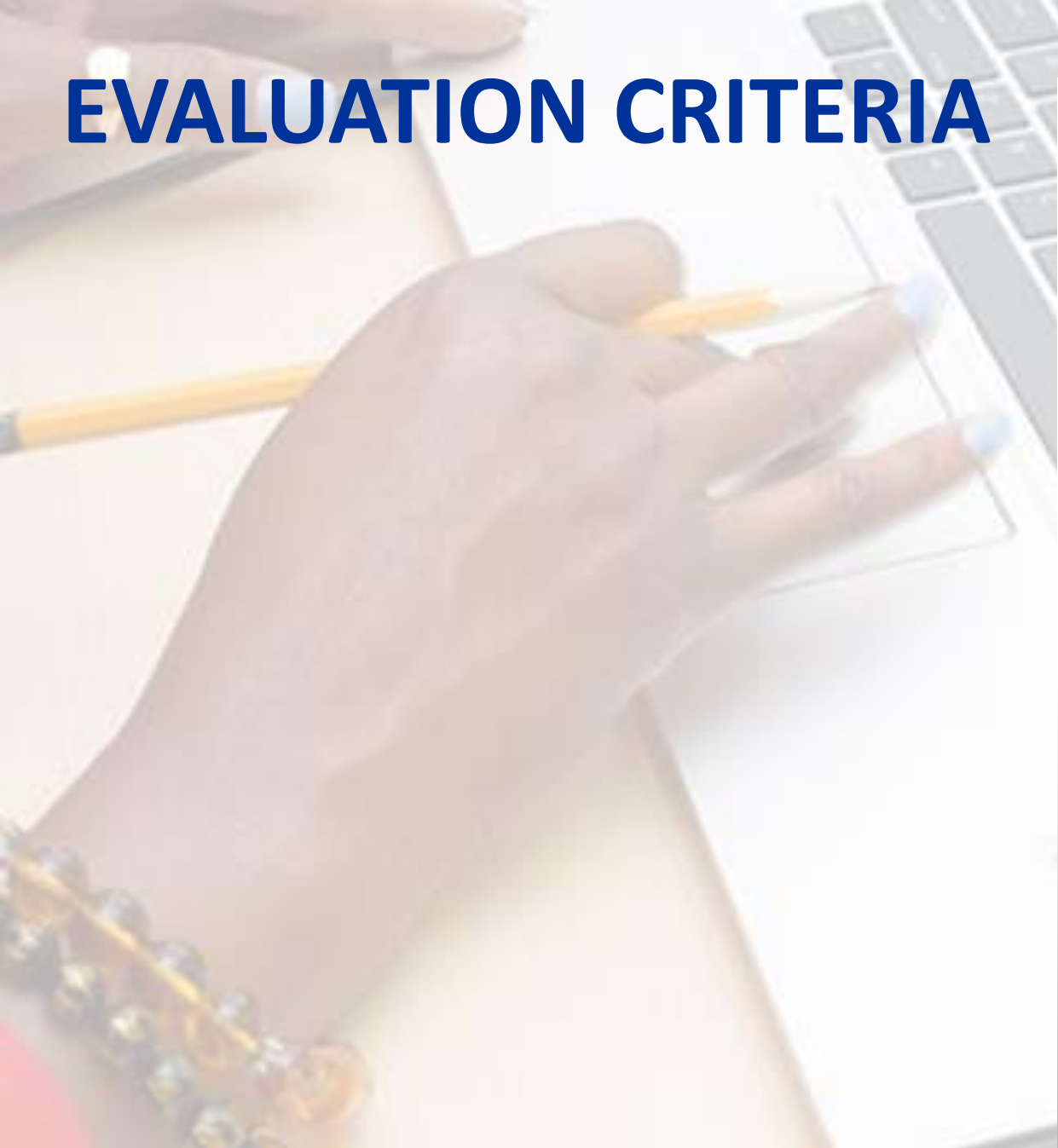
Competitive Proposals

Allows vendors to propose service ideas

Specific, objective evaluation criteria

Award to highest score on evaluation

EVALUATION CRITERIA

A close-up photograph of a person's hand holding a yellow pencil, positioned over a laptop keyboard. The hand is wearing a gold-colored beaded bracelet. The background is slightly blurred, focusing on the hand and the pencil.

Evaluation criteria help guide vendor responses.

- Evaluation criteria tell the vendors what you care about.
- Cost must always be the highest-weighted criteria.

Evaluation criteria should be specific...

- Include the aspects of the service that are important to you.

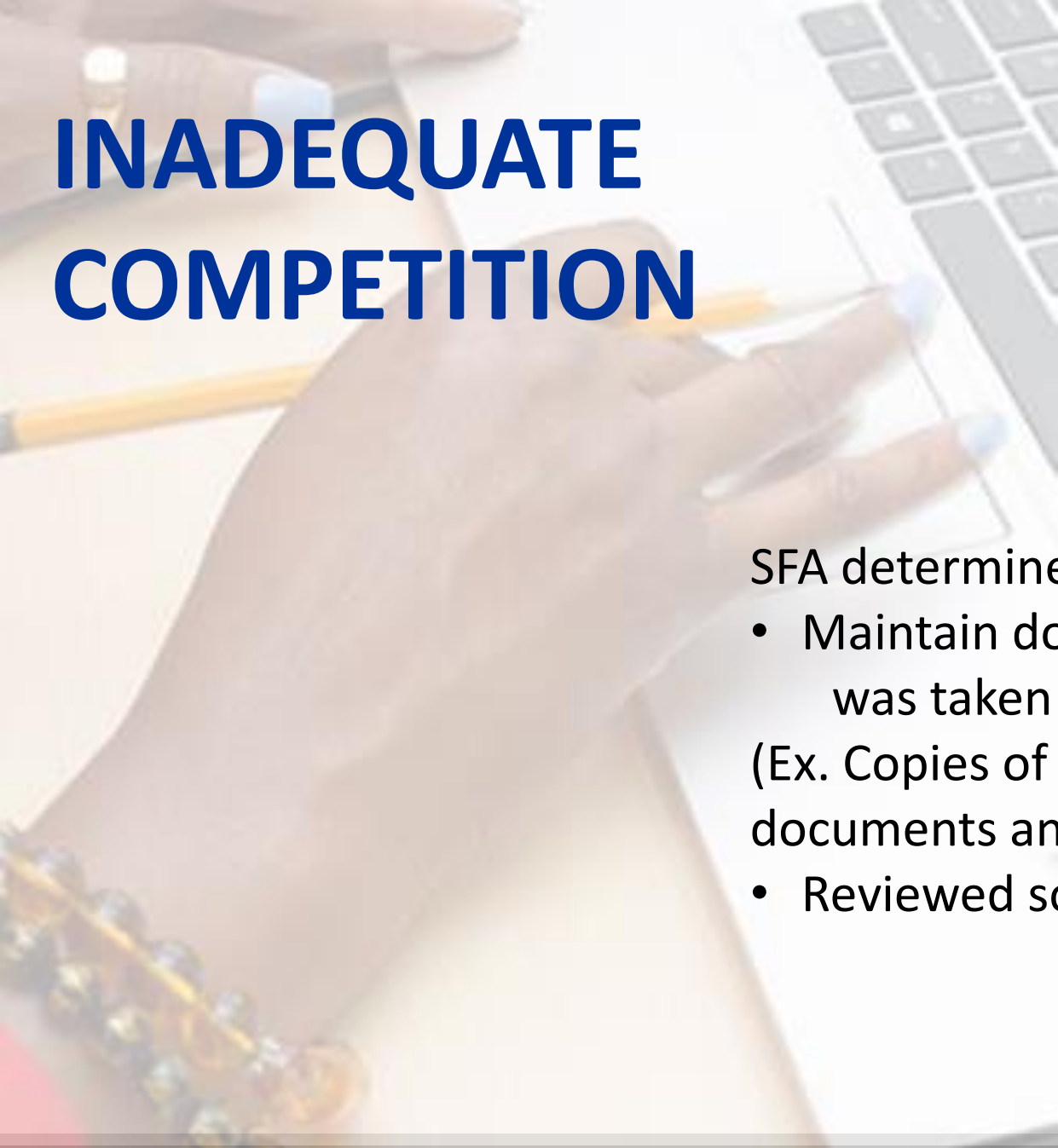
...but not too specific!

- If your criteria dictate the methods for completing the service, you should consider using sealed bids instead.

SOLICITATION

- Specifications and/or technical requirements for the products(s) and/or services to be purchased
- Bonding requirements if applicable
- Method for submitting an offer
- Method and criteria for evaluating the bid or proposal
- Procedures to respond and resolve protests
- Contractual statements required by law
- Method for submitting a protest for the award





INADEQUATE COMPETITION

No offers or very limited offers

SFA ensure competition was not restricted

SFA determines improper solicitation, it must:

- Provide notification if its intent to rebid
- Review solicitation, modify the solicitation as necessary
- Reissue the solicitation

SFA determines solicitation was properly completed

- Maintain documentation to demonstrate appropriate action was taken

(Ex. Copies of ad releases, mailing list, communication documents and contact log)

- Reviewed solicitation to ensure competition wasn't limited

COOPERATIVE PURCHASING

If there are fees involved, joining a co-op is a procurement process!

You are still responsible for ensuring that proper processes are followed. Review the co-op's documentation.

If the co-op does not have proper documentation, the co-op price can still serve as one quote for an informal procurement.



Procurement Process

Determine product or service



Determine procurement method



Develop specifications



Contact or advertise



Award and manage contract

Procurement Plan



Definition

Procurement procedures should include the processes, protocols, standards of behavior, expectations, or any other written method of describing actions the staff are to take related to procurement.

It should guide the staff on:

- Applicable local, state, and federal regulations
- Checks and balances that provide internal controls
- Established purchasing guidelines
- Defined roles and responsibilities
- Proper implementation of procurement actions

Elements of Procurement Plan

Procurement plan should include details regarding:

- Billing
- Buy American Provision
- Code of Conduct
- Conflict of Interest
- Contract Awards
- Contract Management
- Contract Solicitation
- Cooperative Purchasing
- Dispute Resolution/Termination of Contract
- Dispute Resolution/Protest of an Awarded Contract
- Full and Open Competition
- Local Preference
- Local, state and Federal Laws and Regulations
- Material Change
- Procurement Methods
- Records Retention

Billing – steps to ensure cost billed and amount invoiced are accurate and match the contract price before payment is made

Buy American – process to clearly communicate expectations for contractors to meet, strategies for ensuring contractors provide compliant products, process for exceptions

Code of Conduct – proper practices for staff engaged in contract award and administration and the selection of the methods of procurement

Conflict of interest – methods to address conflict of interest and undue influence, disciplinary actions for violations of conflict of interest standards, processes to ensure that contractors do not contribute to the development of solicitations

Contract Awards – identify staff authorized to make financial and procurement actions, strategies for the evaluation of bids for formal procurement, process to ensure that **price** is the primary consideration in awarding a contract

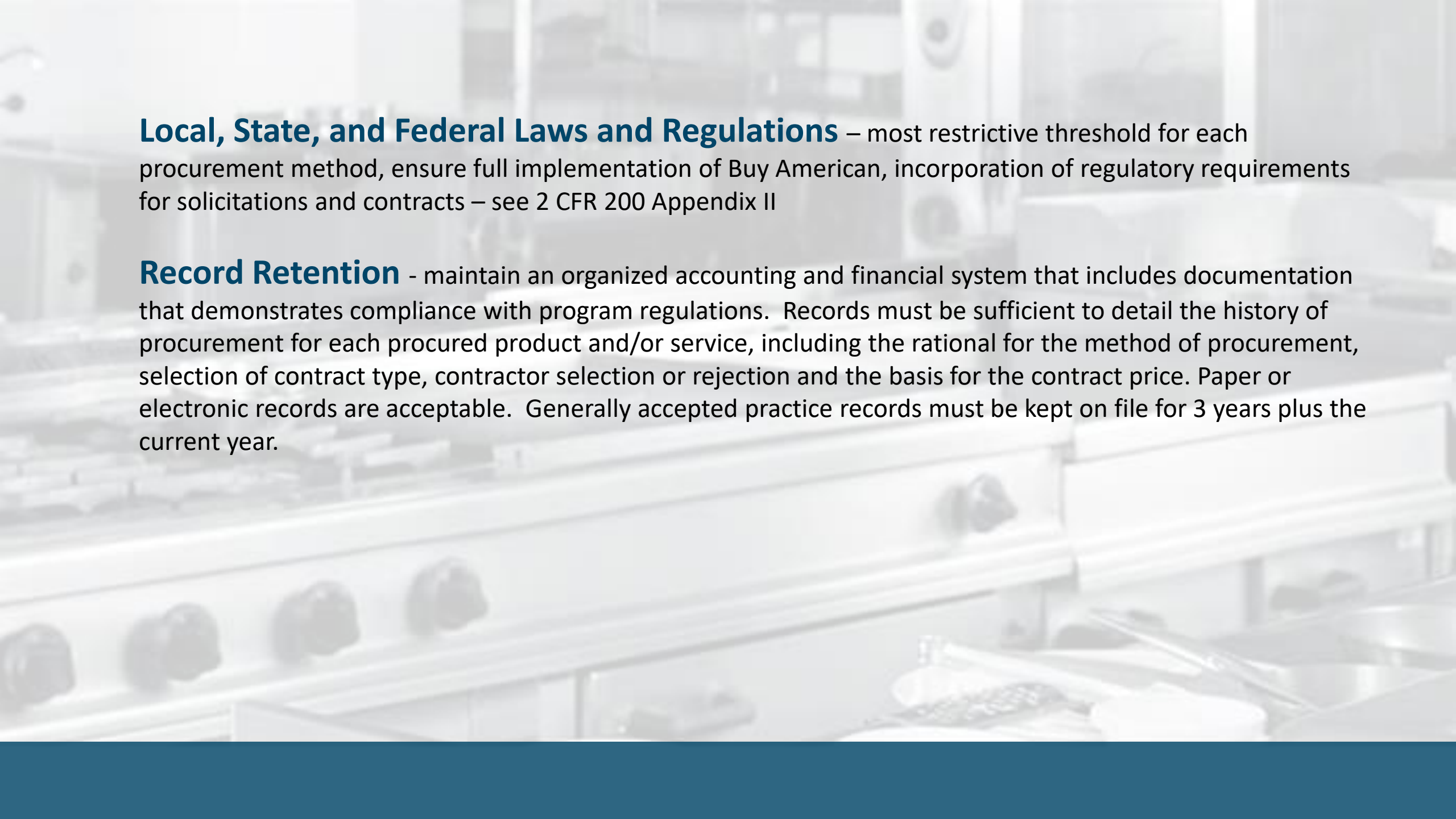
Contract Solicitation – timeline for creating solicitations for each purchasing method, guidelines for development of evaluation criteria for formal procurements, processes for forecasting, notification reaches large enough market

Cooperative Purchasing – conditions for when to use cooperative purchasing, products and/or services to be purchased, review and monitoring of the coop agreement, routine reconciliation of purchasing coop charges

Dispute Resolution/Termination of Contract – process for resolving disputes, ensuring contracts contain clauses on how disputes will be resolved, contract termination language

Dispute Resolution/Protest of an Awarded Contract – processes to proactively review procurement processes and solicitations, process for resolving protests

Full and Open Competition – written procedures to promote competition and avoid restricting competition, process to determine if the procurement process limits competition, conditions which require a restart of the procurement process



Local, State, and Federal Laws and Regulations – most restrictive threshold for each procurement method, ensure full implementation of Buy American, incorporation of regulatory requirements for solicitations and contracts – see 2 CFR 200 Appendix II

Record Retention - maintain an organized accounting and financial system that includes documentation that demonstrates compliance with program regulations. Records must be sufficient to detail the history of procurement for each procured product and/or service, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection and the basis for the contract price. Paper or electronic records are acceptable. Generally accepted practice records must be kept on file for 3 years plus the current year.

Resources

Texas Administrator's Reference Manual

Ohio Department of Education, Nonfood Procurement for the NSLP, YouTube Video

Sample Procurement Plan



USDA Non-Discrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity* and sexual orientation*), disability, age, or reprisal or retaliation for prior civil rights activity.

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To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: [USDA Program Discrimination Complaint Form](#), from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

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*The enclosed "non-discrimination" language herein was added pursuant to the May 5, 2022, USDA memorandum. However, although included as currently required for audit compliance by the USDA, the State of Alabama objects to its inclusion, applicability and the application of this language due to currently pending legal challenges in the matter of The STATE OF TENNESSEE, ET AL. V. USDA, ET AL., Case No. 3:22-cv-00257, and may be subject to change or removal.

Questions

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- Email: loria.hunter@alsde.edu

Subject Line: New Director January 2024 Webinar Question

Remember: Questions and answers will be compiled and shared via email.

