

The following procurement purchasing methods will be added to the Rotan ISD Business Manual, which will be reviewed by the school board this summer.

Selecting Procurement Methods

Before Selecting a Procurement Method District will identify the most appropriate procurement method, must follow the approved written procurement procedures and retain all records related to the procurement. District must conduct a cost analysis to determine the estimated cost for the products and/or services to be procured and all cost comparison documentation. District must use the simplified acquisition threshold established by TEA. As of October 12, 2015, the simplified acquisition threshold for public school districts and charter schools regulated by TEA is less than \$50,000 District may also be subject to a lower simplified acquisition threshold based on local or other applicable state regulations.

Micro-Purchase Method

A micro-purchase is a single purchase or transaction that has a total aggregate cost that is equal to or less than \$3,500; total aggregate cost may consist of one product and/or service or multiple products and/or services. If the District purchases the same products and/or services frequently, the cost savings from using the small purchase method instead of the micro-purchase may be the most cost-effective method of procurement. An unallowable cost or expense cannot be paid using school nutrition program funds the District will explore the benefits of using the informal small purchase method instead of a micro-purchase method. Any costs incurred as a result of the District intentionally breaking larger purchases into smaller amounts to qualify under the micro-purchase threshold would result in unallowable costs. If the total amount for the contract—aggregate amount—does not exceed \$3,500, the micro-purchase method may be used. District will ensure all the Buy American provisions are applied to micro-purchases. Micro-purchase method does not require the District to solicit quotes or compare prices as long as the price is reasonable. The District must have a method to document that the cost of the products and/or services is reasonable, such as Newspaper advertisements from various suppliers/vendors, Online advertisements from various suppliers/vendors. District must document phone quotes from various suppliers/vendors to include • Supplier/vendor name • Name of person providing information • Date(s) of contact • Information provided, including pricing for product and/or service. Other documentation the District must provide that would allow TDA to determine the cost was reasonable if price wasn't the determining factor, such as: – Maps showing distance between vendors when distance is the factor Purchases must be distributed among all qualified suppliers that are able to provide the products and/or services at a reasonable cost. The District cannot make all of its micro-purchases from one qualified supplier. The CE must include a description of how it will use equitable distribution of micro-purchasing among qualified suppliers in its written procedures. CEs that are located in rural areas may be limited in their ability to distribute purchases equitably, the District must document the reasons when it is not feasible for the District to distribute purchases among a variety of suppliers. Documentation may include a mileage chart listing the distance to the next closest store or printout of an online map demonstrating the driving distance.

Small Procurement Method

For the District's Small Purchase method (\$3,500-\$49,999), District Procurement Official will develop specifications and technical Requirements, manage the contract process, identify and contact at least 3 Sources. District Procurement Official will determine best price, award contract, execute contract, receive and evaluate offers following USDA guidance that must be used when making a small purchase. The aggregate total for a small purchase amount is the total amount of the cost for a single purchase or the total cost for grouped purchases made over an extended period (such as a product delivered once a week or twice a month, the aggregate is the total cost). The Buy American provisions will be applied to small purchases and included in all solicitation activities. When a CE uses the small purchase method, the District Procurement Official must obtain price quotes from at least three responsible and responsive contractors. Quotes may be obtained orally or in writing. The District must retain documentation demonstrating the price quotes from responsive contractors that provided pricing information specific to the products and/or services to be purchased. The District will obtain and retain documentation that demonstrates the cost quotes, specifications, and technical requirements of the products and/or services to be procured were given to all offerors. If the small purchase solicitation results in a contract, the CE must meet all requirements related to the development and use of a contract described in the solicitation, contracts, and managing the contract sections of this Policy Manual. When using the small purchase method, the District must, at a minimum, conduct a price comparison as is described in its written procurement procedures. The District must retain documentation on cost comparisons. The District Procurement Official must choose the most responsible and responsive offer with price as the primary consideration. The price must not be based on cost plus percentage of cost. Routine purchases must not be broken into smaller purchase amounts to qualify for the small purchase method. If the District is routinely using the small purchase method for the same items, the District must maintain documentation that demonstrates why this is the most suitable method for purchasing these products and/or services and why the use of another procurement method is not possible or reasonable. The District must maintain documentation that provides the specifications and/or technical requirements given to potential contractors who provided price quotes or any method the District uses to compare prices. All possible contractors must be given the same solicitation information. When the total estimated cost of products and/or services exceeds the simplified acquisition threshold (\$50,000.00), the District must use a formal procurement method.

Formal Procurement Methods

Invitation for Sealed Bids (IFB, an IFB is a competitive procurement method for a fixed-price contracts where sealed bids are submitted. An IFB is an ideal procurement method to use when the offers will only differ in price for lump sum or unit pricing. It is commonly used for a fixed-price contract and is most effective when there are clear specifications and/or technical requirements. An IFB contract is awarded in writing to the most responsible and responsive offeror whose price is most advantageous to the program. The aggregate total amount for an IFB is the total amount of the cost for a single contract (or a single renewed contract). The award for an IFB will be made in writing to the lowest responsible and responsive offeror. Offers must be solicited from an adequate number of known suppliers. There must be two or more responsible offerors that respond to the solicitation for a firm fixed-price contract.

An IFB will result in a firm fixed-price contract award. When using the IFB method, a formal cost analysis or price comparison as described in the District's written procurement procedures is required. In a firm fixed-price contract, the winning contractor is not required to return credits, discounts, and rebates to the SFA as the contractor factors them into the fixed price for the contract period. In a firm fixed-price contract, the winning contractor must ensure that the value of USDA Foods is returned to the SFA. When the sealed bids are opened, the District must use the rubric or scoring tool that was provided in the solicitation to determine whether an offeror is both responsible and responsive. State and federal regulations mandate that the offers be opened publicly so that possible contractors and other interested parties can attend. The District must provide a description of where and when the sealed bids will be opened. USDA recommends that at least two District employees be present when sealed bids are opened. These employees should be directly involved with the procurement process. Offer that addresses the specifications and/or technical requirements expressed in the solicitation for product(s) and/or service(s). If the specifications and/or technical requirements for the solicitation are complicated and the District is not able to quickly and clearly determine which bid is most responsible and responsive, the District may choose to announce which offers meet the criteria to be considered for an award at the bid opening and announce the actual award at a later date. If this is the case, the District must clearly describe this process in its solicitation. This includes the time and place when the contract award will be announced. The District must choose the most responsible and responsive offer with price as the primary consideration. The price must not be based on cost plus percentage of cost. The invitation for offers must be publicly advertised with sufficient response time prior to the bid opening date to allow sufficient time for potential offerors to respond. The IFB must be publically advertised in such a way as to ensure there is full and open competition. Any or all offers may be rejected if there is a sound documented reason. As each sealed bid arrives, the bid should be date stamped and stored in a secured place until the time of bid opening. The CE must provide the following information in the solicitation related to contract management. Specifications and/or technical requirements for the product(s) and/or service(s) to be purchased, bonding requirements if applicable, method for submitting an offer, method and criteria for evaluating the bid, process for assigned staff to respond to and resolve all bid protests. If the District answers a question from an offeror, there must be a method for the District to share this information with all potential offerors.

Request for Competitive Proposals (RFP) An RFP is a competitive procurement method that includes specifications and/or technical requirements of product(s) and/or service(s) to be provided under a fixed price (fee) in a cost reimbursable or firm fixed-price contract where offerors submit a detailed offer for providing the products and/or services. An RFP contract is awarded to the most responsible and responsive offeror whose offer is most advantageous to the program price and other factors are considered. The following guidance must be used when using the RFP method. The aggregate total for an RFP is the total amount of the cost for a single contract (or a single renewed contract). An RFP should be made in writing to the most responsible and responsive offer. Offers must be solicited from an adequate number of known suppliers. For there to be competitive bidding, there must be two or more responsible offerors that respond to the solicitation for a contract resulting from an RFP. An RFP may be used for a firm fixed-price contract or a cost reimbursable contract. When using the RFP method, a formal cost analysis or price comparison is required as is described in the District's written procurement

procedure. In a firm fixed-price contract, the winning responsive contractor is not required to return credits, rebates and or discounts to the SFA as the contractor factors them into the fixed price for the contract periods. Responsive is defined as an offer that addresses the specifications and/or technical requirements expressed in the solicitation for product(s). However, in a cost reimbursable contract, the winning contractor is required to return credits, discounts, and rebates and must be credited to the to the benefit of the SFA food service account. The District must ensure that the solicitation and awarded proposal must addressed to the credit back to the SFA In a firm fixed-price contract. The winning contractor must ensure that the value of USDA Foods is returned to the SNP. The District must use the rubric or scoring tool that was provided in the solicitation to determine whether an offer is both responsible and responsive. The CE District Procurement Official must choose the most responsible and responsive offer with price as the primary consideration. The price must not be based on cost plus percentage of cost. The request for proposals (RFP) must be publicly advertised with sufficient response time prior to the bid opening date to allow sufficient time for potential offerors to respond. The RFP must be publically advertised in such a way as to ensure there is full and open competition. Any or all offers may be rejected if there is a sound documented reason. The District must provide the following information in the solicitation related to contract management; Specifications and/or technical requirements for the product(s) and/or service(s) to be purchased, Bonding requirements if applicable, Method for submitting an offer, Method and criteria for evaluating the bid, Process for assigned staff to respond to and resolve all bid protests. Contractual statements required by law, Method for submitting a protest for the bid award. The District must maintain documentation that demonstrates the District's actions to release the RFP to the public as well as all communication that occurs after the solicitation is released. [NOTE: If the District answers individual offeror questions about the solicitation, the District must have a method to share all questions and answers with all potential offerors. Districts must post this information to their websites and/or the Electronic State Business Daily (ESBD).

Noncompetitive Procurement Method

A noncompetitive purchase method occurs when only one offer is received. Procurement by a noncompetitive method is an appropriate method of procurement when one or more of the following types of circumstances apply: Inadequate Competition. After the District, actively and appropriately attempted to solicit offers from a number of sources, competition is deemed inadequate—that is, the number of offers that met the solicitation specifications and technical requirements (i.e., responsible and responsive offers) were less than expected. This would include when a District receives only one responsible and responsive offer. Sole Source. The product and/or service is available only from a single (sole) source distributor, supplier, or manufacturer. Sole source noncompetitive procurement requires TDA approval. Public Emergency or Unexpected Emergency Situation. A public emergency (exigency) or unexpected emergency situation will not permit a delay resulting from the additional time required for a competitive solicitation for the product and/or service. Emergency noncompetitive procurement requires TDA approval. TDA Authorization in Special Situations. TDA authorizes the District's use of a noncompetitive procurement method. When a District uses any noncompetitive method of procurement, the District must retain all related documentation onsite to demonstrate compliance. The District does not need TDA approval to award a noncompetitive bid when there are a limited number of

offers as long as documentation demonstrates that the District did not limit competition. Documentation for these purposes would include, but is not limited to, copies of advertising releases, mailing lists, communication documents, or contact logs. Public Emergency or Unexpected Emergency Situation To request approval to use a noncompetitive method during an emergency, the District must submit a request to TDA in writing. In cases of extreme emergency, a District may call TDA directly to alert TDA about the situation. The request must still be submitted in writing. In its written request, the District must include the following information: Description of the emergency situation Products and/or services to be procured Supplier, distributor, or manufacturer from whom the product and/or services will be procured Period of time the District plans to use the noncompetitive method for the emergency TDA will provide written notification of approval or disapproval. The sole source method of procurement is used when there is only one supplier, distributor, or manufacturer for the product(s) and/or services(s) that are being procured. A CE must verify that the product and/or service can only be procured from a single source. A District cannot accept a statement from the supplier, distributor, or manufacturer as verification that the product and/or service is only available from a single source. The District must actively attempt to solicit offers from other suppliers, distributors, or manufacturers. If the product and/or service is available from other sources, but one source offers a feature(s) that other sources do not offer, the special feature cannot become the only factor that defines a product and/or service as the sole source unless the District can document why this feature is required, not just preferred. The District must retain records that demonstrate its efforts to solicit offers for the product and/or service from other suppliers, distributors, or manufacturers. To request approval to use a sole source contract, the District must submit a request to TDA in writing which includes the following: description of the District's review of the solicitation, advertising, and other actions to determine if the contract was competitively solicited, description of the District's actions to ensure that the supplier, distributor, or manufacturer is sole source • Copies of the District's solicitation, advertising, and other relevant documentation that demonstrate that the supplier, distributor, or manufacturer is a sole source. Brand name sole source purchase may be allowable when there is a compelling need, such as compatibility with current equipment, to purchase a specific brand product and/or service, the District must have documentation that demonstrates that other available brands are not compatible with the District's current equipment, replacement part inventory, and maintenance staff's expertise. If the District meets the brand name sole source purchase criteria listed above, it must still determine if there is more than one supplier for the brand of equipment or the services.

BUY AMERICAN – Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a provision, Section 12(n) of the National School Lunch Act, NSLA, (42 USC §1760(n)), requiring school food authorities to purchase domestically grown and processed foods to the maximum extent practicable. Domestic commodity or product is defined in the NSLA as a product that is produced and processed in the United States “substantially” using agricultural commodities that are produced in the US. “Substantially” is defined as 51% or more of the final processed product consists of agricultural commodities grown domestically. Three situations exist to warrant waiver to permit foreign food purchases:

- a. Documentation is required when the product(s) is not produced or manufactured in the US in sufficient and reasonable available quantities of satisfactory quality,
- b. Documentation is required for consideration when competitive bids reveal the costs of a US product is significantly higher than the foreign product,
- c. To comply with this Buy American requirement, the Bidder must indicate any product submitted for bid in this proposal which is considered to be of a foreign nature on the *Exception to Proposal* form with accompanying documentation as to waiver.

District will ensure that steps are taken in the solicitation procedures for including Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms are selected whenever possible. This applies to contracts using federal funds; which requires contractors to encourage and facilitate participation by small businesses, minority owned firms, and women's business enterprises whenever to the maximum extent possible.

The District is required to maintain an organized accounting and financial system that includes documentation that demonstrates compliance with program regulations. Records retained for procurement must be sufficient to detail the history of procurement for each procured product and/or service, including but not limited to rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. District has the option to maintain records on paper or electronically. These records must be accessible to appropriate District staff members and federal or state reviewers. TDA may request procurement documentation during both offsite and onsite administrative review processes as well as any additional review specific to procurement. All documentation or records must be kept on file for a minimum of five years. District Procurement Official is required to obtain vendor procurement records and documents from the District's group buying organization for the significant history of the procurement and retain those records based on the required records retention requirements. District must obtain Solicitation, bid specifications, bid public advertisement records, vendor bid proposals, bid evaluation method as described in the publicized solicitation, bid award and rejection letters, bid awarded pricing, bid renewal certification documentation and retain those records based on the required records retention requirements.

Bonding Requirements USDA has rescinded its previous guidance that bonds are required for all non-construction contracts in excess of \$50,000. Instead each District must evaluate the products and/or services to be procured and determine if a bond is needed to safeguard any possible loss of funds. Procuring large quantities of a product to get a better price. An unallowable cost or expense cannot be paid using school nutrition program funds. Since contracting entities (Districts) across Texas are in various stages of procuring products and/or services. requirement does not limit competition or (2) may choose to issue the solicitation without a bonding requirement.

- Non-FSMC Contracts, Solicitation Has Been Released, But the Contract Has Not Been Signed—If the solicitation for SY 2016-2017 has been released and includes a bonding requirement, the District may (1)

complete the procurement process with a bonding requirement included in the solicitation and the reissuing the original solicitation without the bonding requirement may result in greater competition.

- **Non-FSMC Contracts, Procured Contract Has Been Signed**—If the District has procured a contract for SY 2016-2017 which includes a bonding requirement, the District may (1) allow the contract to continue as written with the bonding requirement or (2) terminate the contract if allowed by the terms and conditions of the contract and competitively rebid the contract without the bonding requirements. \

- **All Construction Contracts**—All construction contracts in excess of the simplified purchasing threshold are required to ensure that the federal financial interest is adequately protected by including the minimum bonding requirements in the solicitation and contract: (1) bid guarantee of 5 percent of the bid price, (2) performance bond of 100 percent of the contract price, and (3) payment bond of 100 percent of the contract price. However, if a District determines that the federal financial interest is adequately protected without requiring the minimum bonding requirements as described. The District may request TDA to approve a different minimum security or bonding requirement. TDA will review the request in consultation with USDA.

For all new procurements initiated after June 1, 2016, Districts will use the following guidance: • **All New Non-Construction Solicitations and Contracts from Here Forward**—If the District determines a bonding requirement is needed and if the bonding requirement does not prevent competition, the District may require a bond for the products and/or services being procured.