

Chapter 5:

Invitation for Bid/Request for Proposal Openings and Evaluations

It is imperative that Invitation for Bid (IFB) and Request for Proposal (RFP) openings and evaluations are conducted fairly. Inconsistent actions by the individuals responsible for this component of the FSMC procurement can result in bid protests or legal action.

IFB Openings and Evaluations

Competitive sealed bids must be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them with sufficient time to respond prior to the date set for opening the bids.

Under the sealed bidding method, when bids are received each one must be time-stamped and dated upon receipt. If received in advance of the bid opening, the bids are then deposited in a secure box, safe, or file until the designated opening time. Unsealed bids or bids received after the designated time and date of bid opening are not accepted.

In the case of IFBs, the sealed bid opening will occur at the time and place stated in the IFB. Each bid is opened publicly and recorded in the presence of interested parties. It is recommended that the SA be invited to attend the bid opening.

If the IFB required a separate presentation of a bid bond, cover sheet or attachment for the bidders to use to demonstrate compliance with the IFB responsiveness criteria, these documents may be pre-screened. If the documents are not pre-screened, they should be checked once the bids are opened to ensure the bidders have met the responsiveness criteria. All bids that fail to meet the responsiveness criteria must be rejected.

The purpose of a bid opening is to ensure that bid prices/responses are not altered after being opened. Once the bids are opened, the name of each bidder and bid price must be recorded. Some common examples of other information read aloud for each bid is: products offered, payment terms, FOB point, delivery date, etc. The contract must be awarded to the responsible FSMC whose bid, conforming to all the material terms and conditions, is the lowest price unless there are sound documented business reasons to reject a bid in the best interest of the program.

Since SFAs must often receive approval of all contracts by their school

board, the SFA may refrain from making a formal award until they receive board approval. The successful bidder should be notified of the SFA's intent to recommend acceptance of the bid, but the bidder must be clearly informed of the need for board approval. Once board approval is obtained, a written notice of the award should be made to the successful bidder. Usually, this written notice accompanies a copy of the signed contract. The SFA should contact their legal counsel to identify their responsibilities regarding notification of unsuccessful bidders. At a minimum, unsuccessful bidders should be notified promptly. A copy of the signed contract should also be sent to the SA.

RFP Evaluations

In the case of competitive proposals, a technical proposal is solicited that explains how the prospective contractor will meet the objectives of the solicitation and a cost element that identifies the costs to accomplish the technical proposal.

RFPs should be thoroughly reviewed and subjected to an impartial evaluation. While price alone is not the sole basis for award, price remains the primary consideration when awarding a contract under the competitive proposal method. An evaluation plan should be prepared prior to the receipt of any proposals. Among the items that would be included in that plan are:

- Information on Evaluation Team—the size of the evaluation team, the expertise needed on that team, and the names of the team members.
- Scoring System—the scoring system that will be used to evaluate the proposals. This would include the standards to be applied, the relative ranking and weight of each standard, and how the score will be calculated i.e., the sum of the individual team scores or an average of the total team score.
- Ancillary Materials—development of scoring sheets, composite scoring forms, and any other forms or letters that may be needed. The scoring sheets should contain the evaluation criteria, standards to be applied, scoring columns and room for comments.

The individuals who will be evaluating the proposals should have sufficient knowledge of the goals of the SFA, experience in school food service, financial management experience (of food service, if possible), and experience in evaluating proposals. It is recommended that the SFA invite the SA to attend the evaluation of the proposals.

Proposals should not be opened or reviewed until after the due date established in the RFP. The person responsible for receiving the proposals must safeguard them in order to prevent unauthorized disclosures. It is recommended that all solicitations remain open for a minimum of 60 days to allow vendors sufficient time to respond and to promote fair and open competition.

On the date established for opening and evaluating the proposals, each member of the evaluation team should score each proposal independently. If the RFP allows alternative proposals, care must be taken to ensure the offeror's alternatives address the basic guidelines established in the RFP. Proposals should not be compared to one another. Proposals that fail to address all requirements are unresponsive and cannot receive further consideration. Therefore, the team members should be instructed to use a pass-or-fail basis for eliminating unresponsive proposals, and then use the pre-established scoring system for evaluating the responsive proposals.

If oral presentations are a component of the RFP, great care must be taken to ensure the presentation is scored only for its content. Presentations must be ranked against measurable standards. The team members should be instructed to evaluate the substance of the presentation. Offerors must not be allowed to alter or amend their proposals through the presentation process.

Proposals must be evaluated using the weighted criteria stated in the RFP. A determination must be made by the SFA as to whether the bidder or offeror is responsive to the requirements of the solicitation and whether or not they are responsible and capable of furnishing the goods and services solicited. Contractor integrity, compliance with public policy, record of past performance and financial and technical resources are valid factors in determining contractor responsibility.

Negotiations are conducted with offerors whose proposals receive evaluation scores that exceed a numerical value (i.e., cut-off score) established in advance by the evaluation panel. This "cut-off" score is determined prior to opening any of the proposals. After the evaluations have been completed and all proposals are ranked, those proposals that meet or exceed the pre-established cut-off score are forwarded to the individual or team responsible for negotiating with the offerors. As with IFB bid openings, the name of each offeror and the evaluation score must be recorded. Offerors not selected for further negotiation should be notified in writing.

Contract negotiations must be conducted in a fair and equitable manner.

As with all aspects of procurement, the negotiators must be well prepared. The individual(s) evaluating the proposals should not be the same individuals who conduct negotiations with offerors whose proposals receive scores above the prescribed cut-off. The negotiators should inform all offerors of the terms and conditions of the negotiation, including which elements will not be negotiable and which elements can be negotiated. If at all possible, the negotiators should be experienced in school food service operations, school finance and contract negotiations.

It is expected that the negotiation process will result in the selection of the successful offeror. However, if after negotiations, two or more offerors are still under consideration, the SFA must make a final selection, using an unbiased method, e.g., the bidders are asked to submit a best and final price. The offerors should be informed of the situation and the method the SFA will use to select the successful offeror. The award should be made to the responsible offeror whose proposal is most advantageous to the SFA, price and other factors considered.

The SFA should provide written notification to the successful offeror which clearly states that while the offeror has been successful, the proposed contract is subject to review by the SA. This notice should also inform the successful offeror that if non-substantive changes are needed as a result of the SA review, an opportunity will be provided to amend the proposal.

When the SFA requests noncompetitive negotiation mandatory FNS pre-award reviews should be in effect. Mandatory FNS pre-award review should also be in place when the SFA submits a request to limit the area of competition for good cause, or the procurement is deemed sole source.

If board approval of the contract is required, this requirement should also be included in the letter to the successful offeror. Unsuccessful offerors should be notified promptly.

The two other methods of procurement, Small Purchase and Noncompetitive Negotiation, are limited to specific situations and should not be used unless expressly approved by the SA.

Analysis of Price

The contract documents should clearly indicate factors to be considered in determining the price. Whether an IFB or RFP, the following factors must be considered:

Prompt Payment Discounts—a prompt payment discount is an applicable credit to the nonprofit food service account only if the SFA

earns the reduction by paying the bill or by providing advance funds to another party to pay the bill on its behalf. In the majority of school food authority cost reimbursable contracts, distributors and food service management companies obtain goods from suppliers, are billed by those suppliers, pay the suppliers and then deliver the goods at some later point in time to the school food authority. In these arrangements, the prompt payment discounts are not applicable credits to the school food authority.

Volume Discounts/Financial Incentives—allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority [210.21(f)(1)(i)].

Other Benefits—goods, services, or other benefits that do not accrue to the nonprofit school food service account cannot be used to determine the price submitted.

Total Cost—the total cost of the bid/proposal for the breakfast, lunch, a la carte meal service and any other child nutrition program meal service such as the Summer Food Service Program or the Child and Adult Care Food Program that is operated by the SFA and included in the bid/proposal request, must be used in determining the lowest offeror.

21-Day Cycle Menu—if the SFA determines, and the SA agrees, that the SFA is unable to develop a cycle menu, the SA may develop the cycle menu or allow the FSMC to develop the 21-day cycle menu as long as doing so was a requirement of the solicitation up front. The solicitation should identify the criteria that the SFA will use to evaluate the FSMC's menu, such as affordability, nutrition requirements, and appeal to the students. The solicitation must also identify whether the SFA will be providing food specifications, or whether the FSMC will be developing the specifications. In the first scenario, the FSMC must respond directly to the food specifications provided by the SFA in the solicitation. In those cases where the SFA has not supplied specifications, the FSMC must identify the food products that will be served via the menu using specifications like grading, weight, item labels, nutritional qualities, etc., to allow the SFA to fairly evaluate all bids. Whether the specifications are provided by the SFA or the FSMC, they must be clearly identified and described in the solicitation or the proposal.

Please note that the FSMC-developed cycle menus are only appropriate to

use under the competitive negotiation method of procurement, since under the competitive sealed bid method, the SFA must review each bid for responsiveness to the bid requirements. Moreover, a SFA may not contract a FSMC to develop their menu for use in the SFA's solicitation if the FSMC plans to respond to the solicitation at hand, as doing so could place them at a competitive advantage. The SFA must approve any changes to the cycle menu after the first 21 days of meal service. Such changes should include foods of cost and quality equivalent to the first 21 days of meal service.