

## Procurement Review

DOE School Food Services Branch (SFSB)  
SY 2018 – 2019

### PURPOSE:

The purpose of this USDA Procurement Review was to assess the implementation of Procurement for the DOE School Food Services Branch (SFSB), and to meet the federal USDA requirement to review all SFA's every three fiscal years. This Procurement Review 1) evaluate SFSB procurement procedures, 2) assess compliance, 3) provide technical assistance, and 4) establish findings and required corrective actions, as needed. All School Food Authorities (SFAs) must ensure they are in compliance with all procurement standards found in 7 CFR 210.21, 215.14a, 220.16, as applicable and government-wide regulations in 2 CFR 200.318-.326, including State and local procurement rules and regulations.

The annual budget for SFSB is approximately \$108 million with 45% of funds coming from the USDA along with 5% from USDA federal commodity foods. To receive this federal assistance, the DOE agrees to serve meals that meet Federal requirements. This includes complying with multiple and complex USDA rules and regulations; including the procurement for all food and supplies. SFSB has declared ownership of the food and services purchasing and has the responsibility for procurement through DOE's Procurement and Contracts Branch (PCB).

Each SFSB Cafeteria Manager makes purchases directly from vendors. Products are delivered directly to the cafeteria where they are then inventoried and checked for bid compliance at the school level. Generally, direct payments are issued for invoices. Work assignments are now in place within the purchasing process for school cooks, bakers and/or helpers may be responsible to receive deliveries from vendors relieving the work load on the cafeteria manager. Systems are also now in place to ensure that cafeteria managers are turning their invoices in for payment on a timely basis.

SFSB managers now receive price list updates from PCB through a link on their computer which are effective within 5 days of the date on the price list change.

SFSB had determined that the current POS software was not practical for audit and review purposes and retained the old SL-4 Perpetual Inventory Cards until the new POS System is in place. HCNP found in general, each school's manual perpetual inventory cards were being updated daily. In early 2017, Primero Edge was the main information system used by School Food Service Branch. However, for various reasons, SFSB did not renew the contract with PrimeroEdge and is currently using a temporary stop gap bid for its POS system. This allows time to properly bid another RFP for an IT/POS system that will include a much needed inventory and other back of the house software. This software will also ensure a sound web-based fiscal system to ensure the efficient use of federal tax dollars.

A recent October 2017 audit of SFSB by the DOE Internal Audit office found 4 of the 7 prior audit findings from a January 2013 Internal Audit are still occurring. HCNP commends SFSB

for its focus on its own management of contract/procurement and vendor oversight, however, its due diligence is sometimes compromise by multiple SFSB supervisors completing multiple procurements. The SFSB Supervisor high work load takes away the effectiveness of an openly competitive procurement due to time constraints. HCNP recommends a process improvement for SFSB to create a procurement position to consolidate all procurements to improve the procurement operational effectiveness and standardize existing control procedures.

An ineffective procurement process will affect the SFSB operating budget in a negative way. Therefore, solid oversight, monitoring and accountability at the School level and at the SFSB level, will prevent unauthorized and/or excessive school level purchases may substantially affect SFSB fiscally, increase likelihood of violations of procurement laws and risk a reputational exposure to DOE.

## SFSB OFFICE FINDINGS & CORRECTIVE ACTIONS:

HCNP found the many of the same significant deficiencies and material weaknesses in their internal control over major procurement from a rushed USDA warehouse bid, to a fractured produce bid and the stop gap IT RFP which took excessively long to get and open.

HCNP observed that a weakness in the SFSB procurement process included procurements not being completed in a timely manner for the Procurement Branch to vet properly. Bids that are rushed tend to present a high risk to fiscal management with SFSB's budget due to potential results of higher prices in foods and services. Also, last minute bids tend to include higher than necessary bid amendments which can frustrate vendors, delay bid openings, and create additional paper work for all parties involved.

Other findings by HCNP:

1. Multiple purchases by school cafeterias on the same category of items have violated proper authorized purchasing DOE procurement thresholds. The excessive use of 10-B's during the 2017-18 school year was very high. However, during the 2018-19 school year, a remarkable reduction of 10-B's being completed by individual school cafeterias was observed.
2. Even though there were less 10-B's being completed, many of the 10-B's were filled out incorrectly, lacked multiple price quotes or was not signed by an administrator.

At least 10 different vendors in prog. number #35304 were paid for the fiscal year which totaled over \$24,999. This large number of procurements violated proper authorized purchasing authority thresholds and bids should have been completed for these foods and services. This is parceling. Parceling in Hawaii is defined as when the total 10-B's for the same vendor adds up to over \$24,999 during a fiscal year.

The following bids are critical areas which will require bid solicitations. This is to fulfill all federal, state and local requirements; also this will further eliminate the need for schools in using 10-Bs.

- a. The vendors were: Finest Foods, KYD, Maui Chemicals, Palama Holdings, Ham Produce, Hawaii Paper, Joe Kim, Triple F Dist., and Watanabe.
  - b. State-wide pest control bid
  - c. State-wide bid for equipment repairs (Per labor hour charge, dialogistic visit cost, and mileage.
  - d. State-wide bid for Chemicals, cleaning products and cleaning supplies.
  - e. Bid for gas for schools located away from State Contracted Bids.
  - f. Bids for dock-to-school deliveries on neighboring Islands should be reviewed and additional vendors should be found: for example on Lanai a formal bid must be completed as HPC Food Ltd as annual payments were \$33,067.36. FYI - Lanai Trucking was \$16,374.46 or the Truck for Hana School.
3. SFSB spent approximately \$8 million of goods and services off-bid last year to over 50 different vendors; much of which should be on a valid and enforceable procurement bid.

4. Some school cafeteria managers are unaware of Form 5's or how to use them ("Request Exception from Purchasing From Price List").
5. A few neighbor Island schools ordered from other vendors even though SFSB actually had a bid in place for the same items. If those school cafeterias had used the SFSB bid, they would have had better prices instead of using a 10-B. Widespread continuation of this practice could be a budget buster.
6. The Procurement Branch does a good job posting bid prices for the cafeteria managers to verify prices; however, some improvement and training for the managers due to lack of communications and enforcement between SFSB office and school cafeterias on bid monitoring will make this process even more effective.
7. During the review period, SFSB rushed a last minute USDA Warehouse bid before its expiration. Prior to expiring, SFSB had requested an extension to HCNP on its bidding process using false date and time frames and misleading ending dates to increase their chances of getting approval of an extension by HCNP. SFSB claimed the USDA Warehouse bid ended November 1, 2018 when at least two previous emails to HCNP from SFSB showed this bid actually ended November 30, 2017. HCNP denied their request. While the bid was eventually completed on time, the end results included single source bid. Including a whopping 16% increase in delivery charges. SFSB has future plans to discontinue using USDA Foods brown box so a need for a USDA warehousing and delivery bid will no longer be necessary.

Further, it was also discovered that this USDA Warehouse bid was illegally in use for the past four years. The bid had been declared sole source by SFSB without the State Agency approval or the Superintendent's approval therefore a procurement violation.

8. RFP Stop Gap time line for replacement IT/POS software is unacceptable. This RFP bid should be out and awarded in a timely manner.
9. Schools with SFSB delivery vans are supposed to be monitored for gas consumption and mileage. SFSB shares with HCNP that there is a system in place but there was little evidence this is being monitored as it should be.
10. This is a sampling of some of the errors found on various DOE School's 10-B. Since many of the items are low, 10-Bs are not required until the total for the year is over \$24,999 and then a formal bid must be completed.

Sample 10-Bs with unsatisfactory reasoning for awarding purchase to vendor:

- Part C: N/A for quote
- Part C: Left Message
- Called left message. Did not try again.
- Used 10-B for GOJO Hand soap when a Form 5 should have been used.
- Should have used a State Bid for Gas instead used 10-B
- Needed delivery between 8 and 8:30 am (overly restrictive)
- No quote. Paid \$45.24 for one flat fresh strawberries
- No quotes: Paid \$5.10 per lb. for diced carrots
- Price quoted on 10B was not the same (lower) as on the invoice
- Did not get 138 ct. apples as quoted
- No quote –called left message. Paid \$6.90 per pound for diced tomatoes. Ordered 10 lbs. Paid 69.00 dollars.
- Multi-10-Bs where delivery date and quote date are the same. Also principal would often sign on the same date too.

- Part C: Needed diced tomatoes because will be short labor tomorrow.
- Forgot to order
- Multiple 10B's with No justification on Part C or Part D
- Other vendors cannot deliver before 8 am (overly restrictive)
- One school had all Produce 10-Bs going to a single vendor with no other price quotes.
- 10-B said other vendors unable to del before 8 am and only ordered 1 lb. red cabbage, shredded and 1 lb. shredded carrot.
- Multiple 10B's had addition items added that was not in price quote.
- Stating on 10B this was low bidder but providing no evidence of any other vendor quotes.
- One 10B had shipping costs. SFSB only allows FOB.
- Forgot to order, not enough labor

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Corrective Action: THE AREAS IDENTIFIED MUST BE DEVELOPED AND IMPLIMENTED INTO A PROCURMENT BID BY SFSB JANUARY 1, 2020.

- State-wide pest control bid

Currently, PCB has a state-wide bid for pest control items (glue traps and gels, baits, animal traps) with BEI Hawaii good through Jan 31, 2020. This bid should be used unless a DOE form 5 must be used if not using BEI.

- State-wide bid for equipment repairs (Per labor hour charge, dialogistic visit cost, and mileage, etc). SFSB's vendor 'Commercial App.' total annual payments were a whopping \$522,428.90 as was Repairapy, LLC at \$220,593.93 and Kazama Comm. at \$207,353.
- State-wide bid for refrigeration/freezer repairs and preventive maintenance
- State-wide bid for chemicals, cleaning products and cleaning supplies.
- State-wide bid for dish machine chemicals, delimers, etc., and maintenance for the schools that still have dish machines.
- Bids for gasoline on each Island for 50+ SFSB transport vans in schools located away from State Contract gas stations.
- Bids, single source agreements for dock-to-school deliveries on neighboring Islands: for example - Lanai a bid/written contract must be completed for HPC Food Ltd. Since annual payments were \$33,067.36. FYI - Lanai Trucking was \$16,374.46. Same will apply for neighboring Islands such as the truck that takes the food up the mountain to Hana School if not already under a contract.
- State-wide bid for small kitchen equipment
- Joe Kim Kim Chee needs a bid as annual purchases was over \$333,000.
- Vehicle repairs since total repairs were over \$24,999.
- Finest Foods needs a bid completed as total annual spent on them by 10-B purchases was \$1,238,521.33. This is strongly against federal procurement guidelines.
- Ham Produce annual 10-B purchases last year was \$797,025.07 so a bid needs to be written for them if outside of the current SFSB bid.

Please note that failure to secure these procurements will subject these procurements to being non-allowable costs and disallowed.

CA: RFP for POS/IT must be put out to bid within 90 business days.

Violation: SFSB paid a consultant in Program #35913 which exceeded the \$24,999 threshold (\$28,360.00). This consulting should have been put out to a formal bid per DOE rules and regulations.

## PROCUREMENT RECOMMENDATIONS:

1. Examples of Overly Restrictive Practices in Procurement that SFSB should avoid to receive the maximum competition (not all of these suggestions were observed on SFSB Procurement):
  - a. Requiring deliveries to occur within a 1 or 2 hour window. The most time possible should always be available to a vendor.
  - b. Requiring the vendor to have excessive (five or ten years) of experience serving schools.
  - c. Collusion: The bid solicitation is published and a group of farmers decide to group their bids together as one because they don't want to undercut each other. With the trend for SFSB to move for more Farm to School, SFSB needs to be careful that collusion, even inadvertently, does not occur.
  - d. Never provide a favorite vendor with specific details (product specifications) concerning a bid that will be posted within six months.
2. Buying a brand because the salesman told you it was the best one to meet your needs and not testing or comparing other comparable brands to ensure the oven meets the actual needs of the SFA.
3. Bid specifications saying name brands. For example, a specification that states the item must be a Tyson chicken strip Product # 123543 without conducting proper taste tests with students comparing all available chicken strip brands that meet the SFA developed specifications. Proper taste tests includes using a valid number of students for the taste testing and documenting the results.
4. Have conducted all of the procurement procedures and awarded the contract but failed to maintain documentation to justify the award was based on price and not a prior relationship.
5. Sending out and/or signing bids and contracts without SA approval.
6. HCNP recommends before the end of very school year, the SFSB Program Administrator reviews each outstanding bid to determine which one bids needs to be bid out, extended for the following school year to give the SFSB bid writing enough time to work with the DOE Procurement and Contracts Branch (PCB) to put the bid on the street. This contract administrator monitoring plan will cut down on last minute rushes to write bids and stop the use of all stop gap bids at SFSB.
7. There appears to be a number of bids, including the stop gap technology RFP Bid, which SFSB appears to struggles to effectively resolve in a timely manner. To improve the number of non-competitive bids within SFSB, HCNP recommends to:
  - a. Hire a consultant to advise how to improve your POS and then award a contract to that consultant to develop and manage the software.
  - b. Hire a consultant in food purchasing and logistics and then award the distribution contract to the consultant's wholesale distribution network.
  - c. Place all procurement under one SFSB supervisor.
8. HCNP recommends working with PCB to allow for changes to multiple year contracts to ensure new or better quality products as affordable. This will prevent add-on bids that cause confusion to monitor. Examples are Bid # 19-01, E19-06, E19-14, E19-20 and so on. Federal procurement rules and regulations allow for add on changes if they are NOT material changes. SFSB should ask the following questions to help determine if a change to the contract constitutes a material change:

- a. If there would be an increase or decrease to the cost of the contract, would the increase or decrease in cost have caused bidders to bid differently if the prospective change had existed at the time of bidding?
  - b. Would the prospective change materially affect the scope of services, types of food products, volume of food products, etc., in both the solicitation document and resulting contract?
  - c. Should SFSB not be allowed by PCB to make additions to a current bid, SFSB should, as a best practice, then conduct a new procurement and ensure that the new solicitation associated with the rebid contains the appropriate specifications and provision to ensure conformance to all federal procurement guidelines. This is in lieu of preparing a separate, additional bid to compliment the original bid. Allowing the original bid to go the full five years is not economical, does not take advantage of price decreases or give flexibility for menu changes.
9. HCNP recommends for SFSB to continue to improve its oversight, monitoring and accountability at the SFSB level and at the school cafeteria level. Unauthorized purchases and off bid purchases may result in a financial loss for SFSB. SFSB should increase working with school principals to hold cafeteria managers more accountable for not following procurement procedures. It is important that SFSB managers are not entering new contracts without the proper approval.