

COMMERCIAL VENDOR SPECIFICATION GUIDANCE

The School Food Authority (SFA) is responsible for developing and drafting the Invitation For Bid (IFB), Request for Proposal (RFP) and Price Quote specifications. Specifications must include all Federal/State contract requirements. To ensure full and open competition for price quotes (informal/small purchase procurement) or IFB and RFP (formal procurement), specifications must be provided to all potential vendors who express an interest in submitting a bid, proposal or price quote.

Content

The specifications must contain a clear and detailed statement of the meals requested and documentation required by the commercial vendor as well as all additional information necessary to submit bids/proposals/quotes to the SFA. SFAs should consult their legal counsel regarding federal and state law requirements regarding certifications and documents that must be requested from the vendor in the specifications including, but not limited to:

- A copy of a valid New Jersey Business Registration Certificate from the Division of Revenue and Enterprise Services [DORES] or Certificate of Business Formation (for vendors contracting with Non-Public SFAs only).
- A copy of a current Health and Sanitation Certificate (within the last twelve (12) months) and Food Safety Inspection Reports for all production facilities
- A copy of a current License to Operate a Wholesale Food-Cosmetic Establishment (N.J.S.A. 24:15-14)
- A completed copy of the completed Commercial Vendor Questionnaire (Form 380). SFA should attach copy to Specifications for vendor to complete
- Statement of Ownership Interest and Political Contribution Disclosure
- Certification statement confirming compliance with Buy American regulations
- Compliance with Affirmative Action and Equal Employment Opportunity regulations
- Submission of Mandatory Federal Forms Packet (Fillable PDF documents with the following forms):
 - .Form 39 – Disclosure of Investment Activities in Iran
 - .Form 130 – Certificate Regarding Debarment, Suspension Ineligibility and Voluntary Exclusion
 - .Form 131 – Certificate of Independent Price Determination
 - .Form 132 – Disclosure of Lobbying Activities
 - .Form 133 – Certificate Regarding Lobbying

The SFA should refer to Form 233 – School Food Authority/Commercial Vendor Contract – for all necessary federal and state language that must be included in the specifications.

The SFA should also identify any significant changes that are planned for the upcoming school year, such as enrollment shifts among buildings, opening a new school, adding grade levels, anticipated participation in additional School Nutrition Programs (e.g. School Breakfast Program), etc.

If significant changes as noted above or others are not included in the specifications, it may result in a material change to the terms and conditions of the original contract and could require the SFA to issue a new IFB/RFP/price quote solicitation. A material change is any change made to contract after it has been awarded that alters the terms and conditions of that contract substantially enough that had other respondents known of these changes in advance, they could have responded differently and more competitively.

Resources to assist in preparing specifications:

- “Procurement in the 21st Century” - published in 2013 is available in SNEARS/Resources/Procurement
- Sample forms and guidance are available in SNEARS>Resources>Vended Meals. Recorded webinars are available in SNEARS>Training. The general public can access links for Resources and Trainings from the NJDA’s School Nutrition Programs webpage at: <https://www.state.nj.us/agriculture/divisions/fn/childadult/school.html>
- The Office of the State Comptroller’s report entitled “Best Practices for Awarding Service Contracts” (March 4, 2010) provides detailed guidance to SFAs on the use of RFPs under the competitive contracting provisions of Public School Contracts Law (Note: Appendix—Summary of Guidance on pages 24 & 25). Access at: www.nj.gov/comptroller/news/docs/service_contracts_report.pdf.
- Chapter 34, Title 5 of the New Jersey Administrative Code contains the rules adopted by the NJ Department of Community Affairs, Division of Local Government Services that implement the competitive contracting provisions of Public Schools Contract Law, and includes model evaluation criteria to be used in evaluating proposals. See NJAC 5:34-4.2

Prohibited Requirements

Procurement standards require that solicitations are conducted in a manner that provides for full and open competition. The following factors are considered to be a restriction on competition and cannot be used in the specifications:

- Placing unreasonable requirements on vendors in order to qualify them to do business, such as requiring the vendor to be located within the state or a specific county, etc.
- Requiring unnecessary experience, such as requiring previous operations in New Jersey schools

Information provided by the SFA

The more information potential vendors have on the terms and conditions of the contract, a more accurate, useful and cost-effective bid/proposal/quote can be developed. Specifications should include all applicable provisions/requirements from the Commercial Vendor Contract (Form 233)

At a minimum, the following information should be provided by the SFA:

I. General information regarding the SFA’s school food service operation:

- a. Scope of work
- b. Estimated number of meals by program for each school: National School Lunch Program (NSLP); and if applicable: School Breakfast Program (SBP); After School Snack Program (ASSP)

- c. USDA meal patterns applicable to the SFA are available on the USDA website:
<https://www.fns.usda.gov/sfsp/meal-patterns>
- d. Type of meal service: bulk, unitized pre-packaged or a combination. Be clear and specific if serving breakfast in the classroom that meals have to be delivered already packaged as one unit (with the possible exception of milk).
- e. Type of meal service: hot and/or cold (i.e. hot for lunch, cold for breakfast)
- f. Names and grade levels of all schools
- g. Scheduled serving times for lunch and all other meal or after school snack programs
- h. Number of food service operating days (when meals will be served to students) for each location and by program
- i. Map of SFA indicating location of all schools
- j. Arrangements if SFA is picking up meals
- k. Delivery schedule for each school
- l. Delivery schedule for each meal type/snack
- m. Temperature of menu items at time of delivery
- n. Packaging of meal items
- o. SFA calendar
- p. 21-day cycle menu for each meal/snack program
- q. Availability of equipment onsite for storage, reheating, serving or maintaining temperature of meal components, etc.
- r. Minimum maintenance standards for equipment to ensure compliance with NJAC 8:24

II. Information regarding the meals to be provided by the commercial vendor such as:

- a. Length (term) of contract (one year or multi-year)
- b. Remedy for:
 - Late delivery or no delivery
 - Meals not in compliance with USDA meal patterns
- c. Meals provided with or without milk (**CANNOT BE ANY OTHER INDIVIDUAL COMPONENT OF THE MEAL i.e. without fruit**)
- d. Type of meal-unitized meal and/or portions or bulk satellite
- e. Hot or cold meals specified by meal type (NSLP, SBP, ASSP)
- f. Specifications for meal components
- g. Vendor compliance with the Buy American provision and proper documentation of pre-approval by the SFA for procurement of non-domestic food items utilizing Buy American Provision Exception Documentation Worksheet (Form 149)
- h. Condiments
- i. Paper products and eating utensils
- j. Small wares such as serving utensils, steam table pans etc.
- k. Address and contact information for each production site
- l. Equipment for transportation/delivery of meals
- m. Equipment needs on site for reheating, serving or maintaining temperature of meal components
- n. Compliance with specifications for meal components

- o. Compliance with Hazard Analysis Critical Control Points (HACCP)
- p. If applicable, USDA Foods acceptance and usage
- q. Menu development responsibility for NSLP and if applicable, SBP and ASSP for each grade grouping and school
- r. Requirement that vendor supply standardized recipes, Nutrition Facts Labels, Child Nutrition (CN) labels, Product Formulation Statements and/or other supporting documentation for menu items they provide

III. Additional Requirement for RFP Specifications

USDA procurement regulations require that an evaluation and scoring plan be included in the RFP prior to the solicitation of any proposals. SFAs must indicate the evaluation criteria and weights to be given to each specified criteria on the Commercial Vendor RFP Scoring Criteria & Evaluation Form (Form 222) and include it in the specifications. The Commercial Vendor Sample RFP Criteria Form (Form 247) provides suggested criteria to include. The Commercial Vendor RFP Scoring Criteria & Evaluation Form (Form 222) will be used to score and award the contract to the most responsive and responsible commercial vendor whose proposal conforms to the RFP, is most advantageous to the SFA, price, kind and quality of meals, and other factors considered. The Sample Commercial Vendor RFP Scoring Process Form (Form 376CV) may be used by evaluators during the scoring process.

Pre-proposal Meeting/Walk-Through

A pre-proposal meeting or walk-through cannot be mandatory, but is recommended. If a pre-proposal meeting or walk-through will be held, it must be stated in the specifications.

The foregoing guidance is provided for informational purposes only in order to assist SFAs in complying with federal and state procurement standards. When preparing specifications, this guidance should not be construed as legal advice. SFAs should consult their legal counsel with respect to all actions taken in the solicitation and award of vended meals contract.