



# Procurement

Elsie Montgomery,  
SCDE Procurement Director  
9/25/2018



# Not Rules..... But Law...

- South Carolina Consolidated Procurement – “The Code”
  - Section 11-35
  - Regulation 19-445
- Applies to all expenditure of funds
  - Where federal funds are used, the more restrictive requirements (federal or state) apply.
- Comptroller General’s Disbursement Regulations



# According to the Code/Regs

- **SECTION 11-35-70.** School district subject to consolidated procurement code; exemptions.
- **19-445.3000.** School District Procurement Codes; Model.
  - A. Application
  - B. Delegation
  - C. Substantially Similar
  - D. Definitions
  - E. Guidelines; Model Code
  - F. Duration of Written Opinion
  - G. Effect of Adoption



# Potential Cost

- Agency Certification
- The potential of the total contract, including any renewal or extension periods, must be considered when determining the procurement methodology.



# Ethics

*Reference SC Code of Laws 8-13-100 (Definitions, etc)*

- We are judged by the collective performance of our organization's employees
- Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications
- Conflicts of interest
- Gratuities/Gifts
- Duty to Report Violations



# Procurement Methods

What is your procurement method?

- Fair and Reasonable
- Competition
  - Several Types
- Sole Source
- Emergency
- Exempt
  - Specific

## Competition Types

- Invitation for Bid (IFB or “Sealed Bid”)
  - Awarded based on low bid
- Request for Proposals (RFP) \*
  - Award based on an evaluation of criteria
- Best Value Bid\*
  - Evaluation criteria, Cost is 60%
- Online Reverse Auction\*
- Fixed Price Bid\*

**\*Requires written determination**



# Thresholds via the Code

- Up to \$2,500 – One quote deemed as “Fair and Reasonable”
- \$2,500.01 to \$10,000.00 - Solicitations of three written quotations from qualified sources of supply
- Over \$10,000.00 - Written solicitations for written quotes, bids, or proposal are allowed, Required advertisement in South Carolina Business Opportunities (SCBO)



# Publicize your efforts

- **SC Business Opportunities (SCBO)**
  - Advertisements are generally accepted from all state government agencies and boards, political subdivisions, public services, higher education, school districts, cities/municipalities, county governments, and hospitals in South Carolina.
  - There is no charge to the advertiser.
  - Forms are available at SCBO Advertiser Forms.
- [Link to SCBO](#)



# Sole Source Procurements

*Code Reference 11-35-1560*

*Regulation Reference 19-445.2105*

- No dollar limit
- Written determination must be approved in advance by SCDE's State Superintendent and the item or service must be:
  - 1 - Unique
  - 2 - Available from **only one** source of supply
  - “where the compatibility of equipment, accessories, or replacement parts is the paramount consideration”
- All Sole Sources must be reported quarterly to the SFAA and appear on the State's “Transparency” website. Sole Sources are 100% audited.
- “Testing the market” with SCBO advertisement
- Forms and Contract may be also needed



# Emergency Procurements

*Code Reference 11-35-1570*

*Regulation Reference 19-445.2110*

- There must be a condition that creates a serious need that cannot be met through normal purchasing procedures, which immediately threatens public health, welfare, critical economy and efficiency or safety.
  - A serious threat must be present to:
    - Health and safety of any person
    - Functioning of State Government
    - Preservation or protection of property
- Examples include floods, epidemics, riots, critical equipment failure, fire loss
  - limited to the extent of the crisis
- As much competition as is practical under the circumstances shall be obtained.
- All emergencies must be reported quarterly to the SFAA and appear on the State's "Transparency" website. Emergencies are 100% audited.



# Written Determinations

- Can it “stand alone?”
  - Will you be here to explain it?
- Audit requirements
  - Determinations and Findings (D&F),
  - **Be prepared**





# Things to remember



- Quotes should compare “apples to apples”
- Purchases must be distributed equitably among qualified suppliers.
- When practical, a quote must be solicited from other than the previous supplier before placing a repeat order.
- If the need is recurring, we must consider the entire requirement and pursue a contract.
- Consulting is not a procurement method.



# Discussion with vendors

- How close is too close?
  - Remind vendors that you cannot obligate funds without a contract
  - Do not rely solely on one vendor to provide answers to your questions or develop your specs
  - Do not accept gifts
  - Do not “play favorites”
- Acceptable...if,
  - Open \* Transparent \* Fair
  - Equal Opportunity is given



# Vendor Protests

*Code Reference 11-35-4210*

*Regulation Reference 19-445.2200*

- A protest is:
  - Complaint or objection made by an interested party regarding a procurement decision
- Protests:
  - Are expensive
  - Delay project
  - Create strained relationship with vendor
- Protest provisions of Code do not apply to purchases under \$50,000.00 **IF THE PURCHASE WAS MADE IN ACCORDANCE WITH THE CODE.**
- Any vendor can submit a protest of any procurement.
- Protest period = 15 days for solicitation or amendment and 10 days for Award
- If protest is filed timely, it must be resolved before issuance of PO or contract



# Open Competition

- Situations that restrict competition:
  - Unreasonable requirements on vendors to qualify to do business
  - Pre-qualified lists should not limit competition
  - Requiring unnecessary experience or excessive bonding
  - Noncompetitive pricing practices
  - Noncompetitive awards to consultants on retainer
  - Organizational conflicts of interest
  - Specifying a brand name
  - Any arbitrary action in procurement process
  - In-state or local preferences



# Purchasing Card

- No “card-sharing”
- Keep it safe!
- Receipts are important
  - Not just the packing slip
  - Pricing
- Reporting
- Documentation





# State Contracts

- [www.procurement.sc.gov](http://www.procurement.sc.gov)
  - Goods and Services
  - IT Contracts
  - State Contracts
  - Agency Contracts





# Purchase Requests/Requisitions

- Required Approval
  - What does your policy say?
- Quotes
  - Should be 30 days old or less
- Provide forms, if applicable.
- Advertise as needed, as required
- Document!



# Receiving

- Whoever signs a purchase order will not be permitted to receipt the items
  - There should always be at least two persons involved in the three tasks of creating the purchase order, approving the purchase order, and receipting the purchase order.
- Are you a small district?
  - It does not matter!



# Contract Administration

- Management of all actions after award of a contract, to assure compliance with contract
- Change Order
  - Signed by both parties
- Contract Monitor to perform monitoring
  - Start/End Dates
  - Dollar Amounts
  - Funds Used (ie. state, federal, grant award)
  - Outstanding Encumbrances – Clean up of expenditures



# Questions?