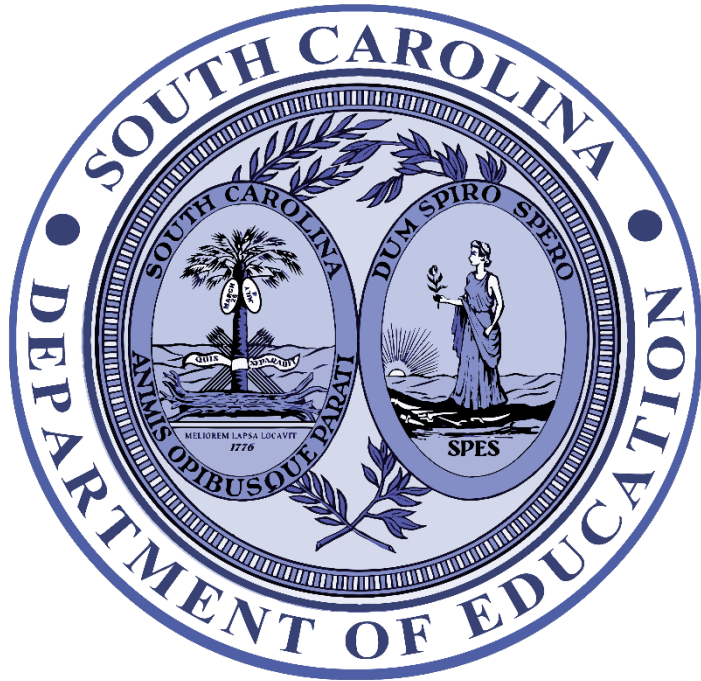


What is Noncompetitive Procurement?



October 26, 2023

Jewell Stanley, Interim Director, OFSA

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Elsie Montgomery, Director, Procurement

Hershula Davis, Audits Manager, Auditing Services

Federal Procurement Requirements

- Review of federal procurement requirements
 - All procurement transactions using federal funds must be conducted in a manner providing **full and open competition** consistent with 2 CFR 200.319(a) and §200.320
 - Noncompetitive procurements can only be awarded in accordance with §200.320(c).



Noncompetitive Procurement with Federal Funds

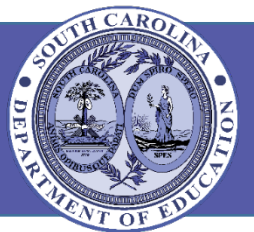
Can only be awarded if one or more of the following apply:

1. The acquisition of goods or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold

- Procurement policy adopted by the subrecipient
- If the District is more restrictive, must use the most restrictive
- Do not split procurement to meet

2. The item is available only from a single source

- *Sole source procurement*
- Vendor has sole source letter (*This does not mean good/ service qualifies as sole source.*)



Noncompetitive procurement (Continued)

3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation

- Emergency Procurement (involves time constraint - leaves no time for competition)

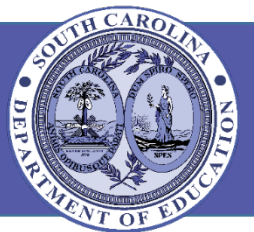
4. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity

5. After solicitation of a number of sources, competition is determined to be inadequate



Guidance for Subgrantees

- **Not new regulation** - In place since 2014 (formerly 2CFR 320(f)(3))
- Subgrantees with a #4 noncompetitive procurement must seek authorization under a subaward issued by the SCDE must submit a **written request** to the applicable program office.

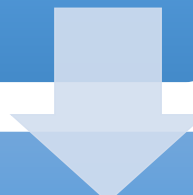


Seeking Authorization

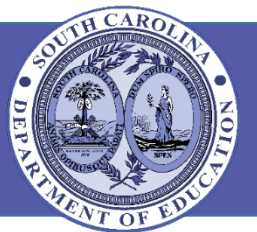
Subgrantee completes the form to seek approval



Form must be signed by the requestor, business official, and procurement official


- The requestor needs to discuss the request with the procurement official
 - In some cases, business and procurement officials may be the same
- 

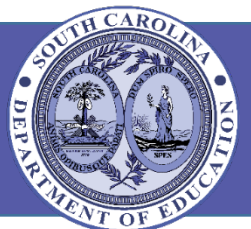
Subgrantee must include adequate documentation related to the request not to compete



Form Template: Request for Noncompetitive Procurement Approval

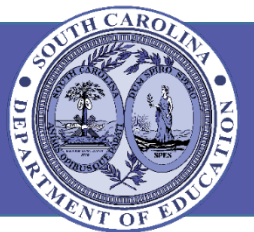
- Titles I, II, IV, V, and N&D submit to Jennifer Rhodes (jrhodes@ed.sc.gov)
- Title III submit to Susan Murphy(smurphy@ed.sc.gov)
- McKinney-Vento submit to BirleyWright(Bwright@ed.sc.gov)
- ESSER submit to SCESSER@ed.sc.gov
- ATSI/CSI forms are submitted to the program manager assigned to the district.
- IDEA submit to Michelle Williams Young (smwilliamsyoung@ed.sc.gov)

		Program Office Name	
Request for Noncompetitive Procurement Approval			
Complete this form to request a noncompetitive procurement approval. The subgrantee's requestor (i.e., federal program director), business official/fiscal representative, and procurement official must sign this form. This form can be submitted via email to the program manager , [Name] , at xxxxx@ed.sc.gov .			
The subgrantee's exemptions list cannot be used for goods or services purchased with federal funds. The request for use of a noncompetitive procurement does not guarantee federal compliance nor is it a guarantee that the request will be approved. All procurement activities are subject to monitoring. The subgrantee must submit adequate documentation related to the request and maintain such documentation for recordkeeping and auditing purposes.			
SUBGRANTEE NAME:		SCHOOL YEAR: 20__-20__	
Subgrantee Contact:			
Email:		Phone Number:	
Subaward Name:		Grant Number:	
Description of Requested Procurement			
Proposed Vendor or Contractor:			
Total Purchase Amount:			
Description of Goods/Services			
Provide a justification for why this procurement is a noncompetitive procurement. Must attach evidence to support this request.			
Requestor's Signature:		Date: / /	
Requestor's Name (printed)		Title:	
Business Official's Signature:		Date: / /	
Business Official's Name (printed)		Title:	
Procurement Official's Signature:		Date: / /	
Procurement Official's Name (printed)		Title:	
SCDE PROGRAM OFFICE USE ONLY			
<input type="checkbox"/> Approved		<input type="checkbox"/> Denied	
<input type="checkbox"/> Returned for more information			
Reviewer's Signature:		Date:	
Notes:			



Note:

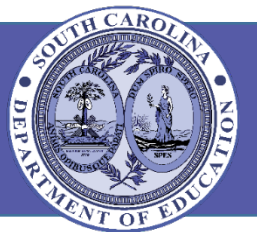
- Items that have been competed on state contract are not subject to noncompetitive procurement approval
 - Subrecipient must ensure other federal procurement guidelines are met
- Subgrantee's exemptions list **cannot** be used for goods or services purchased with federal funds
- “State-approved” procurement exemptions do not apply



Not Revisiting Application Approval

Program office is not approving or denying expenditures that have already been approved in the budget approval, application approval, activity approval, etc. process

Only approving or denying the use of noncompetitive procurement for the purchase



Example


If subgrant budget activities (application) already include the purchase of \$20,000 in Instructional Purchased Services

- Program Office not approving/denying that expenditure
- Program only approving/denying purchase of that service via the use of noncompetitive procurement



Example continued

If the approved application does not include the purchase of \$20,000.00 of Instructional Purchased Services, and the Program Office receives a form requesting noncompetitive procurement...

- Red Flag! 
- Check Approved Application



Denial of Request for Noncompetitive Procurement

- If Noncompetitive Procurement is denied, and activity is approved in the plan, the subgrantee must procure via competition (Bids, RFP, etc.-Per subrecipient's procurement policy)
- May mean a lengthier process for the subgrantee but does not deny an already approved plan activity/budget item.



With Approval, Subgrantee may Obligate

- If noncompetitive procurement is *approved*, the subgrantee may obligate funds
- Program Office will expedite a determination of your requests



What If No Federal Grant Program Guidance?

- If no clear grant guidance exists and answers cannot be obtained by your Program Office via its contact/information
 - May be to deny the request for noncompetitive procurement
- Subgrantee will need to open competition for the good/service



Noncompliance and Potentially Questioned Costs

- In most Procurement Codes, instructional purchased services makes an exemption list

However...

- Guidance states: LEA's utilization of their "Procurement Code Exemptions" as a means to procure goods or services noncompetitively, without the consideration of Federal Rules around procurement...where Federal Funds are involved, could result in being in noncompliance and potentially questioned costs

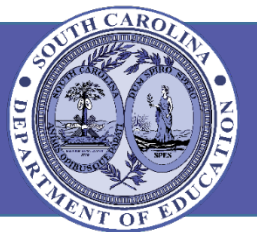


Note:

- If it does not meet one of the five bullets in accordance with §200.320(c), it must be competed
- If purchase meets #4, it must be competed or *the Request for Noncompetitive Procurement Approval form must be submitted to the appropriate SCDE Program Office*



Frequently Asked Questions



Q&A 1

Q: If I have two 21st-Century Grants at two different schools, and I have a vendor that is below the micro-purchase threshold at each school, but together, the cost of the purchase is above the threshold. These are two different grants.

- **A: If the aggregate purchase from a single vendor exceeds the micro-purchase threshold, it must be competed. Appropriate checks and balances must be in place in the Finance or Procurement Office.**
- *Compete or send the Request for Noncompetitive Procurement Approval form to the appropriate SCDE Program Office*



Q&A 2

Q: I have a single Title I grant and a vendor that is below the micro-purchase threshold at multiple schools in my district, but together, the cost of the purchase is above the threshold.

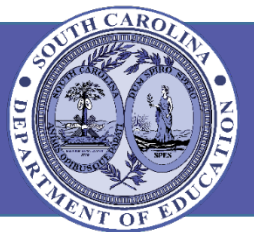
- **A: If the aggregate purchase from a single vendor exceeds the micro-purchase threshold, it must be competed. Appropriate checks and balances must be in place in the Finance or Procurement Office.**
- *Compete or send the Request for Noncompetitive Procurement Approval form to the appropriate SCDE Program Office*



Q&A 3

Q: I have OT, PT, Speech Therapists, and Psychologists that are contracted. I cannot find these services readily, and I am using IDEA funds to purchase these services. Do I need to compete, or are they considered a Sole Source Procurement?

- A: This must be competed. After the competition, if there is an adequate response is not received, you should document this under bullet 5 of §200.320(c).**



Q&A 4

Q: A number of employees are attending a conference with Federal Funds. The district will need to reimburse them for mileage and meals. Does this need to be competed?

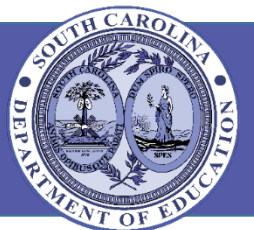
- A: Employee reimbursements are going to individual vendors, and the reimbursement for mileage and meals will unlikely exceed the micro-purchase threshold.
- If reimbursement for mileage and meals uses Federal Funds, ensure the GSA rate is being used.



Q&A 5

Q: A number of employees are attending a conference, and the district is paying for conference registration with Federal funds. The conference cost for all employees is over the micro-purchase threshold of my district. Do I need to compete this conference?

- **A: You must compete the conference cost unless the employees are paying individually and being reimbursed as individual vendors under the micro-purchase threshold limit**
- *Compete or send the Request for Noncompetitive Procurement Approval form to the appropriate SCDE Program Office*



Q&A 6

Q: I want to hire a contractor to do professional development with federal funds. It is over the limit for micro-purchases. Must this be competed?

- A: You must compete for the vendor cost
- *Compete or send the Request for Noncompetitive Procurement Approval form to the appropriate SCDE Program Office*



Q&A 7

Q: I have a vendor that is written into a federal grant in order to be used to purchase materials, books, etc. This is a Sole Source - correct - since I wrote it into my grant?

- **A: You cannot write a vendor into a Federal grant, and it will need to be competed.**
- *Compete or send the Request for Noncompetitive Procurement Approval form to the appropriate SCDE Program Office*



Q&A 8

Q: I am purchasing copyrighted curriculum materials. Since they are copyrighted, do they need to go through competition?

- A: Specifying a single brand is considered anti-competitive, so it must be competed.
- *Compete or send the Request for Noncompetitive Procurement Approval form to the appropriate SCDE Program Office*



Q&A 9

Q: Should State Contracts, Purchasing Groups, and Cooperative Agreements be completed?

- A: If they have already gone through adequate competition, technically, no. These may satisfy the competition aspect for federal funds, but other federal procurement guidelines must be met. It is up to the individual district to ensure the other federal guidelines are met other than competition.
- *State Contracts do not require a Noncompetitive Procurement Approval form to be submitted to the SCDE*





Resources

- [Guidance to Subgrantees on Noncompetitive Procurement](#)
- [Subgrantee Noncompetitive Procurement Form](#) (Generic form)
- [OFSA Noncompetitive Procurement Form](#)

