

Solicitation Number: GAGA-2021-R-0034

Caption: Grocery Distribution for Self Op Schools

Date: April 07, 2021

No	Question
1	Section I.7 on page 37 of the solicitation is titled, "SUBCONTRACTS – NOT APPLICABLE. Under Section 203(a)(1) and 203(a)2) of DC Law 23-130, Coronavirus Support Temporary Amendment Act of 2020. Website: https://code.dccouncil.us/dc/council/code/sections/2-218.91.html .
2	Does DCPS believe that the Grocery Distribution solicitation is exempt from the requirements under DC Law 23-130? If so, what is the legal/regulatory authority for such an exemption?
3	Has or will DCPS seek a waiver by DSLBD of the subcontracting requirements for Grocery Distribution Solicitation No. GAGA-2021-R-0034 as stipulated under DC Law 23-130? If so when will waiver be submitted?
4	Considering that Section I.7 on page of 37 of the solicitation states that Subcontracting is not applicable, what is the relevance of Section G.6, The Quick Payment Act, subsection G.6.2, Payments to Subcontractors, on page 24 of the solicitation and Section I.5, Rights In Data, subsection(D) Subcontractor Rights?
5	What is the purpose and relevance of Section B.7.6 titled SUBCONTRACTING: RESERVED on page of 9 of the solicitation
6	Under Section L.3.8, TECHNICAL PROPOSAL – FACTOR A, states, "The Offeror shall provide a list of K-12 school districts/organizations for which the Contractor(s) is both currently and formerly under contract, and all within the last five years, to provide food services." This provision is overly restrictive and will result in limited competition. Will DCPS consider reducing the current and former contract experience to three years at either a school district, organization, or institution?

7	Under Sub Factor 1: Breadth of Food Service Industry Operation, subsection C the offeror is required to “provide POS and key information detailing the dedicated K-12 representative and specific child nutrition program features that are advantageous for the District and superior to competitors.” As stipulated under Section M.3.1, TECHNICAL CRITERIA, Sub Factor 1 is worth 5 points and further states that the “sub factor is to determine the Contractor’s experience with school nutrition food service accounts and volume of sale.” Does this mean that DCPS will not consider any non-school experience in the evaluation of proposals despite the statement otherwise in Section L.3.8, TECHNICAL PROPOSAL – FACTOR A?
8	What percentage of District appropriated, and federal funds will be used to cover the annual cost of the Grocery Distribution contract? Are District appropriated funds, if any, reflected in the FY21 DCPS budget?
9	Section I.11.1 titled, SETTLEMENT OF OFFER PROTESTS, DISPUTES, AND CONTRACTURAL ISSUES, on page 42 of the solicitation does not provide any information on the procedure for the filing of a solicitation and/or post-award protest. Will DCPS provide such information by issuance of an amendment to the solicitation?
10	The first sentence in Section I.11.1 on page 42 of the solicitation states, “The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising out of procurements? Please identify the “non-Federal entity.”
11	The fourth sentence in Section I.11.1 on page 42 of the solicitation states, “The Federal awarding agency will not substitute its judgement for that of the non-Federal entity unless the matter is primarily a Federal concern.” Please identify the “Federal awarding agency.”
12	The fifth sentence in Section I.11.1 on page 42 of the solicitation states, “Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.” Please identify the Federal authority referred to in this statement.
13	Section I.17, Governing Law, states, “This contract, and any disputes arising of or related to this contract, shall be governed by, and construed in accordance with, the laws of the District of Columbia.” Please clarify considering the provisions of Section I.11.1, SETTLEMENT OF OFFEROR PROTESTS, DISPUTES, AND CONTACTURAL ISSUES.

14	Is the Grocery Distribution solicitation being procured under District or Federal Government procurement rules and regulations? Please provide the citation for the procurement regulations that govern the Grocery Distribution solicitation.
15	Under provisions of the DC Procurement Practices Reform Act, Contracting Agencies must provide a copy of the delegation of Contracting Authority on its website. A copy of the Delegation of Contracting Authority for Candance Butler is not posted on the DCPS website?
16	Please identify the Contracting Officer's Technical Representative/Contracting Officer's Representative for the Grocery Distribution solicitation and provide a copy of their appointment by the Contracting Officer
17	The substitute Section H.5 on page 29 of the solicitation titled "51% DISTRICT RESIDENT NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT NOT APPLICABLE." is not compliant with District law and procurement rules/regulations. Under what authority and/or procurement rule/regulation allows for a Contracting Agency/Contracting Officer to determine the applicability of D.C. First Source Employment requirements
18	Is there a current contract in place for Grocery Distribution? If so, who is the incumbent contractor and when does the contract expire?
19	Section B.6 on page 7 of the solicitation indicates that Grocery Distribution services will be provided under a requirements contract. Will DCPS guarantee a minimum quantity that will be ordered under the requirements contract as permitted under 27 DCMR Section 2416.2?
20	The requirement under Section F.3.2 on page 21 of the solicitation regarding submission of a 51% District Resident New Hires report conflicts with the provision under substitute Section H.5 on page 29 of the solicitation. Please clarify
21	The requirements under Section G.3 on page 22 of the solicitation conflicts with the provisions under substitute Section H.5 on page 29 of the solicitations. Please clarify.
22	If a subcontracting requirement is not applicable, then please clarify the relevance of Section G.6.2
23	Who is the Contracting Officer for this procurement?
24	Section I.1 Contract Clauses on page 34 of the solicitation states that the Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated July 2010 are incorporated by reference as part of the contract. This conflicts with other provisions in the solicitation. Please clarify.

25	Please clarify the Right in Data, Subsection(D) Subcontractor Right, requirement
26	The Insurance requirements under Section I.8 seem especially erroneous for this type of contract. What is the basis for these broad insurance requirements on this procurement as stipulated by the DC Office of Risk Management some of which are not relevant to this procurement action and only add to the cost of doing business with the District Government?
27	In view of these questions will DCPS consider extending the proposal submission beyond April 9, 2021
28	Are these serviced by Sodexo currently?
29	Can we list alternative brands to what is mentioned on the grocery list?
30	Are there addresses to access laws and regulations listed in this RFP?

Answer

The Code of Federal Regulations (CFR), it appears that the DSLBD 35% (50% during the COVID state of emergency) subcontracting requirement does not apply to USDA funded projects. 2 CFR 416.1(b) states: "Procurements by States under USDA entitlement programs specified in 2 CFR 200.101(e)(4) through (6)* shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences except as provided for in 2 CFR 200.319(b)." Section i.7 will remain unchanged to read "SUBCONTRACTS -- NOT APPLICABLE."

Please see response to Question Number One. The grocery distribution is federally funded. In accordance with 2 CFR 416.1(b) states: "Procurements by States under USDA entitlement programs specified in 2 CFR 200.101(e)(4) through (6)* shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences except as provided for in 2 CFR 200.319(b)."

Pursuant to 2 CFR 416.1(b) DCPS requested a Subcontracting Waiver, March 22, 2021, but will withdraw the waiver because Federally funded programs are EXEMPT from subcontracting.

G.6, Page 24, This is part of a Boiler Plate Clause, which cannot be tailored without prior authorization. Section D, I.5, Page 36. This also is a section of a Boiler Plate clause. Subcontracting requirements no longer applicable to this RFP and the resulting contract.

B.7.6 SUBCONTRACTING: RESERVED -- This section hereby is deleted in its entirety.

No, DCPS will not consider adjustments to Offeror requirements. Based on previous contracts and contractors ability performing this requirement, it seemed necessary to request the contractor to possess more years of experience to successfully perform this contract.

Proposals will be considered and scored according to the solicitation and rubric provided within the RFP. Yes, DCPS is considering non-K-12 specific distributors. It is important to note that the USDA guidelines for K-12 operations are complex and DCPS is not equipped to train entry-level or newer distributors into this procurement. The expertise in this competency is required to ensure that DCPS realizes the maximum value of USDA reimbursements through compliant procurement while protecting the vendor from any shortcomings that result in forfeiture of revenue from DCPS due to the same result. It is important that DCPS have a dedicated K-12 representative sharing and working with FNS as a main POC. This expertise is very critical when it comes to understanding and proposing viable food substitutions, market trends, and working with the K-12 manufacturers and brokers in meeting delicate and important children nutritional needs. Therefore, a provider with K-12 experience in distribution remains advantageous to the District and the bidder.

The program is federally funded through the United States Department of Agriculture.

For Food Services Contracts, DCPS follows Federal (USDA), OSSE, DCPS laws and regulations. DCPS awards the Food Services Contracts under direct instructions and guidance from OSSE. See [14. Disputes](#), Page 42 thru Page 44 explains the procedure as contractual laws and regulations require. See L.9, Page 58, Proposal Protest

§ 2900.2 Non-Federal entity. As defined by Department of Labor: In the DOL, Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or subrecipient. (See 2 CFR 200.69).

The United States Department of Agriculture.

The United States Department of Agriculture

DCPS follows 27 DCMR, Title 2 Code of the District of Columbia, United States Department of Agriculture, since Food Services Contracts are federally funded, the funding agency (USDA), and Federal Government Acquisition Regulations (FAR). DCPS must adhere to all laws and regulations cited.

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Ms. Candace has been the Contracting Authority for many years, recognized by all levels of DC Government agencies and the City Council. The official documents are available at offices within DC Government. This is not relevant to this RFP.

DCPS has been instructed to use Contract Administrator (CA) instead of COR or COTR. Refer to Sections G.2.2 and G.9.

Section H.5, Page 29 hereby is corrected to by deleting "NOT APPLICABLE."

Currently there are two Emergency Contracts in place with 1) Gordon Food Services, and 2) Run Veggie LLC. These two emergency contracts will expire May 31, 2021.

No, DCPS will not guarantee a minimum quantity for the "Requirements Contract."

Section H.5 hereby is corrected. The "NOT APPLICABLE," hereby is be deleted.

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Section G.6.2 and sections referring to Subcontracting hereby is/are corrected to read "NOT APPLICABLE," to any subcontracting requirements.

Candace Butler

DCPS follows 27 DCMR, Title 2 Code of the District of Columbia, Standard Contract Provisions of July 2010, United States Department of Agriculture Since Food Services Contracts are federally funded, the funding agency (USDA), and Federal Government Acquisition Regulations (FAR). DCPS must adhere to all laws and regulations cited.

Subcontracting requirements no longer applicable to this RFP and the resulting contract.

District of Columbia Office of the Risk Management issues the level of insurance with focus on students' safety. The basis for these insurance requirements is students safety.

Yes, DCPS extends the proposal submission/due date to 12:00 pm EST Wednesday April 14, 2021.

No they are not.

Yes. The attachment number J.12 Grocery List hereby is deleted and replaced with the updated attachment number J.12 Grocery List.

Yes. You may use the below links to access laws and regulations listed in RFP: J.11, J.11, <https://dcps.dc.gov/page/dcps-calendars>.
J. 12, Spreadsheet List of Grocery Items –Pricing,
J.13, CERTIFICATE OF INDEPENDENT PRICE DETERMINATION,
J.14, PERMANENT CERTIFICATION REGARDING LOBBYING
J.15 , <https://www.fns.usda.gov/part-210%E2%80%94national-school-lunch-program>.
J.16, <https://www.fns.usda.gov/cn/compliance-enforcement-buy-american>,

