

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth, and Families	
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INFORMATION MEMORANDUM

To: State Public Assistance Agencies, State Information Executives, And Other Interested Parties

Subject: FEDERAL/STATE INFORMATION TECHNOLOGY POLICY

Optional checklist for states and territories to use in requesting an exemption of prior approval for Information Technology acquisition documents

Legal and Related References:

45 CFR PART 95.611(b)(1)(iii)

Purpose:

This Information Memorandum provides guidance to the states and territories (hereafter referred to as states) seeking an exemption from federal prior approval regulations related to state Information Technology products and services acquisition documents.

Background:

As part of the Department's efforts to expedite the federal approval of states' Information Technology (IT) documentation submissions, the enclosed acquisition checklist provides an optional tool for states to use to provide assurances that an acquisition of automated data processing equipment and/or services complies with all federal regulations and policies. This document is now available on the ACF website at: <http://www.acf.hhs.gov/programs/cse/>

The acquisition checklist was developed jointly by the Department of Agriculture's Food and Nutrition Service and the Department of Health and Human Services, with input from state members of the Advance Planning Document (APD) reform workgroup. A similar IM is being issued by those program offices.

Discussion:

The use of this checklist to meet the regulatory requirements of prior federal approval of state acquisition documents as specified at 45 CFR 95.613 is optional on the part of the States. States still retain the option of submitting the request for proposal, invitation for bid or other acquisition solicitation documents to

the federal government for review, analysis and prior approval.

States may submit this acquisition checklist as part of the Annual or As-Needed APD Update, or as a stand-alone document. The checklist is acquisition specific. State staff should fill out and submit a separate checklist for each anticipated acquisition.

The federal approving authority will provide written acceptance or denial of the state acquisition checklist within 60 days of submittal. The resultant contract must be submitted for prior approval unless specifically waived in writing by the Department(s).

This checklist may be used for Request for Proposals, Requests for Quote, Invitations to Bid, or similar state and local acquisition documents. This checklist is **not** to be used for sole source acquisitions, including contract amendments, which exceed the regulatory submission threshold (i.e. \$1 million). This checklist may not be used for contracts or Advance Planning Documents. States and territories must continue to submit the acquisition document(s) associated with these procurements to the Department(s) for federal prior approval.

INQUIRIES: Please send comments and suggestions to Thom Carroll at TCarroll@acf.hhs.gov at ACYF/Children's Bureau.

Joel Anthony
Director
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Administration for Children and Families

Acquisition Checklist

The Department of Agriculture, Food and Nutrition Service (FNS) and the Department of Health and Human Services (HHS) have developed the following optional checklist for states and territories to use to provide assurances that an acquisition of automated data processing equipment and/or services complies with all federal regulations and policies. The federal Department(s), in accordance with the regulations at 45 CFR 95.611, may grant an exemption from prior approval for an acquisition document based on a state's favorable responses to items on the checklist.

This checklist may be used for Requests for Proposal, Requests for Quote, Invitations to Bid, or similar state and territory acquisition documents; however it may not be submitted for contracts or Advance Planning Documents that require federal prior approval. Please include the following information:

Project name:

Acquisition name:

Acquisition and/or reference number:

Date the acquisition document will be released to vendors:

Number of Days vendors will have to respond to the proposal or invitation to bid:

Estimated Cost of acquisition (including all option years):

A brief paragraph describing the acquisition activity should be included in the cover letter submitted with this request. The submission should identify (1) the state or territorial agency(s) and stakeholders involved, (2) basic system characteristics, project scope, life span, benefits and all pertinent details, and (3) the type of contract or agreement that is expected to result from the acquisition. For each "No" response to the checklist, a full narrative explanation must be provided either directly following the checklist or on a separate sheet of paper.

The checklist should be submitted to the applicable federal program office(s).

Description

Checkbox

1. Will the acquisition be conducted in a manner that provides, to the maximum extent practicable, open and free competition?(Note 1) __Yes
__No

2. Does the acquisition, if funded in whole or part by FNS and/or HHS, meet the standards and functional requirements set forth in the federal program regulations? __Yes
__No

3. Does the acquisition comply with all applicable federal, state and territorial acquisition standards, laws, policies and procedures? __Yes
__No

4. Does the acquisition document contain a clause that provides the United States Departments of Agriculture and Health and Human Services and/or their representatives access to state or territorial agency documents, papers, or other records pertinent to the procurement in order to make audits, examinations, excerpts and transcripts? __Yes
__No

5. Does the acquisition comply with federal rules relative to state or territorial ownership rights to all software products, documentation and intellectual property created under this acquisition? __Yes
__No

6. Does the acquisition document contain a clause that grants the Federal Government a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, software, modifications, and documentation developed and/or obtained through this acquisition? __Yes
__No

7. Does the Statement of Work in the acquisition document convey expectations to be met by the successful contractor including items such as required tasks, deliverables and their schedule of delivery, technical requirements, security, privacy and confidentiality requirements, roles and responsibilities, and project reporting requirements? __Yes
__No

8. Does the acquisition document include clauses covering mandatory contract terms and conditions, order of precedence, compliance with laws, liability, period of performance, force majeure, availability of funds, notices, disputes, failure of performance, damages and termination? __Yes
__No

9. Does the acquisition document include information about the evaluation and selection process such as technical and cost scoring and weighting, and proposal ranking and selection? __Yes
__No

10. Has the evaluation and selection process been finalized relative to technical and cost scoring prior to the release of the acquisition document? Yes No
11. Does the acquisition document delineate responsibilities relative to key staff, the change order process, and documentation requirements? Yes No

Note 1: The acquisition document must be submitted to the appropriate federal Agency or Agencies if the acquisition is a sole source solicitation and the cost exceeds the thresholds established in the federal regulations.

This form must be signed by either the appropriate state or territorial official authorized to submit acquisition documentation to the federal Department(s) or the state or territorial director of purchasing.

Signature: _____ **Printed Name:** _____

Title: _____ **Date:** _____