**(Insert School Food Service logo)**

## PROCUREMENT PROCEDURES AND WRITTEN CODE OF CONDUCT FOR THE CHILD NUTRITION PROGRAMS

This procurement plan contained on the following pages \_\_\_\_\_\_\_ through \_\_\_\_\_\_\_\_ will be implemented on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from that date forward until amended. All procurements must adhere to free and open competition. Source documentation must be available to determine open competition, the reasonableness, the allowability and the allocation of costs.

Date: Click here to enter a date.



*Signature, School Board Chairperson*

Date: Click here to enter a date.



*Signature, School Food Service Official*

## PROCUREMENT PLAN

1. The (School Food Authority) plan for procuring items for use in the Child Nutrition Program is as follows: The procurement plan provides for free and open competition, transparency in transactions, comparability, and documentation of all procurement activities.
2. If the amount of the procurement is more than the Federal small purchase threshold currently valued at $250,000 (If SFA has a lower small purchase threshold, it should be entered here to replace the federal small purchase threshold) formal procurement procedures will be used as required by 2 CFR Part 200.318-326.
3. For all formal procurements, the SFA will use either procurement by sealed bids or procurement by competitive proposals.
   1. Requirements for procurement by sealed bids (Invitation For Bid):
      1. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids
      2. For local governments, including public and public charter schools, the Invitation For Bid (IFB) must be publicly advertised;
      3. The IFB, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
      4. All bids will be opened at the time and place prescribed in the IFB, and for local and tribal governments, including public and public charter schools, the bids must be opened publicly;
      5. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
      6. Any or all bids may be rejected if there is a sound documented reason.
   2. Requirements for procurement by competitive proposals (Request for Proposal):
      1. Requests for proposals (RFP) must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
      2. Proposals must be solicited from an adequate number of qualified sources;
      3. The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
      4. Contracts must be awarded to the responsive and responsible bidder whose offer is most advantageous to the Institution based on the evaluation criteria specified. Cost must be the primary evaluation factor.
   3. The following procedures will apply to both procurement by sealed bids and by competitive proposals:
      1. An announcement of the solicitation will be placed in two newspapers and the DC Register to publicize the intent of the School Food Authority to purchase needed items. The advertisement for bids/proposals or legal notice will run for a minimum of 21 business days.
         1. The announcement will contain at minimum:
            1. A general description of items to be purchased;
            2. A deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms and conditions as needed;
            3. The date of pre-bid meeting, if provided, and if attendance is a requirement for bid award;
            4. A deadline for submission of sealed bids or proposal; and
            5. The address or location where complete specifications and bid forms may be obtained.
      2. Each vendor will be given an opportunity to bid on the same specifications.
      3. The solicitation will clearly define the purchase conditions. The following list includes requirements, not exclusive, to be addressed in the procurement document:
         1. Contract period
         2. SFA is responsible for all contracts awarded (statement)
         3. Date, time, and location of bid opening (if applicable)
         4. How vendor is to be informed of bid acceptance or rejection
         5. Delivery schedule
         6. Set forth requirements (terms and conditions) which bidder must fulfill in order for bid to be evaluated
         7. Benefits to which the School Food Authority will be entitled if the contractor cannot or will not perform as required
         8. Statement assuring positive efforts will be made to involve minority and small business
         9. Statement regarding the return of purchase incentives, discounts, rebates, and credits to the School Food Authority’s non-profit Child Nutrition account
         10. Contract provisions as required in Appendix II for 2 CFR Part 200, formerly 7 CFR Part 3016.36(i)
         11. Contract provisions as required in 7 CFR Part 210.21(f) for all cost reimbursable contracts
         12. Contract provisions as required in 7 CFR Part 210.16(a)(1-10) for Food Service Management Company contracts
         13. Procuring instrument to be used are purchase orders from firm fixed prices after formal bidding
         14. Price adjustment clause (escalation/de-escalation) based on appropriate standard or cost index (Consumer price index, or other as stated in terms and conditions for pricing and price adjustments)
         15. Method of evaluation and type of contract to be awarded
         16. Method of award announcement and effective date (if intent to award is required by State or local procurement requirements)
         17. Specific bid protest procedures including contact information of person and address and the date by which a written protest must be received
         18. Provision requiring access by duly authorized representatives of the School Food Authority, State Agency, United State Department of Agriculture, or Comptroller General to any books, documents, papers and records of the contractor which are directly pertinent to all negotiated contracts
         19. Method of shipment or delivery upon contract award
         20. Provision requiring contractor to maintain all required records for three years after final payment and all other pending matters (audits) are closed for all negotiated contracts
         21. Description of process for enabling vendors to receive or pick up orders upon contract award
         22. Provision requiring the contractor to recognize mandatory standards/polices related to energy efficiency contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165)
         23. Signed statement of non-collusion
         24. Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).
         25. Provision requiring “Buy American” as outlined in 7 CFR Part 210.21(d); specific instructions for prior approval of all of non-domestic product (s).
         26. Specifications and estimated quantities of products and services prepared by SFA and provided to potential contractors desiring to submit bids/proposals for the products or services requested.
         27. If any potential vendor is in doubt as to the true meaning of specifications or purchase conditions, interpretation will be provided in writing to all potential bidders by (Title of person/position) and date specified.
         28. The (Title of person/position) will be responsible for securing all bids or proposals.
         29. The (Title of person/position) will be responsible to ensure all SFA procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.
         30. The following criteria will be used in awarding contracts as a result of bids/proposals.
             1. Price
             2. Method of Approach and Implementation;
             3. Offeror’s Experience, Expertise, & Reliability;

References and Performance Evaluation;

Inspection for production facility;

Basic Business License and Certificate of Occupancy;

U.S Department of Agriculture Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Ex.: quality, delivery, service, etc.)

* + 1. When an RFP is used, a set of award criterion in the form of a weighted evaluation sheet will be provided to each bidder in the initial bid document materials. Price alone is not the sole basis for award, but remains the primary consideration when awarding a contract. Following evaluation and negotiations, a firm fixed price or cost reimbursable contract is awarded.
       1. The contracts will be awarded to the responsible and responsive bidder whose offer is most advantageous to the SFA, based upon the evaluation criteria specified. Proposals will be evaluated using the weighted criteria stated in the RFP. Any and all bids may be rejected in accordance with law.
       2. (Title of person/position) is required to sign on the bid tabulation of competitive sealed bids or the evaluation criterion score sheet of competitive proposals signifying a review and approval of the selections.
       3. (Title of person/position) will be responsible for reviewing the procurement system to ensure compliance with applicable laws.
       4. (Title of person/position) will be responsible for maintaining documentation that the actual product specified is received.
       5. Any time an accepted item is not available, the (Title of person/position) will select the acceptable alternate. The contractor must inform (Title of person/position) (time/by when) a product is not available. In the event a non-domestic agricultural product is to be provided to the SFA, the contractor must obtain, in advance, the written approval by the SFA to utilize the product, according to the requirements set forth in contract. The (Title of person/position) must comply with the Buy American Provision.
       6. Full documentation as to the reason an accepted item was unavailable, and to the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for this documentation is (Title of person/position).
       7. The (Title of person/position) will be responsible for maintaining all procurement documentation.

1. For all Informal (Small) procurements, the following procedures will be used.
   1. Quotes from an adequate number of qualified sources will be required.
   2. Written Specifications will be prepared and provided to the vendor.
   3. Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of two vendors shall be contacted.
   4. The (Title of person/position) will be responsible for contacting potential vendors when price quotes are needed.
   5. The price quotes will receive appropriate confidentiality before award.
   6. Quotes will be awarded by (Title of person/position) to the lowest bidder.
   7. The (Title of person/position) will be responsible for documentation of records to show selection of vendor, reasons for selection, names of all vendors contacted, price quotes from each vendor, and written specifications.
   8. The (Title of Person/position) will be responsible for documentation that the actual product specified is received.
   9. Any time an accepted item is not available, the (Title of person/position) will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.
   10. Bids will be awarded to the most responsive and responsible bidder with the lowest price.
   11. The (Title of person/position) is required to sign all quote tabulations, signifying a review and approval of the selections.
2. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source.
   1. Noncompetitive proposals may be used only when one or more of the following circumstances apply:
      1. The item is available only from a single source;
      2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
      3. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
      4. After solicitation of a number of sources, competition is determined inadequate.
   2. The following procedures will be used for noncompetitive proposals:
      1. Written Specifications will be prepared and provided to the vendor.
      2. The (Title of person/position) will be responsible for the documentation of records to fully explain the decision to use the non‑competitive negotiation. The records will be available for audit and review.
      3. The (Title of person/position) will be responsible for documentation that the actual product or service specified was received.
      4. The (Title of person/position) will be responsible for reviewing the procedures to be certain all requirements for using single source or non‑competitive negotiation are met.
      5. Micro-purchases shall be used for purchases of a new food item in order to determine food acceptance by students and for samples for testing purposes. A record of non-competitive negotiation purchase shall be maintained by the (School Food Authority Official). The record of non-competitive purchases shall include, at a minimum, the following:
         1. item name
         2. dollar amount
         3. vendor, and
         4. reason for non-competitive procurement
         5. A member or representative of the School Food Service Authority and OSSE will approve, in advance, all procurements that result from non-competitive negotiations.
3. For all procurements by micro-purchase, the following procedures will be followed:
   1. The aggregate dollar amount shall not exceed the federal micro-purchase threshold, currently set at $10,000, (If SFA has a lower micro-purchase threshold, it should be entered here to replace the federal micro-purchase threshold)
   2. Micro-purchases must be distributed equitably among qualified suppliers, to the maximum extent possible
   3. Micro-purchases may be awarded without soliciting competitive quotes as long as the SFA determines and documents that the price is reasonable
4. Records Retention:
   1. The SFA shall agree to retain all books, records and other documents relative to the award of the contract for three (3) years after final payment.
   2. For formal procurements, the SFA will maintain the following documentation:
      1. Written rationale for the method of procurement;
      2. A copy of the original solicitation;
      3. Executed contract, signed by both parties
      4. The selection of contract type;
      5. The bidding and negotiation history and working papers;
      6. The basis for contractor selection;
      7. Names of vendors evaluated;
      8. Evaluation criteria used to determine responsive and responsible;
      9. Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;
      10. The basis for award cost or price;
      11. The terms and conditions of the contract;
      12. Any changes to the contract and negotiation history;
      13. Billing and payment records;
      14. A history of any contractor claims; and
      15. A history of any contractor breaches.
   3. For informal (small) purchases, the SFA will maintain the following documentation:
      1. Solicitation and written specifications;
      2. Names of vendors evaluated;
      3. Evaluation criteria used to determine responsive and responsible;
      4. Price quotes (must be documented, even if received verbally);
      5. Selected vendor; and
      6. Invoices or receipts for all goods and services rendered as part of this purchase.
   4. For micro-purchases, the SFA will maintain the following documentation:
      1. Invoices and/or receipts;
      2. Documentation that shows price is reasonable; and
      3. Documentation of all micro-purchases that clearly shows equal distribution among qualified suppliers.
5. Miscellaneous Provisions:
   1. New product evaluation procedures will include: The SFA should add items below. If no additional procedures are required, the SFA should delete this item.
      1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
      2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
      3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   2. The School Food Authority agrees that the reviewing official of each transaction will be the (Title of person/position).
   3. Payment will be made to the vendor when the contract has been met and verified and has met the SFA’s procedures for payment. (If prompt payment is made, discounts, etc. are accepted.)
   4. Specifications will be updated as need.
   5. If product is not as specified, the following procedure will take place: The SFA should add items below. If no additional procedures are required, the SFA should delete this item.
      1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
      2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
      3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
6. Emergency or “Pressing Need” Purchases
   1. If it is necessary to make a one-time emergency procurement to continue service or obtain goods, the purchase shall be made, and a log of all such purchases shall be maintained by the (School Food Authority Official). The following emergency procedures shall be followed. All emergency procurements shall be approved by the (Title of person/position). At a minimum, the following emergency procurement procedures shall be documented:
      1. item name
      2. dollar amount
      3. vendor, and
      4. reason for emergency
   2. If it is necessary, in the course of a pressing need, to make an emergency purchase by means of “piggybacking” on the bid of another district, the following conditions must exist and approved procedures must be followed and appropriately documented as follows:
      1. The SFA originating the competitive procurement must have a “piggyback provision” in the original solicitation;
      2. Documentation of the emergency requiring the piggybacking must be maintained;
      3. Approval from the purchasing SFA’s governing board will be obtained and documented;
      4. Approval from the SFA that originated the competitive procurement will be obtained and documented;
      5. Approval from the Vendor that was awarded the Contract (original solicitation) will be obtained and documented;
      6. If required, a public notice of the district’s “Intent to Waive Competitive Bidding” will be issued at least 10 days prior to the regularly scheduled governing board meeting;
      7. Approval to piggyback will be obtained and documented from the governing board during a regularly scheduled meeting following the public notice;
      8. Notification to the Vendor of final approval will be documented and issued;
      9. A contract with the Vendor will be developed including:
         1. The contractor shall agree to retain all books, records and other documents relative to the contract agreement for three (3) years after final payment, or until audited by SFA, whichever is sooner. The SFA, its authorized agents, and/or State and/or USDA auditors shall have full access to and the right to examine any of said materials during said period.
7. Additional procurement procedures required by the SFA should be added here. If no additional procedures are required, the SFA should delete this item.

## Codes of Conduct

1. The following conduct will be expected of all persons who are engaged in the awarding and administration of contracts. These written standards of conduct include:
   1. No employee, officer or agent of the (School Food Authority) shall participate in the selection or in the award or administration of a contract supported by program funds if a conflict of interest, real or apparent, would exist.
      1. Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:
         1. The employee, officer or agent;
         2. Any member of the immediate family;
         3. His or her partner;
         4. An organization which employs or is about to employ one of the above.
   2. The (School Food Authority) employees, officers or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
   3. Penalties for violation of the standards of code of conduct of the (School Food Authority ) should be:
      1. Reprimand by Board of Education;
      2. Dismissal by Board of Education;
      3. Any legal action necessary.
2. Employees Engaged in Award and Administration of Contract(s):
   1. Prohibits employees from soliciting or securing, or offering to solicit or secure, a contract for which the employee is paid or is to be paid any fee or other consideration contingent on the making of the contract between the employee and any other person;
   2. Prohibit employees from participating in the selection, award, and administration of any contract to which an entity or certain persons connected to them, have financial interest;
   3. Prohibits a technical advisory group, a school employee or official from attempting to influence a procurement professional with respect to source selection; provided, than an employee or official may attempt to prevent a procurement professional from violating Federal and Local laws or rules;
   4. Any employee or official who violates these rules shall be subject to suspension, dismissal, or other disciplinary action;
   5. Employees, officer, or agent can accept a gift value less than or equal to (insert dollar value) when financial interest is not substantial or the gift is an unsolicited item of nominal value.
   6. The developer of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.

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(1)       mail: U.S. Department of Agriculture  
           Office of the Assistant Secretary for Civil Rights  
           1400 Independence Avenue, SW  
           Washington, D.C. 20250-9410;

(2)       fax: (202) 690-7442; or

(3)       email: program.intake@usda.gov.

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