

School Nutrition Programs

PROCUREMENT PROCEDURES FOR SCHOOL FOOD AUTHORITIES

The _____ adopts this Policy to identify their procurement plan for the United
(Insert name of SFA)

States Department of Agriculture’s (USDA) school nutrition programs. School Nutrition Programs include the National School Lunch Program (NSLP), School Breakfast Program (SBP), Afterschool Snack Program (ASP), Special Milk Program (SMP), Fresh Fruit and Vegetable Program (FFVP), Seamless Summer Option (SSO) of the NSLP, Summer Food Service Program (SFSP), the At-Risk Afterschool Meals component of the Child and Adult Care Food Program (CACFP) and the Schools/Child Nutrition USDA Foods Program.

The SFA is ultimately responsible for ensuring all procurement procedures for any purchases by the SFA and/or a food service management company (FSMC) comply with all Federal regulations, including but not limited to 7 CFR 210, 220, 225, 226, 245, 250; 2 CFR 200; State procurement statutes and administrative codes and regulations; local SFA/Board of Education procurement policies; and any other applicable State and Local laws.

Procurement Procedures for School Nutrition Programs

[insert name of SFA]

The procurement procedures contained on the following pages _____ through _____
[insert page number] *[insert page number]*
will be implemented beginning _____, until amended. All procurements must
[insert date]
maximize full and open competition. Source documentation must be available to determine open competition, the reasonableness, the allowability and the allocation of costs.

The _____ intentionally seeks to prohibit conflicts of interest in
[insert name of SFA]
all procurement of goods and services.

School Business Administrator

Date

Superintendent of Schools

Date

[Insert name of SFA]

PROCUREMENT PROCEDURES

A. General Procurement

The procurement procedures will maximize full and open competition, transparency in transactions, comparability, and documentation of all procurement activities.

The _____ plan for procuring items for use in the School [insert name of SFA]'s

Nutrition Programs is as follows:

1. The School Business Administrator/Board Secretary will ensure all purchases will be in accordance with the Federal Funds Procurement Method Selection Chart – (State Agency Form # 358) – See Appendix A. Formal procurement procedures will be used as required by [2 CFR 200.318-.326](#) and any State and local procurement code and regulations. Informal procurement procedures (small purchase) will be required for purchases under the most restrictive small purchase threshold.
2. The following procedures will be used for all purchases:

Product/Services	"Estimated" Dollar Amount	Procurement Method	Evaluation	Contract Award Type	Contract Duration/Frequency

MICRO-PURCHASES **(APPLIES TO NON-PUBLIC SFAs ONLY):**

Purchases of supplies or services, within the federal micro-purchase threshold as defined by 2 CFR 200.67, will be awarded without soliciting competitive price quotations if the price is reasonable. Purchases will be distributed equitably among qualified suppliers with reasonable prices. Records will be kept for micro-purchases.

3. Formal bid procedures will be applied on the basis of (*check all that apply*):

- centralized system
- individual school
- multi-school system
- state contract
- combination of above (specify):

4. Because of the potential for purchasing more than **public or non-public informal/small purchase threshold amount, or the SFA approved threshold if less, it** will be the responsibility of _____ to document the amounts to be purchased so the _____ **[insert title of person/position]** correct method of procurement will be followed.

B. Formal Procurement

When a formal procurement method is required, the following competitive sealed bid or an Invitation for Bid (IFB) or competitive proposal in the form of a Request for Proposal (RFP) procedures will apply:

1. An announcement of an IFB or a RFP will be placed in the _____ to publicize the intent of the _____ **[insert newspaper/media, Web site, other internet source]** SFA to purchase needed items. The advertisement for bids/proposals or legal notice will be run for _____ **[insert length of time]**.

2. An advertisement is required for all purchases over the district's small purchase threshold of _____. The announcement (advertisement or legal notice) **[insert actual amount of the SFA's small purchase threshold]** will contain:

- general description of items to be purchased;
- deadline for submission of questions and the date written responses will be provided, including addenda to bid specifications, terms, and conditions as needed;
- date of pre-bid meeting, if provided, and if attendance is a requirement for bid award;
- deadline for submission of sealed bids or proposals; and
- address of location where complete specifications and bid forms may be obtained.

3. In an IFB or RFP, each vendor must be given an opportunity to bid on the same specifications.

4. The developer of written specifications or descriptions for procurements will be **prohibited** from submitting bids or proposals for such products or services.

5. The IFB or RFP must clearly define the purchase conditions. The following list includes requirements, not exclusive, to be addressed in the procurement document:

- contract period;
- SFA is responsible for all contracts awarded (statement);
- date, time, and location of IFB/RFP opening;
- how vendor is to be informed of bid acceptance or rejection;
- delivery schedule;
- requirements (terms and conditions) that bidder must fulfill in order for bid to be evaluated;
- benefits to which the SFA will be entitled if the contractor cannot or will not perform as required;
- statement assuring positive efforts will be made to involve minority and small business;
- statement regarding the return of purchase incentives, discounts, rebates, and credits to the SFA's nonprofit school food service account;
- contract provisions as required in [Appendix II to 2 CFR 200](#);
- contract provisions as required in [7 CFR 210.21\(f\)](#) for all cost reimbursable contracts;
- contract provisions as required in [7 CFR 210.16\(a\)\(1-10\)](#) and [7 CFR 250.53](#) for food service management company contracts;
- procuring instrument to be used are purchase orders from firm fixed prices after formal bidding;
- Price Adjustment Clause for renewal of multi-year contracts as defined in N.J.S.A. 18 A: 18A – 42 is tied to the requirements specified in N.J.S.A – 18A:18A – 2: Definitions. The **Index Rate** means the annual percentage increase rounded to the nearest half percent in the **IMPLICIT PRICE DEFLATOR FOR STATE & LOCAL GOVERNMENT PURCHASES OF GOODS & SERVICES** computed and published quarterly by the U.S. Department of Commerce, bureau of Economic Analysis.
- method of evaluation and type of contract to be awarded (solicitations using an IFB are awarded to the lowest responsive and responsible bidder; solicitations using a RFP are awarded to the most advantageous bidder/offeror with price as the primary factor among factors considered);
- method of award announcement and effective date (if intent to award is required by state or local procurement requirements);
- specific bid protest procedures including contact information of person and address and the date by which a written protest must be received;
- provision requiring access by duly authorized representatives of the SFA, New Jersey Department of Agriculture (NJDA), United State Department of Agriculture (USDA), or Comptroller General to any books, documents, papers and records of the contractor which are directly pertinent to all negotiated contracts;
- method of shipment or delivery upon contract award;
- 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
- description of process for enabling vendors to receive or pick up orders upon contract award;
- provision requiring the contractor to recognize mandatory standards/policies related to energy efficiency contained in the [Energy Policy and Conservation Act \(PL 94-163\)](#);
- signed statement of non-collusion;
- signed [Debarment/Suspension Certificate](#), clause in the contract or a copy of search results from the [System for Award Management \(SAM\)](#);

- provision requiring “Buy American” as outlined in [7 CFR Part 210.21\(d\)](#) and USDA Guidance Memo [SP 38-2017](#); and
- specifications and estimated quantities of products and services prepared by the SFA and provided to potential contractors desiring to submit bids/proposals for the products or services requested.

6. 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 _____ and will specify the deadline for all questions.

[insert title of person/position]

- The _____ *[insert title of person/position]* will be responsible for securing all bids or proposals.
- The _____ *[insert title of person/position]* will be responsible to ensure all SFA procurements are conducted in compliance with applicable federal, state, and local procurement regulations.
- The following criteria will be used in awarding contracts as a result of bids/proposals. Price must be the highest weighted criteria. Examples of other possible criteria include quality, service, delivery, and availability.

Price

7. In awarding a RFP, a set of award criteria 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 among all factors when awarding a contract. Following evaluation and negotiations, a firm fixed price or cost reimbursable contract is awarded.

- The contracts will be awarded to the responsible bidder/proposer whose bid or proposal is responsive to the invitation and is most advantageous to the SFA, price as the primary and other factors considered. Any and all bids or proposals may be rejected in accordance with the law.
- _____ *[Insert 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.
- _____ *[Insert title of person/position]* reviews the procurement system to ensure compliance with applicable laws.
- _____ *[Insert title of person/position]* is responsible for documentation the actual product specified is received.

- Any time an accepted item is not available, the _____ *[Insert title of person/position]* will select the acceptable alternate. The contractor must inform _____ *[Insert title of person/position]* by _____ *[insert time]* if a product is not available. In the event a nondomestic agricultural product is to be provided to the SFA, the contractor must obtain, in advance, written approval for the product. The _____ must comply with the Buy American Provision. *[Insert title of person/position]*
- Full documentation regarding the reason an accepted item was unavailable, and the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for this documentation is _____ *[insert title of person/position]*.
- The _____ *[Insert title of person/position]* responsible for maintaining all procurement documentation.

C. Small Purchase Procedures

If the amount of purchases for items is less than the district's small purchase threshold, the following small purchase procedures including quotes will be used. Quotes from a minimum number of three (3) qualified sources will be required.

1. Written specifications will be prepared and provided to all vendors.
2. Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of three vendors must be contacted.
3. The _____ *[Insert title of person/position]* will be responsible for contacting potential vendors when price quotes are needed.
4. The price quotes will receive appropriate confidentiality before award.
5. Quotes/Bids will be awarded by _____ *[Insert title of person/position]*. Quotes/Bids will be awarded on the following criteria. Quote/Bid price must be the highest weighted criteria. Examples of other possible criteria include quality, service, delivery and availability.

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6. The _____ 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.
[insert title of person/position]
 7. The _____ will be responsible for documentation that the actual product specified is received.
[insert title of person/position]
 8. Any time an accepted item is not available, the _____ will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.
[insert title of person/position]
 9. The _____ is required to sign all quote tabulations, signifying a review and approval of the selections.
[insert title of person/position]

D. Noncompetitive Proposal Procedures

If items are available **only** from a single source when the award of a contract is not feasible under small purchase, sealed bid or competitive negotiation, noncompetitive proposal procedures will be used:

1. Written specifications will be prepared and provided to the vendor.
2. The _____ will be responsible for the documentation of records to fully explain the decision to use the noncompetitive proposal. The records will be available for audit and review.
[insert title of person/position]
3. The _____ will be responsible for documentation that the actual product or service specified was received.
[insert title of person/position]
4. The _____ will be responsible for reviewing the procedures to be certain all requirements for using single source or noncompetitive proposals are met.
[insert title of person/position]
5. **APPLIES TO NON-PUBLIC SFAs ONLY:**
The noncompetitive micro-purchase method shall be used for one-time purchases of a new food item if the amount is less than the **federal micro-purchase threshold** to determine food acceptance by students and provide samples for testing purposes. A record of noncompetitive negotiation purchase shall be maintained by the _____. At a minimum, the record of noncompetitive purchases shall include:
[insert name of SFA official]
 - item name;
 - dollar amount;
 - vendor; and
 - reason for noncompetitive procurement.

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6. A member or representative of the local board of education or governing board will approve, in advance, all procurements that result from noncompetitive negotiations.

E. Miscellaneous Provisions

1. New product evaluation procedures will include (e.g., evaluation of product labels, student taste-tests):

2. The SFA agrees that the reviewing official of each transaction will be the _____.
[insert 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 (e.g., remove product from service, contact vendor for approved alternate product, remove product from bid):

F. Emergency Purchases

1. If it is necessary to make a one-time emergency procurement to continue service or obtain goods, and the public exigency or emergency will not permit a delay resulting from a competitive solicitation, the purchase must be authorized using a purchase order signed by the _____.
[insert SFA/business official]. The following emergency procedures shall be followed.

All emergency procurements shall be approved by the _____.
[insert SFA official]

At a minimum, the following emergency procurement procedures shall be documented:

- item name;
- dollar amount;
- vendor; and
- reason for emergency

G. Purchasing Goods and Services – Cooperative Agreements, Agents and Third-Party Services (Piggybacking)

1. When participating in intergovernmental and inter-agency agreements the SFA will ensure that competitive procurements are conducted in accordance with 2 CFR Part 200.318-.326 and applicable program regulations and guidance.

2. When utilizing the services of a co-op, agent or third party, the SFA will ensure that the following conditions have been met:

- All procurements were subject to full and open competition and were made in accordance with Federal/State/Local procurement requirements;
- The existing contract allows for the inclusion of additional SFAs/members that were not contemplated in the original procurement to purchase the same supplies/equipment through the original award;
- The specifications in the existing contract meets their needs and that the items being ordered are in the contract;
- The awarded contract requires all the federally required certification; e.g. Buy American, debarment, restrictions on lobbying, etc.
- The agency will confirm the addition of their purchasing power (goods or services) to the procurement in scope or services does not create a material change, resulting in the needs to re-bid the contract;
- Administrative costs (fees) for participating in the agreement are adequately defined, necessary and reasonable and the method of allocating the cost to the participating agencies must be specified.
- The Buy American provisions are included in the procurement of food and agricultural products.
- The agreement includes the basis for and method of allocating each discount, rebate or credit and how they will be returned to each participating agency when utilizing a cost-reimbursable contract.

H. 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. If there are audit findings that have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of the issues raised by the audit. Specifically, the SFA shall maintain, at a minimum, the following documents:

- written rationale for the method of procurement;
- a copy of the original solicitation;
- the selection of contract type;
- the bidding and negotiation history and working papers;
- the basis for contractor selection;
- approval from the state agency to support a lack of competition when competitive bids or offers are not obtained;
- the basis for award cost or price;
- the terms and conditions of the contract;
- any changes to the contract and negotiation history;
- billing and payment records;
- a history of any contractor claims; and
- a history of any contractor breaches.