

Template for School Nutrition Programs
Procurement Procedures and Code of Conduct

[Delete this section when customizing to be specific for your district. School Food Authorities (SFAs) may use this template to identify their procurement plan for USDA School Nutrition Programs. Each SFA is responsible for customizing these procedures and ensuring compliance with Federal, State, and Local procurement regulations. Federal purchase thresholds are used in this template up to \$10,000 micro-purchase; up to \$250,000 small purchase; and over \$250,000 formal procedures. However, if a District's purchase thresholds are more restrictive, the more restrictive thresholds must be followed and be reflected in this plan.]

A. General Procurement

1. All procurement transactions will comply with Federal, State and Local procurement regulations.
2. The procurement procedures outlined in this plan are designed to maximize full and open competition, transparency in transactions, comparability, and documentation of all procurement activities.
3. The CESD will avoid purchasing unnecessary or duplicative items.
4. The procurement of food will be compliant with the Buy American Provision as outlined in 7 CFR 210.21.
5. For purchases up to \$250,000 *[insert local amount if more restrictive]*, CESD will use informal procurement procedures as outlined below.
6. For purchases over \$250,000 *[insert local amount if more restrictive]* CESD will use formal procurement procedures as required by [2 CFR 200.318 - 200.326](#).
7. The CESD will take steps to assure that small, minority and women's businesses and labor surplus firms are used when possible.

B. Informal Procurement

1. *Micro-purchase Procedures* - When purchasing an item or items with an aggregate total of \$10,000 or less *[insert local amount if more restrictive]*, the CESD will follow micro-purchase procedures. To the extent practicable, the CESD will distribute

micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded if the price is considered reasonable as required by 2 CFR 200.67.

2. *Small Purchase Procedures* - If the amount of purchases for items is less than \$250,000 [*insert local amount if more restrictive*], the following small purchase procedures can be used:
 1. Quotes will be requested from an adequate number of qualified sources.
 2. Written specifications will be prepared and shared with potential vendors.
 3. Potential vendors will be given an opportunity to provide a price quote on the same specifications.
 4. The price quotes will be kept confidential before award.
 5. Quotes will be awarded to the most responsive and responsible vendor with price being the primary consideration.
 6. The CESD 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. If the CESD awards to a vendor that is not the lowest price quote which met the specifications, a written explanation must be documented as to why.
 7. Bids will be awarded to a responsive and responsible bidder with the lowest price.
 8. The CESD will sign all quote tabulations, signifying a review and approval of the selections. Documentation will be retained for three years.

C. Formal Procurement

When a formal procurement method is required, CESD must solicit through a Invitation for Bid (IFB) or a Request for Proposal (RFP)

1. A solicitation of an IFB or a RFP will be placed in a public news publication in order to publicize the intent to purchase needed items. The solicitation will include:
 - general description of goods/services to be purchased;
 - contact information where potential vendors can get more information/bid packet;
 - date of pre-bid meeting (if applicable) and if attendance is a requirement for bid award;
 - deadline for submission of sealed bids or proposals.
 - time and location of bid opening
2. Vendors will be given an opportunity to bid on the same specifications.
3. The developer of written specifications or descriptions for procurements is **prohibited** from submitting bids or proposals for such products or services.

4. The IFB or RFP will clearly define the purchase conditions. The following list includes requirements, not exclusive, to be addressed in the procurement document:
- Contract period;
 - For IFB only, the date, time, and location of the public 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;
 - For fixed-price contracts, a price adjustment clause (tied to a standard index, i.e., consumer price index, or other as stated in terms and conditions for pricing and price adjustments);
 - 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;
 - 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;
 - Signed [Debarment/Suspension Certificate](#);
 - "Buy American" as outlined in [7 CFR Part 210.21\(d\)](#) and [SP 24-2016](#); and
 - Specifications and estimated quantities of products and services prepared by CESD and provided to potential contractors desiring to submit bids/proposals for the products or services requested.

5. 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.

1. Price _____
2. _____
3. _____
4. _____

6. 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 CESD, price as the primary and other factors considered. Any and all bids or proposals may be rejected in accordance with the law.
- A representative of CESD 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.
- Substitutions – if an item is not available, the CESD will select the acceptable alternate. The contractor must inform the CESD if a product is not available. In the event a nondomestic agricultural product is to be provided to the CESD, the contractor must obtain, in advance, written approval for the product. The vendor must comply with the Buy American Provision.
- 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 CESD is responsible for maintaining all procurement documentation.

D. Additional SFA Responsibilities:

The CESD 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 CESD shall maintain, at a minimum, the following documents:

- a copy of the original solicitation;
- the selection of contract type (fixed/cost-reimbursable);
- pre-bid meeting attendance logs (if applicable);

- the basis for vendor selection;
- the basis for award cost or price;
- the terms and conditions of the contract;
- billing and payment records;

E. Code of Conduct

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal, State, or local award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the CESD may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the CESD may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.

The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the CESD. Based on the severity of the infraction, the penalties could include a written reprimand to their personnel file, a suspension with or without pay, or termination.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (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.

This institution is an equal opportunity provider.

The Maine Human Rights Act prohibits discrimination because of race, color, sex, sexual orientation, age, physical or mental disability, genetic information, religion, ancestry or national origin.

Complaints of discrimination must be filed at the office of the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333-0051. If you wish to file a discrimination complaint electronically, visit the Human Rights Commission website at <https://www.maine.gov/mhrc/file/instructions> and complete an intake questionnaire. Maine is an equal opportunity provider and employer.