

**School or Child Nutrition Program Sponsor's Name or Letterhead**

**CHILD NUTRITION PROGRAM PROCUREMENT PLAN**

This procurement plan contained on the following pages will be implemented on Date and from that date forward until amended. All procurements must adhere to free and open competition. Sponsors must retain all documentation for each procurement per regulations.

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Printed Authorized Name\*

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Authorized Signature \*

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Date

\*As referenced in CNP Web:

Executive Contact for National School Lunch

Authorized Representative for Child and Adult Care Food Program

Authorized Representative for Summer Foods Service Programs

*In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.*

*Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.*

*To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:*

*mail:*

*U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or*

*fax:*

*(833) 256-1665 or (202) 690-7442; or*

*email:*

*[program.intake@usda.gov](mailto:program.intake@usda.gov)*

*This institution is an equal opportunity provider.*



quotes from each vendor/contractor, and written specifications.

- The Title of Person will be responsible for documentation that the actual product specified is received.
- Any time an accepted item is not available, the Title of Person will select the acceptable alternate. Title of Person will document the reason for accepting an alternate and keep the documentation on file.
- Bids will be awarded on the following criteria: (Examples: quality, delivery, service, etc.)
  1. Price
  2.
  3.
- The Title of Person is required to sign documentation, confirming a review and the approval of the purchase of the goods, products, and/or services.
- The Title of Person is the Sponsors authorized purchaser.

**Micro purchase procedures.** This method applies to the purchase of supplies or services when the aggregate dollar amount does not exceed \$10,000. These purchases may be awarded without soliciting competitive quotes if the entity considers the price reasonable, keeping in mind that multiple purchases throughout the year should be equitably split among all qualifying vendors.

- The Title of Person will be responsible for contacting potential vendor/contractor.
- The Title of Person will be responsible for documentation of records of the purchase, name of vendor/contractor, price, and the written specifications.
- The Title of Person will be responsible for documentation that the actual product was received.
- The Title of Person is required to sign documentation, confirming a review and the approval of the purchase of the goods, products, and/or services.

Name of School or Sponsor may establish a micro-purchase threshold that is higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) up to \$50,000.

- SFA micro purchase threshold will not exceed \$10,000.
- SFA will self-certify a threshold up to \$50,000 on an annual basis and maintain documentation of self-certification using one of the methods checked below (please check with method used):
  - SFA meets the qualification as a low-risk auditee, in accordance with the criteria in 2 CFR 200.520
  - SFA meets the qualification of an annual internal institutional risk assessment to identify, mitigate, and manage financial risk.
  - SFA meets the classification of a public institution, a higher threshold consistent with State law.

**B. Formal purchase procedures.** This method applies to purchases of supplies or services when the aggregate cost amount is more than \$250,000. The formal procurement method requires the use

of an Invitation for Bid (IFB) or a Request for Proposal (RFP).

- The Title of Person is the Sponsors authorized purchaser.
- An announcement of an **Invitation for Bid (IFB) or a Request for Proposal (RFP)** will be placed in the Newspaper/media, Website, other internet source to publicize the intent of the Child Nutrition Program Sponsor to purchase needed items. The advertisement for bids/proposals or legal notice will be run for Length of Time.
- An advertisement is required for all purchases over the districts simplified acquisition threshold of actual amount of the CNP SPONSOR's simplified acquisition threshold. The announcement (advertisement or legal notice) will contain a general description of items to be purchased, the deadline for submission of sealed IFB's and RFP's and the address where complete specifications and other procurement documents may be obtained.
- In an IFB or RFP, each vendor/contractor will be given an opportunity to bid on the same specifications.
- The developer of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.
- The IFB or RFP will clearly define the purchase conditions. The following, shall be addressed in the procurement document:
  1. Contract period
  2. CNP Sponsor is responsible for all contracts awarded (statement)
  3. Date, time, and location of bid opening
  4. How vendor/contractor will be informed of bid acceptance or rejection
  5. Delivery schedule
  6. Requirements which bidder must fulfill in order for bid to be evaluated
  7. Benefits to which the Child Nutrition Program Sponsor will be entitled if the contractor cannot or will not perform as required
  8. Statement regarding the return of purchase incentives to the Child Nutrition Program Sponsor non-profit Child Nutrition account
  9. Termination provisions and the basis for any settlement for all procurement over \$10,000.00
  10. Provision requiring compliance with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in the Department of Labor regulations required for all contracts over \$10,000.00
  11. Contract and/or purchase orders may be issued for firm fixed prices after formal bidding process.
  12. Escalation/De-escalation clause based on appropriate standard or cost index
  13. Specific bid protest procedures

14. Provision requiring access by duly authorized representatives of the Child Nutrition Program Sponsor, 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
15. Method of shipment or delivery upon Contract award
16. Provision requiring contractor to maintain all required records for **three (3)** years after final payment and all other pending matters are closed for all negotiated contracts
17. Provision describing the process for vendors/contractors will use to receive or pick up orders upon Contract award
18. Provision requiring the contractor to recognize mandatory standards and polices related to energy efficiency which are contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94- 165)
19. All contracts over \$100,000.00 will require compliance with the Clean Air Act issued under Section 306, Executive Order 11738
20. Signed Certificate of Lobbying for all contracts over \$100,000
21. Signed statement of non-collusion
22. Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).
23. Provision requiring "Buy American" (7 CFR Part 210.21(d)) as outlined in Policy Memorandum SP 38-2017; specific instructions for prior approval of any and all of non-domestic product.

**Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.**

1. The Child Nutrition Program Sponsor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps must include:
  - a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's

business enterprises;

- e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - f) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
- Specifications will be prepared and provided to potential vendors/contractors desiring to submit IFB or RFP for the products or services requested. Vendors/contractors will be selected using the Sponsor's procedures such as:
    - Does the vendor's product meet the required specifications?
    - Does the vendor's delivery schedule meet the Sponsor's needs?
    - Other criteria that each Sponsor determines is of value to them.
  - If any potential vendor/contractor is in doubt as to the true meaning of specifications or purchase conditions, an interpretation will be provided by Title of Person.
  - The Title of Person will be responsible for securing all IFB or RFP.
  - The Title of Person will be responsible to ensure all CNP Sponsor procurements are conducted in compliance with applicable Federal regulations, State General Statutes or policies of the Sponsor.
  - The following criteria will be used in awarding contracts as a result of bids. (Examples: quality, delivery, service, etc.)
    - 1. Price
    - 2.
    - 3.
  - In awarding a competitive negotiation (RFP), 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.
  - The contracts will be awarded to the responsible bidder/proposer whose bid or proposal is responsive to the invitation and best meets the needs of the CNP Sponsor, price, and other factors considered. Any and all bids or proposals may be rejected in accordance with law.
  - The Title of Person 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.
  - The Title of Person will review the procurement system to check ensure compliance with

applicable laws.

- The Title of Person will be responsible for documentation that the actual product specified is received.
  - Any time an accepted item is not available, the Title of Person will select the acceptable alternate. The contractor must inform Title of Person time/by when a product is not available. In the event a non-domestic agricultural product is to be provided to the CNP SPONSOR, the contractor must obtain, in advance, the written approval of the product. The Title of Person must comply with the Buy American Provision.
  - 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.
  - The Title of Person will be responsible for maintaining all documentation of the procurement process.
- C. If items are available **only** from a single source (aka Sole Source) when the award of a contract is not feasible under simplified acquisition purchase, IFB or RFP NON-COMPETITIVE NEGOTIATION procedures will be used:
- Written Specifications will be prepared and provided to the vendor/contractor.
  - The Title of Person 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.
  - The Title of Person will be responsible for documentation that the actual product or service specified was received.
  - The Title of Person will be responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive negotiation are met.
  - Non-competitive negotiations shall be used for one-time 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 Child Nutrition Program Sponsor's Official. The record of non-competitive purchases shall include, at a minimum, the following:
    - a. Item name
    - b. Dollar amount
    - c. Vendor/contractor, and
    - d. Reason for non-competitive procurement
- D. If it is necessary to make an emergency procurement to continue service, the purchase shall be made, and a log of all such purchases shall be maintained by the Title of Person. The following emergency procedures shall be followed. All emergency procurements shall be approved by the Title of Person. At a minimum, the following emergency procurement procedures shall be documented:
- a. Item name
  - b. Dollar amount

- c. Vendor/contractor, and
  - d. Reason for emergency
- E. 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 CNP Sponsor, whichever is sooner. The CNP Sponsor, its authorized agents, State Agency, and/or USDA auditors shall have full access to and the right to examine any of said materials during said period.
- F. The CNP Sponsor shall agree to retain all books, records and other documents relative to the award of the contract agreement for three (3) years after final payment. Specifically they shall maintain, at a minimum, the following documents:
- Written rationale for the method of procurement;
  - A copy of the RFP or IFB;
  - 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.
  - Documentation of affirmative steps taken to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible
- G. The Child Nutrition Program Sponsor must maintain a written code of standards of conduct (2 CFR 200.318 (c)(1)(2) that includes procedures that governs the performance of its officers, employees, or agents who are engaged in the award and administration of contracts supported by Child Nutrition Program Funds.

The following conduct will be expected of all persons who are engaged in the awarding and administration of contracts supported by Child Nutrition Program Funds.

- No employee, officer or agent of the Name of School or Sponsor 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 be involved.
- Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:

- a. The employee, officer or agent;
- b. Any member of the immediate family;
- c. His or her partner;
- d. An organization which employs or is about to employ one of the above;
- e. A less-than-arms-length transaction. This is one party's ability to control or influence the other party to the transaction. A less-than-arms-length transaction occurs:
  - i. When a transaction is conducted between related parties, meaning that the integrity of the transaction could be compromised;
  - ii. When one party to the transaction is able to control or influence the actions of the other party.

Examples could include:

- 1. Hiring the CEO's brother as a janitor.
- 2. Purchasing goods or services from a business owned by an officer, employee, or relative of the Sponsor's entity.
- 3. Agreement for computer maintenance between a business and person who are related to the Sponsor's employees or board members.

- The Name of School or Sponsor's employees, officers or agents must not solicit or potentially accept gifts, travel packages, and other incentives from prospective vendors/contractors
- The Child Nutrition Program School or Sponsor must set standards when financial interest is not substantial or the gift is an unsolicited item of nominal value and may be acceptable.
- Penalties for violation of the code of conduct of set forth within this plan will be the following actions:

- a. (list the appropriate actions for your organization)
- b. \_\_\_\_\_
- c. \_\_\_\_\_

**Local School/Sponsor Requirements**

*(Local Requirements should be entered here; if none exist, please leave this section blank)*