

School Nutrition Programs

SAMPLE PROCUREMENT PROCEDURES FOR SCHOOL FOOD AUTHORITIES

School food authorities (SFAs) can use this form to identify their procurement plan for the U.S. 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), and Seamless Summer Option (SSO) of the NSLP.

This form is a sample and may not be all-inclusive. The SFA is ultimately responsible for ensuring that all procurement procedures comply with all federal regulations, state procurement code and regulations, and local procurement policies.

Procurement Procedures for Child Nutrition Programs

[insert name of SFA]

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

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

Chairman, Board of Education

Date

Superintendent of Schools

Date

[insert name of SFA]

PROCUREMENT PROCEDURES

A. General Procurement

1. 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:

2. If the amount of purchases is more than the **(insert applicable public or non-public informal/small threshold amount (Refer to “Federal Funds Procurement Method Selection Chart”)) or the SFA approved threshold if less**, formal procurement procedures will be used as required by [2 CFR 200.318-326](#) and any local procurement code and regulations. Informal procurement procedures (small purchase) will be required for purchases under the most restrictive small purchase threshold.
3. The following procedures will be used for all purchases:

Product/Services	Procurement Method	Evaluation	Contract Award Type	Contract Duration/Frequency

4. 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):

5. 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 correct method of procurement will be followed.

[insert title of person/position]

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) will contain:

[insert actual amount of the SFA's small purchase threshold]

- 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 will 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 will 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 (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 (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, **NJDA**, 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;
- 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 [SP 24-2016](#); and

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- 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 _____ will be responsible for securing all bids or proposals.
- The _____ 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.
- _____ 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.
- _____ reviews the procurement system to ensure compliance with applicable laws.
- _____ 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 _____ *[Insert title of person/position]* 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 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 an adequate number of qualified sources will be required.

1. Written specifications will be prepared and provided to the vendor.
2. 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.
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 will be awarded by _____ *[Insert title of person/position]*. Quotes will be awarded to the lowest and best quote based upon price, quality, service, delivery, availability, and _____ *[insert other criteria, if applicable]*.

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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. Bids will be awarded on the following criteria. Price must be the highest weighted criteria. Examples of other possible criteria include quality, service, delivery, and availability.

Price

10. 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]

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5. Noncompetitive proposals shall be used for one-time purchases of a new food item to determine food acceptance by students and provide samples for testing purposes. A record of noncompetitive negotiation purchase shall be maintained by the _____ *[insert name of SFA official]*. At a minimum, the record of noncompetitive purchases

shall include:

- item name;
- dollar amount;
- vendor; and
- reason for noncompetitive procurement.

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 or "Pressing Need" Purchases

1. If it is necessary to make a one-time emergency procurement to continue service or obtain goods, 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.
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:
- The SFA originating the competitive procurement must have a “piggyback provision” in the original solicitation;
 - Documentation of the emergency requiring the piggybacking must be maintained;
 - Approval from the purchasing SFA’s governing board will be obtained and documented;
 - Approval from the SFA that originated the competitive procurement will be obtained and documented;
 - Approval from the vendor that was awarded the contract (original solicitation) will be obtained and documented;
 - Approval to piggyback will be obtained and documented from the governing board during a regularly scheduled meeting following the public notice;
 - Notification to the vendor of final approval will be documented and issued; and
 - A contract with the vendor will be developed. 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 the 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.
3. 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.