

CHILD NUTRITION (CACFP) PROCUREMENT PLAN

Center/Sponsor Name: _____

SECTION I - PROCUREMENT PLAN GENERAL REQUIREMENTS

This plan is for procuring items for use in the Child Nutrition Program is as follows:

1. The procurement plan provides for free and open competition, transparency in transactions, comparability, and documentation of all procurement activities.
2. The following **Code of Conduct** will be expected of all persons who are engaged in the awarding and administration of contracts supported by Child Nutrition reimbursement funds. These written standards of conduct include:
 - a. No employee, officer, or agent shall purchase or establish a contract 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:
 - i. The employee, officer, or agent;
 - ii. Any member of the immediate family;
 - iii. His or her partner;
 - iv. An organization which employs or is about to employ one of the above.
 - b. 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.
 - c. The purchase of any item or service from a contractor for individual use is prohibited.
 - d. No item purchased with nonprofit child nutrition funds will be removed from the premises by personnel.
 - e. Penalties for violation of the standards of code of conduct of the Child Nutrition Program (CNP) should be:
 - i. Reprimand by Board
 - ii. Dismissal by Board
 - iii. Any legal action necessary
3. Regardless of procurement method, the following factors will be determined regarding the allowable costs:
 - a. Be necessary and reasonable for proper and efficient administration of the program(s)
 - b. Be allocable to federal awards applicable to the administration of the programs(s)
 - c. Be authorized and not prohibited under state and local laws
4. Purchasing will be conducted at the most restrictive procurement threshold:

	Federal Procurement Thresholds	Center/Sponsor Procurement Thresholds (enter)
Micro-purchasing	Less than \$10,000	
Equipment	Over \$5,000	
Small/Informal	Less than \$250,000	
Formal	Greater than \$250,000	

5. All staff conducting purchasing will be trained on the procurement procedures.

6. All purchasing records will be maintained no less than the current year plus 3 additional years.
7. **Geographical Preference**

The use of statutorily or administratively imposed in-state or local geographic preferences for procurements under USDA entitlement programs is prohibited, except for unprocessed locally grown or locally raised agricultural products. The Food, Conservation, and Energy Act of 2008 (Public Law 110-246, Section 4302), amended Section 9(j) of the National School Lunch Act (NSLA) to allow institutions receiving funds through CNP to apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products.

When geographic preference is used, an SFA must still get quotes from several farmers when procuring unprocessed locally grown or locally raised agricultural products so that competitors have an opportunity to compete for the bid.
8. The sponsor will maintain a **CHART OF PROCEDURES** indicating how all items are procured and how often they are procured.
9. The Sponsor will take all necessary affirmative steps to assure that **minority firms, women's business enterprises, and labor surplus area firms** are used when possible. Affirmative steps shall 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 of the Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce.
 - f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

Certifications

1. **Nonkickback Affidavit** - Please note that Oklahoma statute 62 O.S. §310.9 requires a signed and notarized nonkickback affidavit on every purchase order of \$25,000 or more. The affidavit is to be signed by the person or persons authorized to accept payment on behalf of the architect, contractor, engineer, or supplier.
2. **Lobbying Certification** (Reference 200.326[1])
 - a. Lobbying certification must be obtained for procurement contracts of more than \$100,000. Any vendor whose contract award is for more than \$100,000 must complete a Certification Regarding Lobbying form. The SFA must keep this signed certification statement on file with a copy of the vendor's contract.
 - b. Any Sponsor or its vendors who participate in lobbying activities must complete a Disclosure of

Lobbying Activities. SFAs must submit this completed form to the State Agency. A vendor would submit its completed form to the Sponsor.

3. **Debarment or Suspension.** An SFA is prohibited from contracting with an individual or company that has been debarred or suspended in accordance with 2 CFR §180, as adopted and modified by USDA regulations at 2 CFR §417. This prohibition does not extend to contracts in existence at the time of the debarment or suspension or to most contracts under \$25,000. Rather, it applies to new contracts and extensions or renewals of existing contracts of \$25,000 or more and to contracts for audit services, regardless of amount. **(FORMAL CONTRACTS)**

4. **Contract Work Hours and Safety Standards Act** (40 U.S.C. 3701-3708). Where applicable, *all contracts* awarded by the nonfederal entity in excess of \$2,500 that involve the employment of mechanics or laborers must include a provision for compliance with 70 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence.

5. **Equal Opportunity and Discrimination.** The vendor certifies it is an Equal Opportunity Employer, a provider of services and/or assistance, and is in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Orders 11246 and 11375. The vendor assures compliance with the Americans With Disabilities Act of 1990 (Public Law 101-336), all amendments to, and all requirements imposed by the regulations issued pursuant. **(FORMAL CONTRACTS OF \$10,000 OR MORE)**

6. Contracts in excess of \$150,000 shall contain provisions that require compliance with all applicable standards, orders, or requirements issued under Section 306 of the **Clean Air Act** (42 U.S.C. 1857[h]), Section 508 of the **Clean Water Act** (33 U.S.C. 1368), Executive Order 11738, and **Environmental Protection Agency (EPA) Regulation** (40 CFR §15), which prohibit the use of nonexempt federal contracts, grants, or loans of facilities included on the EPA list of violating facilities. The provision shall require reporting of violations to the grantor agency and to the EPA Assistant Administrator for Enforcement (EN-329). 23. The contract must recognize mandatory standards and policies relating to energy efficiency that are contained in the State Agency conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

SECTION II – PURCHASING EQUIPMENT

Name and Title of those responsible for Purchasing Equipment: *(list the names and titles of all those who are responsible for purchasing equipment at the Center/Sponsor.)

If the amount of purchases for equipment is greater than \$5,000, the following procedure will be used.

1. Written specifications will be prepared and provided to vendors.
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 price quotes will receive appropriate confidentiality before award.
4. If using USDA funding for the purchase, the Center/Sponsor must seek prior approval from Oklahoma Child Nutrition Programs unless the equipment is placed on the Equipment Pre-Approval list located in the Resource Library.
5. Quotes will be awarded by the person(s) listed above in Section II. Quotes awarded will be to the lowest and best quote based upon quality, service availability, price, and/or _____.
6. The person(s) listed above in Section II 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**.
7. The person(s) listed above in Section II will be responsible for documentation that the actual product specified is received.

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000. See also §200.12 Capital assets, 200.20 Computing devices, 200.48 General purpose equipment, 200.58 Information technology systems, 200.89 Special purpose equipment, and 200.94 Supplies.

SECTION III – MICROPURCHASING

If the amount of purchases for items is less than \$10,000 *or less than the center/sponsors micropurchasing threshold*, the following procedure will be used.

Select one:

- Purchases below \$10,000
- Purchases below \$ _____ *(List Center/Sponsor threshold if it is below \$10,000, must use most restrictive. If the district wants a higher threshold than \$10,000, State Agency approval is required)*

1. All purchases using micro-purchase will be distributed equitably among multiple (3 or more) qualified suppliers. ***The Institution cannot use only one source when using micro-purchase.***
2. Purchases will not be separated into 2 or more purchases to meet or be below the \$10,000 threshold.
3. The price quotes will not be required. Competition is not required.
 - a. Considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly (2 CFR 200.320a)(1)(ii)).
4. When practicable, micro-purchases will be distributed equitably among qualified suppliers.
5. _____ will be responsible for documentation of purchase.
 (List person(s) name)

Note: Federal threshold of \$2,000 is applicable in the case of acquisitions for construction subject to the Davis-Bacon Act

SECTION IV – SMALL PROCUREMENT

Name and Title of those responsible for Small Purchase Procedures: *(list the names and titles of all those who are responsible for Small Purchase at Center/Sponsor.)

If the amount of purchases for items less than \$250,000 *or the Center/Sponsor's small purchase threshold*, Small Purchase Procedures must be followed. Quotes documented from an adequate number of qualified sources will be required.

Select one:

- Purchases below \$250,000
- Purchases below _____ *(List Center/Sponsor threshold if it is below \$250,000, must use most restrictive)*

Small Purchase procedures will be applied on ***the basis of a:***

- _____ Center/Sponsor-wide
- _____ Each Individual Site
- _____ Piggybacking or Co-op
- _____ Combination of above (specify): _____

1. Written specifications will be prepared and given to a minimum of two vendors.
2. The person(s) stated above in Section IV will be responsible for contacting potential vendors when price quotes are needed.

3. Quotes will be awarded by person(s) stated above in Section IV. Quotes awarded will be to the lowest and best quote based upon quality, service availability, price, etc.
4. The person(s) stated above in Section IV 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*.
5. The person(s) stated above in Section IV will be responsible for documentation that the actual product specified is received.
6. Any time an accepted item is not available, the person stated in Section IV will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item. Substituted items will not be made at the vendor's discretion.

SECTION V – FORMAL PROCUREMENT

Name and Title of those responsible for Formal Procurement Procedures: *(list the names and titles of all those who are responsible for Formal Procurement at the Center/Sponsor.)

Select one or more as applicable:

- Purchases over \$250,000
- Purchases over \$_____ (*List Center/Sponsor threshold if it is above \$250,000, must use most restrictive*)
- N/A, no purchases over \$250,000

Formal bid procedures will be applied on *the basis of a:*

- _____ Center/Sponsor-wide
- _____ Each Individual Site
- _____ Piggybacking or Co-Op
- _____ Combination of above (specify): _____

Note: Use the Formal Procurement Checklist in the Resource Library to ensure all requirements were met.

1. If the amount of purchases is above the center/sponsors's threshold formal procurement procedures will be used as required by 2 CFR Part 200.318-326.
 - a. 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: ***(It is highly suggested by USDA to allow 45 days for IFB & 60 days for RFP from the time the information is given to vendors until the time of bid opening. It should not be any less than 30 days)***

- b. An announcement of an **Invitation for Bid (IFB) or a Request for Proposal (RFP)** will be placed in the _____ (Newspaper/media, IPS Website, other internet source) to publicize the intent to purchase needed items. The advertisement for bids/proposals or legal notice will be run for *a minimum of two weeks*.
- c. An advertisement is required for all formal procurement (IFB/RFP)
- A general description of items to be purchased.
 - The deadline for submission of questions and the date written responses will be provided including an addenda to bid specifications, terms and conditions as needed.
 - A date of pre-bid meeting, if applicable, and if attendance is a requirement for bid award.
 - A deadline for submission of sealed bids or proposals, and address of location where complete specifications and bid forms may be obtained.
- d. The developer of written specifications or descriptions for procurements will be ***prohibited*** from submitting bids or proposals for such products or services.
- e. 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.
 - Sponsor is responsible for all contracts awarded (statement).
 - Date, time, and location of bid opening.
 - How a vendor will be informed of bid acceptance or rejection.
 - The terms and conditions which bidder must fulfill.
 - Statement assuring efforts will be made to involve minority and small business.
 - Statement regarding Cause for Termination.
 - Forms and statements identified in the ***Formal Procurement Checklist on page 10 of this Procurement Plan***.
 - Price Adjustment clause (escalation/de-escalation) based on appropriate standard or cost (Consumer Price Index [CPI] or other as stated in terms & conditions for pricing and price adjustments)
 - Statement regarding the return of purchase incentives, discounts, rebates, and credits to the non-profit Child Nutrition account, if applicable in a cost reimbursable contract.
- f. Specifications and estimated quantities of products and services prepared by Sponsor and provided to potential contractors desiring to submit bids/proposals for the products or services requested.
- g. If any potential vendor ask questions regarding the specifications or purchase conditions, interpretation will be provided in writing to all potential bidders by the person(s) stated above in Section V and date specified.
- h. The person(s) stated above in Section V will be responsible for securing all bids or proposals.
- i. The person(s) stated in Section V will be responsible to ensure all Center/Sponsor procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.

Request for Proposals

In awarding a competitive negotiation (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 when awarding a contract.

Evaluation Criteria the district can use to award an RFP.

(Price must be given the highest points and award must equal 100 points. If not interested, the center/sponsor can leave line of award blank.)

<u>Weight</u>	<u>Criteria</u>
_____ (points)	Price
_____ (points)	Service Capability Plan
_____ (points)	Quality
_____ (points)	Experience, References
_____ (points)	Business Practices, Financial Condition/Stability
_____ (points)	Accounting and Reporting System
_____ (points)	_____
_____ (points)	_____
_____ (points)	_____
100	Total Points

SECTION VI - NON-COMPETITIVE NEGOTIATION

Name and Title of those responsible for Non-Competitive Negotiations: *(list the names and titles of all those who are responsible for non-competitive Negotiations at the Center/Sponsor.)*

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*, **NON-COMPETITIVE NEGOTIATION** procedures will be used:

1. Written Specifications will be prepared and provided to the vendor.
2. The person(s) stated above in Section VI 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 person(s) stated above in Section VI will be responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive negotiation are met.
4. 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 (Sponsor Official). The record of non-competitive purchases shall include, at a minimum, the following:
 - item name
 - dollar amount
 - vendor
 - reason for non-competitive procurement

**** Due to the rural location of the district, it is feasible the center/sponsor will only receive one responsible and responsive response.**

SECTION VII – EMERGENCY PURCHASING

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 district. The following emergency procedures shall be followed. All emergency procurements shall be approved by the (Name and Title of person). At a minimum, the following emergency procurement procedures shall be documented:
 - item name
 - dollar amount
 - vendor
 - reason for emergency

2. If the emergency purchasing need requires a contract, all books, records and other documents relative to the award of the contract must be retained for three (3) years after final payment. Specifically the Center/Sponsor shall maintain, at a minimum, the following documents:
 - Written rationale for award cost or price;
 - A copy of the original solicitation;
 - 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 terms and conditions of the contract;
 - Any changes to the contract and negotiation history;
 - Billing and payment records;
 - A history of any contractor claims;
 - A history of any contractor breaches

CHART OF PROCEDURES

The _____ center will purchase the following products or group of products and services as per the stated purchase period using the identified procurement method. *Price quote time frame* period is defined as the time frame for which bids or quotes are obtained and awarded.

PRODUCT	PRICE QUOTE TIME FRAME	PROCUREMENT METHOD USED
Milk	_____	_____
Bread	_____	_____
Fruits (canned/frozen)	_____	_____
Vegetables (canned/frozen)	_____	_____
Fruit (Fresh)	_____	_____
Vegetables (Fresh)	_____	_____
Meats	_____	_____
Processed Food Items (CN labeled)	_____	_____
Plates/Utensils	_____	_____
Chemicals - Cleaning Products	_____	_____
Non-Food related supplies	_____	_____
Small equipment	_____	_____
Large equipment	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

FORMAL PROCUREMENT CHECKLIST
**Terms and information regarding Formal Procurement
are listed on pages 3-5 and 6-9 of the Procurement Plan**

FORMAL PROCUREMENT REQUIREMENTS

___ **Newspaper Advertisement** (all formal bids) newspaper advertised: _____

___ **Solicitation sent to a minimum of 2 vendors** Vendor 1: _____

Vendor 2: _____ Vendor 3: _____

___ **Evaluation criteria for RFP.** An RFP is awarded based on overall scoring. The evaluation scoring should be given with the solicitation. **PRICE** must be given the most points. Other items scored on can be – Experience/references, Diversity in products and/or services, Quality of products, Cost & Performance Bonds, Personnel Management, Business Practices, Accounting and Reporting systems, and Service Capability plan are examples of how an RFP can be evaluated. **(IFB/Sealed Bids are awarded lowest price only. No other factors can determine the award)**

FORMS & CLAUSES

___ **USDA Equal Opportunity information** (contracts \$10,000 or more)

___ **Termination for Cause information** (contracts \$10,000 or more)

___ **Clean Water Act provision** (contracts \$150,000 or more)

___ **Contract work Hours and Safety Standards Act** (contracts \$2,500 or more)

___ **Nonkickback Affidavit** (Purchase orders over \$25,000)

___ **Davis-Bacon information** (Construction contracts \$2,000 or more)

___ **Debarment & Suspension form** (all contracts)

___ **Byrd Anti-Lobbying form** (contracts \$100,000 or more)