

Henderson County School's Child Nutrition Department Procurement Plan



This procurement plan provides a written description of the procurement procedures that are used when procuring goods and services for the federal Child Nutrition Program. SFAs are required to have and use written procurement procedures that comply with the federal regulations, laws, and policies. However, SFAs must also follow any applicable State and local procurement requirements when they are stricter than but not in contradiction to what is federally required.

While not required by SCN for this procurement plan to have an official approval by the schools governing body or administration, it is important that they are knowledgeable of the procedures that are reflected in this document and understand that they must be used when procuring for the Child Nutrition Program. These procedures should be reviewed at least once annually and updated at the frequency needed to remain current with what is required for the SFA to follow.

This procurement plan is implemented for SY 25-26 Beginning Jan. 2026

Superintendent of Schools

Date

Child Nutrition Program Director

Date

School Finance Officer

Date

Section A: General Procurement Standards

Documented Procurement Procedures 2 CFR 200.318(a):

The Child Nutrition Director is responsible for:

- Ensuring that there are written policies procedures to implement the procurement standards identified in 2 CFR 200.317 through 200.327, the additional standards incorporated through the implementation of 2 CFR 200.317 through 200.327, the applicable State and local policies, the program regulations, FNS policy memos, and other guidance issued by SCN when procuring for the Child Nutrition Program.
- Ensuring that the written policies and procedures are incorporated into this procurement plan.
- Reviewing and revising the procurement plan and all written policies and procedures at least annually or more frequently when needed to ensure that they are current and accurate.

Oversight of contractors 2 CFR 200.318(b):

Responsibilities:

Child Nutrition Director shall:

1. Ensure Contract Compliance:
 - Monitor contractor performance to confirm that all goods and services are delivered as specified in the solicitation and contract.
 - Verify that the quantity and quality of goods/services match the contract requirements.
2. Monitor Delivery and Conditions:
 - Confirm that goods and services are delivered at the agreed-upon time, location, and under the specified conditions.
3. Enforce Substitution Policy:
 - Ensure that any substitutions follow the SFA's approved substitution policy, including prior approval and documentation.
4. Verify Pricing:
 - Confirm that the amount charged matches the contracted price.
 - Review invoices and receipts for accuracy before payment.
5. Address Discrepancies:
 - Contact vendors promptly when disparities or non-compliance are identified.
 - Document all communications and corrective actions taken.
6. Vendor Accountability:
 - Maintain records of vendor performance.
 - Deem vendors **not responsible** and ineligible for future awards when poor performance is documented and justified.
7. Is an Economic Adjustment Clause is utilized:
 - Ensure any changes in contract pricing follow economic adjustment factors such as Market Indices such as CPI, PPI, PCE, etc.

Compliance responsibility for contractors 2 CFR 200.501(h):

Child Nutrition Director shall:

1. Define Contractor Responsibilities:
 - o Ensure that all solicitations and resulting contracts clearly define the contractor's responsibilities for meeting applicable program requirements.
 - o Include specific language in contracts that outlines:
 - Program-specific compliance obligations
 - Performance expectations
 - Reporting requirements
 - Record retention and access clauses
2. Provide Oversight and Monitoring:
 - o Review contractor records and documentation to verify compliance with:
 - Contract terms
 - Federal and program-specific requirements
 - Delivery and performance standards
 - o Conduct periodic reviews or audits of contractor performance and documentation.
3. Document Compliance Activities:
 - o Maintain records of:
 - Contract language specifying compliance responsibilities
 - Monitoring activities and findings
 - Corrective actions taken (if applicable)
 - Communications with contractors regarding compliance
4. Audit Readiness:
 - o Ensure that procurement transactions involving contractors responsible for program compliance are included in the scope of any required audits.
 - o Provide auditors with access to relevant records and documentation.

Conflicts of interest 2 CFR 200.318 (c):

The Child Nutrition Director is responsible for:

- Ensuring that a code of conduct that addresses conflicts of interest and governs the actions of employees, engaged in procurement is implemented.
- Ensuring that the code of conduct is applicable to employees, officers, agents, and board members.
- Ensuring that the policy prohibits persons with real or apparent conflicts of interest to participate in the selection, award, or administration of a contract.
- Ensuring that the policy prohibits employees, agents, officers, and board members from soliciting or accepting gratuities, favors, or anything of monetary value from contractors.
- Ensuring that if a nominal value is established for when gifts may be accepted, that it is identified in the policy.

- Ensuring that the policy identifies the disciplinary measures that will be taken when the policy is violated.

Reference: District Policy 07.13 <https://policy.ksba.org/Chapter.aspx?distid=50> under Support Services (School Nutrition Procurement) for a detailed description of Conflict of Interest as well as Disciplinary Action for violating the policy. Also, District Policy 04.32 <https://policy.ksba.org/Chapter.aspx?distid=50> under Fiscal Management (Model procurement Code Purchasing) defines Conflict of Interest as well as Disciplinary Action for Violating the policy.

Avoidance of unnecessary or duplicative items 2 CFR 200.318(d):

The Child Nutrition Director is responsible for:

- Ensuring that planning procedures avoid the procurement of unnecessary or duplicative items.
- Assessing when it may be appropriate to break out procurements to obtain a more economical purchase.
- Conducting an analysis when appropriate of lease vs. buy alternatives.
- Conducting analysis to determine the most economical approach.

Procurement Arrangements using strategic sourcing 2 CFR 200.318(e):

The Child Nutrition Director or Designee is responsible for:

- Obtaining all documentation detailing the procurement of contracts available through intergovernmental and inter-entity agreements.
- Reviewing the procurement documentation to ensure that they were properly procured.
- Ensuring that a piggyback clause is included and identifies objective and measurable limitations before a material change occurs when applicable.
- Determining if the procurement source may only be used through the use of micro-purchase or simplified acquisition procurement procedures.

The Child Nutrition Director shall:

1. Obtain Documentation:
 - Collect all procurement documentation related to contracts accessed through:
 - State or local intergovernmental agreements
 - Inter-entity agreements
 - Cooperative purchasing programs
 - Ensure documentation includes:
 - Original solicitation
 - Award documentation
 - Contract terms and conditions

2. Review Procurement Documentation:
 - o Verify that the original procurement was conducted in accordance with applicable federal, state, and local procurement standards.
 - o Confirm that the procurement meets the competition requirements outlined in 2 CFR 200.318.
3. Ensure Piggyback Clause Compliance:
 - o Confirm that contracts include a valid piggyback clause, when applicable.
 - o Ensure the clause clearly defines:
 - Conditions under which the contract may be used by other entities
 - Objective and measurable limitations to prevent material changes
4. Determine Appropriate Procurement Method:
 - o Assess whether the procurement source may be used under:
 - Micro-purchase procedures
 - Simplified acquisition procedures
 - Or formal competitive sealed bidding
 - o Document the justification for the selected procurement method.

Implementation Practices:

- Strategic Sourcing Evaluation Checklist:
Use a checklist to evaluate:
 - o Contract eligibility
 - o Compliance with procurement standards
 - o Presence of piggyback clauses
 - o Cost-effectiveness of using the agreement
- Documentation and Recordkeeping:
Maintain a file for each strategic sourcing procurement that includes:
 - o Contract and solicitation documents
 - o Justification for use
 - o Compliance verification
 - o Any correspondence with the cooperative or vendor
- Annual Review:
Review all strategic sourcing agreements annually to ensure:
 - o Continued compliance
 - o Relevance to current program needs
 - o Cost-effectiveness
- Training:
Provide training to procurement staff on:
 - o Identifying and evaluating cooperative agreements
 - o Understanding piggyback clauses
 - o Proper documentation and compliance procedures

Use of excess and surplus Federal property 2 CFR 200.318(f):

Child Nutrition Director is responsible for:

- Evaluating if the use of excess or surplus Federal property would be appropriate and feasible in lieu of purchasing new equipment to reduce costs.

The Child Nutrition Director shall:

1. Evaluate Feasibility:
 - o Assess whether excess or surplus federal property is available and suitable for meeting the SFA's equipment or property needs.
 - o Consider factors such as:
 - Condition and functionality of the property
 - Compatibility with program operations
 - Cost of refurbishment or transportation (if applicable)
2. Conduct Cost Comparison:
 - o Compare the total cost of acquiring and using excess/surplus property with the cost of purchasing new equipment.
 - o Document the analysis and justification for the selected option.
3. Coordinate with Federal or State Agencies:
 - o Contact appropriate federal or state surplus property programs (e.g., General Services Administration [GSA] or Kentucky Division of Surplus Property) to identify available items.
 - o Maintain communication records and documentation of inquiries and acquisitions.
4. Document and Maintain Records:
 - o Keep records of:
 - Property descriptions
 - Cost comparisons
 - Justification for use
 - Acquisition and transfer documentation

Implementation Practices:

- Surplus Property Checklist:
Use a checklist to evaluate:
 - o Availability of needed items
 - o Suitability for program use
 - o Cost-effectiveness
- Annual Review:
Review equipment needs annually and assess whether any can be met through the use of excess or surplus property.
- Training:
Train procurement staff on:
 - o How to search for and request surplus property
 - o How to evaluate feasibility and cost savings

Use of value engineering clauses 2 CFR 200318(g):

Construction projects are not funded with child nutrition funds.

Responsible contractors 2 CFR 200.318(h):

Child Nutrition Director is responsible for:

- Ensuring that contracts are only awarded to contractors that possess the ability to perform successfully under the terms and conditions of a proposed procurement.
 - Ensuring that the reasons for vendors deemed non-responsible are properly documented and justifiable.
1. Evaluate Contractor Responsibility:
 - o Ensure that all contractors considered for award are evaluated for:
 - Integrity and ethical business practices
 - Compliance with public policy, including labor laws and civil rights requirements
 - Proper classification of employees under the Fair Labor Standards Act
 - Past performance record on similar contracts
 - Financial stability and technical capacity to fulfill the contract
 2. Document Responsibility Determinations:
 - o Maintain written documentation supporting the determination that a contractor is responsible.
 - o Include references, financial statements, performance history, and any other relevant documentation.
 3. Disqualify Non-Responsible Vendors:
 - o If a vendor is determined to be non-responsible, document the reasons clearly and objectively.
 - o Ensure that the disqualification is based on justifiable criteria and is not arbitrary or discriminatory.
 4. Maintain Records for Audit and Review:
 - o Retain all documentation related to contractor evaluations, including:
 - Responsibility checklists
 - Correspondence
 - Supporting evidence for determinations
 - Justifications for disqualification

Implementation Practices:

- Contractor Responsibility Checklist:
Use a standardized checklist to evaluate:
 - o Business licenses and certifications
 - o References and past performance

- Financial and technical resources
 - Legal compliance and labor practices
- Vendor Review Process:
Establish a process for:
 - Reviewing vendor qualifications before contract award
 - Consulting with legal or procurement advisors when needed
 - Notifying vendors of non-responsibility determinations and offering an opportunity to respond (if applicable)
- Annual Review:
Review and update contractor evaluation procedures annually to ensure alignment with current regulations and best practices.
- Training:
Train procurement staff on:
 - How to assess contractor responsibility
 - What documentation is required
 - How to handle vendor disqualifications appropriately

Suspension and debarment 2 CFR 200.214:

Child Nutrition Director is responsible for:

- Ensuring that contracts are not entered into entities that are suspended or debarred.

The Child Nutrition Director shall:

1. Verify Contractor Eligibility:
 - Prior to awarding any contract or agreement funded by federal Child Nutrition Program funds, verify that the vendor or contractor is not suspended or debarred.
 - Use the System for Award Management (SAM) at <https://sam.gov> to check the status of all potential contractors.
2. Document Verification:
 - Print or save a screenshot of the SAM.gov search results showing the contractor's status.
 - Include the verification in the procurement file for audit and monitoring purposes.
3. Include Certification Language in Solicitations:
 - Ensure that all solicitations and contracts include a certification statement from the vendor affirming that they are not suspended or debarred from federal awards.
4. Reject Ineligible Vendors:
 - Do not proceed with contract awards to any vendor found to be suspended, debarred, or otherwise excluded.
 - Document the reason for disqualification and retain it in the procurement file.

Implementation Practices:

- SAM.gov Verification Checklist:
Use a checklist to ensure:
 - Vendor name and DUNS/UEI number are verified
 - Search results are documented
 - Certification language is included in the contract
- Annual Staff Training:
Train procurement staff annually on:
 - How to use SAM.gov
 - How to document verification
 - How to handle findings of ineligibility
- Recordkeeping:
Maintain all verification records for the duration required under 2 CFR 200.334, including:
 - SAM.gov search results
 - Signed vendor certifications
 - Correspondence related to vendor eligibility

Procurement Records 2 CFR 200.318(i):

Child Nutrition Director is responsible for:

- Maintaining sufficient records to detail the history of each procurement transaction.
- Ensuring records identify the rationale for the procurement method, contract type selection, contractor selection or rejection, and the basis for contract price.
- Obtaining and reviewing the documentation for any contracts or purchase agreements that are sourced through group purchasing efforts to ensure that there are sufficient records to meet this standard.

The Child Nutrition Director shall:

1. Maintaining Procurement Records
 - Ensure that records are sufficient to detail the complete history of each procurement transaction.
 - Records must include:
 - Rationale for the procurement method (e.g., micro-purchase, small purchase, sealed bids, competitive proposals).
 - Contract type selection (e.g., fixed-price, cost-reimbursement).
 - Contractor selection or rejection (including documentation of evaluation criteria and scoring).
 - Basis for the contract price (e.g., price analysis, cost analysis, comparison to market rates).
2. Documentation Review
 - Obtain and review documentation for any contracts or purchase agreements sourced through group purchasing organizations (GPOs) or intergovernmental agreements.

- o Ensure that such documentation meets the federal standard for procurement history and rationale.
- 3. Record Retention
 - o Retain procurement records in accordance with applicable federal, state, and local retention schedules.
 - o Ensure records are accessible for audit and monitoring purposes.
- 4. Oversight and Compliance
 - o Periodically review procurement files to verify completeness and compliance.
 - o Provide training and guidance to staff involved in procurement to ensure adherence to documentation standards.

Procedure Steps

1. Initiate Procurement
 - o Identify need and determine appropriate procurement method.
 - o Document rationale for method selection.
2. Solicit and Evaluate Offers
 - o Issue solicitations and receive bids/proposals.
 - o Evaluate offers based on documented criteria.
 - o Record contractor selection or rejection decisions.
3. Award Contract
 - o Select contract type and document justification.
 - o Establish contract price and document basis (e.g., quotes, cost breakdowns).
4. File Documentation
 - o Compile all procurement records into a centralized file or system.
 - o Include all supporting documents (e.g., solicitation, bids, evaluation sheets, contract, price analysis).
5. Review Group Purchases
 - o For purchases made through GPOs or shared services, obtain full documentation from the sourcing entity.
 - o Verify that records meet federal standards.

Settlement of contractual and administrative issues 2 CFR 200.318(k):

Child Nutrition Director is responsible for:

- Ensuring that a process implemented to address contractual and administrative issues arising out of procurement transactions.
- Implementing and overseeing a process to address contractual and administrative issues.
- Ensuring that all disputes, claims, protests, and evaluations are handled in accordance with applicable laws and regulations.
- Reporting any violations of law to the appropriate Federal, State, or local authorities.

Procedure Steps

1. Issue Identification
 - o Monitor procurement transactions for potential issues such as:
 - Source evaluation concerns
 - Bid protests
 - Contract disputes
 - Claims from vendors or contractors
2. Documentation
 - o Maintain detailed records of all issues, including:
 - Nature of the issue
 - Parties involved
 - Timeline of events
 - Actions taken to resolve the issue
3. Resolution Process
 - o Attempt resolution through internal procedures first (e.g., negotiation, mediation).
 - o If unresolved, escalate to legal counsel or appropriate administrative authority.
 - o Ensure all resolutions are documented and retained in the procurement file.
4. Reporting Violations
 - o If any issue involves a violation of law (e.g., fraud, collusion, conflict of interest), report it promptly to the proper jurisdictional authority:
 - Federal agency
 - State procurement office
 - Local law enforcement or oversight body
5. Federal Oversight
 - o Understand that the federal agency will not intervene unless the issue is primarily a federal concern.
 - o Maintain autonomy and responsibility for resolving issues under the contract.
6. Training and Awareness
 - o Provide training to procurement staff on identifying and managing contractual and administrative issues.
 - o Ensure staff are familiar with reporting protocols and documentation standards.

Examples of labor and employment practices 2 CFR 200.318(l):

The Child Nutrition Director is responsible for:

- Ensuring that labor and employment practices used in procurement are consistent with federal standards.
- Implementing hiring preferences and agreements that support disadvantaged communities and individuals with barriers to employment.
- Verifying that all practices comply with applicable laws and program objectives.

Permitted Practices

The following labor and employment practices may be used, provided they are consistent with the U.S.

Constitution, federal statutes, and program requirements:

1. Project Labor Agreements (PLAs)
 - o Use PLAs or similar pre-hire collective bargaining agreements to promote labor stability and efficiency.
2. Hiring Preferences for Disadvantaged Communities
 - o Require contractors to prioritize hiring individuals from:
 - High-poverty areas
 - Disadvantaged communities (as defined by the Justice40 Initiative)
 - High-unemployment census tracts within the county of the project
 - o Ensure preferences do not prohibit interstate hiring and align with local policies.
3. Hiring Preferences for Individuals with Barriers to Employment
 - o Include goals for hiring individuals defined under the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(24)), such as:
 - Women
 - People from underserved communities (per Executive Order 14091)
4. Service Continuity and Community Benefit Agreements
 - o Use agreements that:
 - Ensure uninterrupted delivery of services
 - Promote community benefits (e.g., local economic development, training opportunities)
5. Rights of First Refusal
 - o Offer employees of a predecessor contractor the right of first refusal under a new contract to maintain workforce continuity.

Implementation Steps

1. Policy Review
 - o Review internal policies to ensure alignment with federal labor and employment standards.
2. Contract Language
 - o Include appropriate clauses in solicitations and contracts to reflect permitted labor practices.
3. Contractor Guidance
 - o Provide contractors with clear expectations regarding hiring preferences and labor agreements.
4. Monitoring and Documentation
 - o Monitor contractor compliance with labor practices.
 - o Maintain documentation of hiring goals, agreements, and outcomes.
5. Legal Compliance
 - o Ensure all practices comply with:
 - U.S. Constitution
 - Applicable federal statutes and regulations
 - Objectives of the federal financial assistance program

Procurement Training 7 CFR 210.21(h):

Child Nutrition Director is responsible for:

- Identifying all staff who have responsibilities related to conducting procurement, making purchases from procured sources, and monitoring or contract management activities.
- Identifying the appropriate procurement training topics and number of training hours each staff member should receive annually based on their role and responsibilities.
- Ensuring that each staff member completes and documents the annual procurement training in accordance with the Professional Standards requirements.

Procedure Steps

1. Staff Identification
 - Review organizational roles to identify staff who:
 - Conduct procurement activities
 - Make purchases from procured sources
 - Monitor contracts or manage vendor relationships
2. Training Needs Assessment
 - Determine each staff member's procurement responsibilities.
 - Assign training topics that align with their specific duties.
 - Establish the number of training hours required annually per USDA Professional Standards.
3. Training Delivery
 - Provide training through:
 - Online modules
 - In-person workshops
 - Webinars or USDA-approved resources
 - Ensure training covers:
 - Federal procurement standards (2 CFR Part 200)
 - USDA-specific requirements
 - Ethical conduct and conflict of interest
 - Documentation and recordkeeping
4. Documentation and Recordkeeping
 - Maintain records of:
 - Training completion dates
 - Topics covered
 - Hours earned
 - Certificates or transcripts
 - Store documentation in accordance with USDA Professional Standards requirements for audit and review.
5. Annual Review
 - Conduct an annual review of training records.
 - Update training plans based on changes in roles, regulations, or program needs.

Section B: Competition Standards in Procurement

Competition 2 CFR 200.319(a):

Child Nutrition Director is responsible for:

- Ensuring that all contracts and purchase agreements procured by the Child Nutrition Program were procured in compliance with the Federal procurement competition standards and through the use one of the procurement methods in 2 CFR 200.320.
- Ensuring that all contracts and purchase agreements procured by entities other than the Child Nutrition Program were procured in compliance with the Federal procurement competition standards and through the use of one of the procurement methods in 2 CFR 200.320

Approved Procurement Methods (per 2 CFR § 200.320)

1. Informal Procurement Methods
 - Micro-purchases: Transactions below the micro-purchase threshold; may be awarded without competitive quotes if price is deemed reasonable.
 - Small purchases: Simplified acquisitions below the simplified acquisition threshold; require price or rate quotations from multiple sources.
2. Formal Procurement Methods
 - Sealed bids (Invitation for Bids): Used when requirements are clear and award is based on lowest price.
 - Competitive proposals (Request for Proposals): Used when sealed bids are not appropriate; award based on best value considering price and other factors.
3. Noncompetitive Procurement
 - Used only when specific conditions are met (e.g., single source, public emergency, federal authorization, or inadequate competition despite solicitation).

Procedure Steps

1. Procurement Planning
 - Determine the appropriate procurement method based on the value and nature of the purchase.
 - Ensure planning documents reflect the rationale for method selection.
2. Solicitation and Evaluation
 - Conduct solicitations in a manner that promotes full and open competition.
 - Avoid restrictive practices such as:
 - Unreasonable qualification requirements
 - Noncompetitive practices between firms
 - Organizational conflicts of interest
3. Contract Review
 - For contracts initiated by the Child Nutrition Program:
 - Confirm use of an approved procurement method.
 - Document the competitive process and selection criteria.
 - For contracts initiated by other entities:
 - Obtain and review procurement documentation.

- Verify compliance with federal competition standards and 2 CFR § 200.320.
- 4. Documentation
 - o Maintain records of:
 - Procurement method used
 - Rationale for method selection
 - Competitive process and evaluation
 - Final contract or purchase agreement
- 5. Monitoring and Oversight
 - o Periodically review procurement files for compliance.
 - o Provide training and guidance to staff and partners on federal procurement standards.

Objective Contractor Performance 2 CFR 200.319(b)&(c):

Child Nutrition Director is responsible for:

- Ensuring that all procurement activities promote fair and open competition.
- Exclude contractors who assist in drafting procurement documents from competing for the related contracts.
- Identify and preventing restrictive practices that may hinder competition.
- Ensuring that if a brand name is mentioned, that it is only use as a source description or measure of those salient physical, functional or performance characteristics of the brand name item by indicating the brand name or equal.

Procedure Steps

1. Exclusion of Drafting Contractors
 - o Contractors who participate in developing or drafting:
 - Specifications
 - Requirements
 - Statements of Work (SOW)
 - Invitations for Bids (IFBs)
 - Requests for Proposals (RFPs)
 - o Must be excluded from competing for the related procurement to prevent unfair advantage.
2. Review for Restrictive Practices
 - o Evaluate all procurement documents and processes to ensure they do not include:
 - Unreasonable qualification requirements
 - Unnecessary experience or excessive bonding
 - Noncompetitive pricing practices between firms or affiliates
 - Retainer-based consultant contracts awarded noncompetitively
 - Organizational conflicts of interest
 - “Brand name only” specifications without allowing “equal” alternatives
 - Arbitrary actions that limit fair competition

3. Solicitation Standards
 - o Ensure all solicitations:
 - Include clear and accurate descriptions of technical requirements
 - Avoid overly detailed product specifications unless necessary
 - Allow “brand name or equivalent” options when applicable
 - Clearly state evaluation criteria and additional requirements
4. Monitoring and Oversight
 - o Conduct periodic reviews of procurement files to verify compliance.
 - o Provide training to staff on identifying and avoiding restrictive practices.
 - o Document any corrective actions taken to address noncompliance.
5. Documentation
 - o Maintain records of:
 - Contractor exclusions
 - Justifications for procurement decisions
 - Reviews and findings related to competition standards

Geographic Preference 7 CFR 210.21(g):

Child Nutrition Director is responsible for:

- Ensuring geographic preference is applied only to eligible unprocessed agricultural products.
- Defining the “local” area for each procurement.
- Verifying that adequate competition exists within the defined local area.
- Determining the method by which geographic preference will be applied.
- Ensuring that residence in a particular state is not used as a preference.

Definitions

- Unprocessed Agricultural Products: Items that retain their inherent character and have undergone only minimal handling or preservation techniques such as:
 - o Cooling, refrigerating, freezing
 - o Peeling, slicing, dicing, chopping
 - o Washing, packaging, vacuum packing
 - o Butchering, cleaning fish, pasteurizing milk
 - o Adding preservatives like ascorbic acid to prevent oxidation [\[fns.usda.gov\]](https://www.fns.usda.gov)
- Local Area: A geographic region defined by the school food authority (e.g., county, state, or multi-county region) that includes a sufficient number of qualified vendors to ensure competition.

Procedure Steps

1. Determine Product Eligibility
 - o Confirm that the product is an unprocessed or minimally processed agricultural item.
 - o Document the processing techniques used to verify eligibility.
2. Define Local Area
 - o Establish a definition of “local” for each procurement (e.g., within 100 miles, within the state).
 - o Ensure the definition allows for adequate competition among qualified vendors.
3. Select Preference Method
 - o Choose one of the two approved strategies for applying geographic preference:
 - Specification Method: Include “locally grown,” “locally raised,” or “locally caught” in the product specifications.
 - Scoring Advantage Method: Assign additional evaluation points to bids offering local products. [\[fns.usda.gov\]](https://fns.usda.gov)
4. Include in Solicitation
 - o Clearly state the geographic preference in the solicitation documents.
 - o Specify how the preference will be evaluated (e.g., scoring rubric or qualification criteria).
5. Evaluate Bids
 - o Apply the geographic preference as defined.
 - o Ensure all bids are evaluated fairly and consistently.
6. Document and Retain Records
 - o Maintain documentation of:
 - Local area definition
 - Procurement method used
 - Vendor responses and evaluation
 - Final award decision
 - o Retain records in accordance with USDA Professional Standards and audit requirements.

Written Procedures for Procurement Transactions 2 CFR 200.319(d):

Child Nutrition Director is responsible for:

- Ensuring written procedures are in place for each procurement method.
- Verifying that all solicitations meet the standards outlined in 2 CFR § 200.319(d).
- Overseeing staff compliance with these procedures.

Procedure Steps

1. Develop Written Procedures
 - o Create and maintain written procedures for each procurement method:

- Micro-purchase
 - Small purchase
 - Sealed bids
 - Competitive proposals
 - Noncompetitive procurement
2. Ensure Compliance with § 200.319(b)
 - o Include safeguards to prevent unfair competitive advantage.
 - o Exclude contractors who help draft specifications or solicitations from competing.
 3. Describe Technical Requirements Clearly
 - o Ensure solicitations include:
 - A clear and accurate description of the property, equipment, or service.
 - Qualitative statements when appropriate.
 - Minimum essential characteristics and standards.
 - o Avoid overly detailed product specifications unless necessary.
 - o Use “brand name or equivalent” only when it is impractical to describe requirements otherwise, and clearly state the features of the named brand.
 4. Identify Offeror Requirements and Evaluation Criteria
 - o Clearly list all requirements that offerors must fulfill.
 - o Include all evaluation factors that will be used to assess bids or proposals.
 - o Ensure transparency and consistency in the evaluation process.
 5. Review and Update Procedures
 - o Conduct annual reviews of procurement procedures.
 - o Update procedures to reflect changes in federal regulations or program needs.
 6. Training and Communication
 - o Train staff on the written procedures and their responsibilities.
 - o Provide access to updated procedures and templates.
 7. Documentation and Recordkeeping
 - o Maintain records of:
 - Written procedures
 - Solicitations and supporting documentation
 - Evaluation criteria and scoring
 - Award decisions

Pre-Qualified Vendor Lists 2 CFR 200.319(e):

Child Nutrition Director is responsible for:

- Ensuring that any pre-qualified lists used in procurement transactions are current and include enough qualified sources to ensure maximum open competition.
- Ensuring that objective factors are used when establishing or amending pre-qualified lists.
- Ensure that no potential bidder is excluded from qualifying during the solicitation period.

Procedures

1. List Maintenance
 - Review and update pre-qualified vendor lists annually or as needed.
 - Remove inactive or unresponsive vendors.
 - Add new vendors who meet qualification criteria.
2. Establishing or Amending Lists
 - Use objective evaluation criteria such as:
 - Competitive pricing
 - Proven performance
 - Capacity and capability
 - Compliance with procurement standards
 - Avoid subjective or arbitrary criteria that may restrict competition.
3. Open Qualification Period
 - During any active solicitation, allow new vendors to qualify for inclusion on the list.
 - Publicize the opportunity to qualify through appropriate channels (e.g., website, local bulletin, procurement portal).
4. Documentation
 - Maintain records of:
 - Evaluation criteria used
 - Vendor qualifications and approvals
 - Updates and amendments to the list
 - Communications with vendors during qualification periods
5. Monitoring and Oversight
 - Periodically audit the use of pre-qualified lists in procurement transactions.
 - Ensure that lists are not used to limit competition or favor specific vendors.

Noncompetitive Procurements 2 CFR 200.319(f):

Child Nutrition Director is responsible for:

- Ensuring that noncompetitive procurements are conducted only under the limited circumstances permitted by federal regulations.
- Ensuring that each noncompetitive procurement is properly justified and documented.

Allowable Circumstances for Noncompetitive Procurement (2 CFR § 200.320(c))

Noncompetitive procurement may only be used when one or more of the following conditions apply:

1. Single Source Availability
 - The item is available only from a single source.
2. Public Emergency

- o An emergency situation exists that will not permit delay resulting from competitive solicitation.
- 3. Federal Authorization
 - o The federal awarding agency or pass-through entity expressly authorizes noncompetitive procurement in response to a written request.
- 4. Inadequate Competition
 - o After solicitation of a number of sources, competition is determined to be inadequate.

Section C: Methods of Procurement to Be Followed

Procurement Methods 2 CFR 320:

Child Nutrition Director is responsible for:

- Identifying the needs of each procurement.
- Conducting market research.
- Calculating an independent cost estimate of the procurement.
- Determining the procurement method to be used and documenting the rationale for the use of the procurement method selected.

Procurement Method Thresholds:

Thresholds for these procurement methods are set at the federal level, the State level, and the local level. State and local thresholds may be more restrictive than the Federal thresholds, but they may not be more permissive than the federal levels. The most restrictive (lowest) threshold that applies must be followed when conducting procurement.

Procurement Method Thresholds

Procurement Method	Federal Threshold	Local SFA Procurement Thresholds	Applicable Thresholds followed
Micro-purchase	\$15,000	\$15,000	\$15,000
Simplified Acquisitions	\$250,000 or less	\$40,000	\$40,000
Formal (IFB/RFP)	Higher than Simplified Acquisitions Threshold	Higher than Simplified Acquisitions Threshold	Higher than the Simplified Acquisitions Threshold

1. Identify any thresholds that are found in local procurement policies and procedures and include them in the “Local SFA Procurement Thresholds” column.

2. Compare the Federal and local thresholds and then identify the strictest threshold(s) that will apply to the Child Nutrition Program in the “Applicable Thresholds Followed” column.

Informal Procurement methods for small purchases 2 CFR 200.320(a):

These procurement methods expedite the completion of transactions, minimize administrative burdens, and reduce costs. Informal procurement methods may be used when the value of the procurement transaction does not exceed the non-federal entity’s applicable simplified acquisition threshold.

There are two (2) informal procurement methods:

1. Micro-purchases
2. Simplified Acquisitions

Micro-Purchases 2 CFR 200.320(a)(1):

Child Nutrition Director is responsible for:

- Planning for the procurement.
- Ensuring the cost of the procurement does not exceed the SFA’s micro-purchase threshold.
- Ensuring written specifications for each micro-purchase are developed (including the Buy American Provision when applicable) and any additional technical requirements for conducting business with the SFA.
- Ensuring that the specifications do not include any unnecessary requirements that may limit competition.
- Determining prices from responsible vendors to be reasonable, based on market research, experience, purchase history, or other relevant information.
- Ensuring that each micro-purchase transaction is adequately documented.

Procedure Steps

1. Procurement Planning
 - o Identify the need for goods or services.
 - o Confirm that the total cost of the transaction is equal to or less than the SFA’s micro-purchase threshold.
 - o Ensure the threshold is:
 - Based on internal controls and risk evaluation.
 - Documented in the SFA’s procurement procedures.
 - Compliant with State, local, or tribal laws.
2. Specification Development
 - o Develop written specifications for the item or service, including:
 - Description of the product or service.
 - Any technical requirements.
 - Inclusion of the Buy American Provision, if applicable.

- Avoid unnecessary or restrictive requirements that could limit competition.
- 3. Price Reasonableness
 - Determine that the price is reasonable using:
 - Market research
 - Past purchase history
 - Experience or other relevant information
 - Document the basis for the price reasonableness determination.
- 4. Equitable Distribution
 - To the maximum extent practicable, distribute micro-purchases equitably among qualified suppliers.
 - Rotate purchases among vendors when possible to avoid favoritism.
- 5. Transaction Documentation
 - Maintain records for each micro-purchase, including:
 - Specifications
 - Vendor name
 - Item/service description
 - Price and justification
 - Date of purchase
 - Method of payment
- 6. Monitoring and Oversight
 - Periodically review micro-purchase activity to ensure:
 - Compliance with thresholds
 - Equitable vendor distribution
 - Proper documentation
 - Provide training to staff involved in micro-purchase activities.

Simplified Acquisitions or Small Purchase Procedures 2 CFR 200.320(a)(2):

Child Nutrition Director is responsible for:

- Planning for the procurement.
- Ensuring the amount of the procurement will not exceed the SFAs simplified acquisition threshold.
- Developing a written solicitation document to obtain price quotes that includes the written specifications of the goods or services to be procured (including the Buy American Provision when applicable), any additional technical requirements for vendor (such as delivery requirements), and any applicable information relevant to the procurement that may affect a vendor's response.
- Ensuring that solicitations are developed and include written specifications of the goods or services to be procured (including the Buy American Provision when applicable), any additional technical requirements for vendors, such as delivery requirements, and any applicable information relevant to the procurement that may affect a vendors response.
- Ensuring that the solicitation does not include any unnecessary requirements that may limit competition.

- Ensuring that solicitations are used to obtain price quotes and/or pricing information as appropriate from prospective vendors.
- Ensuring that price quotes received are not shared with prospective vendors when obtaining price quotes.
- Ensuring that an adequate number (2 or more) of price quotes are obtained from responsible vendors.
- Ensuring that the goods or services in the price quotes received are determined to be responsive to the solicitation and eligible to be further evaluated for purchase award.
- Determining if additional price quotes will be obtained to ensure the procurement remains a competitive process.
- Evaluating the price quotes that were deemed responsive to the solicitation and determining purchase award based on the lowest price quote received.
- Ensuring that each simplified acquisition is adequately documented.

Procedure Steps

1. Procurement Planning
 - Confirm that the total value of the procurement does not exceed the SFA's simplified acquisition threshold.
 - Document the threshold used, based on internal controls, risk evaluation, and procurement procedures.
2. Solicitation Development
 - Prepare a written solicitation that includes:
 - Clear specifications of goods or services
 - Technical requirements (e.g., delivery terms)
 - The Buy American Provision, if applicable
 - Any other relevant information that may affect vendor responses
 - Ensure solicitations do not include unnecessary requirements that could restrict competition.
3. Obtaining Price Quotes
 - Use the solicitation to request price quotes from vendors.
 - Do not share price quotes received with other vendors.
 - Obtain quotes from an adequate number of qualified sources (minimum of two).
 - Determine if additional quotes are needed to ensure a competitive process.
4. Quote Evaluation
 - Review all quotes to ensure they are responsive to the solicitation.
 - Evaluate quotes based on lowest price among responsive offers.
 - Document the evaluation process and rationale for selection.
5. Award and Documentation
 - Award the purchase to the vendor offering the lowest responsive quote.
 - Maintain documentation of:

- Solicitation
 - Quotes received
 - Evaluation and award decision
 - Compliance with the simplified acquisition threshold
6. Recordkeeping
- o Retain all procurement records in accordance with federal and state retention policies.
 - o Ensure documentation is available for audit or review.

Formal Procurement Methods 2 CFR 200.320(b):

Formal procurement methods are required when the value of the procurement transaction exceeds the simplified acquisition threshold of the non-Federal entity. Formal procurement methods are competitive and require public notice. The following formal methods of procurement are used for procurement transactions above the non-Federal entity's applicable simplified acquisition threshold:

- Sealed Bids
- Proposals

Sealed Bids 2 CFR 200.320(b)(1):

Child Nutrition Director is responsible for:

- Planning for the procurement.
- Ensuring the Invitation for Bid solicitation document includes all of the necessary information and does not limit competition.
- Ensuring the IFB is publicly advertised for an adequate length of time in order to solicit from an adequate number of suppliers.
- Directly soliciting to vendors including Minority Businesses, Women's Business Enterprises, Veteran-Owned businesses and Labor Surplus Firms who are known to provide what is being procured.
- Ensuring that the bid opening process is adequately documented including the day, time, attendees, names of vendors submitting a bid, documentation justifying the rejection of bids, and the initial bid tallies.
- The evaluation for contract award.
- Completing the cost or price analysis process.
- Ensuring that procurement conducted with Sealed Bidding procedures are adequately documented.

Procedure Steps

1. Procurement Planning
 - o Confirm that sealed bidding is feasible:
 - Complete and realistic specifications are available.
 - Two or more responsible bidders are identified.
 - A firm fixed-price contract is appropriate.
 - Price is the primary basis for award.
2. Develop Invitation for Bids (IFB)
 - o Include:
 - Clear specifications and technical requirements
 - Delivery terms and conditions
 - Buy American Provision (if applicable)
 - Evaluation criteria (e.g., discounts, transportation, life-cycle costs)
 - o Ensure the IFB does not include unnecessary requirements that restrict competition.
3. Public Advertisement
 - o Advertise the IFB publicly for an adequate length of time.
 - o Directly solicit bids from:
 - Minority Businesses
 - Women's Business Enterprises
 - Veteran-Owned Businesses
 - Labor Surplus Firms
4. Bid Opening
 - o Conduct bid opening publicly at the specified time and place.
 - o Document:
 - Date and time
 - Attendees
 - Names of vendors submitting bids
 - Initial bid tallies
 - Justifications for any bid rejections
5. Bid Evaluation
 - o Evaluate bids for responsiveness and responsibility.
 - o Consider specified factors (e.g., discounts, transportation costs) if included in the IFB.
 - o Complete a cost or price analysis to support the award decision.
6. Award Contract
 - o Award a firm fixed-price contract in writing to the lowest responsive and responsible bidder.
 - o Document the award decision and rationale.
7. Recordkeeping
 - o Maintain documentation of:
 - IFB and advertisement
 - Bid opening records
 - Evaluation and award
 - Cost/price analysis
 - Any rejected bids and justifications

Proposals 2 CFR 200.320(b)(2):

Child Nutrition Director is responsible for:

- Planning for the procurement.
- Ensuring the Request for Proposal solicitation document includes all of the necessary information and does not limit competition.
- Ensuring the IFB is publicly advertised for an adequate length of time in order to solicit from an adequate number of suppliers.
- Directly soliciting to vendors including Minority Businesses, Women's Business Enterprises, Veteran-Owned businesses and Labor Surplus Firms who are known to provide what is being procured.
- Ensuring the evaluation for contract award is properly conducted and scored as described in the RFP.
- Completing the cost or price analysis process.
- Ensuring that procurements conducted with Proposal procedures are adequately documented.

Procedure Steps

1. Procurement Planning
 - Confirm that sealed bidding is not appropriate due to the nature of the goods or services.
 - Determine whether the procurement will result in a fixed-price or cost-reimbursement contract.
2. Develop Request for Proposals (RFP)
 - Include:
 - Clear specifications and scope of work
 - Technical requirements and performance standards
 - Evaluation factors and their relative importance
 - Buy American Provision (if applicable)
 - Ensure the RFP does not include unnecessary requirements that restrict competition.
3. Public Advertisement and Solicitation
 - Advertise the RFP publicly for an adequate length of time.
 - Directly solicit proposals from:
 - Minority Businesses
 - Women's Business Enterprises
 - Veteran-Owned Businesses
 - Labor Surplus Firms
 - Solicit from multiple qualified entities to ensure competition.
4. Proposal Receipt and Review
 - Accept and consider all proposals submitted in response to the public notice, to the maximum extent practicable.
 - Ensure proposals are received by the deadline and are complete.

5. Evaluation Process

- o Conduct evaluations using written procedures that align with the criteria stated in the RFP.
- o Score proposals based on:
 - Price
 - Technical merit
 - Other relevant factors (e.g., experience, delivery, support)
- o Document the evaluation process and scoring.

6. Award Decision

- o Award the contract to the responsible offeror whose proposal is most advantageous to the SFA.
- o Complete a cost or price analysis to support the award decision.

7. Qualifications-Based Procurement (A/E Services Only)

- o For architectural/engineering services:
 - Evaluate based on qualifications only.
 - Select the most qualified offeror.
 - Negotiate fair and reasonable compensation.
- o Do not use this method for other services provided by A/E firms.

8. Recordkeeping

- o Maintain documentation of:
 - RFP and advertisement
 - Proposals received
 - Evaluation and scoring
 - Cost/price analysis
 - Award decision

Noncompetitive Procurement 2 CFR 200.320(c):

The Child Nutrition Director is responsible for:

- Documenting a written justification for sole source noncompetitive procurements.
- Maintaining documentation to support the written justification.
- Identifying emergency procurement needs that exceed the micro-purchase threshold.
- Obtaining prior approval from the Division of School and Community Nutrition (SCN).
- Ensuring proper documentation and justification for the emergency procurement.

Procedure Steps

1. Identify Emergency Need

- o Confirm that the procurement is necessary due to a public exigency or emergency.

- o Determine that waiting for a competitive solicitation would result in harm to the public or program operations.
- 2. Prepare Justification
 - o Draft a signed statement from the Superintendent that includes:
 - A description of the emergency situation.
 - An explanation of how delay would cause harm.
 - The estimated cost of the goods or services to be procured.
- 3. Submit Request for Approval
 - o Email the request to:
 - Lauren Moore, Director, Division of School and Community Nutrition
 - Email: Lauren.moore2@education.ky.gov
 - o Include:
 - Superintendent's signed statement
 - Estimated cost
 - Any supporting documentation
- 4. Await SCN Response
 - o Do not proceed with the procurement until written approval is received from SCN.
 - o Retain SCN's approval as part of the procurement documentation.
- 5. Conduct Procurement
 - o Once approved, proceed with the noncompetitive procurement.
 - o Ensure pricing is reasonable and terms are favorable to the program.
- 6. Documentation and Recordkeeping
 - o Maintain records of:
 - Emergency justification
 - SCN approval
 - Vendor selection and pricing
 - Final contract or purchase agreement
 - o Ensure documentation is available for audit or review.

Public Exigency or Emergency Noncompetitive Procurement:

The Child Nutrition Director is responsible for:

- Obtaining pre-approval from SCN for emergency purchases above their micro-purchase threshold.
- Preparing and submitting a written request to SCN for noncompetitive procurement authorization.
- Ensuring all required information is included in the request.
- Retaining documentation of SCN's approval and the procurement process.

Procedure Steps

1. Identify Procurement Need
 - o Determine that the procurement situation is not covered by standard noncompetitive conditions (e.g., single source, emergency).
 - o Confirm that competitive procurement is not feasible or practical.
2. Prepare Request for SCN Authorization
 - o Draft a written request including:
 - Description of the goods or services to be procured.
 - Estimated cost of the procurement.
 - Justification for using a noncompetitive method, explaining why competitive procurement is not appropriate.
3. Submit Request
 - o Email the request to:
 - Lauren Moore, Director, Division of School and Community Nutrition
 - Email: Lauren.moore2@education.ky.gov
4. Await SCN Response
 - o Do not proceed with the procurement until written approval is received from SCN.
 - o Retain SCN's response as part of the procurement documentation.
5. Conduct Procurement
 - o Once approved, proceed with the noncompetitive procurement.
 - o Ensure pricing is reasonable and terms are favorable to the program.
6. Documentation and Recordkeeping
 - o Maintain records of:
 - SCN request and approval
 - Vendor selection and pricing
 - Final contract or purchase agreement
 - o Ensure documentation is available for audit or review.

Noncompetitive Procurement Expressly Authorized by SCN:

SFAs may submit a written request to SCN to authorize a noncompetitive procurement for situations not expressly described in the regulations. To submit a request for SCN to authorize a noncompetitive procurement:

1. Submit requests via email to: Lauren Moore, Director, Division of School and Community Nutrition Lauren.moore2@education.ky.gov.
2. Requests should include:
 - a. A description of the goods or services sought.
 - b. The estimated cost of the goods or services.
 - c. The reason why the SFA is requesting to use a noncompetitive procurement method for the procurement of goods or services.

The Child Nutrition Director is responsible for:

- Submitting a written request to SCN to noncompetitively procure goods or services.

- Specifically when ordering Hardware for the State-wide POS

Procedure Steps: Evaluation of Needs

1. Determine what hardware items you need or want. Considerations include:

- o Replacing outdated hardware. (Example: Replace hardware that doesn't meet the minimum specifications for support.)
- o Upgrading existing hardware to improve current operations. (Examples: Replace a manual cash drawer with an electronic cash drawer, replace a pin pad with a combination pin pad scanner to allow for barcode scanning, or enable new operations by utilizing a mobile POS to begin a new service model such as breakfast in the hallway.)
- o Outfitting new buildings or service lines. (Example: Install new hardware at a new building or add additional serving lines to existing buildings) B. Calculate the total costs of needed hardware by reviewing the current KDE Mosaic Hardware Price List.

2. Evaluation and Documentation of Procurement Method

- o Review your local Micro Purchasing limit. If the total costs of the needed hardware are below your limit, the following is needed for the transaction to be considered compliant:
 - Documentation of Price Reasonability
 - a. This can include but is not limited to notes made on a micro-purchase log, PO, or invoice. Notes must state the price determination was made based on personal knowledge, market research, or other methods utilized.
 - Specifications
 - a. This can include but is not limited to notes made on the micro-purchase log or other documentation showing the specifications of the product purchased.
 - Record of Purchase
 - a. This can include the PO, invoice, or any other documentation that shows the amount paid to the vendor for the product.
- o If total costs are greater than your local Micro Purchasing limit, the following is required to be deemed compliant:
 - Specifications
 - a. Each item purchased must have a specification written before purchase. All specifications can include the brand name of Heartland/Mosaic or equal if available but must also include the phrase 'the vendor must provide technical support for installation/integration, and customer service support for the products purchased.'

- o Complete the Mosaic Hardware Purchasing: Non-Competitive Purchase Request Form. Maintain the approval of the request.

3: Completing the Purchase

- o Email Mike Walker and Kim Lane with Heartland (michael.walker@e-hps.com; kimberly.lane@e-hps.com) your request, including the item(s) needed and the quantity.
- o Document the record of the purchase. This can include the PO, invoice, or other documentation that shows the amount paid to the vendor for the product.

Section D: Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms. (2 CFR 200.321)

The Child Nutrition Director is responsible for:

- Ensure planning and outreach efforts include consideration of diverse and disadvantaged business enterprises.
- Oversee implementation of this procedure and maintain documentation of outreach and inclusion efforts.

Procedure Steps:

1. Solicitation List Inclusion
 - o Maintain and regularly update solicitation lists to include small, minority, women-owned, veteran-owned, and labor surplus area businesses.
 - o Reference the U.S. Department of Labor's list for labor surplus area firms.
2. Targeted Solicitation
 - o Actively solicit bids or proposals from these business types when they are deemed eligible and capable of fulfilling procurement requirements.
3. Procurement Division for Maximum Participation
 - o When feasible, divide large procurement transactions into smaller, more manageable contracts to allow participation from smaller or disadvantaged businesses.
4. Flexible Delivery Schedules
 - o Establish delivery schedules that accommodate the operational capacities of these businesses (e.g., staggered deliveries or partial monthly fulfillment).
5. Utilization of Support Organizations
 - o Engage with organizations such as:
 - Small Business Administration (SBA)
 - Minority Business Development Agency (MBDA)
 - o Use these resources to identify qualified vendors and promote procurement opportunities.
6. Contractor Requirements

- o Require contractors under Federal awards to apply these inclusion principles to their subcontracting activities.

Documentation and Monitoring:

- Maintain records of outreach efforts, solicitation lists, and vendor responses.
- Periodically review procurement outcomes to assess participation levels of targeted business types.
- Report findings and improvements to the appropriate oversight body.

Section E: Domestic Preference for Procurements 2 CFR 200.322

Child Nutrition Director is responsible for:

- Ensuring that the requirement to comply with Buy American Provision is included in all procurement procedures and documents when applicable.
- Monitoring their compliance with the established caps for non-domestic food purchases.
- Receiving and reviewing exception requests from vendors.
- Deciding if exception requests will be approved and can be supported with adequate documentation.
- Ensuring that monitoring of the Buy American Provision is conducted when receiving deliveries, and through a periodic review of storage facilities, freezers, refrigerators, dry storage, and warehouses.
- Addressing vendor non-compliance when it is found.

Procedure Steps:

Domestic commodity or product” means an agricultural commodity produced in the U.S. and a food product processed in the U.S. substantially using agricultural commodities produced in the U.S.

Henderson County Schools is committed to purchasing, to the maximum extent practicable, domestic commodities or products for the NSLP and will monitor compliance through:

- o Review of vendor certifications.
 - Inspection of product labels or packaging to verify country of origin when they are delivered.
 - Conducting periodic review of storage areas, freezers, and refrigerators to ensure all food items used comply with the Buy American requirements.

- o Procurement Document Language
 - All procurement documents will include the definition of domestic and outline the requirements related to complying with the Buy American Provision.
- o Exceptions
 - Limited exceptions are permitted when:
 - The item is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality.
 - Competitive bids reveal the costs of domestic products are significantly higher than non-domestic products.
 - Exceptions will only be approved when substantiated and alternatives have been considered.
 - Exceptions will be tracked and monitored to ensure adherence to the established caps:
 - Starting July 1, 2025, non-domestic food purchases must not exceed 10 percent of total annual commercial food costs that a SFA purchases each school year.
 - Starting July 1, 2028, non-domestic food purchases must not exceed 8 percent of total annual commercial food costs that a SFA purchases each school year.
 - Starting July 1, 2031, non-domestic food purchases must not exceed 5 percent of total annual commercial food costs that a SFA purchases each school year.
- o Recordkeeping
 - Henderson County Schools will maintain documentation justifying any exceptions to the Buy American requirements.
- o Enforcement
 - Non-compliance with the Buy American requirements may result in corrective actions, including but not limited to the revision of procurement procedures and additional training.
 - Vendor non-compliance will be handled in accordance with contract management policies and procedures.
- o Training
 - Staff responsible for procuring, purchasing, and receiving food will receive training on the Buy American requirements and this policy.
- o Review and Update
 - This policy will be reviewed annually and updated as necessary to reflect changes in regulations.
 - Procedures to monitor when deliveries are received:
 1. Product labels and packaging are inspected to identify non-domestic food products when food deliveries are received.
 2. If any products are substituted in the delivery, the product packaging and labels will be inspected to ensure they are in compliance with Buy American. If the country of origin information is not identified, the vendor will be contacted to obtain the country of origin or a certification of the % of U.S. content.
 3. When non-domestic USDA or DOD food products are delivered:
 - a) The product will be rejected.
 - b) The Kentucky Department of Agriculture (KDA) will be contacted

- immediately.
 - c) All the shipping and receiving information for the product will be provided to KDA.
 - d) A complaint will be logged in WBSCM.
- 4. The procedures to address vendor non-compliance with Buy American Requirements will be followed
- Procedures to periodically monitor food storage areas:
 1. All storage areas are monitored (identify the frequency) to identify any non domestic products. (It is suggested to monitor while conducting a monthly physical inventory.)
 2. When non-domestic USDA or DOD food products are found in storage:
 - a) The Kentucky Department of Agriculture (KDA) will be contacted immediately.
 - b) All the shipping and receiving information for the product will be provided to KDA.
 - c) A complaint will be logged in WBSCM.
 3. When non-USDA or DOD foods are found in storage, the process for addressing vendor non-compliance will be implemented when the unapproved non-domestic products are identified.
- Procedures to address vendor non-compliance with Buy American Requirements:
 1. When unapproved non-domestic products are identified:
 - a) If found during delivery, the product will be rejected if meal production schedules will allow for a delay in receiving a replacement product.
 - b) If found while monitoring storage areas, the product will be pulled from storage and/or indicated that the product should not be used.
 2. The vendor will be notified that an unapproved non-domestic product was received and that it must be replaced with a domestic product. If the vendor indicates that a domestic product cannot be provided for a reason that could be an allowable exception, the vendor will be instructed to provide adequate documentation to support the request for an allowable exception and will be reminded that exceptions must be approved prior to delivery.
 3. The incidence of the vendor's contractual non-compliance with the Buy American Provision will be documented and maintained on file.
 4. The SFA will utilize the specific Remedies for Breach of Contract as described in the contract clause for incidences of non-compliance with the contract requirements.
 5. The SFA will utilize the termination clause in the awarded contract once the criteria for termination based on non-compliance in the contractual requirements has been reached.
 6. The vendor's non-compliance record will be considered when evaluating whether they are considered a responsible bidder for future procurement solicitations.

Section F: Procurement of Recovered Materials 2 CFR 200.323

Child Nutrition Director is responsible for:

- Ensure applicable contract clauses regarding recovered materials are included in procurement documents.
- Oversee implementation of sustainable procurement practices and maintain documentation of compliance efforts.

Procedure Steps:

1. Recovered Materials Compliance
 - Procure items designated in the EPA guidelines at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, while maintaining satisfactory competition.
 - This applies when:
 - The purchase price of the item exceeds \$10,000, or
 - The total value of the item acquired in the previous fiscal year exceeded \$10,000.
2. Solid Waste Management Services
 - When procuring solid waste management services, prioritize methods that maximize energy and resource recovery.
3. Affirmative Procurement Program
 - Establish and maintain an affirmative procurement program that includes:
 - A preference program for recovered materials.
 - Procedures for verifying recovered material content.
 - Annual review and monitoring of program effectiveness.
4. Sustainable Product Selection
 - To the greatest extent practicable and consistent with law, purchase products and services that:
 - Can be reused, refurbished, or recycled.
 - Contain recycled content or are biobased.
 - Are energy-efficient and water-efficient.
 - Are compostable or reduce the use of single-use plastics.
5. Contract Clause Requirement
 - Include a clause in all applicable contracts requiring compliance with Section 6002 and EPA guidelines for recovered materials.

Documentation and Monitoring:

- Maintain records of:
 - Items purchased under EPA guidelines.
 - Contracts including recovered materials clauses.

- o Sustainable procurement efforts and outcomes.
- Conduct periodic reviews to ensure compliance and identify opportunities for improvement.

Section G: Cost and/or Price Analysis 2 CFR 200.324

Child Nutrition Director is responsible for:

- Conducting a cost and/or price analysis in a procurement when the simplified acquisition threshold is exceeded.
- Conducting a cost and/or price analysis prior to implementing contract amendments that will exceed the simplified acquisition threshold.
- Conducting a cost or price analysis whenever it is needed to ensure that fair and reasonable prices are paid.

Procedure Steps:

1. Independent Estimate Requirement
 - o Before soliciting bids or proposals, develop an independent cost or price estimate for the goods or services to be procured.
2. Method and Degree of Analysis
 - o Select the appropriate method and depth of analysis based on the nature and complexity of the procurement.
 - o Consider factors such as:
 - Historical pricing
 - Market conditions
 - Vendor quotes
 - Cost breakdowns
 - Potential workforce impacts (e.g., displacement of public sector employees)
3. Allowable Costs
 - o Ensure that estimated costs used in negotiated prices are allowable under 2 CFR Part 200 Subpart E.
 - o Document justification for all cost elements included in the analysis.
4. Prohibited Contracting Methods
 - o Do not use:
 - “Cost plus a percentage of cost” contracts
 - “Percentage of construction cost” contracts
5. Contract Modifications
 - o Conduct a cost or price analysis prior to implementing any contract amendment that will cause the total value to exceed the simplified acquisition threshold.
6. Fair and Reasonable Pricing
 - o Perform cost or price analysis whenever necessary to ensure that the SFA is paying fair and reasonable prices, even if the threshold is not exceeded.

Documentation and Monitoring:

- Maintain records of:
 - Independent estimates
 - Cost or price analysis reports (KDE Prototype below)
 - Justifications for selected vendors and pricing
- Review procurement files periodically to ensure compliance and completeness.



Price or Cost Analysis Summary		
Contract or Contract Amendment: _____		
Date: _____	Preparer: _____	Circle the analysis conducted as applicable: Price Analysis Cost Analysis
SUPPORTING DOCUMENTATION MUST BE ATTACHED		
Independent Price Estimate: (If individual elements of cost will be evaluated, list the estimate for each item of cost).		
<input checked="" type="checkbox"/>	Independent Price Estimates Based on:	Comments:
<input type="checkbox"/>	• Catalog/Market Pricing	
<input type="checkbox"/>	• Set by Law or Regulation	
<input type="checkbox"/>	• Previous Purchases/Historical Pricing	
<input type="checkbox"/>	• Federal Government price lists	
<input type="checkbox"/>	• Responses of vendors to other Districts.	
<input type="checkbox"/>	• Price paid by Other Districts	
<input type="checkbox"/>	• Compared to a Substantially Similar Item	
<input type="checkbox"/>	• Obtained through a RFI	
<input type="checkbox"/>	• Other (describe in comments)	
<input checked="" type="checkbox"/>	Other Factors Considered:	Comments:
<input type="checkbox"/>	• Market Conditions	
<input type="checkbox"/>	• Consumer Price Index	
<input type="checkbox"/>	• Geographic Location	
<input type="checkbox"/>	• Extent of Competition	
<input type="checkbox"/>	• Buy American Considerations	
<input type="checkbox"/>	• Other (describe in comments)	
Additional Information applicable to the determination that the prices are fair and reasonable.		

This institution is an equal opportunity provider.
Last updated: 01/2023

Section H: FNS or SCN Review of Records 2 CFR 200.325

Child Nutrition Director is responsible for:

- Providing procurement documents to FNS or SCN when they are requested.

Section I: Bonding Requirements 2 CFR 200.326

Child Nutrition Director is responsible for:

- Ensuring that the bonding requirements described in a, b, or c are followed when payments above the simplified threshold are charged to the nonprofit school foodservice account for construction or facility improvements.
- Ensure bonding requirements are met for applicable contracts.
- Confirm that bonding instruments are valid and enforceable.
- Submit bonding documentation as required by FNS or SCN.

Procedure Steps:

1. Use of Non-Federal Bonding Policy
 - o FNS or SCN may accept the SFA's bonding policy and requirements only if they determine that the Federal interest is adequately protected.
2. Minimum Bonding Requirements
 - o If no determination has been made by FNS or SCN, the following minimum bonding requirements must be applied:

(a) Bid Guarantee

- o Each bidder must provide a bid guarantee equal to 5% of the bid price.
- o Acceptable forms include:
 - Bid bond
 - Certified check
 - Other negotiable instrument
- o Purpose: To ensure the bidder will execute required contract documents upon bid acceptance.

(b) Performance Bond

- o The contractor must provide a performance bond for 100% of the contract price.
- o Purpose: To secure fulfillment of all contractual obligations.

(c) Payment Bond

- The contractor must provide a payment bond for 100% of the contract price.
 - Purpose: To assure payment to all parties supplying labor and materials under the contract.
3. Verification and Documentation
- Review all bonding instruments for compliance and validity.
 - Maintain documentation of bonding requirements and instruments in the procurement file.

Monitoring and Compliance:

- Periodically review construction and facility improvement contracts to ensure bonding requirements are consistently applied.
- Maintain records of:
 - Bid guarantees
 - Performance and payment bonds
 - Communications with FNS or SCN regarding bonding policy acceptance

Section J: Contract Provisions 2 CFR 200.327 & 7 CFR 210.21(f)

Child Nutrition Director is responsible for:

- Ensuring that all contracts and purchase agreements used by the Child Nutrition Program include the required applicable provisions.

SECTION I

Required Clauses and Provisions 2 CFR 200 Appendix II

	Clause or Provision	Criteria for Use	Required or Suggested Language or Form
1	Administrative, Contractual, or Legal Remedies	Required: > Simplified Acquisition Threshold (\$250k)	No. – Must be based on SFA specific procedures.
2	Termination for cause or convenience	Required: > \$10k	Yes – Suggested language
3	Equal Employment Opportunity	Required: Construction, alteration, and/or repairs (including painting and decorating)	Yes – Suggested Language
4	Davis Bacon Act	Required: Construction, alteration, and/or repairs (including painting and decorating)	Yes – Suggested Language
5	Copeland Anti-Kickback Act	Required: Construction, alteration, and/or repairs (including painting and decorating) > \$2k	Yes – Suggested Language
6	Contract Work Hours and Safety Standards Act	Required: > \$100k + mechanics or laborers	Yes. Suggested Language
7	Rights to inventions made under a contract or agreement	Required: Funding agreements	Yes – Suggested Language
8	Clean Air Act and Federal Water Pollution Control Act	Required: >\$150k	Yes – Suggested Language
9	Debarment and Suspension	Required: All	Yes - Suggested Language; Required form.
10	Byrd Anti-Lobbying Amendment	Required: >\$100k: Certification	Yes - Suggested Language; Required form.
11	Procurement of Recovered Materials	Required: SFA is a state or political subdivision of a state. Work involves the use of materials.	Yes – Suggested Language
12	Prohibition on certain telecommunications and surveillance services or equipment.	Required: Telecommunication or surveillance equipment or systems.	Yes – Suggested Language
13	Domestic Preference for Procurements	Required: Iron and steel products, and manufactured products composed in whole or in part with non-ferrous metals	Yes- Suggested Language

Program Regulatory and Guidance Clauses and Provisions

	Clause or Provision	Criteria for Use	Required or Suggested Language or Form
14	Buy American	Required: Agriculture commodities that are credited to the meal pattern (dairy, bread, meat, fruit, and vegetables).	Yes – Suggested Language
15	Cost-Reimbursable Contracts	Required: All cost-reimbursable contracts	Yes – Required Information from 7 CFR 210.21(f)
16	Geographic Preference	Local unprocessed agricultural commodities.	No.
17	Processing USDA Commodity Foods	Required: All agreements or contracts for Processing USDA Commodity Foods	Yes – Required Information from 7 CFR 250.31(b)
18	Procurement Agent Services	Required: All Procurement Agent contracts.	Yes – Required Language
19	Piggybacking	Required: When it will be allowable for additional parties to be added to the contract after it has been executed.	Yes – Suggested Language

Other Clauses

	Clause or Provision	Criteria for Use	Required or Suggested Language or Form
20	Access to Records	Any contract or agreement in which the vendor will have records that are pertinent to the performance of the Program.	Yes – Suggested Language
21	Economic Adjustments	When a long-term fixed price is not appropriate.	No – Suggested Language. See description for what it should include.

2 CFR 200 Appendix II Contract Provisions

1. ADMINISTRATIVE/CONTRACTUAL/LEGAL REMEDIES

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, will address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and will indicate sanctions and penalties that may be imposed.

2. TERMINATION FOR CAUSE OR CONVENIENCE

Henderson County Schools may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the SFA, upon request, with adequate assurances of future performance. The SFA shall provide the Contractor with a written notice thirty (30) days prior to the contract termination date. In the event of termination for cause, the SFA shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the SFA for any and all rights and remedies provided by law. If it is determined that the SFA improperly terminated this contract for default, such termination shall be deemed a termination for convenience. The Contractor may also terminate this contract under the same set of aforementioned conditions.

Termination for Convenience: Henderson County Schools may terminate this contract for any reason, provided that the SFA shall be required to provide the Contractor with a prior sixty (60) days' written notice of the effective date of such termination (Include the "Termination for Convenience Date). The Contractor may also terminate this contract under the same set of aforementioned conditions.

3. EQUAL EMPLOYMENT OPPORTUNITY.

During the performance of this contract, the contractor agrees as follows:

- a. **Non-Discrimination:** Contractors must not discriminate against employees or job applicants based on race, color, religion, sex, sexual orientation, gender identity, or national origin. 2 CFR 200 Clauses and Provisions 7
- b. **Affirmative Action:** Contractors must take affirmative action to ensure equal employment opportunities, including recruitment, hiring, promotion, and other employment practices.
- c. **Posting Notices:** Contractors must display notices in visible places that inform employees and applicants about the non-discrimination clause.
- d. **Advertisements:** All job advertisements must state that all qualified applicants will receive consideration for employment without discrimination.

- e. Compensation Disclosure: Contractors must not retaliate against employees or applicants who inquire about, discuss, or disclose their compensation or that of others.

4. DAVIS-BACON ACT.

The Selected contractor shall comply with the Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor will be placed in the solicitation. The decision to award a contract or subcontract will be conditioned upon the acceptance of the wage determination. The non-Federal entity will report all suspected or reported violations to the Federal awarding agency.

5. COPELAND "ANTI-KICKBACK" ACT

1. Prohibition of Kickbacks: The Contractor shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), which prohibits any person from inducing, by any means, any other person employed in the construction, completion, or repair of public buildings or public works financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which they are entitled.
2. Regulations: The Contractor shall comply with all regulations issued by the Department of Labor under 29 CFR Part 3, which implement the Copeland "Anti-Kickback" Act.
3. Reporting Violations: The Contractor shall report all suspected or reported violations of the Copeland "Anti-Kickback" Act to the Federal awarding agency.
4. Contractor's Responsibility: The Contractor shall include the substance of this clause in all subcontracts.

6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

1. Work Hours: The Contractor shall 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 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, in accordance with 40 U.S.C. 3702.
2. Safety Standards: The Contractor shall ensure that no laborer or mechanic is required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to their health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor, in accordance with 40 U.S.C. 3704.

3. Compliance: The Contractor shall comply with all applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) and the regulations issued by the Department of Labor (29 CFR Part 5).
4. Reporting Violations: The Contractor shall report all suspected or reported violations to the Federal awarding agency.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

1. Funding Agreement Compliance: If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a), and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
2. Invention Reporting: The Contractor shall promptly report all inventions made in the performance of work under the contract to the Federal awarding agency. The Contractor shall disclose each invention in writing within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters.
3. Government Rights: The Contractor shall grant the Federal Government a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.
4. Patent Application: The Contractor shall file patent applications on inventions developed under the contract within a reasonable time and shall include the Federal Government’s rights in the patent application.
5. Subcontractor Compliance: The Contractor shall include the substance of this clause in all subcontracts for experimental, developmental, or research work.

8. THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

Clean Air Act:

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The contractor agrees to report each violation to the Henderson County School’s Student Nutrition Department and understands and agrees that the Nutrition Department will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office, and the Federal awarding agency, or USDA. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by Federal funds.

Federal Water Pollution Control Act:

The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The contractor agrees to report each violation to the Henderson County School’s Student Nutrition Department and understands and agrees that Student Nutrition Department will, in turn, report each violation as

required to assure notification to the appropriate Environmental Protection Agency Regional Office, and the Federal awarding agency, or USDA. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal funds.

9. DEBARMENT AND SUSPENSION

The Contractor understands that a contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM) 11 or the Excluded Parties List System (EPLS), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p.189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the Henderson County School's Student Nutrition Department. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Student Nutrition Department, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR 180.220 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award recipient.

Required Form: If applicable, contractors must sign and submit the lobbying disclosure and certification form to the Henderson County School's Student Nutrition Department.

<https://www.state.gov/lobbying-disclosure-and-certification>

11. PROCUREMENT OF RECOVERED MATERIALS PURSUANT TO 2 C.F.R. § 200.323

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

1. Competitively within a timeframe providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site:

<https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

12. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT PURSUANT TO 2 CFR § 200.216.

Pursuant to 2 CFR 200.216, the awarded vendor shall not offer equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment or services means 1) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 2) for the purpose of public safety, security of government facilities, physical security 13 surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); 3) telecommunications or video surveillance services provided by such entities or using such equipment; or 4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

13. DOMESTIC PREFERENCES FOR PROCUREMENTS PURSUANT TO 2 CFR § 200.322.

The awarded vendor will comply with 2 CFR 200.322 Domestic preferences for procurements as applicable to the contracted services covered by the awarded contract.

Program Regulatory and Guidance clauses and Provisions

14. BUY AMERICAN.

The awarded vendor is required to certify that (insert product name) was processed in the U.S. and contains over (insert % of weight or volume) of its agricultural food component from the U.S., *with space for the supplier to fill in the name of the product and its percentage of the domestic agricultural food component (by weight or volume) contained therein.*

“The District/State agency/Territory participates in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A ‘domestic commodity or product’ is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d).”

Exceptions to the Buy American provision are very limited; however, an alternative or exception may be approved upon request. To be considered for an alternative or exception, the request must

be submitted in writing to a designated official, a minimum of 2 day (s) in advance of delivery. The request must include the following: 1. Alternative substitute(s) that are domestic and meet the required specifications: a) Price of the domestic food alternative substitute(s); and b) Availability of the domestic alternative substitute(s) in relation to the quantity ordered. 2. Reason for exception: limited/lack of availability or price (include price): a) Price of the domestic food product and b) Price of the non-domestic product that meets the required specification of the domestic product., or c) Item is found on the FARs Nonavailable Articles List.

15. COST REIMBURSABLE CONTRACTS

1. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the non-federal entity.
2. The contractor must separately identify for each cost submitted for the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or
3. The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;
4. The contractor's determination of its allowable costs must be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;
5. The contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the State agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;
6. The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and
7. The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the non-federal entity, the State agency, or USDA.

16. GEOGRAPHIC PREFERENCE.

Purpose:

To encourage the purchase of locally grown or locally raised agricultural products when cost, quality, and availability allow, Henderson County Schools Student Nutrition Department applies a geographic preference in accordance with 7 CFR 210.21(g) and 2 CFR 200.319.

Definition of "Local"

For the purpose of this plan, “local” is defined as agricultural products grown, raised, produced, or processed within a 100-mile radius of Henderson, Kentucky. The distance will be measured in a straight line from the Henderson County Board of Education Student Nutrition Services Office.

Application by Procurement Method

1. Micro-Purchases (under the district’s micro-purchase threshold):

When making micro-purchases, staff should, whenever practicable, distribute purchases equitably among qualified suppliers and give preference to vendors offering products grown or raised within the defined 100-mile local area, provided prices are reasonable and products meet program needs.

2. Small Purchases (above the micro-purchase threshold but below the small purchase threshold):

For informal procurements, the Student Nutrition Department may include a geographic preference as part of the evaluation process. When price and quality are comparable, preference will be given to vendors offering products that meet the district’s definition of local.

The purchasing agent may assign up to 10% of total evaluation weight to geographic preference when determining the most responsive and responsible vendor.

3. Formal Procurement (sealed bids or competitive proposals):

In formal solicitations for unprocessed agricultural products, HCS may apply a geographic preference of up to 10 evaluation points (or 10% of total points) for products grown or raised within the 100-mile local area. Vendors claiming local preference must provide documentation verifying the origin of products.

Allowable Products

Geographic preference applies only to unprocessed agricultural products, as defined by USDA, which may include items that are washed, peeled, sliced, bagged, frozen, or otherwise minimally altered without changing their inherent character.

17. PROCESSING USDA FOOD CONTRACTS

The Henderson County School’s Student Nutrition Department will ensure that solicitations and contracts utilized for procuring processed end products containing USDA donated foods, address the following information at a minimum.

1. The price to be charged for the end product or other processing service;
2. The method of end product sales that will be utilized and assurance that crediting for donated foods will be performed in accordance with the applicable requirements for such method of sales in §250.36;
3. The value of the donated food in the end products; and
4. The location for the delivery of the end products.

18. PROCUREMENT AGENTS

When utilizing a procurement agent, the Henderson County School's Student Nutrition Department will ensure that solicitations and contracts include the following information at a minimum.

1. The scope of duties and responsibilities of the agent.
2. That when procuring goods or services for the SFA, agents must follow procedures consistent with 2 CFR Part 200.317-.327 and all applicable NSLP program regulations and guidance.
3. They must represent the SFAs and have their interests exclusively in mind when procuring on their behalf.
4. They may not have any real or apparent conflicts of interest.
5. They may not use pre-existing contractual relationships in lieu of conducting competitive procurements for the SFA.

19. PIGGYBACKING

For the term of the contract and any mutually agreed extensions pursuant to this Invitation for Bid, at the option of the Awarded Vendor, other schools operating the School Nutrition Programs in Kentucky, up to 10 additional schools may purchase the contracted goods/services at the same terms, conditions, and pricing of this contract award up to an additional \$250,000 in sales. Once additional sales have reached the \$250,000 threshold, it will be determined that a material change has occurred and a new procurement will be conducted. Acceptance or rejection of this clause will not affect the outcome of the procurement award. Piggyback option granted _____
Piggyback option not granted _____

Other Clauses and Provisions

20. ACCESS TO RECORDS

All books and records shall be made available for audit by the SFA, USDA, SCN, Inspectors General, the Comptroller General of the United States, or any of their authorized representatives. If audit findings regarding the awarded vendor's records have not been resolved within the three-year record retention period, the records must be retained beyond the three-year period for as long as required for the resolution of the issues raised by the audit.

21. ECONOMIC ADJUSTMENTS

Henderson County School' Student Nutrition Department reserves the right to include an Economic Adjustment Clause in any and all procurement contracts. Prices may be adjusted upward or downward based on changes in a publicly available economic index, such as the Consumer Price Index (CPI) or Producer Price Index (PPI), as identified in the solicitation. The base period, calculation method, and frequency of adjustment (not more than once per quarter year) shall be defined in the contract. Any requested adjustment must be supported by official index data and submitted in writing at least 30 days prior to the effective date.

Section K: Prohibition on certain telecommunications and video surveillance services or equipment 2 CFR 200.216

Child Nutrition Director is responsible for:

- Ensuring compliance with this regulation in all contracts and purchases for telecommunication equipment or services used in the Child Nutrition Program.

Section L: Whistleblower protections 2 CFR 200.217

Child Nutrition Director is responsible for:

- Informing employees in writing of employee whistleblower rights and protections under 41 U.S.C. 4712.

Section M: Prior Approval to Procure

Child Nutrition Director is responsible for:

- Obtaining prior written approval from SCN to procure equipment that is not on the pre-approved equipment list.
- Obtaining prior written approval from SCN to procure services to arrange or alter facilities from Jerry Roberts.