

Breathitt County Schools

PROCUREMENT PLAN CHILD NUTRITION PROGRAM

This procurement plan contained on the following pages 1 through 11 will be implemented on _____ from that date forward until amended. All procurements must adhere to free and open competition. Source documentation must be available to determine open competition, the reasonableness, the allowability and the allocation of costs.

Chairman, Board of Education

Date

Superintendent of Schools

Date

Finance Officer

Date

Food Service Director

Date

(Rev. by SCN/KDE 10/2017)

Breathitt County Schools

PROCUREMENT PLAN

A. General Procurement Standards

- This plan is adopted as a condition of the SFA's participation in the USDA's Child Nutrition Programs.
- The SFA uses procurement procedures that reflect state and local law while also ensuring compliance with applicable federal law.

B. Procurement Management – SFA and Governing Body

Tabitha Napier, School Nutrition Director, RD, LD is primarily responsible for overseeing all procurement for SFA's food service department including any procurement conducted on behalf of the SFA. This responsibility includes, but is not limited to, the responsibilities set forth below:

- Ensures that all SFA procurement transactions are conducted in a manner that provides full and open competition in accordance with federal law.
- Managing contracts and overseeing vendors and/or ensuring that vendors perform in accordance with the terms, conditions, and specifications of vendor contracts and/or purchase orders.
- Ensuring that vendors who develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals are **excluded** from competing for such contracts and/or purchase orders.
- Ensuring that all contractual and administrative issues arising out of procurements for the SFA's food service department is handled in accordance with good administrative practice and sound business judgment.
- Ensuring that sufficient records detailing the SFA's procurement history as well as the procurement history of all other entities procuring on behalf of the SFA are maintained.
 - The records maintained for contracts include, at a minimum, the following records:
 - Rationale for methods of procurement
 - Selection of procurement type
 - Selection or rejection of vendor
 - Basis for contract price
 - These records are maintained for at least 3 years after submission of the final Claim for Reimbursement for the fiscal year or longer if otherwise required by law.
- Ensures that the LEA maintains policies and/or procedures that govern the conduct of employees who are engaged in the selection, award, and administration of contracts for the SFA. These policies and procedures can be found at <http://policy.ksba.org/Chapter.aspx?distid=167>. These policies and procedures meet the minimum requirements set forth in federal law.

- Ensures that affirmative steps are taken to assure minority business enterprises are used when possible. (2 CFR Part 200.321. Small, minority and women's businesses and labor surplus firms.)

Affirmative steps include:

- (a) Solicitation lists;
- (b) Solicited when sources are available;
- (c) Dividing total requirements, when economical feasible, to allow maximum participation;
- (d) Use Small Business Administration and Minority Business Development Agency; and
- (e) Require prime contractor, in subcontracts, to use affirmative steps.

C. Procurement Conducted on behalf of SFA (Check all that apply)

NA Not applicable - SFA alone conducts procurement on behalf of the SFA.

NA SFA contracts with a third party purchasing agent.

- Third party procurement services were competitively procured using a competitive bid process.
- A copy of the solicitation and final awarded contract is attached here at TAB _____.
- The third party conducts the following procurement on behalf of the SFA:
 - _____
 - _____
 - _____
 - _____
 - _____
 - _____
- A copy of the third party's procurement plan is attached hereto at TAB _____.

X SFA uses a co-operative recognized under Kentucky state law to conduct procurement. A copy of the co-operative's procurement plan is attached at TAB 1.

- The co-operative conducts the following procurement on behalf of the SFA:
 - Fresh Bread and Buns
 - Dairy and Orange Juice
 - School Day Approved Beverages
 - _____
 - _____
 - _____

X SFA uses a co-operative recognized under Kentucky state law that has contracted with a third party buying agent. A copy of the co-operative's procurement plan is attached at TAB 1.

- Third party procurement services were competitively procured using a competitive bid process.
- A copy of the solicitation and final awarded contract is attached here at TAB 2.

- The third party conducts the following procurement on behalf of the SFA:
 - Primary Food Vendor
 - _____
 - _____
 - _____
 - _____
 - _____
- A copy of the third party's procurement plan is attached hereto at TAB 3.

D. SFA Procurement

Procurement Methods (Check all that apply)

PROCUREMENT BY MICRO-PURCHASE

SFA acquires supplies or services that do not exceed the current Micro-Purchase Threshold of (_____).

(_____) is responsible for procuring goods and/or services for the SFA using micro-purchase process.

- Ensuring compliance with the Buy American Provision.

X **INFORMAL PROCUREMENT**

Procurement by Small Purchase Procedure

SFA Simplified Acquisition Threshold is \$30,000.

Tabitha Napier, School Nutrition Director, RD, LD is responsible for making purchases using the Small Purchase Procedure. Responsibilities include, but are not limited to the following:

- Contacting potential vendors when price quotes are needed from at least 3 qualified sources.
- Ensuring the confidentiality of price quotes are maintained until purchase is made.
- Ensuring small purchases are made based on the lowest price.
- Ensuring compliance with the Buy American Provision.
- Ensuring documentation is maintained and includes at least the written specifications used, identification of vendors contacted, vendor price quotes received, and vendor selected.

Tabitha Napier, School Nutrition Director, RD, LD is responsible for overseeing the small purchase process.

- Reviewing price quotes.
- Providing final approval of the purchase.

X **FORMAL PROCUREMENT**

Procurement by bid or proposal

Procurement for services, supplies, or other property exceeding the SFA's Simplified Acquisition Threshold of \$30,000 are conducted by formal procurement. Tabitha Napier, School Nutrition Director, RD, LD is responsible for procuring goods and/or services for the SFA using formal procurement. Responsibilities include, but are not limited to the following:

- Ensuring that contracts are awarded to the responsible bidder/proposer whose bid or proposal is responsive to the solicitation and is most advantageous to the SFA.
- Ensuring that, when weighed criteria is used as part of the solicitation, a weighted evaluation sheet is provided to each bidder in the initial bid document materials; price and other factors are considered with price receiving the highest weight; and a firm fixed price or cost reimbursable contract is awarded following evaluation and/or negotiation (as applicable).
- Ensuring that the bid tabulation or the evaluation criterion score sheet is signed signifying a review and approval of the selections.
- Monitoring the formal procurement system to ensure compliance with applicable laws.
- Ensuring that all procurement documentation relating to formal procurement is maintained.
- Ensuring compliance with the Buy American Provision.
- Ensuring that a vendor obtains in advance, written approval for any non-domestic agricultural product supplied to the SFA.
- Ensuring that full documentation is received by the SFA documenting why an accepted item is unavailable.
- Ensuring that vendor documentation is reviewed and audited before SFA selects an acceptable alternative.
- Selects an acceptable alternative when a product is not available.
- Ensuring that the solicitation is advertised by district website, KVEC website, and local newspapers to publicize the SFA's intent to purchase needed items.
- Ensuring that announcements (advertisements or legal notices) contain:
 - General description of items to be purchased
 - Deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms and conditions as needed
 - Date of pre-bid meeting, if provided, and if attendance is a requirement for bid award
 - Deadline for submission of bids or proposals; and
 - Address of location where complete specifications and bid/proposal forms may be obtained.
- Ensuring that advertisements run for 7-10 days.
- Ensuring that vendors are given the same opportunity to bid on the same product specifications.
- Ensuring that purchase conditions are clearly defined in the solicitation.
- Ensuring that the initial procurement solicitation and the final awarded contract includes all required contract language and meets the requirements of federal and state law:
 - Solicitation Requirements for contracts that are **NOT** cost reimbursable:
 - There is a clear and accurate description of the technical requirements for the material, product, or services being procured.

- Requirements are identified that must be fulfilled as well as all other factors used in evaluating bids or proposals.
- INCLUDE IF APPLICABLE - Solicitation Requirements for cost reimbursable contracts
 - The school food authority must include the following provisions in all cost reimbursable contracts, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts:
 - (i) 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 school food authority;
 - (ii)(A) Contractor will separately identify for each cost submitted for payment to the school food authority 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 (B) Contractor will 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;
 - (iii) Contractor's determination of its allowable costs will be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;
 - (iv) Contractor will identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit.
 - (v) 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
 - (vi) Contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department.
- ALL contracts contain provisions covering the following, as applicable.
 - Contracts for more than the simplified acquisition threshold address administrative, contractual, or legal remedies in instances where contractors

violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

- All contracts in excess of \$10,000 address termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
- When a 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.
- Contracts in excess of \$150,000 contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- Contract awards are not made to parties listed on the government-wide exclusions in the System for Award Management (SAM), 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.”
- Contractors applying for or bidding for an award exceeding \$100,000 must file the required certification as required by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). 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.

X **NON-COMPETITIVE NEGOTIATION**

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- 1) The item is available only from a single source;
- 2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- 3) The Federal awarding agency or pass-through entity (KDE/SCN) expressly authorizes noncompetitive proposals **in response** to a written request from the non-Federal entity (SFA); **or**
- 4) After solicitation of a number of sources, competition is determined *inadequate*.

Tabitha Napier, School Nutrition Director, RD, LD is responsible for handling non-competitive negotiation. Responsibilities include, but are not limited to the following:

- Ensuring that written specifications are prepared and provided to the vendor.
- Ensuring that a record of non-competitive negotiation is maintained including, at a minimum, the following:
 - item name
 - dollar amount
 - vendor, and
 - reason for non-competitive procurement
- Ensuring documentation that the actual product or service specified was received is maintained.

EMERGENCY OR “PRESSING NEED” PURCHASES

Tabitha Napier, School Nutrition Director, RD, LD is responsible for handling emergency purchases. Responsibilities include, but are not limited to the following:

- Ensuring that written specifications will be prepared.
- Ensuring requests that exceed \$30,000 threshold are submitted to KDE/SCN for approval.
- Ensuring that the actual product or service specified is received.

Kentucky Department of Education, School and Community Nutrition approves, in advance, all emergency procurements that exceed \$30,000. Requests should be submitted via email to:

Lauren Moore, Director

Division of School and Community Nutrition

Lauren.moore2@education.ky.gov

Requests should include:

- Statement signed by the Superintendent providing details of the existing emergency within the district's Child Nutrition Program and justification for the emergency/pressing need purchase.
- Estimated cost of the goods and/or services.

Record keeping responsibilities include:

- Ensuring that a record of the emergency purchase procedure, request information, and State Agency approval is maintained and available for audit and review. The record includes, at a minimum, the following:
 - item name
 - dollar amount
 - vendors contacted, and vendor awarded
 - statement signed by the Superintendent and reason for emergency or pressing need
 - State agency approval

Procurement by Category (Check all that apply)

- SFA utilizes the methods for the following purchase categories on the chart contained on page 9 and 10, if applicable.

Category	Method (e.g., Micro-Purchase, Informal, or Formal)	Contract Type (e.g. IFB, RFP, or quotes)	Pricing (e.g. fixed or variable)	Frequency (e.g. annually, every two years, as needed, ect)	Extension (e.g. are there renewals? If so how many?)
Foods (grocery, frozen, meat, poultry, dairy, produce)	Formal	RFP/3 rd Purchase – GFS	Fixed	Every four years	1 year extension
Fresh Bakery Items (Bread, Buns)	Formal	IFB- Earthgrains	Fixed	Annual	NA
Milk & Orange Juice	Formal	IFB - Borden	Fixed w/coolers	Annual	NA
All Supplies – Disposables, Paper, Plastic, Tabletop	Formal	RFP/3 rd Purchase – GFS	Fixed	Every four years	NA
School Day Approved Beverages	Formal	IFB - Coke	Fixed	Annual	NA
Office Supplies	Formal	RFP/3 rd Purchase with HPS – Staples	Fixed	Annual	NA
Smallwares/Equipment < \$20,000	Informal	Quotes	Fixed	As needed	NA
Capital Equipment > \$20,000	Formal	IFB/RFP Depending on project	Fixed	As needed	NA

Technology Upgrades	Informal	KETS – state contract	Fixed	As needed	NA
POS Software	Informal	Heartland/Lunchbox	Fixed	As needed	NA

E. Procurement – Contractor Performance Oversight procedures

Tabitha Napier, School Nutrition Director, RD, LD will conduct contractor performance oversight. 2 CFR 200.318(b) Monitoring occurs after contract is awarded. Responsibilities include:

- Periodic on-site review of food storage facilities.
- Monitor Buy American provision – Exemptions are documented and Country of Origin is USA.
- Monitors that product/price/quality are as specified in bid and awarded contract. Such programmatic monitoring, financial monitoring, or both will be done annually.
- Monitor that deliveries are as required.
- Monitor that costs are accurate and discounts, rebates, and credits are being returned to the nonprofit food service account.