

**ERLANGER-ELSMERE FOOD SERVICE PROGRAM  
PROCUREMENT PLAN  
CHILD NUTRITION PROGRAM**

This procurement plan contained on the following pages one through ten will be implemented on July 1<sup>st</sup>, 2021 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.

\_\_\_\_\_  
Chairperson, Board of Education

\_\_\_\_\_  
Date

\_\_\_\_\_  
Superintendent of Schools

\_\_\_\_\_  
Date

\_\_\_\_\_  
Finance Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Food Service Director

\_\_\_\_\_  
Date

(Rev. \_\_\_\_\_)

## 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

Nutrition Director 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 judgement.
- 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 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 maxim 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)**

Not applicable – SFA alone conducts procurement on behalf of the SFA.

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 \_\_\_\_.

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 \_\_\_\_.

- The co-operative conducts the following procurement on behalf of the SFA:
  - OVEC: Ice Cream, Kitchen Hood Cleaning & Dish Machine
  - KEDC: Grocery Items, Bakery, Dairy, Capital Equipment, Office Supplies
  - Nutrition Consultant, Nutrition Software-Menu Display, Nutrition Software-
  - Cycle Menu
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_

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 \_\_\_\_.

- 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:
  - OVEC: Ice Cream, Kitchen Hood Cleaning & Dish Machine
  - KEDC: Grocery Items, Bakery, Dairy, Capital Equipment, Office Supplies
  - Nutrition Consultant, Nutrition Software-Menu Display, Nutrition Software-Cycle Menu
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
- A copy of the third party's procurement plan is attached hereto at TAB \_\_\_\_.

**D. SFA Procurement**

Procurement Methods (Check all that apply)

  X   **PROCUREMENT BY MICRO-PURCHASE**

SFA acquires supplies or services that do not exceed the current Micro-Purchase Threshold of \$10,000.

Nutrition Director is responsible for procuring goods and/or services for the SFA using micro-purchase process.

  X   **INFORMAL PROCUREMENT**

Procurement by Small Purchase Procedure

SFA Simplified Acquisition Threshold is \$30,000.

Nutrition Director/Food Service Accounts Clerk 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 three 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 documentation is maintained and includes at least the written specifications used, identification of vendors contacted, vendor price quotes received, and vendor selected.

Nutrition Director/Finance Director 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 \$20,000 are conducted by formal procurement. Finance Director 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 Newspaper, post website, contact vendors 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 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.
      - 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**

Non-competitive negotiation is used when items are available **ONLY** from a single source and ***when the award of a contract is not feasible under small purchase or formal purchase procedures.***

Nutrition Director/Finance Director 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
- Kentucky Department of Education, School and Community Nutrition approves, in advance, all procurements that result from non-competitive negotiations.
- Ensuring documentation that the actual product or service specified was received is maintained.

#### **EMERGENCY OR “PRESSING NEED” PURCHASES**

Nutrition Director/Finance Director 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 \$20,000 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 \$20,000. 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**

- OVEC utilizes the following methods for the following purchase categories:

<b>Category</b>	<b>Procurement Method</b>	<b>Evaluation Used</b>	<b>Contract Award Type</b>	<b>Contact Duration/Frequency</b>
Ice Cream	Formal/IFB	Awarded to the responsive/responsible bidder that	Fixed Price	Annual w/option to renew for an



		submits the lowest responsive bid: <ul style="list-style-type: none"> <li>• Product Line</li> <li>• Deliverability</li> <li>• Physical Facilities</li> <li>• Financial Capacity</li> <li>• Service Level</li> <li>• NOI/Value Pass Thru Program</li> <li>• Past Performance</li> </ul>		additional 12 months not to exceed 2 additional years
Kitchen Hood Cleaning and Dish Machine	Formal/IFB	Awarded to the responsive/responsible bidder that submits the lowest responsive bid: <ul style="list-style-type: none"> <li>• Financial Capacity</li> <li>• Service Level</li> <li>• Accounting Practices</li> <li>• Past Performance</li> </ul>	Fixed Price	Annual w/option to renew for an additional 12 months not to exceed 2 additional years
School Food Service Beverage	Formal/IFB	Awarded to the responsive/responsible bidder that submits the lowest responsive bid: <ul style="list-style-type: none"> <li>• Product Line</li> <li>• Deliverability</li> <li>• Physical Facilities</li> <li>• Financial Capacity</li> <li>• Service Level</li> <li>• Past Performance</li> </ul>	Fixed Price	Annual w/option to renew for an additional 12 months not to exceed 2 additional years
Temperature Management System	Formal/IFB	This RFP was awarded to the most responsive/responsible bidder meeting all terms, conditions, and specifications of the RFP and not based solely on price	Fixed Price	Annual w/option to renew for an additional 12 months not to exceed 2 additional years
Food Service Safety/Sanitation Services and Cleaning Supply Program	Formal/IFB	This RFP was awarded to the most responsive/responsible bidder meeting all terms, conditions, and specifications of the RFP and not based solely on price	Fixed Price	Annual w/option to renew for an additional 12 months not to exceed 2 additional years

**KEDC**

**Procurement by Category (Check all that apply)**

Cooperative utilizes the following methods for the following purchase categories:

Category	Procurement Method	Evaluation Used	Contract Award Type	Contact Duration/Frequency
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Grocery Includes: <ul style="list-style-type: none"> <li>• Frozen Foods</li> <li>• Canned Foods</li> <li>• Pasta</li> <li>• Cleaning Supplies</li> <li>• Paper &amp; Plastic Supplies</li> <li>• Dish Machine Chemicals</li> <li>• Small wares</li> <li>• Bakery</li> </ul>	Formal	Weighted	Prime Vendor, fixed price	One year with renewals. Not to exceed 5 years
Fresh Bakery	Formal	Weighted	Fixed Price	One year with renewals. Not to exceed 5 years
Fresh Dairy	Formal	Weighted	Fixed or Escalating Price	One year with renewals. Not to exceed 5 years
Capital Equipment	Formal	Weighted	Fixed Price	One year with renewals. Not to exceed 5 years
Office Supplies	Formal	Weighted	Fixed Price	One year with renewals. Not to exceed 5 years
Nutrition Consultant	Formal	Weighted	Fixed Price	One year with renewals. Not to exceed 5 years
Nutrition Software-Menu Display	Formal	Weighted	Fixed Price	One year with renewals. Not to exceed 5 years
Nutrition Software-Cycle Menu	Formal	Weighted	Fixed Price	One year with renewals. Not to exceed 5 years

**E. Procurement – Contractor Performance Oversight Procedures**

OVEC will conduct contractor performance oversight. 2 SFR 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 Quarterly. (Quarterly, Semi-Annual, or 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.