

# **CHAPTER 10.00 - FOOD AND NUTRITION SERVICES**

## **10.06 - Procurement for School Food and Nutrition Services**

### **POLICY:**

#### **INTRODUCTION for Sponsors of National School Lunch and Breakfast Programs**

The following procurement policy statement shall govern all purchasing activities that relate to any aspect of the National School Lunch and Breakfast Programs. This statement is meant to provide guidance to our personnel and vendors on acceptable and/or required procurement practices. Our goal is to fully implement all required and recommended procurement rules, regulations and policies set forth in 7 CFR 210, 2 CFR 200, and Chapter 5P-2, Florida Administrative Code.

#### **1. PROCUREMENT POLICY**

The School Board of Levy County Food and Nutrition Services department incorporates the following elements into the Procurement Policy Statement and will follow all federal, state, and local laws and regulations.

#### **2. BUY AMERICAN**

We adhere to 7 CFR 210.21(d) and USDA Policy Memo SP 38-2017 to ensure compliance with the Buy American provision requiring the Sponsor to purchase, to the maximum extent practicable, domestic commodities or products. This Buy American provision supports the mission of the Child Nutrition Programs, which is to serve children nutritious meals and support American agriculture.

A. There are two limited exceptions when non-domestic foods may be purchased. These exceptions, as determined by the Sponsor, are:

1. The food or food product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality; or
2. Competitive bids reveal the cost of a United States food or food product is significantly higher than the non-domestic product.

B. In the event a non-domestic agricultural product is to be provided, the vendor must obtain advanced, written approval to use the product from the Sponsor.

#### **3. COMPETITION**

We shall demonstrate our goods, equipment, and services are procured in an openly competitive manner.

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### **4. COMPARABILITY**

We recognize for true competition to take place, we must maintain reasonable product specifications to adequately describe the products to be purchased and the volume of planned purchases based upon pre-planned menu cycles.

### **5. UNNECESSARY AND DUPLICATIVE ITEMS**

We shall avoid acquisition of unnecessary or duplicative items per 2 CFR 200.318(d). Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

### **6. DOCUMENTATION**

We shall maintain for the current year and the preceding five years all menus, production records, invitations to bid, bid results, bid tabulations or any other significant materials that will serve to document our policies and procedures.

Written rationale for the method of procurement;

- A copy of the original solicitation, including informal requests for quotes;
- Proof of public announcement, if applicable;
- All questions received from potential vendors;
- All answers provided to potential vendors;
- Proof of public posting of questions and answers, if applicable;
- All quotes, bids, and proposals received from potential vendors;
- Proof of the public bid opening, if applicable;
- All quote comparisons, bid tabulations, and proposal evaluations; including all determinations for responsible and responsive vendors and all disqualifications of potential vendors.
- The basis for vendor selection;
- Any resulting contracts, including all amendments;
- All receipts, invoices, and records of payment; and
- Any claims of vendor noncompliance with a contract.

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### **7. CODE OF CONDUCT**

This program shall be governed by the following Code of Conduct and it shall apply to all School Board of Levy County officers, School Board members, personnel, employees, directors, agents, officers, volunteers, or any person(s) engaged in any aspect of procurement, contracts, grants or the administration and supervision of contracts supported entirely or in part by federal entitlement funds disbursed by USDA. These regulations are found in 2 CFR 200.318(c) and Chapter 5P-2.003(4), Florida Administrative Code.

No employee, officer, director, volunteer or agent of the School Board of Levy County shall participate in the selection, award or administration of a bid or contract supported by the National School Lunch Program (NSLP) or School Breakfast Program (SBP) funds if a real or apparent conflict of interest is to a reasonable person exists.

Conflicts of interest may exist when any of the School Board of Levy County's employee, officer, director, volunteer, agent, any member of his or her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the parties indicated herein has a financial, family, or any other beneficial interest in the vendor firm selected or considered for an award.

No employee, officer, director, volunteer or agent of the School Board of Levy County shall do business with; award contract to; or show favoritism toward a member of (his or her) immediate family, his or her partner, or an organization which employs, or is about to employ, any of the parties indicated herein, or award a contract or bid which violates the spirit or intent of federal, state and local procurement laws and policies established to maximize free and open competition among qualified vendors.

The *School Board of Levy County's* employees, officers, directors, volunteers or agents shall neither solicit nor accept gratuities, gifts, consulting fees, trips, favors or anything having a monetary value

As permitted by law, rule, policy or regulation, the *School Board of Levy County* shall pursue appropriate legal, administrative or disciplinary action against an employee, officer, director, volunteer, vendor or vendor's agent who is alleged to have committed, has been convicted of or pled no contest to a procurement related infraction. If said person has been convicted, disciplined or pled no contest to a procurement violation, said person shall be removed from any further responsibility or involvement with grants management, procurement actions or bids, consistent with school board, state or federal policy.

### **8. PROCUREMENT REVIEW PROCESS**

This procurement plan shall receive an internal program review on an annual basis by a staff person who is not associated with food service procurement process.

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This review shall be summarized in written form and kept with the other required program documentation.

### **9. CONTRACT ADMINISTRATION**

Purchases shall be checked or verified by designated staff to assure that all goods and services are received and prices verified. All invoices and receipts shall be signed, dated, and maintained in the documentation file.

### **10. DUTIES OF FOOD SERVICE SUPERVISOR:**

- A. To work with staff and clients in developing acceptable menus for breakfast and lunch.
- B. To compile market orders or requisitions for purchases which accurately reflect the total quantities of required foods to be ordered per (day, week or month).
- C. To place and confirm orders with vendors, or make plans to purchase the required items.
- D. To keep program menus up to date by testing and using new products and seeking feedback from staff and clients.
- E. To conduct a cost analysis for any goods or services anticipated to determine the total annual expenditure so the correct procurement method will be followed.
- F. To follow all applicable federal, state, and local procurement policies or ensure that all applicable federal, state, and local procurement policies are followed when purchasing is conducted by a procurement agent.
- G. To work with vendors on a fair and equal basis.
- H. To submit Capital Expenditure Requests to FDACS prior to any capital expenses being paid and equipment purchases being made when over \$5,000 per unit.
- I. To conduct an in-house procurement review once per year to ensure program compliance and to seek guidance or technical assistance when necessary.

### **11. SMALL, MINORITY, WOMEN OWNED BUSINESS AND LABOR SURPLUS:**

We shall take steps to assure that minority businesses, women's business enterprises and labor surplus area firms are used when possible as required in 2 CFR 200.321. These steps include:

- A. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

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- B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- E. Using the services and assistance, as appropriate, of such organizations as the U.S. Small Business Administration and the Florida Department of Management Services' Office of Supplier Diversity's MyFloridaMarketPlace Certified Vendor Directory.

### **12. PROCUREMENT PROCEDURES**

Procurement procedures ensure accountable, efficient, transparent, and ethical practices are used to acquire necessary goods, equipment, and services for the Food and Nutrition Services program whether by purchase, rental, or lease. The purchasing procedures to be followed per 2 CFR 200.319(d)(1) shall be determined by the anticipated total annual expenditure on items related to the Food and Nutrition Services program:

- When the annual total for food service related items is below \$10,000 per year (per procurement event or in aggregate purchases) the School Board of Levy County Food and Nutrition Services department will follow the Micro-Purchase Procedures.
- When the annual total for food service program related items is above \$10,000 but below \$50,000 per year (per procurement event or in aggregate purchases) the School Board of Levy County Food and Nutrition Services department will follow the Small Purchase Procedure.
- When the annual total for food service program related items is above \$50,000 per year (per procurement event or in aggregate purchases), the School Board of Levy County Food and Nutrition Services department will follow the Formal Competitive Solicitation Procedures.

### **13. MICRO-PURCHASE PORCEDURES**

For purchases made below \$10,000 per year (per procurement event or in aggregate purchases) the Micro-Purchase Procedures will be utilized to purchase for catered events, groceries, equipment, and services.

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When Micro-Purchase Procedures are used the School Board of Levy County Food and Nutrition Services department will take the following steps:

- A. Single visit transaction purchase was below \$10,000
- B. Aggregate limit of same purchases is below \$10,000
- C. Purchases spread equitably among all qualified sources
- D. Purchase price is reasonable

### **14. SMALL PURCHASE PROCEDURES**

For purchases made above \$10,000 but below \$50,000 per year (per procurement event or in aggregate purchases) the Small Purchase Procedures will be utilized to purchase necessary goods, equipment, and services. When Small Purchase Procedures are used; the School Board of Levy County Food and Nutrition Services department will take the following steps:

- A. Prepare written specifications;
- B. Contact a minimum of three potential vendors.
- C. Obtain quotes from an adequate number of qualified sources based on the same specifications. A non-response or "no quote" will not be considered as a quote. If an adequate number of quotes cannot be obtained, then Sponsor will conduct Formal Procurement Procedures.
- D. Keep all quotes confidential until vendor selection;
- E. Document each vendor's quoted price(s) based on the same specifications;
- F. Select the most responsive and responsible vendor that provides the lowest d. Quote;
- G. Inform all vendors, in writing, of the selection made;
- H. If necessary, based on the specifications, execute a contract between the sponsor and the awarded vendor; and
- I. Ensure the goods or services received are the same as the specifications requested and at the prices quoted.

### **15. FORMAL COMPETITIVE SOLICITATION PROCEDURES**

For purchases made above \$50,000 per year (per procurement event or in aggregate purchases) the Formal Competitive Solicitation Procedures will be utilized to purchase for catered events, groceries, equipment, and services.

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When Formal Competitive Solicitation Procedures are used, the School Board of Levy County Food and Nutrition Services department will take the following steps:

- A. Prepare an Invitation to Bid (ITB) if the needs are clearly defined and understood;
- B. Prepare a Request for Proposal (RFP) for projects that have many technical requirements, or if the methods or specifications aren't readily available.
- C. Perform a cost or price analysis per 2 CFR 200.323(a) in connection with every procurement in excess of the Simplified Acquisition Threshold, including contract amendments;
- D. Develop written specifications as they are available and draft the scope of work considering:
  - 1. Dates, times, and locations for bids or proposals to be submitted;
  - 2. Dates and times for public bid openings, if applicable;
  - 3. Evaluation criteria, if applicable;
  - 4. Dates and times for final award determinations;
  - 5. Bid protest procedures, if applicable;
  - 6. Contract and renewal periods;
  - 7. Delivery expectations, if applicable;
  - 8. Termination clauses;
  - 9. Records retention requirements, and
  - 10. All federally required contract provisions.
- E. Submit the draft solicitation to FDACS for a pre-issuance review and approval;
- F. Publicly announce and advertise the ITB or RFP at least 14 calendar days prior to submission deadline;
- G. Announcements will include the date, and time and location in which bids will be opened. of the submission deadline;

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- H. The location where submissions will be sent;
- I. If the entire ITB or RFP is not included in the announcement, we will include the location where the complete ITB or RFP may be obtained.
- J. Evaluate the ITB or RFP to determine the most responsive and responsible vendor. All bids or proposals may be rejected in accordance with law, if necessary;
- K. Submit the proposed contract and all documents related to the procurement to FDACS for review and approval
- L. Award the contract to the selected vendor;
- M. Ensure the goods or services received are the same as the specifications requested and at the prices quoted.
- N. Retain all records pertaining to the formal competitive bid process for a period of five years plus the current year.

### **16. NONCOMPETITIVE PROCUREMENT PROCEDURES**

Noncompetitive procurement of goods and services is only to be conducted if the circumstances in 2 CFR 200.320(c) apply. Noncompetitive agreements will not be used as part of a piggyback agreement.

### **17. SINGLE or SOLE SOURCE PURCHASES**

If items are available only from a single source, noncompetitive procurement may be used. When noncompetitive procurement procedures are used for single or sole source purchase, this organization takes the following steps:

- A. Compile documentation of records to fully explain the decision to use the noncompetitive procurement procedures; including previously prepared specifications. The records will be available for audit and review.
- B. Ensure the records reflect all federal, state, and local requirements for using single or sole source procurement are met; and
- C. Ensure the goods or services received are the same as the goods or services discussed during noncompetitive negotiations and at the contracted prices, if applicable.



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### **18. LIMITED to NO COMPETITION**

When, after public solicitation, competition is determined inadequate, noncompetitive procurement may be used. When noncompetitive procurement procedures are used for purchases resulting from limited to no market competition, this organization takes the following steps:

- A. Compile documentation of records to fully explain the decision to use the noncompetitive procurement procedures; including previously prepared specifications, proof of advertisement, solicitations, etc. The records will be available for audit and review.
- B. Ensure the records reflect all federal, state, and local requirements for using noncompetitive procurement are met;
- C. Negotiate with and make purchases from, or enter into an agreement with, the vendor that can provide the goods or services needed that reflects the terms of the originally advertised solicitation and any negotiated specifications or clauses;
- D. Ensure the goods or services received are the same as the goods or services discussed during noncompetitive negotiations and at the contracted price, if applicable.

### **19. PUBLIC EMERGENCY**

Emergency procurement procedures may be used when a public exigency or emergency will not allow for a delay in service that may result from a competitive procurement. When noncompetitive procurement procedures are used for public emergency situations, this organization takes the following steps:

- A. Verify a public emergency has been declared;
- B. Compile documentation of records to fully explain the decision to use the emergency procurement procedures. The records will be available for audit and review;
- C. Resulting contracts will not exceed 12 months in duration and will not be renewable;
- D. Obtain approval from FDACS prior to entering into an agreement;
- E. Ensure the goods or services received are the same as the goods or services discussed during noncompetitive negotiations and at the contracted price, if applicable; and

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- F. When the public exigency or emergency no longer exists, competitive procurement procedures will be reestablished for all purchases and contracts.

### **20. PIGGYBACKING**

In lieu of requesting a competitive solicitation, Sponsor may make purchases at or below the specified prices from contracts awarded by other Sponsors when the Sponsor that awarded the contract and the Contractor mutually permit purchases by a Sponsor at the same terms, conditions, and prices (or below such prices) awarded in such contract. When the Sponsor intends to piggyback on a contract, the following steps are taken:

- A. Review the contract currently in place to determine if it meets all required federal, state, and local procurement policies and includes a provision allowing piggybacking. Such a provision must include specific applicable limitations of the extension (e.g., dollar value or the number of additional parties that may be added).
- B. Obtain written permission to piggyback from all parties of the contract.
- C. Submit the original contract, proposed piggyback agreement, and written permission to piggyback from all parties of the contract to FDACS for review and approval at least seven (7) calendar days prior to execution.
- D. If it is determined that a material change to the original contract is results from the piggyback, Sponsor will conduct a separate procurement.

### **NONDISCRIMINATION STATEMENT**

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To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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### STATUTORY AUTHORITY:

1001.42; 1001.43, F.S.

### USDA FEDERAL RULES:

7 CFR 210.21; 7 CFR 220.16; 2 CFR  
200.318(a); 2 CFR. 318(b); 2 CFR 200.318(d);  
2 CFR  
200.319(d)(1); 2 CFR 200.321; 2 CFR  
200.323(a); FNS SP 38-2017;  
USDA.gov/non-discrimination-statement

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