



DEPARTMENT OF EDUCATION


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September 4, 2018

MEMORANDUM

TO: Child and Adult Care Food Program Sponsors

FROM: Aimee F. Beam, RD, LDN 
Education Associate, Nutrition Programs

SUBJECT: **2018 Operational Memo #20**
Written CACFP Procurement Policy

Attached to this email you will find a template document titled "Written CACFP Procurement Policy". This document can be used by your organization to develop written process for following procurement standards. As a sponsor in the CACFP, you have agreed to follow both state and Federal procurement policies.

To strengthen compliance, each sponsor must have a written plan for procurement. This template can help your organization to meet this requirement. We will be collecting these as part of reapplication for FY 19.

The document will also be posted to the DDOE website in the CACFP Procurement section:
<https://www.doe.k12.de.us/Page/2788>

Please contact us with any questions at 302-857-3356.

cc: Nutrition Team

Delaware Department of Education

Written CACFP Procurement Policy – Template

Adapted from Wyoming Department of Education Written CACFP Procurement Policy

- **Below is a template.** Please feel free to make changes, additions or add any other necessary language to meet your organization's needs. Delete all language that is unnecessary or explanatory. **This document includes sample clauses, please delete samples not utilized.** Please replace **NAME** with your Organizations name if adopted.

If your organization has a threshold that is stricter than those stated in this document, please use the most strict.

Once updated, this template document can be saved as a single document and adopted as your organizations written procurement policy.

Procurement Policy for **NAME**, hereafter referred to as **ORGANIZATION**

This CACFP participating Sponsor, Organization will adhere to the following policy requirements for any procurement related to the USDA Child and Adult Care Food Program (CACFP) and all federal procurement rules as required by Procurement Regulations 7 CFR 226.6, 21, 22, and 2 CFR Part 200.317-326 (For all recipients of federal funds)

ORGANIZATION uses the following method(s) of procurement when making purchases for the CACFP with CACFP funds.

Micro-purchase method for CACFP goods and services:

- Purchases \$10,000.00 or less (per 2 CFR 200.67) (micro-purchases) may be awarded without soliciting competitive quotes if the price is considered reasonable. To the extent feasible, however, the **ORGANIZATION** must distribute micro-purchases equitably among qualified suppliers.

ORGANIZATION will maintain invoices or receipts for purchases from different vendors or suppliers, including the date, vendor or supplier, items, quality, and price.

Small purchase method for CACFP goods and services:

- Purchases greater than a micro and less than \$25,000 (i.e. \$10,001.00 - ≤ \$24,999.00). A small purchase does not require a bid process; however, the small purchase shall be made on a competitive basis.

ORGANIZATION will obtain price or rate quotes from qualified vendors, contractors, or suppliers for these purchases. Our organization uses the "Informal Purchasing Log" provided by the Delaware Department of Education, or a similar tracking method to document this process, and maintains records of any quotes obtained.

ORGANIZATION will attempt to obtain a least three (3) quotes.

Large (Formal) purchase method for CACFP goods and services:

- A purchase \$25,000.00 and over is considered a **formal purchase**, and a contract must be awarded through a formal procurement process. A call for bids or proposals shall be published at least once in a newspaper of general circulation in the State, and region, posted on the **ORGANIZATION's** website, sent to known prospective vendors, and posted to trade periodicals as appropriate. No contract shall be divided for the purpose of avoiding this process.
- **ORGANIZATION** will use all templates provided by Delaware Department of Education
- All proposed contracts shall be publicly announced at least once, 14 calendar days prior to the opening bids. The announcement shall include the time and place of the bid opening. The State Agency shall be notified at least 14 calendar days prior to the bid opening of the bid opening time and place.

Per 2 CFR 200.321 the **ORGANIZATION** will purchase from small, minority and women's business enterprises and labor surplus firms whenever possible.

Geographic Preference:

No Geographic Preference (advantage based on location) is allowed with federal funds except for documented Farm to School (Farm to Preschool, summer) efforts. Therefore, as part of Farm to School, **ORGANIZATION** may choose to apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products only.

Below are the ORGANIZATION requirements and policy for all formal purchases.

Bid Specifications:

ORGANIZATION contracts will not be awarded to any potential vendors who write any of the bid specifications, the solicitation documents or the contract. Submit bids to State Agency prior to award.

Identical bid specification and/or request for proposals will be provided to all potential vendors.

ORGANIZATION will avoid acquisitions of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.

Debarment and Suspension:

ORGANIZATION must do the following:

ORGANIZATION will obtain verification regarding debarment and suspension for all food service contracts to be paid with Federal assistance.

- To meet this requirement **ORGANIZATION** will include a suspension and debarment statement within the text of all contracts (part of all Delaware Department of Education procurement templates)
- To meet this requirement **ORGANIZATION** shall check the Federal Excluded Parties List System at the site below and document that the vendor has not been debarred or suspended. Verification will occur prior to a vendor being chosen and before a contract has been offered.
<https://www.sam.gov>

ORGANIZATION will submit a copy of signed contract to State Agency prior to beginning program operations.

Standard of Conduct for ORGANIZATION Employees:

ORGANIZATION maintains the following code of conduct for any employees engaged in award and administration of contracts supported by Federal Funds:

- No **ORGANIZATION** employees will engage in any procurement when there is a conflict of interest, real or perceived, and **ORGANIZATION** employees cannot solicit or accept any gratuities, favors or anything of monetary value from prospective vendors
- No **ORGANIZATION** employee shall participate in the selection, award or administration of a contract when any of the following persons have a financial interest in the firm selected for award:
 - The employee
 - Any member of his/her immediate family
 - People with whom there is an affectionate personal relationship
 - An organization which employs or is about to employ any of the above
- **ORGANIZATION** would like all employees to behave with the utmost integrity and never be self-serving, be fair in all aspects of the procurement process, be alert to conflicts of interest, and avoid any compromising situations.
- Employees found to be in violation of this policy are subject to disciplinary action. Based on the severity of the penalties could include a written reprimand to their personnel file, a suspension with or without pay, or termination.

Contract Administration:

ORGANIZATION will maintain a contract administration system which will ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. **ORGANIZATION's** Business Official or designee will review all aspects of any contractor bid documents, expenditures, processes, and procedural aspects to ensure compliance with all federal, state, and **ORGANIZATION** regulations.

ORGANIZATION's contract administration system will address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms. Appropriate sanctions and/or penalties will be included.

All contracts in excess of \$10,000.00 must address termination for cause and for convenience and include the manner by which it will be effected and the basis for settlement.

Contracts made under a Federal Award (such as with funding from the USDA Child Nutrition Programs) will also contain all applicable federal provisions as referenced under *Appendix II to Part 200-Contract Provisions for Non-Federal Entity Contracts Under Federal Awards*.

Discounts, Rebates, Credits:

ORGANIZATION will verify that all food program contracts and procurements are net of all applicable discounts, rebate, and credits. All contractors will maintain records and source documents in support of all costs, discounts, rebates, and credits.

Records Retention and Access:

ORGANIZATION will allow access to all records per 2 CFR 200.336.

ORGANIZATION will retain all Food Program records for three years after final payments and/or three years after any pending matters have been closed and completed.

ORGANIZATION will also maintain records sufficient to detail the history of any procurements. These records will include, but are not limited to, the following: rationale for the method or procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. Record retention will adhere to all 2 CFR 200.33 requirements.

Bid Protest Procedures:

SAMPLE 1

Any actual or prospective bidder or proposer who believes they are aggrieved in connection with or pertaining to a bid or proposal may file a protest. The protest must be delivered in writing to the Purchasing Manager, in person or by certified mail. The protest must be received prior to the solicitation's closing date or within seven (7) calendar days after the issuance of the formal bid notification letter. The written protest must include:

1. Organization, mailing address, email address, and business phone number of the protesting party;
2. Appropriate identification of the bid or proposal being protested;
3. A precise statement of the reasons for the protest; and
4. Any documentation or other evidence supporting the protest and any alleged claims.

The business office will attempt to resolve the protest, including at the Purchasing Managers' option, meeting with the protesting party. If the protest is successfully resolved by mutual agreement, written verification of the resolution, which specifies on each point addressed in the protest; will be forwarded to the Finance Officer.

If the business office is not successful in resolving the protest, the protesting party may request in writing that the protest be considered by the Finance Officer. Applicable documentation and other information applying to the protest will be forwarded to the Finance Officer, who will promptly review such documentation and information. If additional information is desired, the Finance Officer may notify the necessary party or parties of the protest to provide such information.

If the Finance Officer is not successful in resolving the protest, the Finance Officer may forward to the Executive Director (Senior Administration) for review. The decision of the Executive Director will be final.

Bid Protest Procedures:

SAMPLE 2

Any potential, or actual, applicant objecting to the award of a contract may file a protest of the award, or any other matter relating to the process of soliciting the proposals. Such a protest must comply with the following guidelines:

- A. A protest may be filed by a prospective or actual bidder objecting to the award of a contract. The protest shall be in writing and shall contain the following information:
 1. The Organization, address, email address, and telephone number of the protestor;
 2. The Organization and number of the bid or proposal being protested;

3. A detailed statement of the legal and factual grounds for the protest, including copies of any relevant documents;
 4. A statement as to the form of relief requested; and
 5. Any other information the protestor believes to be essential to the determination of the factual and legal questions at issue in the written protest.
- B. A timely protest shall be considered if it is received by the business office, within the following periods:
1. A protest based on alleged improprieties in the issuance of the solicitation or any other event preceding the closing date for receipt of proposals which are apparent or should be apparent prior to the closing date for receipt of proposals.
 2. If the protest relates to the announced intent to award the contract, the protest shall be filed no later than 3:00 p.m. of the seventh (7th) calendar day after the issuance of the formal letters sent to all responding applicants regarding the intent to make the award. The date on these letters to responding applicants is the date used to determine if a protest regarding the intent to award is submitted by the end of the protest period.
- C. An untimely protest may be considered if it determines that the protest raises issues significant to the organization procurement system. An untimely protest is one received by business office after the time periods set forth in Items A and B of this section.
- D. All protests must be filed at the following location **(Insert Address):**
- E. When a timely protest is filed, a contract award shall not proceed until a decision on the protest is issued or the matter is otherwise resolved, unless the Director determines that a delay will severely disadvantage the organization. The applicant(s) who would have been awarded the contract shall be notified of the receipt of the protest. The Business Office shall issue written decisions on all timely protests and shall notify any applicant who filed an untimely protest as to whether or not the protest will be considered.