

**PROCUREMENT PLAN
CHILD NUTRITION PROGRAMS**

This procurement plan 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 allow ability, and the allocation of costs.

Chairman, Board of Education

Date

Superintendent of Schools

Date

Hilldale Public School

SECTION I - PROCUREMENT PLAN GENERAL REQUIREMENTS

The Hilldale Public School plan for procuring items for use in the Child Nutrition Program is as follows:

1. The procurement plan provides for free and open competition, transparency in transactions, comparability, and documentation of all procurement activities.
2. The following **Code of Conduct** will be expected of all persons who are engaged in the awarding and administration of contracts supported by Child Nutrition reimbursement funds. These written standards of conduct include:
 - a. No employee, officer, or agent shall purchase or establish a contract if a conflict of interest, real or apparent, would be involved. Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:
 - i. The employee, officer, or agent;
 - ii. Any member of the immediate family;
 - iii. His or her partner;
 - iv. An organization which employs or is about to employ one of the above.
 - b. Employees, officers, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
 - c. The purchase during the school day of any food or service from a contractor for individual use is prohibited.
 - d. No item, food, or beverage purchased with nonprofit school food service funds will be removed from the school premises by school personnel.
 - e. Penalties for violation of the standards of code of conduct of the (SFA) School Child Nutrition Program (CNP) should be:
 - i. Reprimand by Board of Education
 - ii. Dismissal by Board of Education
 - iii. Any legal action necessary
3. Regardless of procurement method, the following factors will be determined regarding the allowable costs:
 - a. Be necessary and reasonable for proper and efficient administration of the program(s)
 - b. Be allocable to federal awards applicable to the administration of the programs(s)
 - c. Be authorized and not prohibited under state and local laws
4. Purchasing will be conducted at the most restrictive procurement threshold:

	Federal Procurement Thresholds	SFA/Sponsor Procurement Thresholds
Micro-purchasing	Less than \$10,000	Less than \$10,000.00
Equipment	Over \$5,000	Over \$5,000.00
Small/Informal	Less than \$250,000	Less than \$100,000.00

Formal	Greater than \$250,000 or any Food Service Management Contract	Less than \$100,000.00
--------	--	------------------------

5. All staff conducting purchasing will be trained on the procurement procedures.
6. All purchasing records will be maintained no less than the current year plus 3 additional years.
7. **Buy American Provision**
 Section 104(d) amended Section 12(n) of the National School Lunch Act (NSLA) (42 U.S.1760) to require SFAs participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) in the United States ***to purchase for those programs, to the maximum extent practicable, domestic United States Department of Agriculture (USDA) Foods or products.*** For purposes of this provision, the term ***domestic food commodity or product*** means agricultural USDA Foods produced in the United States, including Guam, American Samoa, the Virgin Islands, Puerto Rico, and the Northern Mariana Islands, and food products processed in the United States **SUBSTANTIALLY** using agricultural USDA Foods that are produced in the United States. The Conference Report accompanying Public Law 105-336 makes it clear that the term **SUBSTANTIALLY** means that over 51 percent of the processed food comes from American-produced products. (SD-24-2016)
8. **Geographical Preference**
 The use of statutorily or administratively imposed in-state or local geographic preferences for procurements under USDA entitlement programs is prohibited, except for unprocessed locally grown or locally raised agricultural products. The Food, Conservation, and Energy Act of 2008 (Public Law 110-246, Section 4302), amended Section 9(j) of the National School Lunch Act (NSLA) to allow institutions receiving funds through CNP to apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When geographic preference is used, an SFA must still get quotes from several farmers when procuring unprocessed locally grown or locally raised agricultural products so that competitors have an opportunity to compete for the bid.
9. **Protest procedures** are required. SFAs will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the SFA before pursuing a protest with a federal agency. Reviews of protests by the federal agency will be limited to: (Reference USDA Policy Memo2006-SNP-06)
 - a. Violations of federal law or regulations and the standard of 2 CFR §200 (violations of state or local law will be under the jurisdiction of state or local authorities).
AND
 - b. Violations of the SFA's protest procedures for failure to review a complaint or protest. Protests received by the federal agency other than those specified above will be referred to the SFA.
10. The district will maintain a **CHART OF PROCEDURES** indicating how all items are procured, and how often they are procured.

11. **Beverage and Snack Agreements** (Reference USDA Policy Memo 99-SP-09)

In some cases, the exclusive contracts do not involve nonprofit school food service account (SFSA) funds, in which case there are no federal FNS procurement issues involved. However, if any nonprofit school food service products are purchased via the exclusive contract, then all federal procurement requirements must be met. If small purchase procedures are used for a procurement of \$250,000 or less, price or rate quotations must be obtained from an adequate number of qualified sources. Additionally, if nonprofit school food service products are included in the contract, any rebates, commissions, scholarship fund contributions, or any other payments back to the SFA or SFA-related organizations must be reimbursed to the nonprofit SFA on a prorated basis.

- a. No federal prohibition on multiyear contracts other than for FSMCs. It is suggested, however, that school procurement officials consider the impact of multiyear contracts, as opposed to one-year contracts, on beverages and snacks. Long-term contracts would appear to be more appropriate for nonperishable products and services such as warehousing and equipment rental. As noted above, however, there is no federal prohibition on these longer-term contracts.
- b. Public Law 108-265, Section 102, requires a school participating in the NSLP shall not directly or indirectly restrict the sale or marketing of fluid milk products by the school (or by a person approved by the school) at any time or any place on the school premises or at any school-sponsored event.
- c. Schools participating in the NSLP must check all beverage contracts for language that may limit the sale of milk on school grounds. The sale of milk cannot be limited at any time during the school day or at any place on the school premises. Contracts may have language that is hard to understand. Look for the term **Exclusive Pouring Rights**. Every school district must have amended their beverage contracts that limit the sale of milk should such language exist. The primary effect of this provision is to prevent contract limitations on the sale of fluid milk in competition with other beverages.

12. The SFA will take all necessary affirmative steps to assure that **minority firms, women's business enterprises, and labor surplus area firms** are used when possible. Affirmative steps shall include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- 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.
- e. Using the services and assistance of the Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce.
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

Certifications

1. **Nonkickback Affidavit** - Please note that Oklahoma statute 62 O.S. §310.9 requires a signed and notarized nonkickback affidavit on every purchase order of \$25,000 or more. The affidavit is to be signed by the person or persons authorized to accept payment on behalf of the architect, contractor, engineer, or supplier.
2. **Lobbying Certification** (Reference 200.326[1])
 - a. Lobbying certification must be obtained for procurement contracts of more than \$100,000. Any vendor whose contract award is for more than \$150,000 must complete a Certification Regarding Lobbying form. The SFA must keep this signed certification statement on file with a copy of the vendor's contract.
 - b. Any SFA or its vendors who participate in lobbying activities must complete a Disclosure of Lobbying Activities form. SFAs must submit this completed form to the State Agency. A vendor would submit its completed form to the SFA.
3. **Debarment or Suspension.** An SFA is prohibited from contracting with an individual or company that has been debarred or suspended in accordance with 2 CFR §180, as adopted and modified by USDA regulations at 2 CFR §417. This prohibition does not extend to contracts in existence at the time of the debarment or suspension or to most contracts under \$25,000. Rather, it applies to new contracts and extensions or renewals of existing contracts of \$25,000 or more and to contracts for audit services, regardless of amount. **(FORMAL CONTRACTS)**
4. **Contract Work Hours and Safety Standards Act** (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the nonfederal entity in excess of \$2,500 that involve the employment of mechanics or laborers must include a provision for compliance with 70 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to 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 of 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. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence.
5. **Equal Opportunity and Discrimination.** The vendor certifies it is an Equal Opportunity Employer, a provider of services and/or assistance, and is in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Orders 11246 and 11375. The vendor assures compliance with the Americans With Disabilities Act of 1990 (Public Law 101-336), all amendments to, and all requirements imposed by the regulations issued pursuant. **(FORMAL CONTRACTS OF \$10,000 OR MORE)**

6. Contracts in excess of \$150,000 shall contain provisions that require compliance with all applicable standards, orders, or requirements issued under Section 306 of the **Clean Air Act** (42 U.S.C. 1857[h]), Section 508 of the **Clean Water Act** (33 U.S.C. 1368), Executive Order 11738, and **Environmental Protection Agency (EPA) Regulation** (40 CFR §15), which prohibit the use of nonexempt federal contracts, grants, or loans of facilities included on the EPA list of violating facilities. The provision shall require reporting of violations to the grantor agency and to the EPA Assistant Administrator for Enforcement (EN-329). 23. The contract must recognize mandatory standards and policies relating to energy efficiency that are contained in the State Agency conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

SECTION II – PURCHASING EQUIPMENT

Superintendent or his/her designee

If the amount of purchases for equipment is greater than \$5,000, the following procedure will be used.

1. Written specifications will be prepared and provided to vendors.
2. Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of two vendors shall be contacted.
3. The price quotes will receive appropriate confidentiality before award.
4. If using USDA funding for the purchase, the SFA/Sponsor will seek prior approval from Oklahoma Child Nutrition Programs unless the equipment is placed on the Equipment Pre-Approval list located in the Child Nutrition Manual.
5. Quotes will be awarded by the person(s) listed in Section III. Quotes awarded will be to the lowest and best quote based upon quality, service availability, price, and/or etc.
6. The person(s) listed in Section III will be responsible for documentation of records to show selection of vendor, reasons for selection, names of all vendors contacted, price quotes from each vendor, and **written specifications**.
7. The person(s) listed in Section III will be responsible for documentation that the actual product specified is received.

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000. See also §200.12 Capital assets, 200.20 Computing devices, 200.48 General purpose equipment, 200.58 Information technology systems, 200.89 Special purpose equipment, and 200.94 Supplies.

SECTION III – MICROPURCHASING

If the amount of purchases for items is less than \$10,000 *or less than the districts micropurchasing threshold*, the following procedure will be used.

Select one:

- ☐ Purchases below \$10,000
- ☐ Purchases below \$_____ (*District threshold if it is below \$10,000, must use most restrictive*)

1. Purchases will not be separated into 2 or more purchases to meet or be below the \$10,000 threshold.
2. The price quotes will not be required. Competition is not required.
3. When practicable, micro-purchases will be distributed equitably among qualified suppliers.
4. The Assistant Superintendent will be responsible for documentation of purchase.
Note: Federal threshold of \$2,000 is applicable in the case of acquisitions for construction subject to the Davis-Bacon Act

SECTION IV – SMALL PROCUREMENT Superintendent or his/her designee

If the amount of purchases for items less than \$250,000 *or the SFA/Sponsor's small purchase threshold*, Small Purchase Procedures must be followed. Quotes documented from an adequate number of qualified sources will be required.

Select one:

- ☐ Purchases below \$250,000
- ☐ Purchases below _____ (*District threshold if it is below \$250,000, must use most restrictive*)

Small Purchase procedures will be applied on ***the basis of a:***

- _____ District-wide
- _____ Each Individual Site
- _____ State Contract
- _____ Food-Buying Group/Co-op (specify): _____
- _____ Combination of above (specify): _____

1. Written specifications will be prepared and given to a minimum of two vendors.
2. The person(s) stated in Section IV will be responsible for contacting potential vendors when price quotes are needed.

3. Quotes will be awarded by person(s) stated in Section IV. Quotes awarded will be to the lowest and best quote based upon quality, service availability, price, etc.
4. The person(s) stated in Section IV will be responsible for documentation of records to show selection of vendor, reasons for selection, names of all vendors contacted, price quotes from each vendor, and **written specifications**.
5. The person(s) stated in Section IV will be responsible for documentation that the actual product specified is received.
6. Any time an accepted item is not available, the person stated in Section IV will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item. Substituted items will not be made at the vendor's discretion.

SECTION V – FORMAL PROCUREMENT

Superintendent or his/her designee

Select one or more as applicable:

- ☐ Purchases over \$250,000
- ☐ Purchases over \$_____ (*District threshold if it is above \$250,000, must use most restrictive*)
- ☐ Food Service Management Contracts at any total cost (*does not include vended meal agreements*)
- ☐ N/A, no purchases over \$250,000 or Food Service Management Contracts

Formal bid procedures will be applied on ***the basis of a:***

- _____ District-wide
- _____ Each Individual Site
- _____ State Contract
- _____ Food-Buying Group/Co-op (specify): _____
- _____ Combination of above (specify): _____

1. If the amount of purchases is above the district's threshold, or a Food Service Management Contract, formal procurement procedures will be used as required by 2 CFR Part 200.318-326.
 - a. When a formal procurement method is required, the following ***COMPETITIVE SEALED BID or an Invitation for Bid (IFB) or COMPETITIVE PROPOSAL in the form of a Request for Proposal (RFP)*** procedures will apply: (It is highly suggested by USDA to allow 45 days for IFB & 60 days for RFP from the time the information is given to vendors until the time of bid opening. It should not be any less than 30 days)
 - b. An announcement of an ***Invitation for Bid (IFB) or a Request for Proposal (RFP)*** will be placed in the _____ (Newspaper/media, IPS Website, other internet source) to publicize the intent to purchase needed items. The advertisement for bids/proposals or legal notice will be run for 10 days.

- c. An advertisement is required for all formal procurement (IFB/RFP)
 - A general description of items to be purchased.
 - The deadline for submission of questions and the date written responses will be provided including an addenda to bid specifications, terms and conditions as needed.
 - A date of pre-bid meeting, if applicable, and if attendance is a requirement for bid award.
 - A deadline for submission of sealed bids or proposals, and address of location where complete specifications and bid forms may be obtained.
- d. The developer of written specifications or descriptions for procurements will be **prohibited** from submitting bids or proposals for such products or services.
- e. The IFB or RFP will clearly define the purchase conditions. The following list includes requirements, not exclusive, to be addressed in the procurement document:
 - Contract period.
 - SFA/Sponsor is responsible for all contracts awarded (statement).
 - Date, time, and location of bid opening.
 - How a vendor will be informed of bid acceptance or rejection.
 - The terms and conditions which bidder must fulfill.
 - Statement assuring efforts will be made to involve minority and small business.
 - Statement regarding Cause for Termination.
 - Forms and statements identified in the ***Formal Procurement Checklist on page 14 of this Procurement Plan.***
 - Statement regarding the return of purchase incentives, discounts, rebates, and credits to the non-profit Child Nutrition account, if applicable in a cost reimbursable contract.
 -
- f. Specifications and estimated quantities of products and services prepared by SFA/Sponsor and provided to potential contractors desiring to submit bids/proposals for the products or services requested.
- g. If any potential vendor ask questions regarding the specifications or purchase conditions, interpretation will be provided in writing to all potential bidders by the person(s) stated in Section V and date specified.
- h. The person(s) stated in Section V will be responsible for securing all bids or proposals.
- i. The person(s) stated in Section V will be responsible to ensure all SFA/Sponsor procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.

Request for Proposals

In awarding a competitive negotiation (RFP) a set of award criteria in the form of a weighted evaluation sheet will be provided to each bidder in the initial bid document materials. **Price** alone is not the sole basis for award, but remains the **primary** consideration when awarding a contract.

Evaluation Criteria the district can use to award an RFP.

(Price must be given the highest points and award must equal 100 points. If not interested, the district can leave line of award blank.)

<u>Weight</u>	<u>Criteria</u>
_____(points)	Price
_____(points)	Service Capability Plan
_____(points)	Quality
_____(points)	Experience, References
_____(points)	Business Practices, Financial Condition/Stability
_____(points)	Accounting and Reporting System
_____(points)	_____
_____(points)	_____
_____(points)	_____
100 points	TOTAL

SECTION VI - NON-COMPETITIVE NEGOTIATION

Superintendent or his/her designee

If items are available **only** from a single source *when the award of a contract is not feasible under small purchase, sealed bid or competitive negotiation*, NON-COMPETITIVE NEGOTIATION procedures will be used:

1. Written Specifications will be prepared and provided to the vendor.
2. The person(s) stated in Section VI will be responsible for the documentation of records to fully explain the decision to use the non-competitive negotiation. The records will be available for audit and review.
3. The person(s) stated in Section VI will be responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive negotiation are met.
4. Non-competitive negotiations shall be used for one-time purchases of a new food item in order to determine food acceptance by students and for samples for testing purposes. A record of non-competitive negotiation purchase shall be maintained by the Hilldale Public School. The record of non-competitive purchases shall include, at a minimum, the following:
 - item name
 - dollar amount
 - vendor
 - reason for non-competitive procurement

**** Due to the rural location of the district, it is feasible the school will only receive one responsible and responsive response.**

SECTION VII – EMERGENCY PURCHASING

1. If it is necessary to make a one-time emergency procurement to continue service or obtain goods, the purchase shall be made, and a log of all such purchases shall be maintained by the district. The following emergency procedures shall be followed. All emergency procurements shall be approved by the Superintendent or his/her designee. At a minimum, the following emergency procurement procedures shall be documented:
 - item name
 - dollar amount
 - vendor
 - reason for emergency
2. If the emergency purchasing need requires a contract, all books, records and other documents relative to the award of the contract must be retained for three (3) years after final payment. Specifically the SFA/Sponsor shall maintain, at a minimum, the following documents:
 - Written rationale for award cost or price;
 - A copy of the original solicitation;
 - The bidding and negotiation history and working papers;
 - The basis for contractor selection;
 - Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;
 - The terms and conditions of the contract;
 - Any changes to the contract and negotiation history;
 - Billing and payment records;
 - A history of any contractor claims;
 - A history of any contractor breaches

CHART OF PROCEDURES

The _____ SFA will purchase the following products or group of products and services as per the stated purchase period using the identified procurement method. **Price quote time frame** period is defined as the time frame for which bids or quotes are obtained and awarded.

PRODUCT	HOW OFTEN ARE PRICE QUOTES OBTAINED	PROCUREMENT METHOD USED
Milk	_____	_____
Bread	_____	_____
Canned fruits	_____	_____
Canned vegetables	_____	_____
Froze fruits	_____	_____
Frozen vegetables	_____	_____
Pre-prepared fruits and vegetables	_____	_____
Fresh fruits	_____	_____
Fresh vegetables	_____	_____
Meats	_____	_____
Paper products	_____	_____
Chemicals	_____	_____
Small equipment	_____	_____
Large equipment	_____	_____
_____	_____	_____

INFORMAL PROCUREMENT LOG
TO BE USED FOR PURCHASES OF \$250,000 OR LESS

Check the box next to the supplier that you choose. If chosen supplier does not provide the lowest overall price, explain decision on attached sheet. Document contact with 2 or more vendors.

Items to be purchased and specifications: _____

--

	Date & Method of Contact	Bid Price	Negotiated Price	Notes
Supplier #1				
Supplier #2				
Supplier #3				

FORMAL PROCUREMENT CHECKLIST
**Terms and information regarding Formal Procurement
are listed on pages 3-5 and 8-10 of the Procurement Plan**

FORMAL PROCUREMENT REQUIREMENTS

___ **Newspaper Advertisement** (all formal bids) newspaper advertised: _____

___ **Solicitation sent to a minimum of 2 vendors** Vendor 1: _____

Vendor 2: _____ Vendor 3: _____

___ **Evaluation criteria for RFP.** An RFP is awarded based on overall scoring. The evaluation scoring should be given with the solicitation. **PRICE** must be given the most points. Other items scored on can be – Experience/references, Diversity in products and/or services, Quality of products, Cost & Performance Bonds, Personnel Management, Business Practices, Accounting and Reporting systems, and Service Capability plan are examples of how an RFP can be evaluated. **(IFB/Sealed Bids are awarded lowest price only. No other factors can determine the award)**

FORMS & CLAUSES

___ **Buy American information** (All Food & Milk contracts)

___ **USDA Equal Opportunity information** (contracts \$10,000 or more)

___ **Termination for Cause information** (contracts \$10,000 or more)

___ **Clean Water Act provision** (contracts \$150,000 or more)

___ **Contract work Hours and Safety Standards Act** (contracts \$2,500 or more)

___ **Nonkickback Affidavit** (Purchase orders over \$25,000)

___ **Davis-Bacon information** (Construction contracts \$2,000 or more)

___ **Debarment & Suspension form** (all contracts)

___ **Byrd Anti-Lobbying form** (contracts \$100,000 or more)