

Child & Adult Care Food Program

Special Nutrition Programs

Responsible Division: Public Health
Responsible Branch: Nutrition Services
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PROCUREMENT

Purpose of This Policy

The purpose of this policy is to align the Child and Adult Care Food Program (CACFP) policies and procedures with the requirements set forth in [2 CFR §200.318 General Procurement Standards through §200.326 Contract Provisions](#). This policy establishes the standards to be followed by participating Institutions for the procurement of food, supplies, equipment, and other goods and services.

Policy Statement

It is the policy of the Nutrition Services Branch, to ensure:

- (1) Institutions adhere to the requirements set forth in 2 CFR §200.318 General Procurement Standards through §200.326 Contract Provisions;
- (2) Institutions receiving federal funds establish and maintain a documented procurement policy;
- (3) All procurement transactions are conducted in a manner that provides maximum open and free competition;
- (4) Procurement systems are tested for regulatory compliance as part of the State Agency Review; and,
- (5) Sufficient training and technical assistance is provided to all participating Institutions regarding applicable procurement rules and requirements.

Who Needs to Know This Policy

All participating CACFP sponsoring organizations, child care centers, at-risk afterschool care centers, outside-school-hours care centers, emergency shelters, adult day care centers and Special Nutrition Program Unit Staff

Website Address for this Policy

Regulations and policies for the Nutrition Services Branch may be accessed at:

<http://www.nutritionnc.com/snp/resource.htm>

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General Procurement Standards

Procurement Procedures

All Institutions receiving federal funds **must** establish and maintain documented procurement procedures, and all purchases must be conducted as outlined in the procedure.

Institutions may use their own procedures for procurement to the extent that purchases comply with applicable Federal, State, local and tribal laws and regulations. Additionally, the procurement procedures must contain adequate internal controls to avoid unnecessary or duplicate purchases. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis should be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

In order to assist Institutions in development procurement procedures, a list of procedure considerations is provided at [Attachment 1](#) at the end of this procedure.

Standards of Conduct

Each Institution must develop and maintain **written standards of conduct** to cover conflict of interest and organizational conflict. These written standards must govern the actions of its employees, officers, or agents that are engage in the selection, award, and administration of contracts. The written standards of conduct must address the following:

- **Conflict of Interest:** Institutions must ensure that any employee, officer, or agent involved in the procurement process, including the preparation of bid documents, as well as the selection, award, or administration of a contract, does not have a financial, organizational or personal interest in the bid award. This extends to any other legal or financial conflict of interest whether *real* or *apparent*.
- **Gifts:** The code of conduct must prohibit the solicitation or acceptance of gratuities, favors, or anything of monetary value from prospective contractors.
- **Additional Standards:** Institutions may at their discretion set standards for situations in which employees, officers, or agents may accept unsolicited gifts of nominal value (*See 2 CFR §200.318[c][1] for more information*).
- **Violations:** Establish disciplinary actions to be applied for violations of such standards.

Institutions with a parent, affiliate, or subsidiary organization that is not a state, local government or Indian tribe must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest include relationships with a parent, affiliate, or subsidiary organization, and where the nonfederal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization ([2 CFR § 200.318\[c\]\[2\]](#)).

Contractor Oversight

Institutions are required to maintain oversight to ensure that contractors perform in accordance with the terms and conditions of their contracts or purchase orders.

Procurement Records

Institutions are required to maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

Procurement records and supporting documents must be retained for a period of three years plus the current year (three years from the date of the submission of the annual financial report as reported to the Nutrition Services Branch). The only exceptions are the following:

- If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When the Institution is notified in writing by the U.S. Department of Agriculture, Food and Nutrition Service, or the Nutrition Services Branch, to extend the retention period.
- Records for real property and equipment acquired with CACFP funds must be retained for 3 years after final disposition.

Relief of Responsibility

The Institution alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the Institution of any contractual responsibilities under its contracts. The U.S. Department of Agriculture, Food and Nutrition Service, will not substitute its judgment for that of the Institution unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

Procurement Methods

Procurement by micro-purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,500 per purchase. Micro-purchases may be awarded without soliciting competitive quotations if the Institution considers the price to be reasonable. To the extent practicable, the Institution **must** distribute micro-purchases equitably among qualified suppliers.

Price analysis generally consists of comparing prices to those recently paid for the same or similar item, price lists or catalog prices. The signature of the authorized individual on the invoice or purchase order signifies the authorized individual's determination that the price is reasonable, based on prior purchases of a similar nature or other sources of information.

To facilitate competitive opportunities to the maximum extent practicable, the Institution should avoid unduly restrictive specifications such as specifying "brand name" products instead of allowing an equal product to be offered.

Procurement by small purchase procedures

Procurement by small purchase procedures are used when the purchase of food, services and/or supplies from a supplier (wholesaler, retailer and/or vendor) for a single transaction is between **\$3,500** and **\$150,000**. The Institution must contact at least three known (legitimate) suppliers of the food, services and/or supplies needed and obtain competitive price quotations. Quotations for small purchase

may be obtained in writing (hard copy or email), orally, by letter, or through electronic means, e.g., the Internet. Other methods to determine price reasonableness include comparison of catalog prices; comparison of regulated prices (such as utility purchases); comparison of recent prices for similar goods and services. Institutions may establish in their procurement policies dollar thresholds for the use of oral and written solicitations.

Generally, with the procurement by small purchase procedure, the responsive and responsible bidder with the lowest price should be selected. Whenever a low bid is not awarded, a written justification supporting the decision must be included with the purchasing documents.

Institutions must ensure that all suppliers receive the same information about the food, services and/or supplies. To the extent possible, a comparison of equivalent food, services and/or supplies, and all suppliers should be informed of any special need that could affect the price.

Sample documentation for quotation and instructions for completing are provided to facilitate documentation of purchases using the procurement by small purchase process. Refer to [Attachment 2](#).

Formal Procurement

Formal procurement procedures are used to purchase food or services when the single transaction cost exceeds the small purchase threshold. Institutions must use a competitive process by issuing an Invitation for Bid or Request for Proposal for any procurement over the small purchase threshold (\$150,000).

- Invitation for Bid (IFB) also called a sealed bid, is a formal competitive procurement procedure used to publicly solicit bids for securing foods, services and/or supplies that cost more than the small purchase threshold. A firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforms to all the material terms and conditions of the IFB and is the lowest in price. In order for procurement by sealed bid to be feasible, the following conditions should be present:
 - A complete, adequate, and realistic specification or purchase description is available
 - Two or more responsible bidders are willing and able to compete effectively for the business; and
 - The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the IFB must be publically advertised;
- The IFB, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- All bids will be opened at the time and place prescribed in the IFB, and for local and tribal governments, the bids must be opened publicly;
- A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of, and
- Any or all bids maybe rejected if there is a sound documented reason.

NOTE: The CAC-17A may be used for sealed bids. The ITB is a sample and its use is not mandatory. The sample ITB meets the regulatory requirements of [7 CFR § 226.21](#) and [7 CFR §226.22](#). If a sponsor chooses to use a different contracting document, compliance with 7 C.F.R. § 226.21 and 226.22 is required and the substitute ITB document must be approved by the Nutrition Services Branch prior to its use. Refer to [Attachment 3](#).

- Request for Proposal (RFP), also called a competitive proposal, is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.

If this method is used, the following requirements apply:

- Requests for Proposals (RFP) must be publicized and identify all evaluation factors and their relative importance. Any response to a publicized RFP must be considered to the maximum extent practical;
- Proposals must be solicited from an adequate number of qualified sources;
- The Institution must have a written method for conducting technical evaluations of the proposals received and for selecting recipients; and,
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

Procurement by Noncompetitive Proposals

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:

- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- Food & Nutrition Services or North Carolina Department of Health and Human Services, Nutrition Services Branch, expressly authorizes noncompetitive proposals in response to a written request from the Institution; or
- After solicitation of a number of sources, competition is determined inadequate.

Competition

All procurement transactions conducted by the Institutions must provide for full and open competition consistent with [2 CFR §200.319](#), Competition. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or Invitations for Bids (IFB) or Requests for Proposals (RFP) must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;

- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- Any arbitrary action in the procurement process.

Institutions must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Institutions must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. In competitive procurements, such descriptions must not contain features that unjustly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must include the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other important requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Institutions must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, Institutions must not inhibit potential bidders from qualifying during the solicitation period.

Special Considerations

Contract Considerations

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, Institutions are encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

Institutions are encouraged to:

- Use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

- Use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

Additionally, Institutions must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources (See [2 CFR §200.213 Suspension and debarment](#)).

Contract Cost and Price

Institutions must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Institution must make independent estimates before receiving bids or proposals.

Additionally, Institutions must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the CACFP Agreement are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the Institution as set forth in [2 CFR Subpart E](#), Cost Principles. The Institution may reference its own cost principles that comply with the Federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

Affirmative Actions

Institutions must take all necessary affirmative steps to assure that minority business, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- 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;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

- Requiring prime contractors, if subcontracts are to be let, to take the affirmative steps listed above.

Reviews of Proposed Procurement

The Institution must make available, upon request of the U.S. Department of Agriculture, Food and Nutrition Service, or North Carolina Department of Health and Human Services, Nutrition Services Branch, technical specifications on proposed procurements where the U.S. Department of Agriculture, Food and Nutrition Service, or North Carolina Department of Health and Human Services, Nutrition Services Branch, believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the Institution desires to have the review accomplished after a solicitation has been developed, the U.S. Department of Agriculture, Food and Nutrition Service, or North Carolina Department of Health and Human Services, Nutrition Services Branch, may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

Additionally, the Institution must make available upon request, for the U.S. Department of Agriculture, Food and Nutrition Service, or North Carolina Department of Health and Human Services, Nutrition Services Branch, procurement documents, such as Requests for Proposals or Invitations for Bids, or independent cost estimates, when:

- The Institution's procurement procedures or operation fails to comply with the procurement standards in this part;
- The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
- The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

Exemptions

The Institution is exempt from the pre-procurement review if U.S. Department of Agriculture, Food and Nutrition Service, or North Carolina Department of Health and Human Services, Nutrition Services Branch, determines that their procurement system meets all regulatory requirements.

The Institution may request that its procurement system be reviewed by the U.S. Department of Agriculture, Food and Nutrition Service, or North Carolina Department of Health and Human Services, Nutrition Services Branch, to determine whether its system meets the standards in order for its system to be certified (see 2 CFR §200.318 General procurement standards through §200.326 Contract provisions). Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis.

Additionally, the Institution may self-certify its procurement system. Such self-certification must not limit the U.S. Department of Agriculture, Food and Nutrition Service, right to survey the system. Under a self-certification procedure the U.S. Department of Agriculture, Food and Nutrition Service, may rely on written assurances from the Institution that it is complying with these standards. The Institution must cite specific

policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

Forms

NSB-CACFP Documentation for Quotations

NSB-CACFP Sample Procurement Policy

CAC-17A Invitation to Bid

Definitions

The terms used throughout this policy are defined as follows:

Aggregate costs means the total amount of purchases the Sponsor has determined for a single item or related group of items for a period of time; i.e., one (1) year, one (1) quarter, weekly, monthly or other period of time as determined by the Sponsor

Authorized individual means a person who has been granted authority, in accordance with the Institution's procurement procedures, to buy supplies and services.

Brand Name means the name of a product or service that is limited to the product or service produced or controlled by one private entity or by a closed group of private entities. Brand names may include trademarks, manufacturer names, or model names or numbers that are associated with only one manufacturer.

Code of Conduct is a standard that prohibits employees from soliciting gifts, travel packages, and other incentives from prospective contractors. In addition, the code of conduct must prohibit an employee from participating in the selection, award, and administration of any contract to which an entity or certain persons connected to them, have financial interest. The code of conduct must also provide for Sponsors to set standards when financial interest is not substantial or the gift is an unsolicited item of nominal value and may be acceptable. Finally, the code of conduct must provide for disciplinary actions to be applied in the event the standards are violated.

Competitive quotation means an informal solicitation to at least three known suppliers of goods or services to confirm specifications, terms, and pricing for a specific purchase requirement.

Conflict of interest means a situation in which an agent of the Institution:

- Has a financial interest, direct or indirect, that prevents or may prevent the Institution or other restricted person from acting at all times in the best interest of CACFP;
- Has one or more personal, business, or financial interest or relationships that would cause a reasonable person with knowledge of the relevant facts to question the integrity or impartiality of those who are or will be acting under the CACFP.

Such a conflict of interest would arise when an Institution's employee, officer, agent, or any immediate family member, partner, or an organization that employs or is about to employ any immediate family member, has a financial or other interest in - or a tangible personal benefit from - a firm considered for a contract.

Formal solicitation refers to procurement by sealed bid or negotiated proposal. In sealed bids, suppliers respond to a publicly advertised Invitation for Bids (IFB). Sealed bids are publicly opened and recorded, assessed against the stated IFB criteria, and awarded based on price to the lowest responsible bidder. In the second, sealed proposals are obtained from suppliers responding to a publicly advertised Request for

Proposals (RFP). Proposals are not opened publicly and are evaluated, negotiated, and awarded based on price and other weighted factors stated in the solicitation.

Institution means a sponsoring organization, child care center, at-risk afterschool care center, outside-school-hours care center, emergency shelter or adult day care center which enters into an agreement with the North Carolina Department of Health and Human Services, Nutrition Services Branch, to assume final administrative and financial responsibility for Program operations.

Informal solicitation refers to the small purchase method of soliciting supplier quotes in writing or via telephone or fax. This method differs significantly from the solicitation of bids or proposals for more complex items, services, or construction using sealed bids (IFB) or negotiating offers after the issuance of a Request for Proposals (RFP).

Invitation for Bid (IFB) or Invitation to bid (ITB) refers to the formal solicitation process whereby contractors and suppliers are invited, through a bidding process, to submit a proposal on a specific product or service to be furnished.

Micro-purchase means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of an Institution's small purchase procedures. The Institution may use such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is \$3,500 except as otherwise discussed in 48 CFR 2.1, but this threshold is periodically adjusted for inflation.

Price Analysis is the process of examining and evaluating a proposed price. The end result of any price analysis should always be a determination that the quoted price is "fair and reasonable" and the basis for such a determination.

Procurement refers to a range of activities related to purchasing goods, services, and construction. It is a process that typically begins with the specification, proceeds through solicitation and award, and ends with receipt, acceptance, and payment.

Reasonable is a pricing concept that can be described as the price that a prudent businessperson would pay for an item or service under competitive market conditions, given a reasonable knowledge of the marketplace. A "fair and reasonable" pricing determination must be made for procurements that use CACFP funds.

Responsible Bidder means a responsive bidder who is capable of successfully performing under the terms and conditions of the contract.

Responsive Bidder means a respondent who submits a response to the Invitation for Bid (IFB) or the Request for Proposal that conforms to all material terms and conditions of the solicitation.

Simplified acquisition threshold means the dollar amount below which an Institution may purchase property or services using small purchase methods. Institutions adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation. (Also see definition of Micro-purchase.)

Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the U.S. Department of Agriculture, Food and Nutrition Service, or North Carolina Department of Health and Human Services, Nutrition Services Branch, all contracts made by the Institution under the CACFP Agreement must contain provisions covering the following, as applicable.

- **Administrative, contractual, and legal remedies:** Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- **Terminations:** All contracts in excess of \$10,000 must address termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
- **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708):** Where applicable, all contracts awarded by the Institution in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 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.*
- **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended:** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award 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).
- **Debarment and Suspension (Executive Orders 12549 and 12689):** A contract award (see 2 CFR 180.220) must not be 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." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352):** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. 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.

- **Procurement of recovered materials:** See 2 CFR §200.322, Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Related Information

[2 CFR 200 - Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards](#)

[7 CFR 226 - Child and Adult Care Food Program](#)

[CACFP Policy Memo 15-21: Guidance on Competitive Procurement Standards for Program Operators](#)

[CACFP Policy Memo 15-19: Procurement Standards and Resource Management Requirements Related to Franchise Agreements](#)

[CACFP Policy Memo 14-12: Written Codes of Conduct and Performance of Employees Engaged in Award and Administration of Contracts](#)

[FNS Instruction 796-2 Rev. 4 Financial Management - Child and Adult Care Food Program](#)

[North Carolina DHHS Fiscal Non-Profit Administration Manual](#)

[USDA Guidance for Management Plans and Budgets](#)

Who Approved This Policy

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Document History

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Written Procedures

Written procedures should not be a reiteration of the federal requirements or the policies or goals. Rather, procedures are the step by step process that is used to obtain the goal or the steps that are necessary to be in compliance with the federal requirement. The following is a list of questions to consider when documenting procedures. This is not an all-inclusive list but rather to be used as guidance when writing the step by step procedures. These questions represent the types of information NSB would look for in the Institution's written procedures:

- Does the Institution have an authorized purchaser identified?
 - Does the Institution have a written code of conduct?
 - Does the Institution have a policy regarding conflict of interest which includes procedures for disclosing and addressing any potential or actual conflicts?
1. **Defining Conflict of Interest** Do the Institution's policy and/or procedures include a definition of the relationships that are viewed as a conflict of interest?
 - How are employees involved in the procurement process made aware of and provided with a copy of the Institution's conflict of interest policy and procedures?
 - Do all employees involved in the procurement process fill out information regarding relationships that could be viewed as a conflict of interest?
 - What is the process for an individual to report a conflict of interest?
 2. **Determining a Conflict of Interest**
 - What is the continuing process to determine that an employee does not have a conflict of interest?
 - Are there regular updates of information provided by employees?
 - Who reviews the information provided by employees?
 3. Disqualified from Participation
 - Who verifies that an employee is removed from participation when a conflict is identified?
 4. Gratuities
 - Are gratuities never allowed or are there situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value?
 - If nominal value allowed, what is the amount?
 - Is unsolicited defined?
 5. Disciplinary Actions
 - What is the disciplinary action when an employee does not remove themselves from the election, award and administration of contracts when a conflict of interest occurs?
 6. Reporting Conflict of Interest
 - Who is responsible to report a conflict of interest to NSB?
 - When should a conflict of interest be reported?
- Which procurement method(s) does the Institution use for informal purchases?
 - Which procurement methods does the Institution use for formal purchases?
 - How is it determined which method is followed?
 - When the steps are performed; what is being verified?

Instructions and Example for Completing Documentation for Quotations

This Documentation for Quotations can be used for all procurements by small purchase (costing more than \$3,500 but less than \$150,000). The Institution will need to solicit price quotes from at least three vendors in order to achieve competition and to satisfy federal procurement requirements. The Institution will need to document the price quotes and all other pertinent information discussed with the responsive bidders. The Institution must make certain that all bidders receive the same product specifications. All procurement records must be kept for at least three years plus the current year from the date the invoice is paid.

DOCUMENTATION FOR QUOTATIONS

(Please print or type)

		Vendor 1	Vendor 2		Vendor 3			
10/03/2016 <small>(Date)</small>		Name of Vendor: Company A	Company B		Company C			
Jane's Sponsoring Organization <small>(Name of Institution)</small>		Address: 121 First Street	702 Industrial Avenue		106 2nd Place			
1107 <small>(Agreement Number)</small>		City, State ZIP: Raleigh, NC 27610	Raleigh, NC 27610		Raleigh, NC 27610			
Jane Anderson <small>(Name of person completing this form)</small>		Telephone Number: 919-555-0426	919-555-1208		919-555-0613			
<i>Jane Anderson</i> <small>(Signature of person completing this form)</small>		Small/Minority/Women's Business: Not Applicable	Women's Business		Not Applicable			
		Quoted by: Rob	Kristy		Larry			
		Method of Contact: Fax	Phone		In Person			
VENDOR SELECTED (Check 1, 2 or 3):		<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>			
Item	Qty	Description	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1	2	Hobart LZEC-3 Undercounter Dishwasher	\$5,900.00	\$11,800.00	\$4,500.00	\$9,000.00	\$6,000.00	\$12,000.00
2	3	Kolpak Walk-In Cooler	\$7,149.00	\$21,447.00	\$6,100.00	\$18,300.00	\$7,200.00	\$21,600.00
3								
4								
5								
Total :			<u>\$ 33,247.00</u>		<u>\$ 27,300.00</u>		<u>\$ 33,600.00</u>	

Procurement Rationale:
 Jane's Sponsoring Organization chose Company A because of the timeliness of delivery (availability the following week vs. 6 months) and the quality (the lowest bid stored their new products in poor conditions and therefore they were exposed to flooding).

Child and Adult Care Food Program
 Procurement by Small Purchase
 (For purchases over \$3,500 but under \$150,000)
DOCUMENTATION FOR QUOTATIONS

				Vendor 1	Vendor 2	Vendor 3			
(Date)				Name of Vendor:					
(Name of Institution)				Address:					
(Agreement Number)				City, State ZIP:					
(Name of person completing this form)				Telephone Number:					
(Signature of person completing this form)				Small/Minority/Women's Business:					
				Quoted by:					
				Method of Contact:					
VENDOR SELECTED (Check 1, 2 or 3):				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Item	Qty	UOM	Description	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1									
2									
3									
4									
5									

Total: _____

Procurement Rationale: