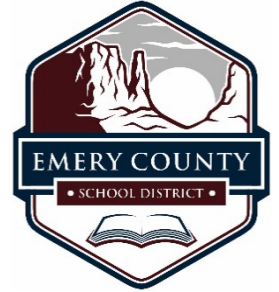


Emery County School District



Policy: DJD – Procurement Procedures Child Nutrition Program

Date Adopted: 5 May 2022
Current Review / Revision: 5 May 2022

PROCUREMENT PROCEDURES

- A. The plan for procuring items for use in the Child Nutrition Program is as follows. These procurement procedures maximize full and open competition, transparency in transactions, comparability, and documentation of all procurement activities. Emery School District assures that positive efforts will be made to involve small and minority businesses, women's business enterprises, and labor surplus area firms [2 CFR 200.321].
1. All procurement activities will be made in accordance with 2 CFR 200; the State of Utah Procurement Code 63G-6a; and Utah Administrative Code Title R33. The most restrictive principles will be applied when conflicts in requirements exist.
 - a. If the amount of the purchase is more than \$50,000, formal procurement procedures will be used.
 - b. Informal procurement procedures (small purchase) will be required for purchases under the most restrictive small purchase threshold as defined in Title R33 or LEA approved threshold if less:
 - i. The "Individual Procurement Item" threshold is a maximum amount of **\$5,000** for a procurement item; a procurement unit may select the best source by direct award and without seeking competitive bids or quotes.
 - ii. The single procurement aggregate threshold is a maximum amount of **\$10,000** for multiple procurement item(s) (each item must be \$1,000 or less), that are purchased from one source at one time; and
 - iii. The annual cumulative threshold from the same source is a maximum amount of \$50,000.
 2. It will be the responsibility of the Business Administrator to document the amounts to be purchased so the correct method of procurement will be followed. Cost analysis documentation will also be required for any amendments to resulting contracts when the amendment is expected to exceed \$50,000.
- B. When a formal procurement method is required, the following ***COMPETITIVE SEALED BID in the form of an Invitation for Bid or COMPETITIVE PROPOSAL in the form of a Request for Proposal (RFP)*** procedures will apply:
1. An announcement of an **Invitation for Bid (IFB) or a Request for Proposal (RFP)** will be placed in the Newspaper/media, Utah Public Procurement Place, or other internet sources to publicize the intent of the Local Education Agency to purchase needed items. The advertisement for bids/proposals or legal notice will be run for a minimum of 5 working days.
 2. An advertisement is required for all purchases over the districts small purchase threshold of \$50,000. The announcement will contain a:
 - a. general description of items to be purchased
 - b. deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms and conditions as needed
 - c. date of pre-bid meeting, if provided, and if attendance is a requirement for bid award
 - d. deadline for submission of sealed bids or proposals, and
 - e. address of location where complete specifications and bid forms may be obtained.
 3. The developer of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.
 4. The IFB or RFP will clearly define the purchase conditions. The following list includes requirements to be addressed in the procurement, as applicable:

- a) Contract period
 - b) LEA is responsible for all contracts awarded (statement)
 - c) Date, time, and location of IFB/RFP opening
 - d) How vendor is to be informed of bid acceptance or rejection
 - e) Delivery schedule
 - f) Set forth requirements (terms and conditions) which bidder must fulfill in order for the bid to be evaluated
 - g) Buy American Provision requirements.
 - h) Benefits to which the School Food Authority will be entitled if the contractor cannot or will not perform as required
 - i) Statement regarding the return of purchase incentives, discounts, rebates, and credits to the LEA's non-profit Child Nutrition account
 - j) Contract provisions as required in Appendix II to 2 CFR 200
 - k) Procuring instrument to be used are purchase orders from firm fixed prices after formal bidding
 - l) Price adjustment clause (tied to an appropriate) (Consumer price index, or other as stated in terms and conditions for pricing and price adjustments)
 - m) Specific bid protest procedures
 - n) Provision requiring access by duly authorized representatives of the LEA, State Agency, United State Department of Agriculture, or Comptroller General to any books, documents, papers and records of the contract which are directly pertinent to all negotiated contracts
 - o) Method of shipment or delivery upon contract award
 - p) Provision requiring contractor to maintain all required records for six years after final payment and all other pending matters (audits) are closed for all negotiated contracts
 - q) Description of process for enabling vendors to receive or pick up orders upon contract award
 - r) Provision requiring the contractor to recognize mandatory standards/policies related to energy efficiency contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165)
 - s) Signed statement of non-collusion
 - t) Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).
5. Specifications and estimated quantities of products and services prepared by SFA and provided to potential contractors desiring to submit bids/proposals for the products or services requested. When specifying a "brand name" an "equal" product must be allowed to be offered [2 CFR 200.319(6)]
 6. If any potential vendor is in doubt as to the true meaning of specifications or purchase conditions, interpretation will be provided in writing to all potential bidders by the business administrator and date specified.
 - a) The business administrator will be responsible to ensure all SFA procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.
 - b) The following criteria will be used in awarding contracts as a result of bids/proposals.
 - i. Price _____
 - ii. Quality _____
 - iii. Delivery and availability _____
 7. In awarding an RFP, a set of award criterion 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 among all factors when awarding a contract. Following evaluation and negotiations, a firm fixed price or cost reimbursable contract is awarded.
 - a) The contracts will be awarded to the responsible bidder/proposer whose bid or proposal is responsive to the invitation and is most advantageous to the LEA, price as the primary and other factors considered. Any and all bids or proposals may be rejected in accordance with law.

- b) The business administrator is required to sign on the bid tabulation of competitive sealed bids or the evaluation criterion score sheet of competitive proposals signifying a review and approval of the selections.
- c) The business administrator will review the procurement system to ensure compliance with applicable laws.
- d) The CNP Director is responsible for documenting the actual product specified is received.
- e) Any time an accepted item is not available, the CNP Director will select the acceptable alternate. The contractor must inform the CNP Director within 5 working days when a product is not available. In the event a non-domestic agricultural product is to be provided to the LEA, the contractor must obtain, in advance, the written approval of the product. The business administrator/CNP Director must comply with the Buy American Provision.
- f) Full documentation as to the reason an accepted item was unavailable, and to the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for this documentation is the CNP Director.
- g) The business administrator is responsible for maintaining all procurement documentation.

C. If the amount of purchases for items is less than the district's small purchase threshold, the following, **SMALL PURCHASE PROCEDURES, including quotes, will be used **as outlined in Utah State Administrative Code Title R33**. Quotes from an adequate number of qualified sources will be required.**

1. Written Specifications will be prepared and provided to the vendor. When specifying a "brand name" an "equal" product must be allowed to be offered [2 CFR 200.319(6)]
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 CNP Director will be responsible for contacting potential vendors when price quotes are needed.
4. The price quotes will receive appropriate confidentiality before award.
5. Quotes will be awarded by the business administrator. Quotes awarded will be to the lowest and best quote based upon quality, service availability, price, Buy American Provision requirements, as applicable, and/or timely delivery.
6. The business administrator 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 CNP Director will be responsible for documentation that the actual product specified is received.
8. Any time an accepted item is not available, the CNP Director will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.
9. Bids will be awarded on the following criteria:
 - a. Price
 - b. Quality
 - c. Delivery and Availability
10. The business administrator is required to sign all quote tabulations, signifying a review and approval of the selections.

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

1. If the cost exceeds the LEA's small purchase threshold the non-competitive proposal (sole source) must be publicly posted.
2. Written Specifications will be prepared and provided to the vendor.
3. The business administrator will be responsible for the documentation of records to fully explain the decision to use the non-competitive proposal. The records will be available for audit and review.
4. The CNP Director will be responsible for documentation that the actual product or service specified was received.
5. The business administrator will be responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive proposals are met.
6. A record of non-competitive negotiation purchase shall be maintained by the CNP Director. The record of non-competitive purchases shall include, at a minimum, the following:
 - a. item name
 - b. dollar amount
 - c. vendor, and
 - d. reason for non-competitive procurement
7. The business administrator will approve, in advance, all procurements that result from non-competitive negotiations.

E. Miscellaneous Provisions:

1. New product evaluation procedures will include:
 - a. Price_____
 - b. Quality_____
 - c. Long term availability_____
2. The School Food Authority agrees that the reviewing official of each transaction will be the business administrator.
3. Payment will be made to the vendor when the contract has been met and verified and has met the SFA's procedures for payment. (If prompt payment is made, discounts, etc. are accepted.)
4. Specifications will be updated as need.
5. If product is not as specified, the following procedure will take place:
 - a. An acceptable replacement item is sent and received_____
 - b. Credit for said item_____

F. Emergency or "Pressing Need" Purchases

- 1). If it is necessary to make a one-time emergency procurement to continue service or obtain goods, the purchase must be authorized using a purchase order signed by the business administrator. The following emergency

procedures shall be followed. All emergency procurements shall be approved by the business administrator. At a minimum, the following emergency procurement procedures shall be documented:

- a. item name
- b. dollar amount
- c. vendor, and
- d. reason for emergency

3). The LEA shall retain all books, records and other documents relative to the award of the contract for six (6) years after final payment. Specifically, the LEA shall maintain, at a minimum, the following documents:

- a) Written rationale for the method of procurement;
- b) A copy of the original solicitation;
- c) The selection of contract type;
- d) The bidding and negotiation history and working papers;
- e) The basis for contractor selection;
- f) Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;
- g) The basis for award cost or price;
- h) The terms and conditions of the contract;
- i) Any changes to the contract and negotiation history;
- j) Billing and payment records;
- k) A history of any contractor claims; and
- l) A history of any contractor breaches.

G. In accordance with 63G-6a-2400, the following conduct will be expected of all persons who are engaged in the awarding and administration of contracts supported by School Food and Nutrition Program Funds. These written standards of conduct are:

1. No employee, officer or agent shall participate in the selection or in the award or administration of a contract supported by program funds 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:

- a. The employee, officer or agent;
- b. Any member of the immediate family;
- c. His or her partner;
- d. An organization which employs or is about to employ one of the above.

2. 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.
3. Penalties for violation of the standards of code of conduct of the School Child Nutrition Program should be:
 - a. Reprimand by Board of Education;
 - b. Dismissal by Board of Education;
 - c. Any legal action necessary.