

Commissioner's Memo
4/30/2021

Procurement Plan and Procedures

Memo Information

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Unit Child Nutrition

Regulatory Authority 2 CFR § 200.318

Response Required NO

Attention Superintendents; General Business Managers; Child Nutrition Directors/Managers

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Memo Text

Procurement Plan:

School Food Authority (SFA) /Local Education Agency (LEA) operating Child Nutrition Programs that receive Federal funding are required to develop and implement procurement procedures, consistent with Federal, State and Local regulations. The procurement plan and procedures will be used for the acquisition of property or services required under a Federal award or subaward. These acquisitions include the purchase of food, equipment, supplies and services using the nonprofit school foodservice account. All procurements must follow the regulatory language cited in:

- 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 7 CFR 210 National School Lunch Program
- 7 CFR 220 School Breakfast Program
- Arkansas Procurement Laws and Rules

The SFA/LEA must have a Child Nutrition Procurement Plan on file, which will be made available for monitoring reviews and legislative or private audits.

SFA/ LEAs must have written procedures for procurement transactions that incorporate:

- Clear and accurate description of the technical requirements for the material, product, or service to be procured.
- Such description must not, in competitive procurements, contain features which unduly 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 set forth those minimum essential

characteristics and standards to which it must conform if it is to satisfy its intended use.

- Brand names 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 salient requirements of procurement.

SFA/LEAs must be responsible, in accordance with good administrative practice and sound business judgment, SFA/LEAs must be responsible 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. The procurement standards do not relieve program operators of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the Program operator unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

SFA/LEAs 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. As referenced, 2 CFR Part 200.213 goes on to “restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.” A resource to search debarment and suspension records may be found here: www.sam.gov.

SFA/LEAs must maintain records sufficient to detail the history of procurement for a minimum of five (5) years. 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.

Written Code of Conduct

SFA's/LEA's must have an approved written code of conduct for employees involved in procurement in Child Nutrition Programs. This written code of conduct is mandated by federal regulations 2 CFR 200.318(c)(1) and must:

- Prohibit employees from soliciting gifts
- Prohibit employees from travel packages
- Prohibit employees from other incentives from prospective contractors.
- 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.
- Provide for Child Nutrition Program (CNP) operators to set standards when financial interest is not substantial or the gift is an unsolicited item of nominal value and may be acceptable (for example: coffee mug or calendar).
- Must provide for disciplinary actions to be applied in the event the standards are violated.

The Child Nutrition Program Code of Conduct should be reviewed and signed each year by all Child Nutrition employees and other staff members involved in Child Nutrition procurement.

Additional information and resources can be found on the Child Nutrition website under the procurement tab.

<https://dese.ade.arkansas.gov/Offices/child-nutrition-unit/procurement>