MONTGOMERY COUNTY BOARD OF EDUCATION
2023-2024
PROCUREMENT PLAN
SCHOOL NUTRITION PROGRAM

The procurement plan described on the following pages (pages 1 through 25) was adopted by the Montgomery County Board of Education (BOE) on the date signed below and will be effective immediately and from that date forward until amended. All procurement processes and activities will be consistent with the principles of free and open competition. The SFA will avoid unreasonable conditions that restrict competition. All reasonable efforts will be made to solicit bids, proposals and/or quotes from as many qualified vendors as possible. All qualified vendors are invited to respond to solicitations.

The procurement of all goods and services using School Nutrition funds will be carefully documented during each phase of the procurement process. The BOE shall award contracts to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed solicitation. The BOE will restrict awards, sub-awards and contracts with any party that is debarred, suspended or otherwise excluded from participation in Federal assistance programs or activities. All parties involved in the procurement process involving School Nutrition funds will comply with a written code of ethics/conduct, which includes a conflict of interest policy. Adherence with the code of ethics/conduct and conflict of interest policies is fundamental to the integrity of the procurement process.

_____ _____

Chair, Board of Education/Directors Date

_____ _____

Superintendent of Schools Date

Montgomery County Board of Education
PROCUREMENT PLAN

The Montgomery County Board of Education (herein after referred to as the School Food Authority (SFA) plan for procuring goods and services for use in the School Nutrition Program is described in detail herein. The plan includes all Federal food-assistance programs administered by the SFA. Adhering with the procurement plan is intended to ensure free and open competition, in an environment that promotes transparency in all transactions, documented comparability for ethical decision-making, and adequate documentation to substantiate the allowable use of School Nutrition funds.

Part I: Code of Ethics/Conduct governing the procurement of goods and services using School Nutrition Funds

A. The following conduct will be expected of all persons who are engaged in the award and administration of contracts supported by School Nutrition funds.

1. No employee, officer or agent of the Local Education Agency (LEA) shall participate in the development of a solicitation, selection of a recipient, and/or administration of a contract supported by School Nutrition funds if a conflict of interest, real or apparent, would be involved.

2. Conflicts of interest arise when a member of the LEA or SFA has a financial or other interest in the contractor selected for the award, conflicts of interest would include:

   a. Any employee, officer or agent of the contractor;
   b. Any member of the immediate family of the contractor;
   c. The contractor's partner; and/or
   d. An organization which employs or is about to employ one of the above.

3. Employees, officers or agents of the LEA and SFA shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. (*Note: the SFA may establish local policy indicating School Nutrition personnel may accept an unsolicited item of nominal value where the exact value is established and recorded in this procurement plan or participate in a group event where the financial interest is not significant and the event is open to all attendees or participants.)

4. It is acknowledged that the penalty for violation of the Code of Ethics/Conduct may include any of the following:

   a. Reprimand by Board of Education; or
   b. Dismissal by Board of Education; or
   c. Any legal action necessary.

B. The Montgomery County Board of Education Code of Ethics and Conflict of Interest Policies are shown in Attachment A.

Part II: Procurement Methods used to Purchase Goods and Services using School Nutrition funds

A combination of formal and informal purchasing methods will be used to procure all goods and services on behalf of the non-profit School Food Authority (SFA). Formal purchasing methods will include the use of an Invitation for Bid (IFB) or a Request for Proposal (RFP). As required by 2 CFR 200.317 – 200.326 and NC General Statute, Article 8, Chapter 143, formal purchasing methods will always be used for any purchase that exceeds the lesser of the State's small purchase threshold of $90,000.00 or the SFA's board-approved small purchase or simplified acquisition threshold. For purchases below the lesser of the State's simplified acquisition threshold of $90,000 or the board-approved simplified acquisition threshold, informal procurement procedures involving a documented Request for Quote (RFQ) will be utilized when seeking competitive pricing. Micro-purchase procedures as defined in 2 CFR 200.320 may be used for goods or services reflecting separate or aggregate purchases in an amount equal to or less than $3,500.00 in aggregate on an annual basis. Non-competitive negotiation or sole source procurement, is rare and requires the prior written approval of the North Carolina Department of Public Instruction (NCDPI) prior to purchase and/or contract execution. Contracts will be awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the base solicitation; consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources. All procurement transactions (formal, informal, sole source and emergency) will be thoroughly documented and available for review and/or audit by Federal, State and local authorities upon request.

The SFA will make all efforts to avoid the acquisition of unnecessary or duplicative items. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach, including purchases made using existing contracts that were competitively procured by the State of North Carolina and in accordance with State General Statute. Where feasible, the SFA will consider the purchase of gently-used or surplus equipment in lieu of purchasing new equipment.

Overly-prescriptive specifications will be avoided to promote competition. When it is impractical to make a clear, definitive description, a "brand name or equivalent" description will be used as a means to define a product or service. In this case, the specific features of the named brand, which must be met by contractors, must be clearly stated. In order to ensure objective contractor performance, any potential contractor that develops or drafts specifications, requirements, statements of work or other solicitation documents or resources, will be excluded from competing for such procurements. All solicitation documents will identify the specific requirements which the contractor must fulfill and any other factors that will be considered when evaluating quotes, bids, or proposals.

A. Formal Procurement Methods

Formal methods of procurement including an Invitation for Bid (IFB) or a Request for Proposal (RFP) will be used for any and all purchases in excess of the SFA's simplified acquisition (or small purchase) threshold OR the State simplified acquisition (or small purchase) threshold of $90,000.00, whichever is less.

The SFA's Simplified Acquisition Threshold is $90,000.00; this amount will be used to determine whether formal or informal purchasing methods will be used.

Formal procurement methods will be applied on the basis of a/an:

* Centralized or administrative office purchase
* Individual school purchase
* Multi-School systems purchases
* Previously competitively-procured State contract
* Combination of above (specify):

An IFB will be used when the sole criteria for awarding a contract to the most responsive, responsible bidder is the cost of goods or services. A RFP will be used when other factors, objective and subjective, will be used to award the contract. When using an RFP, cost will be a significant factor in the contract award along with other evaluation criteria. The specific evaluation criteria will be provided as part of the original solicitation to enable all potential contractors to clearly understand the basis of the award.

Given the potential to purchase more products and services above the SFA's Simplified Acquisition Threshold of $90,000.00 using School Nutrition funds, it will be the responsibility of the School Nutrition Administrator to document the specific cost of a purchase to determine and document which formal procurement method will be used and the justification for doing so.

The School Nutrition Administrator will perform a cost analysis for every procurement action in excess of the SFA's simplified acquisition threshold where formal procurement methods will be used; the documentation of the cost analysis will be kept on file with other procurement documents and will be subject to review and/or audit.

When a formal procurement method is required, the following procedures shall apply:

1. A public advertisement is required to solicit bids or proposals for all purchases over the Local Education Agency's (LEA) simplified acquisition (or small purchase) threshold of $90,000.00.The announcement (advertisement or legal notice) will contain a general description of items to be purchased; specific procedures for submission of a bid or proposal; deadline for submission of sealed bids or proposals and the address where complete specifications an bid/proposal

instructions may be obtained and the contact person to whom questions may be addressed.

An announcement of an Invitation for Bid (IFB) or a Request for Proposal (RFP) will be placed in the name of Major Newspaper/media, IPS Website, other widely publicized communication to publicize the intent of the School Food Authority to purchase needed items. The legal notice of advertisement for bids/proposals will be run in these media outlets for five days.

2. In an IFB or RFP, each vendor will be given an opportunity to submit a bid or proposal using the same complete, adequate and realistic specifications.

3. Specifications will be developed and provided to all potential contractors desiring to submit bids or proposals for the products or services requested. Vendors will be selected to receive the solicitation using the following methods:

   a. Prior acceptable service with the SFA.
   b. Quality of products.
   c. Services available.

   Any party that assists the SFA in the development of the written specifications, product descriptions or services to be provided, will be disqualified from submitting bids or proposals for such products or services. Potential vendors are prohibited from developing or assisting in the development of specifications, product descriptions or services to be provided.

4. If any potential vendor is in doubt as to the true meaning of the specifications or purchase conditions, an interpretation will be provided by School Nutrition Administrator. If a single vendor requests clarification on an item in an IFB, RFP, or other solicitation, a response will be provided to all potential vendors that originally requested and/or received the solicitation.

5. The IFB or RFP will clearly define the purchase conditions. The following shall be addressed in the solicitation and final contract documents:

   a. Intent of the procurement activity
   b. Contract period
   c. SFA is responsible for all contracts awarded (statement)
   d. Date, time and location of pre-bid or pre-proposal meeting (if any)
   e. Date, time and location of bid opening and bid/proposal submission procedures with SFA contact information
   f. How the vendor is to be informed of bid/proposal acceptance or rejection
   g. Type of contract (i.e. fixed price with firm price for delivery, etc.)
   h. Specific requirements potential contractor must fulfill in order for the bid or proposal to be evaluated

i. Statement indicating any and all bids or proposals may be rejected at the discretion of the SFA
j. Benefits to which the SFA will be entitled if the contractor cannot or will not perform as required in accordance with the terms and conditions of the contract
k. Statement regarding any contract extension or "rollover" options based upon the mutual agreement of both parties
l. Statement concerning any intent for piggybacking should a reasonable need emerge
m. Statement regarding the return of rebates, discounts and other purchase incentives to the SFA's non-profit School Nutrition account
n. Historically Underused Businesses (HUB) Statement to involve minority businesses where possible
o. Remedy for non-performance/termination of contract; termination provisions and the basis for any settlement for all purchases and service contracts over $10,000.00
p. Non-collusion statement
q. Assurance of ethical practices statement
r. Bid/proposal protest procedures
s. Provision requiring compliance with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in the Department of Labor regulations required for all contracts over $10,000.00
t. Instrument to be used for obtaining goods or services (such as a purchase order or other system of ordering) to be described by the SFA in detail, including how the contractor will be notified using the purchase instrument
u. Escalation/de-escalation clause for future contract renewal periods (should such be allowed) based on appropriate standard or cost index
v. Statement of assurance of protection under Civil Rights laws
w. Provision requiring access by duly authorized representatives of the SFA, State agency, United States Department of Agriculture, or Comptroller General to any books, documents, papers and records of the contractor which are directly pertinent to all negotiated contracts
x. Method of payment (invoices, statements, etc.)
y. Method of shipment or delivery upon contract award
z. Delivery schedule and delivery requirements
aa. Provision requiring contractor to maintain all required records for three years plus the current year (and any contract periods open as a result of unresolved matter) after final payment and all other pending matters are closed for all negotiated contracts
bb. Bid/proposal Certification form
cc. Specifications that are sufficient to obtain the exact goods or services needed, but not so detailed as to restrict competition
dd. Product/service specifications to include approved brand or equivalent, quantity, quality, packaging, pricing (unit and extended), procedures for documenting/pre-approving any substitutions or deviations

ee. Provision requiring the contractor to recognize mandatory standards and policies related to energy efficiency which are contained in the State Energy Plan
ff. Provision requiring the contractor to recognize mandatory standards and policies related to energy efficiency which are contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165)
gg. All contracts over $100,000.00 will require compliance with the Clean Air Act issued under Section 306, Executive Order 11738
hh. Signed Certificate of Lobbying for all contracts over $100,000.00
ii. Signed Statement of non-collusion
jj. Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS)
kk. Provision requiring "Buy American" as outlined in Policy Memorandum SP 38 - 2017; specific instructions for prior approval of any and all of non-domestic products
ll. Provision requiring the Contractor to abide with the Jessica Lunsford Act (sample language is attached with this document)
mm. Provision indicating the SFA has complied with the Iran Divestment Act of 2015 (as modified).and has provided documentation the SFA is not doing business with an entity that does business with Iran.

6. The School Nutrition Administrator will be responsible for publicly advertising and coordinating the procurement process for all purchases using School Nutrition funds. The School Nutrition Administrator will be responsible for receiving and securing all bids, proposals, quotes and other collateral documents if indicated as part of the solicitation process.

7. The School Nutrition Administrator will be responsible to ensure all SFA procurements are conducted in compliance with applicable Federal regulations, State General Statutes or policies of the local Board of Education and that the Procurement Checklist shown at the end of this document will be completed for each formal procurement, signed and dated by the person named above and maintained on file with the original procurement documents.

8. The following criteria will be used to award contracts (based on bids or proposals):

   a. Price.
   b. Prior contract performance.
   c. Quality of product.
   d. Customer Service.

9. In awarding RFP a set of award criterion in the form of a weighted objective evaluation tool will be provided to each potential vendor in the initial solicitation documents/materials. Price alone will not be the sole basis for award, but

remains the primary consideration when awarding the contract. Following evaluation and competitive negotiations, a firm fixed-price contract will be awarded to the successful vendor.

10. Contracts will be awarded to the most responsible bidder/proposer whose bid or proposal is most responsive to the solicitation and is most advantageous to the SFA, price, and other factors considered. Any and all quotes, bids or proposals may be rejected at the discretion of the SFA and/or LEA or appropriate governing body.

11. The School Nutrition Administrator is required to sign the bid tabulation of competitive, sealed bids or the evaluation criterion score form of competitive proposals signifying a fair and impartial review and approval of the successful bidder/proposer.

12. The School Nutrition Administrator will annually review the SFA's Written Procurement Plan in the context of current local, State and Federal regulations to ensure compliance with applicable laws. This individual will also be responsible to update the School Nutrition Procurement Plan as often as required to reflect current Federal, State and local procurement policies.

13. The School Nutrition Administrator will be responsible for documentation that the actual product(s) or service(s) specified are received.

14. Any time a previously agreed-upon item is not available, the School Nutrition Administrator will review, select and approve the acceptable alternate. The contractor must inform School Nutrition Administrator no later than 24 hours that a product is not available and that a substitute item may be considered. The School Nutrition Administrator shall review and approve all product/service substitutions in advance and in writing to the contractor. No product or service shall be used in the School Nutrition program that was not approved, in writing, in advance by the School Nutrition Administrator. In the event a non-domestic agricultural product is to be provided to the SFA, the contractor must obtain, in advance, the written approval of the product from the School Nutrition Administrator. The School Nutrition Administrator will oversee compliance with the *Buy American Provision*.

15. Full documentation as to the reason an accepted item was unavailable, and the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for preparing and maintaining this documentation is School Nutrition Administrator.

16. The School Nutrition Administrator will be responsible for maintaining all documentation of the procurement process and making documents available for review during announced and unannounced program reviews.

17. When appropriate and approved by School Nutrition Administrator, the SFA will exercise its option to purchase items that were previously competitively procured by the North Carolina Department of Administration, Purchase and Contract Division using a duly awarded, active State Term Contract.

B. Informal Procurement Procedures

1. When the cost of products or services is less than the LEA's small purchase threshold of $90,000.00, or the Federal micro-purchasing threshold of $3,500, informal purchasing procedures including the Request for Quotes (RFQ) and Micro-purchasing Procedures (MPP) will be utilized.

2. When using a RFQ, the following procedures will apply:

   a. Clearly written specifications will be prepared and provided to each potential vendor; the SFA's approved terms and conditions will also be provided to each potential vendor.

   b. Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of three (3) vendors shall be contacted.

   c. The School Nutrition Administrator will be responsible for communicating with potential vendors when price quotes are required.

   d. Price quotes will receive appropriate confidentiality before awarding a contract.

   e. Quotes will be awarded by School Nutrition Administrator. Quotes awarded will be to the lowest and best quote based upon quality, service, availability, and price.

   f. The School Nutrition Administrator will be responsible for documentation of procedures to show selection of vendor, reasons for selection, names of all vendors contacted, price quotes from each vendor, and written specifications.

   g. The School Nutrition Administrator will be responsible for documentation that the actual product(s) or service(s) specified is received.

   h. Any time an accepted item is not available, the School Nutrition Administrator will select and approve an acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.

   i. Bids will be awarded on the following criteria:

1. Price.
2. Quality of product.
3. Delivery service.
4. Customer service.

j. The School Nutrition Administrator is required to sign all quote tabulations, signifying a fair and equitable review and approval of the selections.

k. Quotes from an adequate number of qualified sources will be obtained. Where only one (1) quote is received, the district will provide written documentation as to why there were fewer than three (3) qualified quotes.

l. When appropriate and approved by School Nutrition Administrator, the SFA will purchase items that were previously competitively procured by the North Carolina Department of Administration, Purchase and Contract Division, using a duly awarded, active State Term Contract.

3. When using MPP, the following will apply:

a. The School Nutrition Administrator will determine whether the aggregate amount of purchases for goods and/or services does not exceed the micro-purchase threshold of (equal to or less than) $3,500, a micro-purchasing procedure may be utilized. In so doing, the School Nutrition Administrator will be responsible to ensure that, under no condition, will purchases be sub-divided into amounts of $3,500 or less in order to circumvent the formal and informal purchasing requirements.

b. Purchase orders may be solicited without quotes if the School Nutrition Administrator determines such practice is consistent with micro-purchasing regulations and consistent with the SFA's written Procurement Plan.

c. The School Nutrition Administrator may purchase products and services (similar or dissimilar, purchased at once, as a single, collective unit whose aggregate cost is less than or equal to $3,500 in a single transaction, without obtaining competitive quotes as long as the School Nutrition Administrator determines the price to be reasonable.

d. The School Nutrition Administrator shall ensure competition is achieved by distributing purchase transactions equitably among qualified sources where the price is reasonable. The School Nutrition Administrator will document all micro-purchases on a *Micro-purchase Tracking Form*.

e. For purposes of micro-purchasing, a transaction shall be defined as "an occurrence in which two (2) or more entities exchange goods, services or

money between or among them under an agreement formed for their mutual benefit."

f. The School Nutrition Administrator agrees to contact the State agency with any questions about allowable/unallowable micro-purchases, and further agrees to maintain all documentation to substantiate micro-purchases including the following:

1. Rationale for using micro-purchasing;
2. Estimated cost of the item/service to be procured (indicating a one-time purchase of $3,500 or less);
3. Name and address of the vendor;
4. Documentation that purchases are made from a variety of potential vendors as opposed to a single vendor for the majority of micro-purchases;
5. All micro-purchases were approved by the School Nutrition Administrator prior to the initiation of a single micro-purchase.

g. The School Nutrition Administrator will be responsible for the documentation of records to fully explain the decision to use micro-purchasing and to document the micro-purchasing process and outcomes. Such records will be available for audit and review.

h. The School Nutrition Administrator will be responsible for documentation that the actual product or service as specified or required was purchased and received.

C. Sole Source of Non-competitive Procurement

When it is determined and documented that a product or service is available only from a single source and when the award of a contract is not feasible under small purchase, sealed bid or competitive negotiation, sole source or non-competitive negotiation procedures will be used and the following procedures shall apply:

1. Written specifications for the product or service will be prepared by the SFA.

2. The School Nutrition Administrator will be responsible to prepare and issue a request for Information (RFI) or other information collection tool to objectively determine whether the product or service, as described in the written specification is available from one or more sources.

3. The School Nutrition Administrator determines the product or services specified qualifies as a sole source procurement, s/he will be responsible for reviewing the procedures to ensure all requirements for using sole source or non-competitive negotiations are met; this individual shall also be responsible for preparing appropriate documents to fully explain the decision to

use the sole source procurement process, including evidence indicating the goods or services were not available from other sources. The records will be available for audit and review.

4. A member or representative of the local Board of Education or Governing Board will approve, in advance, all procurements, with the exception of product testing purchases, that result from a sole source or non-competitive negotiation.

5. School Nutrition Administrator will be responsible for obtaining prior written State agency approval of the sole source or non-competitive negotiation before entering into the purchase of a good or service and will also be responsible for maintaining such documentation on file.

6. Sole source procurement may be used for one-time purchases of a new food for product testing for which there is no brand equivalent in order to obtain product samples for conducting student taste acceptance. A record of non-competitive negotiation purchase shall be maintained by the School Nutrition Administrator. The record of non-competitive purchases shall include, at a minimum, the following:

   a. Item name.
   b. Dollar amount.
   c. Vendor name and address.
   d. Written justification for non-competitive procurement.

7. The School Nutrition Administrator will be responsible for documentation that the actual product or service specified was received.

D. Emergency or "Pressing Need" Purchases

If it is necessary to make a one-time emergency procurement as a result of a serious, unforeseen event that requires an immediate response in order to obtain goods or services to continue meal service, protect students, personnel or SFA resources, for other purposes that support program accountability and integrity, an emergency purchase shall be made and a log of such purchases will be maintained by the School Nutrition Administrator. The following emergency procedures shall be followed:

1. All emergency procurements shall be approved by the School Nutrition Administrator. At a minimum, the following emergency procurement procedures shall be documented:

   a. Reason for the emergency.
   b. Good or service required.
   c. Cost (all costs to be included, shipping, installation, warranty, etc.).
   d. Vendor name and address.
   e. Approval of the LEA official, if required.

2. If it is necessary, in the course of a pressing need, to make an emergency purchase by means of "piggybacking" on the solicitation of another SFA, the following conditions must exist and approved procedures must be followed and appropriately documented as follows:

   a. The SFA that originated the solicitation must have included a "piggyback provision" in the original solicitation;
   b. Documentation that a "pressing need" exists that requires piggybacking on another SFA's bid will be obtained;
   c. Approval from the SFA's governing board will be obtained and documented;
   d. Approval from the SFA that originated the IFB will be obtained and documented;
   e. Approval from the vendor that was awarded the Contract (as a result of the IFB) will be obtained and documented;
   f. A public notice of the district's *"Intent to Waive Competitive Bidding"* will be issued at least 10 days prior to the regularly scheduled governing board meeting;
   g. Approval to piggyback will be obtained and documented from the governing board during a regularly scheduled meeting following the public notice;
   h. Notification to the vendor of final approval will be issued; and
   i. A contract with the vendor will be developed.

Part III: Purchasing Cooperatives

The SFA shall be a voluntary participant in the North Carolina School Nutrition Procurement Alliance (NCPA). In doing so, the SFA shall agree to the terms and conditions established and subsequently modified by the NCPA's elected Board of Directors. The original signed agreement between the SFA and the NCPA shall remain on file in the office of the School Nutrition Administrator.

Part IV: Additional Procurement Provisions

1. In order to evaluate a new product, the following methods will be used:

   a. Food product specifications will be reviewed to determine compliance with USDA guidelines for meal patterns.
   b. Existing contracts will be reviewed to determine if a product is already available at a contracted price.
   c. Price quotes will be requested from available vendors
   d. Samples will be requested or purchased from the appropriate vendors.
   e. Samples will be tested with students and staff as appropriate times.

2. Payment will be made to the contractor when all terms and conditions of the contract

have been met and verified as stipulated in the contract. (If value added features are available, payment will be based on the mutually-agreed upon value added feature. For example, if prompt payment is made, discounts, etc. are allowable.)

3. Specifications will be updated by School Nutrition Administrator as products change.

4. If a product or service is not received as specified, the following procedure will be implemented:

   a. Documentation will be made by the manager or director.
   b. Vendor will be notified.
   c. Returns, credits, or replacements will be handled according to contact terms and conditions.

5. If the SFA chooses to use the services of an entity to maximize allowable rebates, the following procedures will be implemented:

   a. Entity will be provided with information on contracted vendor.
   b. Entity will be provided with a list of eligible products.

6. School Nutrition Administrator will oversee the process of managing rebates provided by a third party participant and will track all interactions with and rebates provided by said third party:

   a. Provide written documentation to the third-party rebate provider that all rebates must accrue to the non-profit School Nutrition Account. All rebate checks must be made payable to the SFA's School Nutrition account.
   b. Document the deposit of all rebates into the non-profit School Nutrition account.

7. The SFA will designate an individual to monitor each contract to ensure the Contractor and the SFA adhere to all terms and conditions of the contract.

8. All contracts shall result in a fixed, firm price contract and/or cost plus fixed fee contract.

Part V: Documentation and Records Retention

In all transactions except micro-purchases, the contractor shall agree to retain all invoices, records and other documents relative to the contract for a period of three (3) years after final payment plus the current year. The SFA, its authorized agents, and/or USDA auditors shall have full access to and the right to examine any of said materials during said period.

The SFA shall agree to retain all books, journals, records and other documents relative to

the award of the contract agreement for three (3) years after final payment. Specifically, the SFA 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; and/or rejection
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 where cost or price is not the primary factor for the decision;
h. The terms and conditions of the contract;
i. Any and all contract amendments or modifications;
j. Billing and payment records;
k. Any history of any contractor claims; and
l. Any history of any contractor breaches.

The SFA will complete the most current *School Nutrition Procurement Checklist* for all purchases using School Nutrition funds. The checklist should remain on file with the district's procurement documents as an indicator the SFA has taken all reasonable efforts to procure goods and services in a manner that is consistent with Federal regulations and policy. The checklist is shown in Attachment B.

Part VI: Other Procurement Requirements

A. All contractors must agree to abide with the terms and conditions of the Jessica Lunsford Act. The vendor acknowledges that N.C. General Statute 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. This prohibition applies to persons required to register under Article 27A who have committed any offense in Article 7A of Chapter 14 or any offense where the victim of the offense was under the age of 16 years at the time of the offense.

B. The SFA will make all reasonable efforts to assure that minority businesses, women's business enterprises and labor surplus area firms are engaged in solicitations and awarded contracts when possible.
C. The SFA and its contractors shall 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.

D. All Contractors must agree to abide with the requirement for Criminal Background Checks. The vendor shall conduct criminal background checks on each of its employees who, pursuant to this Agreement, engage in any services on Montgomery County Board of Education property or at Montgomery County Board of Education events. The Contractor shall provide documentation that criminal background checks were conducted on each of its employees prior to hiring, and shall refuse employment to any person convicted of a felony or any other crime, whether misdemeanor or felony, that indicates the person poses a threat to the physical safety of students, school personnel or others. Such checks shall include an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. The vendor shall not assign any employee or agent to provide services pursuant to this contract if (1) said worker appears on any of the listed registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any crime, whether misdemeanor or felony, involving sex, violence, or drugs; or (4) said worker has engaged in any crime or conduct indicating that the worker may pose a threat to the safety or well-being of student or school personnel. The Montgomery County Board of Education reserves the right to prohibit any individual employee of the vendor from providing services on Montgomery County Board of Education property or at any Montgomery County Board of Education events if Montgomery County Board of Education determines, in its sole discretion, that such employee poses a threat to the safety or well-being of students, school personnel or others.

E. The SFA must agree to abide with the IRAN DIVESTMENT ACT (as modified). N.C.G.S. 147- 86.59 which stipulates that before entering into any contact, the SFA must determine whether the contracting entity appears on the State Treasurer's List of Prohibited Vendors. The list is routinely updated by the Office of the State Treasurer. You can access the list at:

https://www.nctreasurer.com/inside-the department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx

The Final Divestment List includes the names of vendors who appear to be engaged in "investment activities in Iran" based on Federal sanctions and other publicly available credible information. Vendors that appear on this list are ineligible to contract with the State of North Carolina or any subdivision of the State, including the School Nutrition Program. Prior to entering into a contract with a vendor, the SFA will check the Iran Final Divestment List to determine the potential vendor does not appear on the list. If however, the vendor does appear on the list, the SFA is prohibited from doing business with the vendor as required by N.C.G.S. 143-6A-4.

The SFA will document that any vendor with whom they enter into a contract does not appear on this list. To document this requirement, the SFA will print a copy of the most

current Iran Final Divestment List as it appears on the State Treasurer's website, print the one-page document and attach it to the solicitation document/contract prior to executing the contract. \

F. Should the Montgomery County Board of Education BOD determine it is in the best interest of the SFA to outsource the preparation of meals to a qualified catering company, the SFA agrees to notify the department before procuring the services of a catering company and to use the NC Department of Public Instruction's (NCDPI) RFP Template/Contract to solicit, evaluate, negotiate and contract with the successful vendor.

G. Should the Montgomery County Board of Education determine it is in the best interest of the SFA to seek a for-profit Management Company to operate its non-profit School Nutrition Program, the Montgomery County Board of Education shall notify the NCDPI of its intent to outsource the program no later than six months prior to the desired date of the contract. Further, the LEA agrees to and agrees to use the solicitation/contract template required by the NCDPI and shall comply with the State and Federal guidelines for contracting with Management Companies. The BOE further agrees to appoint a qualified employee of the LEA to monitor the contract between the LEA and the Management Company on daily basis.

Part VII: Contract Oversight

A. The School Nutrition Administrator shall designate an individual by name and title who will oversee each contract using School Nutrition funds to ensure all terms, conditions and deliverables are adhered to in a manner that is consistent with the contract.

B. Each contract will be monitored on a frequency that is established at the beginning of the contract period; any failure of the contractor to abide with the terms and conditions of the contract will be reported to the School Nutrition Administrator immediately and immediate, documented corrective action will be required and/or contract termination proceedings will begin.

C. The SFA alone will be responsible, in accordance with good administrative practice and sound business judgment, of the settlement of all contractual and administrative issues arising out of procurements using School Nutrition funds. These issues include, but are not limited to, source evaluation, protests, disputes and claims. These standards do not relieve the SFA of any contractual responsibilities under its contracts.

D. It is understood by the SFA and LEA that neither the US Department of Agriculture nor the North Carolina Department of Public Instruction will substitute their judgment for that of the SFA and LEA unless the matter is primarily a Federal or State concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

Attachment A
Code of Ethics and/or Conflict of Interest Policy of the Montgomery County School Board of Education

Attachment B

Specific Procurement Procedures for the purchase of all goods and services by the SFA.

Category of Items to be Purchased	Procurement Method to be Used	Method of Award (line item, bottom line, market basket etc.)	Frequency of Purchase
Food and Non-Food Supplies	NC Alliance Formal	Bottom Line	Annually
Produce	NC Alliance Formal	Bottom Line	Annually
Snacks	NC Alliance Formal	Bottom Line	Annually
Water and Beverages	NC Alliance Formal	Line Item	Annually
Ice Cream	Formal	Bottom Line	Annually
Chemicals for Cleaning Purposes	Formal-RFP	Competitive Negotiation	Annually
Bread	Formal	Bottom Line	Annually
Milk	Formal	Bottom Line	Annually
Pest Control/Services	Formal-RFP	Competitive Negotiation	Annually
Oil Removal	Formal-RFP	Competitive Negotiation	Annually
Equipment	In-Formal	Bottom Line	As Needed1

Note: All categories of purchases used by the SFA must be included in the table shown above.

Attachment C
Procurement Checklist

Goods/Services to be procured: _____

Procurement date: _____

Person overseeing procurement process: _____

This checklist will be used when preparing solicitation documents, conducting informal and formal procurements, evaluating bids and proposals and executing contracts that involve the use of School Nutrition Funds.

Procurement Plan:

_____ Written procurement plan
_____ Authorized purchaser(s) specified
_____ Detailed procurement methods to be used (quotes, IFB, RFP, micro-purchasing, non-competitive negotiation) including detailed procedures for each purchasing method
_____ Advertising procedures
_____ Award method clearly described (i.e., line item, bottom line, market basket analysis or written evaluation of product/service)
_____ Vendor notification of award/non-award of contract
_____ Code of ethics/conflict of interest policy
_____ Instructions for documentation and record-keeping
_____ Assignment for Contract oversight
_____ Assurance of compliance with all Federal procurement policies
_____ Assurance of compliance with all State procurement policies
_____ Oher local requirements

Procurement Procedures:

_____ Letter of invitation
_____ Intent of procurement activity
_____ Contract time-period
_____ Bid/proposal/quote submission procedures (i.e. sealed bid, written, etc.)
_____ Pre-bid/proposal meeting date/time/location (if applicable)
_____ Bid opening date/time/location; Proposal opening procedures
_____ Contact information
_____ Civil Rights Statement
_____ Other local requirements

Terms and Conditions:

_____ Certification regarding disclosure of lobbying ($100,000+)
_____ Debarment/suspension certification form ($25,000+)
_____ Non-collusion statement
_____ Assurance of ethical practices

Procurement Checklist (continued)

_____ Escalation/de-escalation clause
_____ Price determination statement (fixed, fixed with firm price for delivery, etc.)
_____ Contract Extension or "roll-over" clause if warranted
_____ Buy American statement and instructions
_____ Bid/proposal protest procedures
_____ Remedy for non-performance/termination of contract
_____ HUB statement to involve minority business where possible
_____ "Equal Employment Opportunity" compliance statement ($10,000+)
_____ Energy Policy and Conservation Act statement
_____ Clean Air/Water Act statement ($100,000+)
_____ Civil Rights Act statement
_____ Compliance with the Jessica Lunsford Act
_____ Return of Discounts, Credits and Rebates to SFA statement
_____ Record retention and record access requirements (records maintained for three years (plus the current year) from final payment of contract and/or renewal; all base solicitations must be maintained for three years after the final payment on the contract)
_____ Method of shipment/delivery requirements
_____ Method of payment, invoices, statements, etc.
_____ Purchase instrument to be used and how vendor will receive purchase orders
_____ Bid certification form
_____ Other State or local requirements
_____ Specifications that are sufficiently detailed to get what is needed but not so specific as to restrict competition
_____ Product specifications (approved brand and/or equivalent)
_____ Quantity
_____ Quality
_____ Packaging
_____ Pricing (unit and extended)
_____ Procedure for documenting/pre-approving any substitutions and/or deviations
_____ Other local requirements

Documentation and Records:

_____ All IFBs/RFPs/RFQs with appropriate documentation and signatures of authorized purchasers maintained on the original solicitations
_____ Comparison charts to document procurement decisions and contract awards
_____ Record of public bid openings and/or proposal openings if proposals will be publicly opened
_____ Copies of contract award/non-award letters
_____ Copies of advertisements for solicitation of good/services
_____ Determination/document of correct procurement method used
_____ Evaluation of escalation/de-escalation clause
_____ Evaluation of Contract Extension/Amendment (roll-over clause)

Procurement Checklist (continued)

_____ Evaluation/documentation of contract re-negotiations/changes to original contract at the timelines and under the same conditions specified in the original solicitation document

_____ Evaluation of return of discounts, credits and rebates (as applicable) and detailed procedure indicating how/when the discounts, rebates and credits would be assigned to the SFA by the contractor

_____ Evaluation of whether procurement methods/activities are consistent with the SFA's approved written procurement plan

_____ Evaluation of procedures for ensuring records retention requirements are met and where/how all documents pertaining to the solicitation and contract/contract amendments will be maintained

_____ Non-competitive purchases (sole source, emergency, etc.) are appropriately documented and have received approval from State agency or governing board prior to award, including purchases through means *of piggybacking* onto another SFA's solicitation document

_____ Invoices/payments for items purchased with school nutrition funds

_____ Documentation of any contractor performance or breach of contract from vendors

_____ Provision requiring the SFA to abide with the Iran Divestment Act of 2015, as amended

_____ Other local requirements

USDA Non-Discrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf

from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights

(ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
   U.S. Department of Agriculture
   Office of the Assistant Secretary for Civil Rights
   1400 Independence Avenue, SW
   Washington, D.C. 20250-9410;

2. **fax:**
   (833) 256-1665 or (202) 690-7442; or

3. **email:** program.intake@usda.gov

This institution is an equal opportunity provider.