



**CHILD NUTRITION  
SERVICES DEPARTMENT**

**Waco ISD**

**Child Nutrition Services Department**

**PROCUREMENT PROCEDURES MANUAL**

**SY 2024-2025**

**2025 S. 19<sup>th</sup> Street  
Waco, TX 76706  
(254) 752-5522**

**Waco ISD – Child Nutrition Food Service Department  
Procurement Procedures Manual**

This Procurement Procedures Manual (2 CFR 200.318) has been created to ensure that all purchases made with the Child Nutrition (CN) Federal Funds are in compliance as regulated by all Federal, State, and Local written policy.

**Waco ISD uses the following resources for all procurement methods:**

Super Circular 2 CFR part 200

Texas Department of Agriculture’s (TDA) “Administrative Review Manual,” Section 16 and 17 (including 17A), and the Education Department Guidelines and Regulations (EDGAR)

**The following standards will be applied to all procurement methods. Solicitations will...:**

1. Allow for “full and open” competition
2. Be handled with integrity and fairness to all potential bidders
3. Award responsive and responsible contractors
4. Be fully documented to allow for complete transparency and follow the 5-years record retention requirement

Waco ISD allows the Child Nutrition Department to participate in the following:

1. Agreements
  - a. Inter-governmental agreements (operator-only/ESC)
  - b. Third Party Cooperatives
  - c. Agents
2. Informal Purchases
  - a. Micro-Purchase: any purchase that does not exceed the optional State self-certification threshold of \$49,999.99.
  - b. Small Purchase Acquisition: any purchase that does not exceed the threshold of \$49,999.99.
  - c. Waco ISD does not have a more restrictive Small Purchase threshold of \$50,000
3. Formal Purchases
  - a. Competitive Bid (IFB-Invitation For Bid)
  - b. Competitive Proposal (RFP-Request For Proposal)
  - c. Non-Competitive Proposal. TDA “pre-award approval” required
4. Other Purchases
  - a. Sole Source – as determined through a failed procurement method due to no competition. Requires TDA approval prior to awarding the vendor or purchasing from the vendor.
  - b. Capital Expenditures – any single piece of equipment that exceeds \$5,000 in cost must be approved by TDA prior to purchase.

**Waco ISD will use the following four phases of procurement:**

1. **Planning.** Below is a list of the first steps that will be taken prior to any purchase.
  - a. What is needed in the way of product/products and/or services?
  - b. When are the products or services needed?
  - c. What is an estimated cost of the products or services needed? Multiple resources will be used to determine an “estimate” of the value or cost. The cost/price analysis will be used to determine the most appropriate procurement method.
  - d. How we will pay for the products and/or services?
2. **Forecasting.** Below is a list of the resources to be used for forecasting our needs.
  - a. We will review our past program to determine if the products or services were used in the previous program year.
  - b. Current program needs will be assessed and product amounts and/or service needs will be determined.
  - c. Upcoming program years will be considered in regard to future needs and possible renewal or extensions of contracts if necessary.
3. **Soliciting.** The following general steps will be taken to start the solicitation process. Each procurement method is more specifically outlined later in this manual.
  - a. Based on the cost/price analysis in our planning phase, the most appropriate procurement method will be used.
  - b. A general specification with details will be written to document the product or service needed.
  - c. Terms and conditions of the contract will be outlined and reviewed to ensure the solicitation clearly describes our needs and deliverables required.
  - d. Each solicitation will include the following information:
    - a. Deadline (date and time) the quotes or responses are to be received.
    - b. The method the quotes or responses are to be submitted and to whom.
    - c. Evaluation criteria, if any is used, clearly outlined to include scoring rubric.
    - d. Date and time by which the solicitation will be awarded.
    - e. Term and Conditions of the contract and if any renewals or extensions will be allowed.
    - f. All USDA Federal and State-required certifications and affidavits if applicable to the procurement method used.
  - e. Research will be done to identify potential suppliers.
4. **Awarding.** Based on the procurement method, the following general processes will be used:
  - a. A winner will be selected using the following methods.
    - a. Equitable distribution for all Micro-Purchases.
    - b. Low bid winner for Small Purchases and IFB’s.
    - c. A single winner through evaluation criteria for Small Purchases and RFP’s.
    - d. Pre-award approvals must be obtained from TDA for any solicitation that is deemed non-competitive or sole source.
    - e. Multiple winners are selected for RFP’s when a “line-item” award approach is taken to procure the best price for each product specified in the solicitation.

5. **Contract Management.** The following items will be monitored during the life of an awarded contract.
  - a. Quantities specified are made available and delivered.
  - b. Delivery times and schedules are being met per contract terms.
  - c. Product deliveries and/or services are occurring at the correct location if multiple locations are part of the awarded contract.
  - d. Products and/or services are meeting the specifications as described in the solicitation.
  - e. Substitutions of products are being handled as outlined in the Terms and Conditions and are adequate to the specified product.
  - f. Vendor response time to product or service issues is appropriate in regard to each situation, if any.

### **Procurement Methods: Informal and Formal (2 CFR 200.320)**

Waco ISD will follow the below steps with each procurement method.

#### **1. Micro-Purchases.**

**The micro-purchase method is an “Informal Procurement Method” for purchases where the aggregate value in a single transaction is at or below \$49,999.99. This enables the District to purchase supplies or services without soliciting competitive quotes if the school considers the price reasonable. The District may purchase products and/or services that are similar or dissimilar, purchased as a single or collective unit.**

- a. Planned and unplanned, non-routine purchases with an aggregate total that does not exceed the threshold of \$49,999.99 are allowed (2 CFR 200.67) and will include:
  - i. Documentation that explains the reason for the purchase and vendor name.
  - ii. List of items or service purchased.
  - iii. Receipt.
  - iv. All documentation will be kept in a file labeled “Micro-Purchases.”
- b. Types of Micro-Purchases allowed:
  - i. One-time purchases for operational needs
  - ii. Emergency and/or immediate need equipment repairs, supplies and parts
  - iii. CNS Office and Warehouse immediate need supplies, equipment and tools
  - iv. CNS Warehouse and Kitchen immediate need PPE’s and safety related supplies
  - v. CNS Warehouse and Kitchen time-sensitive needs and supplies
  - vi. Kitchen 1-time needs and services to accommodate equipment / operations
  - vii. Staff training and travel expenses
  - viii. Immediate needs repairs/supplies/parts to office equipment, CNS warehouse machinery, CNS vehicles, CNS warehouse tools, kitchen related equipment, technology, software and POS systems
  - ix. Immediate repairs and/or parts to address safety related needs
  - x. Immediate repairs and / or parts to address health department, fire department and City of Waco inspection findings
  - xi. Small kitchen equipment purchases
  - xii. Other items not categorized above

- c. The following employee positions have permission to make a Micro-Purchase:
  - i. Food Service Director
  - ii. CNS Supervisor
  - iii. Director of Purchasing, Warehousing and Distribution Services
  - iv. FSMC Director
- d. Eligible vendors.
  - i. Equitable distribution of purchases will be made to all suppliers within an appropriate proximity to the district's school sites
  - ii. All suppliers that have been identified as potential bidders
  - iii. Only district-approved and qualified suppliers
- e. Payment for Micro-Purchases.
  - i. Credit card to be picked up from the Business Office/CFO
  - ii. District check through Purchase Order payment process or check request

**2. Small Purchases.**

**The small purchase method is an "Informal Procurement Method" for purchases that exceed the micro-purchase threshold but have an aggregate amount no greater than the Simplified Purchase Acquisition threshold of \$50,000. The District must contact a minimum of 3 potential suppliers and attempt to get a minimum of 2 quotes.**

- a. Based on the determination through a cost/price analysis that a purchase will exceed the Micro-Purchase threshold (2 CFR 200.67) but will not exceed the State's/District's Simplified Purchase Acquisition (Small Purchase) threshold of \$50,000 or the Waco ISD's Local Policy of \$50,000.
- b. Allowable types of Small Purchases:
  - i. Single/one-time purchase with an aggregate amount between \$0.01 - \$50,000.
  - ii. Multiple purchases of same or similar products and/or services from a prime vendor during the fiscal year with an aggregate amount between \$0.01 - \$50,000.
- c. Waco ISD will use the following steps to make a Small Purchase (2 CFR 200.320 [b])
  - i. Identify potential suppliers; who to contact for bids; what is available on the market.
  - ii. Write the product and/or service specification to include details but not restrictive as to exclude competition.
  - iii. Draft the solicitation to include contract terms and conditions, invoice methods, delivery and/or service requirements, duration of contract, and evaluation criteria if any is being used with the scoring rubric.
  - iv. Contact a minimum of 3 vendors (if possible) and provide each one with the same information to include all details of the solicitation. Emailed or faxed documents is the preferred method but verbal delivery of solicitation details is allowed.
  - v. Document vendor responses to include:
    - 1. Vendor name and contact with email address and phone
    - 2. Contact method
    - 3. Price quoted to include the date received

- 4. Duration of the price quote
- 5. If less than 3 quotes are received, explanation of why this occurred will be included in the documentation
- vi. Award will go to the most responsive and responsible vendor with the lowest price or highest evaluation score if used. A responsive vendor is one whose response conforms to all the material terms and conditions of the solicitation. A responsible vendor is one whose financial, technical, and other resources indicate an ability to perform the services required.
- vii. All documentation will be kept in a file labeled "Small Purchase Acquisitions"
- d. The following employee positions have permission to make a Small Purchase:
  - i. Food Service Director
  - ii. CNS Supervisor
  - iii. Director of Purchasing, Warehousing and Distribution Services
  - iv. FSMC Director
- e. Eligible vendors.
  - i. All suppliers that have been identified as potential bidders
  - ii. Only district-approved and qualified suppliers
- f. Payment for Small Purchases.
  - i. Credit card to be picked up from the Business Office/CFO
  - ii. PO to be created prior to the invoice payment. This is handled through the Business Office.

### 3. Capital Expenditures.

**Texas Department of Agriculture (TDA) requires a CE to get pre-approval on expenditures for food service equipment or alterations to equipment, only if the total equipment "per unit" cost is greater than \$5,000.**

- a. Waco ISD will submit a request for approval prior to purchasing the item via TX-UNPS Capital Expenditure Requests portal including:
  - i. District Name, CE ID, and contact information (phone and email address)
  - ii. Description of the equipment, including the purpose and how it supports the operation or maintenance of the District
  - iii. Provide quote or bid pricing responses in a tabulation format
  - iv. Acknowledge that any equipment purchased will be used exclusively (100%) by the District

### 4. Competitive Sealed Bidding (IFB – Invitation For Bid).

**The competitive sealed bidding method is a "Formal Procurement Method" that is used when the contract value is at or above the Small Purchase threshold, which is \$50,000 in the state of Texas. The formal procurement method requires a District to post a public advertisement in a newspaper of general circulation once a week for at least two weeks before the deadline for receiving bids.**

- a. Waco ISD will ensure the following conditions:
  - i. A complete, adequate, and realistic specification or purchase description will be made available
  - ii. 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
  - iii. Evaluation criteria will be included in the solicitation in regard to determining a winner if the same price has been received from 2 or more different vendors
- b. Waco ISD will adhere to the following requirements:
  - i. The solicitation will be publicly advertised
  - ii. Provide detailed information such as response time, date and time responses are to be received, how responses must be submitted, date and time of public opening, and any other pertinent details
  - iii. Provide product and/or service specifications that allow multiple responses
  - iv. Award the contract to the most responsive and responsible bidder. Factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest.
  - v. Any or all bids may be rejected if there is a sound documented reason
- c. The following employee positions will participate in the IFB Procurement Method:
  - i. Food Service Director
  - ii. CNS Supervisor
  - iii. Director of Purchasing, Warehousing and Distribution Services
  - iv. Senior Buyer
  - v. FSMC Director
    - 1. Write product or service specifications
    - 2. Write the solicitation document
    - 3. Send the IFB to potential suppliers
    - 4. Participate in the opening of the submitted bid quotes and determine an awarded vendor(s).
- d. Eligible vendors.
  - i. All suppliers that have been identified as potential bidders
  - ii. Only district-approved and qualified suppliers
- e. Payment for IFB Purchases.
  - i. PO to be created prior to the invoice payment. This is handled through the Business Office

**5. Competitive Proposals (RFP – Request For Proposal)**

**A request for proposal is a “Formal Procurement Method” used for purchases when an IFB is not appropriate. An RFP describes in a general way what is needed and requests that vendors submit a proposal for servicing the needs of the district. RFP’s can be used for either goods or services and require the prospective vendor to submit a technical proposal that explains how they will meet the objectives of the solicitation document and a cost element that identifies the costs to accomplish their proposal. Price is to remain the major consideration but can be one of many evaluation factors used to determine the vendor that offers the best value to the district. The RFP also allows for negotiation as a means to obtain the best value or price.**

- a. Waco ISD will ensure the following conditions:
  - i. A complete, adequate, and realistic specification or purchase description will be made available
  - ii. The procurement lends itself to a firm fixed price contract or cost reimbursable price
  - iii. The selection of the successful bidder will be made after an evaluation of criteria with price being the “heaviest weighted factor”
  - iv. Negotiation of price or best value will be handled with complete fairness and integrity
- b. Waco ISD will adhere to the following requirements and required documents (2 CFR 200.318 - 327):
  - i. The solicitation will be publicly advertised
  - ii. Solicitation document will include a cover sheet with the RFP description, contact information, issue date, closing date and opening date
  - iii. Written instructions and bidder information sheet to be completed by the proposer
  - iv. Clear product and/or service specifications
  - v. Clear description of district demographics and product usage (as relevant)
  - vi. Clearly stated evaluation criteria to include scoring rubric
  - vii. Standard and/or Special Terms and Conditions of the contract
  - viii. Discounts, Rebates, and/or credits provisions where applicable
  - ix. Questionnaires as appropriate
  - x. Reference Sheet
  - xi. Certifications per ARM Section 17 and Appendix II to Part 200 of 2 CFR 200:

6. Intangible Property	<a href="#">2 CFR § 200.315</a>
Domestic Preferences for Procurements	<a href="#">2 CFR § 200.322</a>
Procurement of Recovered Materials/Solid Waste Disposal	<a href="#">2 CFR § 200.323</a>
Profit as a Separate Element of Price	<a href="#">2 CFR § 200.324</a>
Record Retention Requirements	<a href="#">2 CFR § 200.334</a>
Rights to Inventions	<a href="#">37 CFR § 401.2 (c)</a>
Anti-trust Certification	<a href="#">Section Code § 2155.005</a>
Certificate of Residency	<a href="#">Chapter 2252, Subchapter A</a>
Companies Engaged in Business with Iran, Sudan, or a Foreign Terrorist Organization Prohibited	<a href="#">Chapter 2252, Subchapter F</a>
Compliance with the Energy Policy and Conservation Act : <a href="#">S.622</a>	<a href="#">Pub. L. 94-163, 89 Stat. 871</a>
Compliance with Texas Family Code	<a href="#">Section 231.006</a>
Food/Product Recall and HACCP Procedures	<a href="#">USDA Recall Checklist</a>
Form 1295	<a href="#">Section 2252.908</a>
Health & Safety Certificates, Licensing and Regulations	ARM Section 17, Procurement, Page 38
No Israel Boycott	<a href="#">CHAPTER 2271</a>
Prohibited Employment Assistance	<a href="#">20 USC 7926</a>
Non-Collusion Declaration	<a href="#">Section 1501</a>



Non-Collusion Affidavit	<a href="#">Section 1501</a>
Signature and Declaration of Compliance	Notary of Public Required
Proposal Form	<a href="#">200.326 Appendix I to Part 200</a>
Breach of Contract Terms, Sanctions and Penalties	<a href="#">200.326 Appendix II to Part 200 (A)</a>
Termination for Cause or Convenience	<a href="#">200.326 Appendix II to Part 200 (B)</a>
Certificate of Insurance	<a href="#">2 CFR 200.447</a>
Cooperative Agreements	<a href="#">2 CFR § 200.24</a>
Byrd Anti-Lobbying	<a href="#">2 CFR§ 200.450</a> ; <a href="#">200.326 Appendix II Part 200 Sec (I)</a>
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts	<a href="#">200.326 Appendix II to Part 200 Sec (H)</a>
Clean Air and Water Certificate	<a href="#">200.326 Appendix II to Part 200 Sec (G)</a>
Equal Opportunity Employment	<a href="#">200.326 Appendix II to Part 200 Sec (C)</a>
Contracting with Small, Minority, Women Business, Enterprises, and Labor Surplus Area Firms	<a href="#">2 CFR § 200.321</a>
Conflict of Interest Questionnaire	<a href="#">24 CFR§ 3282.359</a>
Disclosure of Lobbying Activities	<a href="#">Appendix B To Part 418 2 CFR</a>
Felony Conviction Notification (Exhibit Only)	<a href="#">21 CFR § 1301.90</a>
Nutrition Services Certification for “Buy American” Provision	<a href="#">2 CFR § 210.21 Sec (D)</a>
Nutrition Services “Buy American” Waiver Exception List	<a href="#">2 CFR § 210.21 Sec (D)</a>
Certificate Regarding Worker’s Compensation	<a href="#">48 CFR 970.2803-1</a>
Certificate Regarding Drug-Free Workplace	<a href="#">38 CFR § 48.635</a>
Certificate Regarding Alcoholic Beverage and Tobacco-Free Campus Policy	<a href="#">21 CFR § 1140.1</a>
E-Verify	<a href="#">48 CFR 52.222-54</a>
Iran Contracting	<a href="#">48 CFR 25.703-3</a>
Civil Rights/Discrimination	<a href="#">FNS Instruction 113-1</a>
W-9	<a href="#">Most Current Version Required</a>

- i. Awarding of the contract:
  - 1. Evaluation will consist of product quality, services, or past performance, but not limited to, along with price as the heaviest weighted factor
  - 2. Cost plus percentage of cost will not be allowed as a basis for award (2 CFR 200.320)
- ii. Any or all bids may be rejected if there is a sound documented reason
- b. The following employee positions will participate in the RFP Procurement Method:
  - i. Food Service Director
  - ii. CNS Supervisor
  - iii. Director of Purchasing, Warehousing and Distribution Services
  - iv. Senior Buyer
  - v. FSMC Director
    - 1. Write product or service specifications
    - 2. Write the solicitation document

3. Send the IFB to potential suppliers
  4. Participate in the opening of the submitted bid quotes and determine a
- c. Eligible vendors.
- i. All suppliers that have been identified as potential bidders
  - ii. Only district-approved and qualified suppliers
- d. Payment for RFP Purchases.
- i. PO to be created prior to the invoice payment. This is handled through the Business Office

**7. Non-Competitive Negotiation and Sole Source Procurements.**

**These types of procurement methods are used to compensate for the lack of competition. This lack of competition may result from overly restrictive solicitation documents, an inadequate number of suppliers in the area or the procurement environment may have been compromised by inappropriate supplier actions (i.e. market allocation schemes). Non-competitive negotiation occurs after the solicitation (sealed bid, competitive negotiation or small purchase) has been issued, but competition on that solicitation has been deemed inadequate.**

- a. Non-competitive negotiations or sole source procurements are restricted to specific situations and may only be used when:
  - i. Inadequate competition in a formal procurement method
  - ii. Public emergency exists
  - iii. Goods or services are only available from on manufacturer through only one supplier
- b. Waco ISD will obtain TDA's approval prior to award and purchase of products or services. All requests for approval must be submitted through the State Agency's online system, TX-UNPS.
- c. The following employee positions will oversee the approval process for a Non-Competitive and/or Sole Source Procurement Method:
  - i. Food Service Director
  - ii. CNS Supervisor
  - iii. Director of Purchasing, Warehousing and Distribution Services
  - iv. Senior Buyer
  - v. FSMC Director
    1. Verify that the product and/or service can only be procured from a single source or warranty is voided etc.
    2. Request TDA approval prior to procuring
    3. Complete Noncompetitive Procurement (Emergency or Sole Source) Request Form in Squaremeals.org
    4. Provide the following information;
      - a. Description of the product and/or services to be purchased and the cost
      - b. Description of the method used to determine if the cost is reasonable

- c. Copies of the CE's solicitation, advertising, and other relevant documentation that indicate why the sole source method is appropriate
- d. Description of the CE's actions to ensure that the supplier, distributor, or manufacturer is the sole source, i.e., including documentation of the CE's effort to contact other suppliers, distributors, or manufacturers to confirm that the product or service is not available from another source
- e. Description of the CE's review of the solicitation, advertising, and other actions to ensure that the original solicitation was competitively solicited
- f. Period of time (i.e., week, number of months, year) the CE plans to use the sole source method

### **Bid/Proposal Questions and Protest Procedures**

**An interested party may protest any of the following situations:**

- **Solicitation or other request for offers for a contract for the procurement of property or services**
- **Cancellation of a solicitation or other request**
- **Award or proposed award of a contract**
- **Termination of a contract, if the protest alleges that the termination was based on improprieties in the administration of the contract.**

Waco ISD will do the following:

1. Include clear instructions in each solicitation document about questions and protest procedures.
2. Follow all written procedures to resolve protests.
3. Ensure that all protests are resolved.
4. Retain all documentation related to a protest.
5. Notify TDA when a protest is received.

Waco ISD will address all respondent protests within 24 hours of the bid award. Waco ISD will provide evaluation scores and pricing at the request of the respondent. Violations of law should be referred to the local, state or Federal authority. (2 CFR, Section 200.318[k])

Waco ISD will allow respondents to request clarification of information prior to the close of the bid/proposal. These requests must be received a minimum of 3 business days prior to the close of the bid/proposal. Waco ISD will address the request for additional information as an addendum to all respondents.

### **Economic Price Adjustments in Vendor Contracts**

The economic price adjustments, which allow a District to adjust costs in the contract, must be tied to an

appropriate standard or cost index. Relating the price adjustments in a contract to an index allows the District to ensure that increases under the contract are not without basis. For example, if fuel prices are increasing drastically, an appropriate index such as the Consumer Price Index (CPI) will reflect this change.

This index is preferred because the USDA uses this index for the National School Lunch Program (NSLP) yearly funding increases. The intention is that if the USDA increased funding by a certain percentage the District would be able to allow the increase in food cost to rise at the same percentage. Vendors will be able to bid on multi-year contracts that allow for inflation and the District will be able to maintain a consistent level of service and food cost percentage from year to year.

### **Applying Geographic Preferences in Procurement**

As amended, the National School Lunch Act (NSLA) allows SFA's receiving funds through the CN Programs to apply a geographic preference when procuring unprocessed, locally grown or locally raised agricultural products. This applies to operators of all of the School Lunch Programs.

Waco ISD will apply geographic preference to the procurement of agricultural products that:

1. Are unprocessed and retain their inherent character
2. Are locally grown or locally raised
3. Have not been cooked, seasoned, canned, or combined with any other products

USDA allows the entity to define local as long as it is not too restrictive. TDA allows the CE to define local as a boundary or area, such as counties, State, or multi-State as long as it is not too restrictive. Regulation prevents Waco ISD from awarding any contract based solely on "local," and Waco ISD will provide clear instructions and information in each solicitation as to our definition of local and evaluation criteria. Waco ISD will adhere to the policy of using their USDA Federal Funds in the most efficient way possible.

Waco ISD determines local as "within the United States territory and a distance of "200" miles from the Districts' main campus" (mileage may vary for items dependent on bidding preference).

### **Discounts, Rebates, and Credits**

Waco ISD requires that all discounts, rebates, and credits accrue back to the school nutrition account. The contractor will be required to identify the amount of each discount, rebate, or other applicable credit on bills and invoices presented to the Waco ISD. Contractors will be required to identify the method by which they will report discounts, rebates, and credits. All discounts, rebates, and credits will be tracked via monthly invoices or annual velocity reports. Contractors will be required to maintain documentation of costs, discounts, rebates, and credits and make those available to Waco ISD upon request.

### **Buy American Provision**

Waco ISD adheres to the Buy American Provision (7 CFR 210.21) when purchasing commercial food products to be served in the district's SNP meals. This provision will be included in all solicitations for

food to be used in the school nutrition programs.

**Definitions.** For the purpose of this paragraph (d):

(i) **Domestic commodity or product** means:

(A) An agricultural commodity that is produced in the United States; and

(B) A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

(ii) **Substantially using agriculture commodities that are produced in the United States** means over 51 percent of a food product must consist of agricultural commodities that were grown domestically.

(2) **In general.** Subject to paragraph (d)(4) of this section, a school food authority must purchase, to the maximum extent practicable, domestic commodities or products.

(3) **Required language.** School food authorities must include language requiring the purchase of foods that meet the Buy American requirements in paragraph (d)(1) of this section in all procurement procedures, solicitations, and contracts.

(4) **Limitations.** Paragraphs (d)(2) and (3) of this section apply only to:

(i) A school food authority located in the contiguous United States; and

(ii) A purchase of domestic commodity or product for the school lunch program under this part.

(5) **Exceptions.** The purchase of foods not meeting the definition in paragraph (d)(1) of this section is only permissible when the following criteria are met:

(i) The school food authority determines that one of the following limited exceptions is met:

(A) The product is listed in the Federal Acquisitions Regulations (FAR) at 48 CFR 25.104 and/or is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; or

(B) Competitive bids reveal the cost of a United States product is significantly higher than the non-domestic product.

(ii) Non-domestic food purchases (those that do not meet the definition of domestic commodity or product, as defined in paragraph (d)(1) of this section) must not exceed the following caps by the established deadlines:

(A) By July 1, 2025, non-domestic food purchases must not exceed 10 percent of total annual commercial food costs that a school food authority purchases per school year.

(B) By July 1, 2028, non-domestic food purchases must not exceed 8 percent of total annual commercial food costs that a school food authority purchases per school year.

(C) By July 1, 2031, non-domestic food purchases must not exceed 5 percent of total annual commercial food costs that a school food authority purchases per school year.

(iii) School food authorities must maintain documentation, except when the item purchased is found on the FAR at 48 CFR 25.104 when using an exception under paragraph (d)(5)(i) of this section.

(iv) School food authorities must maintain documentation, to demonstrate that when using an exception under paragraph (d)(5)(i) of this section their non-domestic food purchases do not exceed the annual threshold specified in paragraph (d)(5)(ii) of this section.

(6) **Harvested fish.** To meet the definition of a domestic commodity or product, harvested fish must meet the following requirements:

(i) Farmed fish must be harvested within the United States or any territory or possession of the United States; and

(ii) Wild caught fish must be harvested within the Exclusive Economic Zone of the United States or by a United States flagged vessel.

(7) **Applicability to Hawaii.** Paragraph (d)(2) of this section applies to school food authorities in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch program under this part.

(8) **Temporary accommodation.** For school food authorities that demonstrate they cannot meet the threshold, State agencies may provide an accommodation for temporary relief from the requirement as the State agency works with the school food authority to increase domestic purchases.

(e) **Restrictions on the sale of milk.** A school food authority participating in the Program, or a person approved by a school participating in the Program, must not directly or indirectly restrict the sale or marketing of fluid milk (as described in § 210.10(d)(4) of this chapter) at any time or in any place on school premises or at any school-sponsored event.

Per Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 {Public Law 105-336} added a provision, Section 12(n) to the NSLA (42 USC 1760(n)), requiring School Food Authorities (SFA's) to purchase, to the maximum extent practicable, domestic commodity or product. Section 12(n) of the NSLA defines "domestic commodity or product" as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. Products from Guan, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States. The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards SFA's must comply with when

purchasing commercial food products served in the school meals programs.

Implementation and Compliance:

\* Applies to all procurement transactions for food when funds are used from the nonprofit food service account.

\* Buy American language should be included in:

o Documented procurement procedures.

o All procurement solicitations and contracts, including bid specifications, requests for proposals (RFPs), contracts, and purchase orders.

\* SFAs should monitor contract performance and ensure compliance with all contractual requirements including the Buy American provision.

\* SFAs must be able to clearly identify county of origin for all products through invoices, labels, or Buy American Certification statements and have a process for monitoring each product's country of origin at the time of delivery.

\* SFAs should have a process in place for completing a 'Buy American Exception Form' when a domestic product is not available, or when cost of domestic product is significantly higher.

\* SFAs should conduct a periodic review of storage facilities, freezers, refrigerators, dry storage, and warehouses to ensure the products received are the ones solicited, and awarded, and comply with the Buy American provision.

Waco ISD will purchase domestic food products per the Buy American Provision unless:

1. The product needed is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; or
2. Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product

Waco ISD will maintain all documentation in regard to any food purchases that are deemed "non-domestic" to include cost comparisons if the product is available as a "domestic" product that is seen as unreasonable in cost; or if not available as a U.S. grown product the documentation will include the "country of origin."

**Small and Minority Businesses, Women Business Enterprises, and Labor Surplus Area Firms and/or Disabled Veteran Business Enterprise (MWDVBE)**

Waco ISD will encourage open competition amongst small, minority, woman, and disabled veteran's businesses by:

1. Reducing barriers in Formal and Informal Contract solicitations by:
  - a. Allowing for businesses that may be MWDVBE to compete on an equal footing.
  - b. Structuring contracts to allow "awards to more than one Proposer in the best interest of the District in order to award a portion of the agreement to MWDVBE vendor that may not be able to perform to an agreement that is too large for current financial/logistical capabilities.
2. Providing Positive Outreach

- a. Waco ISD will place qualified small, minority and women owned enterprises on solicitation lists; and
- b. Assure that small, minority and women owned enterprises are solicited whenever they are potential sources

#### **Local Sourced Products: Farm to School Initiative**

Waco ISD is committed to local markets and family farmers in the State of Texas. Our objective is to support the local agricultural economy and reduce the environmental impact of long distance shipping. Waco ISD defines “Local Sources Products” as products that are grown within the State of Texas, with preference to sources located within “200” miles of the school’s main campus.

When purchasing local sourced products, Waco ISD will follow the planning phase as stated earlier in this manual and do a cost/price analysis to determine the most appropriate procurement method.

In order to encourage the bidders to purchase locally sourced produce, Waco ISD may assign additional point values in the “Award of Contract” section of the solicitation that can demonstrate:

1. The bidder is purchasing produce locally by submitting a list of local farmers, their addresses, the produce that is anticipated to purchase from each farm location, and the anticipated harvest dates of the produce
2. The bidder must also agree to the ability to submit a report during the term of the contract that demonstrates continued purchases from local farms

#### **Use of Excess and Surplus Property**

Waco ISD, to the best of the district’s ability, may utilize excess and surplus property when available. The TDA allows a district to use a significant portion of our entitlement (PAL) allocation from USDA to purchase DOD fresh fruit and vegetable products. The TDA manages the solicitation and award of the DOD Produce Vendors. Contracting Entities (CE’s) in the state of Texas and participating in the DOD Fresh Program can receive weekly deliveries as outlined in the awarded contract.



## **Cooperative Membership and Procurement**

The USDA allows for “Purchasing Goods and Services Using Cooperative Agreements, Agents, and Third-Party Services.

Waco ISD may participate in a purchasing cooperative when it is determined to be in the best interest of the district. As a governmental agency, Waco ISD has the option to legally join a “governmental agency or Education Service Center (ESC) agency” purchasing cooperative through an Interlocal or InterAgency Agreement.

If determined in the best interest to join an ESC Agency cooperative, Waco ISD will request a copy of the Interlocal or InterAgency Agreement and complete and submit to the appropriate contact of the co-op. Waco ISD will do the following once membership in the cooperative has been confirmed:

1. Provide product estimated quantities planned for purchase for each bid selected.
2. Review that all procurement documents and cooperative processes have been conducted in accordance with applicable Federal, State and local regulations.
3. Will confirm that their addition to any contract selected does not create a material change as outlined in the contract per 2 CFE 200.318[e] that states a material change occurs when the change in scope of the contract is significant enough that potential bidders might have bid differently had they been award of the impacts from adding additional agencies.
4. Request access to all documentation related to the contract for compliance with records retention requirement to include but not limited to:
  - a. Solicitation
  - b. Verification of Published Advertisement
  - c. Contract Terms and Conditions
  - d. Evaluation Criteria, if any
  - e. Responses
  - f. Notification of Awarded vendor(s)
  - g. Documentation of any extensions or Amendments
  - h. Recall Procedures

## **Unnecessary or Duplication of Goods/Services**

Waco ISD will avoid acquisition of unnecessary or duplicative items/services. Purchases will be justified using the following criteria:

1. Purchaser will determine if there are like items in the District that may not be in use and consider transferring item before determining if purchase is necessary
2. The item is being considered for menus or is needed to serve, prepare, receive, transport or store an item on the menu
3. The item is replacing an obsolete, broken, damaged or outdated piece of equipment

## **Recalls**

Waco ISD will use the following procedures in regard to products that have been recalled, or are discovered to be defective or faulty:

1. The Food Service Director/Child Nutrition Supervisor/Operations Manager/FSMC Director/FSMC Executive Chef will register for email notifications of recalled products through USDA Food Safety and Inspection Service ([usfsis@public.govdelivery.com](mailto:usfsis@public.govdelivery.com)) and/or [recalls.gov](http://recalls.gov) or any other viable resource in regard to food and product safety and recalls
2. Vendors' Recall procedures will be requested with every Small Purchase, IFB and RFP procurement method used
3. Any notices or alerts from awarded vendors or distributors in regard to a recalled product will be handled immediately, following all instructions from the vendor or distributor in regard to the handling of the recalled product
4. Actions may include but not be limited to:
  - a. Disposal of all affected product
  - b. Photos of products affected, documentation of case lot numbers, distributor codes or any other pertinent information as documentation of product origin
  - c. Removal of affected product to a safe area to be picked up by the vendor or distributor
  - d. Credits issued for all affected product that could not be used