Procurement – Federal Programs

This document is intended to integrate standard center (school) purchasing procedures with additional requirements applicable to procurements that are subject to the federal Uniform Guidance regulations, federal guidance of the Office of Management and Budget and/or U.S. Department of Agriculture (USDA) regulations governing school food service programs. The center (school) maintains the following purchasing procedures, in accordance with federal and state laws, regulations and Joint Operating Committee policy. (2 CFR 200.1**,** 200.102, 200.318-200.325; 7 CFR 210.16, 210.19, 210.21, 215.14a, 220.16; 24 P.S. 120, 24 P.S. 504, 24 P.S. 508, 24 P.S. 521, 24 P.S. 607, 24 P.S. 609, 24 P.S. 751, 24 P.S. 807.1; 62 Pa. C.S.A. 4601 et seq; Pol. 610, 611, 612, 613, 808, 827)

Procurement Method §200.320	**Goods/Supplies**	**Services**	**Requirements**
Micro-purchase (No quotes required)	Less than **$15,000** Note: Must use more restrictive $0 Federal threshold instead of no state requirements under **$13,200**	Less than **$15,000** Note: Must use more restrictive $15,000 Federal threshold instead of state exemption for services	Consider price to be reasonable Distribute equitably among suppliers to the extent practical
Simplified Acquisition Procedures (Small Purchases - relatively simple and informal)	**$15,000 - $24,500** Note: Must use more restrictive **$15,000** Federal threshold instead of **$24,500** state threshold	**$15,000 - $349,999** Note: Must use more restrictive **$15,000** Federal threshold instead of state exemption for services	Obtain/document price or rate quotations from a reasonable number of qualified sources (at least three per 24 PS 8.807.1) Written or documented quotes
Sealed Bids (Formal advertising)	**$24,500** or more Note: Must use more restrictive **$24,500** state threshold instead of **$350,000** Federal threshold	N/A	Bids are publicly solicited Firm fixed price contract awarded to the responsible bidder lowest in price Cost or price analysis for purchases in excess of the Simplified Acquisition Threshold **($350,000)**

Competitive Proposals (Formal RFPs)	N/A	**$350,000** or more Note: Must use more restrictive **$350,000** Federal threshold instead of state exemption for services	Conducted with more than one source submitting an offer Price in not used as sole selection factor Fixed price or cost-reimbursement type contract is awarded Cost or price analysis for purchases in excess of the Simplified Acquisition Threshold **($350,000)**
Non-competitive proposals	Appropriate only when these circumstances apply: - Available only from a single source (sole source) - Public emergency - After soliciting from several sources, competition is deemed inadequate - Consult with your school solicitor		Solicitation from only one source Used only when qualifying circumstances apply Fixed price or cost-reimbursement type contract is awarded

*Please review this Procurement attachment annually and update amounts accordingly

The center (school) implements exceptions to the Micro-Purchase and Simplified Acquisition Threshold amounts announced by the federal Office of Management and Budget as part of its procurement procedures. The state threshold of **$13,200** is not applicable to federal procurement thresholds.

Responsibility for Purchasing

The Joint Operating Committee has outlined standard center (school) purchasing responsibility, methods of purchasing, price quotations and bid requirements in the following Joint Operating Committee policies and their accompanying administrative regulations or procedures:

Policy 610. Purchases Subject to Bid/Quotation

Policy 611. Purchases Budgeted
Policy 612. Purchases Not Budgeted
Policy 613. Cooperative Purchasing

Purchase Methods

When a request for purchase of equipment, supplies or services has been submitted and approved as outlined below, the procurement method to be used will be determined based on the type of purchase and the total cost of the purchase as further outlined below. This procedure outlines how the cost thresholds for determining when the quote or formal bidding procedures that are required by state law as reflected in Policy 610 must be modified when making purchases for federally funded purposes to which the Uniform Guidance or USDA regulations apply, so as to comply with both state and federal requirements. At each point where requirements for food service-related procurement under USDA regulations differ, a note will refer to the Food Service Program Notes at the end of this procedure. Final determination of which purchasing procedures are to be applied is delegated to the Business Manager under the authority of the Joint Operating Committee.

Standard Procurement Documents and Purchase Request Process

The school shall use purchase orders and requisitions for purchase requests in accordance with the applicable purchase method.

The school shall use paper and electronic purchasing records, which are pre-numbered and are accessible to designated purchasing staff in the Business Office.

Purchase requests by an employee must be submitted to the building administrator or immediate supervisor. Purchase of all budgeted items or items approved by an administrator or supervisor must be initiated by use of a purchase order or requisition submitted to the Business Manager.

Purchase orders and requisitions shall contain information including, but not limited to:

1. Description of the services to be performed or goods to be delivered.

2. Location of where services will be performed, or goods will be delivered.

3. Appropriate dates of service or delivery.

4. Account Number to be charged.

Documentation on purchase orders and requisitions shall be maintained in accordance with the school's Records Management Policy and records retention schedule. (Pol. 800)

Contracts shall be reviewed by the Business Manager prior to submission to the Joint Operating Committee for approval.

Contracts to which the Uniform Guidance apply shall contain the clauses specified in Appendix II to 2 CFR Part 200 (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards), when applicable.

[See Additional Provisions for Food Service Program Notes below for specific clauses required by USDA regulations to be included in cost reimbursable procurement contracts.]

Micro-Purchases Not Requiring Quotes or Bidding

For purposes of this procedure**, micro-purchase** means a purchase of equipment, supplies or services for use in federally funded programs using simplified acquisition procedures, the aggregate amount of which does not exceed a base amount of **$15,000**. The micro-purchase dollar threshold is adjusted periodically by the federal government, and the threshold most recently established and published in the Federal Register or announced as an exception by the federal Office of Management and Budget shall apply if other than **$15,000**.(48 CFR Subpart 2.1)

The micro-purchase method is used to expedite the completion of its lowest dollar small purchase transactions and minimize the associated administrative burdens and reduce costs. Procurement by micro-purchase is the acquisition of equipment, supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.

To the extent practicable, the school distributes micro-purchases equitably among qualified suppliers when the same or materially interchangeable products are identified and such suppliers offer effectively equivalent rates, prices and other terms. The Business Manager will be responsible to determine the equitable distribution of micro-purchases.

Micro-purchases may be awarded without soliciting competitive quotations if the school considers the price to be reasonable. The school will maintain evidence of this reasonableness in the records of all micro-purchases. Reasonable can be demonstrated through sound business practices documenting research, experience, purchase history or other information. Such determinations of reasonableness may include comparison of the price to previous purchases of the same item or comparison of the price of items similar to the item being purchased. (2 CFR 200.320)

Even if the cost of a purchase qualifies it as a micro-purchase, bidding or small purchase procedures may be used optionally when those procedures may result in cost savings.

Simplified Acquisition Procedures

For purposes of this procedure, **simplified acquisition procedures** are those relatively simple and informal procurement methods for securing equipment or supplies that cost more than the amount qualifying as a micro-purchase **($15,000)** and do not cost **$24,500** or more, or in the case of services other than construction, maintenance or repair on school facilities, where the total cost does not exceed the **$350,000** federal Simplified Acquisition Threshold at which formal competitive bidding or competitive proposals are required. Simplified acquisition procedures

cannot be used for purchases of equipment or supplies or for construction, repair or maintenance services costing **$24,500** or more because the School Code requires formal competitive bidding at that level of cost.

The base amount at which bidding is required under state law for purchases of equipment, supplies and construction, maintenance or repair services on school facilities is adjusted for inflation annually, and the adjusted amount most recently determined and published in the Pennsylvania Bulletin shall apply if other than **$24,500**. (24 P.S. Sec. 120)

The federal Simplified Acquisition Threshold at which competitive bidding or competitive proposals are required is adjusted periodically by the federal government, and the threshold most recently established and published in the Federal Register or announced as an exception by the federal Office of Management and Budget shall apply if other than **$350,000.** (48 CFR Subpart 2.1, 2 CFR 200.102)

Because state law does not require competitive bidding for the purchase of services other than construction, maintenance or repairs on school facilities regardless of total cost, simplified acquisition procedures may be used for procurement of such other services except when the estimated total cost will be at or over the federal threshold at which formal competitive bidding or competitive proposals are required **($350,000).**

A request for proposal (RFP) may be made for small purchases; however, the procurement process must comply with formal RFP procedures, including public notice.

[See Additional Provisions for Food Service Program Notes below for exemption from bidding for purchases of perishable food items costing less than $350,000.]

If simplified acquisition procedures are used, written or telephonic price or rate quotations are obtained from at least three (3) qualified sources and records of quotes are maintained as provided in Policy 610. (Pol. 610)

Formal Competitive Bidding

Publicly Solicited Sealed Competitive Bids -

For purchases of equipment or supplies, or of services for construction, maintenance or repairs of school facilities, sealed competitive bids are publicly solicited and awarded to the lowest responsive and responsible bidder as provided in Policy 610 when the total cost is estimated to be **$24,500** or more. (Pol. 610)

Note: The amount at which formal competitive bidding or competitive proposals are required by federal regulations is much higher than the base amount at which the School Code requires competitive bidding. Therefore, the lower base amount specified by the School Code, as annually adjusted, is used to determine when bidding will be used for purchases of equipment or supplies, or for obtaining services for construction, maintenance or repairs on school facilities. (24 P.S. Sec. 120)

State law does not require bidding for the purchase of services other than construction, maintenance or repairs on school facilities regardless of total cost. For procurement of such other services for federally funded purposes to which the Uniform Guidance applies, formal competitive bidding or competitive proposals will be used when the estimated total cost will be at or over the federal threshold of **$350,000**.

The federal Simplified Acquisition Threshold at which competitive bidding or competitive proposals are required is adjusted periodically by the federal government, and the threshold most recently established and published in the Federal Register or announced as an exception by the federal Office of Management and Budget shall apply if other than **$350,000**. (48 CFR Subpart 2.1, 2 CFR 200.102)

For procurement of services costing at or over the **$350,000** federal threshold other than for construction, maintenance or repairs on school facilities, the use of competitive sealed bidding is considered feasible and appropriate when:

1. A complete, adequate, and realistic specification or purchase description is available;

2. Two (2) or more responsible bidders are willing and able to compete effectively for the business; and

3. 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.

Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a justified and documented reason.

[See Additional Provisions for Food Service Program Notes below for reference to state requirements regarding contracts with food service management companies and contractors of pre-plated meals.]

Competitive Proposals -

State law does not require public school entities to solicit competitive bids for services other than construction, repairs or maintenance of school facilities, for which competitive bidding is required if the cost will be a base amount of **$24,500** or more. State law allows competitive proposals relating to work on facilities in lieu of bidding only in the context of guaranteed energy savings contracts.

Federal regulations allow the use of competitive proposals as an alternative to formal competitive bidding when conditions are not appropriate for the use of sealed bids.

In the case of services other than for construction, repairs or maintenance of school facilities costing less than that threshold, the center (school) may use simplified acquisition procedures or micro-purchase procedures as applicable based on total cost. A request for proposal (RFP) process can also meet or exceed the small purchase competition requirements under state law and Policy 610 for the acquisition of services other than for construction, repairs or maintenance of school facilities, and can be used if the total cost will be less than **$350,000.**

When permitted, the technique of competitive proposals is normally conducted with more than one (1) source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. Competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The school shall comply with other applicable state and federal law and regulations, Joint Operating Committee policy and administrative regulations regarding purchasing; the school may consult with the school solicitor or other qualified counsel in determining the required process for purchasing through competitive proposals when necessary.

If this method is used, the following requirements apply:

1. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.

2. Proposals must be solicited from an adequate number of qualified sources.

3. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

An alternative form of competitive proposal is permitted only for qualifications-based procurement of architectural and engineering services, in which price is not a selection factor and reasonable compensation is negotiated after source selection. This alternative is not permitted for procurement of other types of services.

Competitive proposals shall be evaluated by the Business Manager based on factors including but not limited to:

1. Cost.

    - Experience of contractor.
    - Availability.
    - Personnel qualifications.
    - Financial stability.
    - Minority business, women’s business enterprise, veteran-owned business labor surplus area firm status.
    - Project management expertise.

- Understanding of school needs.

Evaluations shall be completed in a timely manner, documented and shall be reviewed by the Joint Operating Committee.

Contract/Price Analysis

The school performs a cost or price analysis in connection with every procurement action in excess of **$350,000**, including contract modifications. (2 CFR Sec. 200.323(a)).

A **cost analysis** generally means evaluating the separate cost elements that make up the total price, while a **price analysis** means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the Business Manager must come to an independent estimate prior to receiving bids or proposals. (2 CFR Sec. 200.323(a)). As part of the analysis, the Business Manager will enact established business practices which may include evaluation of similar prior procurements and a review process.

Negotiated Profit

In any procurement in which there has been no price competition, or in which a cost-analysis is performed, profit must be negotiated separately as an element of price. Accordingly, solicitations of bids, proposals or quotes shall require that bids, proposals or quotes be limited to costs other than profit, and exclude profit.

To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. (2 CFR Sec. 200.323(b)).

When profit must be negotiated as a separate element of the total price, it shall be negotiated by the Business Manager.

Noncompetitive Proposals (Sole Sourcing)

Procurement by noncompetitive proposals means procurement through solicitation of a proposal from only one (1) source and may be used only when one (1) or more of the following circumstances apply: (2 CFR 200.320)

1. The aggregate amount of the procurement transaction does not exceed the micro-purchasing provisions

2. The procurement transaction can only be fulfilled by a single source.

3. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. An **emergency** exists whenever the time required for the Joint Operating Committee to act in accordance with regular procedures would endanger life or property or threaten continuance of existing school classes.

4. The federal awarding agency or pass-through entity provides written approval for noncompetitive procurement in response to a written request from the recipient or subrecipient.

5. After solicitation of a number of sources, the recipient or subrecipient determines the competition is inadequate.

In addition to standard procurement policy and procedures, the center (school) will provide the grounds, including analysis and documentation, for using the noncompetitive method in lieu of an otherwise required competitive method of procurement. A written confirmation from the contractor as the sole source of the item may be included as a supplement to the school's record of analysis. Documentation must be submitted to and maintained by the Business Office.

All noncompetitive proposals will ultimately be approved by the Joint Operating Committee. The center (school) may utilize legal advice from the solicitor regarding noncompetitive proposals.

Profit must be negotiated separately for noncompetitive proposals, and a cost or price analysis will also be performed for noncompetitive proposals when the price exceeds **$350,000**.

Purchase Cards

The school approves the use of procurement cards for permissible purchases by designated employees to improve the efficiency of purchasing activities, reduce processing expenses, improve controls for small-dollar purchases, and streamline contractor payment.

Procurement cards may be used for purchases under federal programs. The use of procurement cards is governed by Joint Operating Committee policy 625 Procurement Cards and established administrative regulations. (Pol. 625)

Full and Open Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with 2 CFR Sec. 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business.

2. Requiring unnecessary experience and excessive bonding.

3. Noncompetitive pricing practices between firms or between affiliated companies.

4. Noncompetitive contracts to consultants that are on retainer contracts.

5. Organizational conflicts of interest.

6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement.

7. Any arbitrary action in the procurement process.

Scoring mechanisms that reward bidders that commit to specific numbers and types of U.S. jobs, minimum compensation, benefits, on-the-job-training for employees making work products or providing services on a contract, and other worker protections, may be assigned when consistent with established practices and legal requirements.
(2 CFR 300.319)

Minority Businesses, Women's Business Enterprises, Veteran-Owned Businesses, Labor Surplus Area Firms

The school must take necessary affirmative steps to assure that minority businesses, women's business enterprises, veteran-owned businesses and labor surplus area firms are considered when possible. Such consideration means: (2 CFR Sec. 200.321)

1. Placing such businesses on solicitation lists;

2. Assuring that such businesses are solicited whenever they are deemed eligible as potential sources;

3. Dividing total purchasing requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by such businesses;

5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

6. Requiring the prime contractor, if subcontracts are let, to apply these conditions to subcontracts.

Prequalified Lists

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

[See Additional Provisions for Food Service Program Notes below for reference to state requirements regarding contracts with food service management companies and contractors of pre-plated meals.]

Solicitation Language

The school must ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Avoiding Acquisition of Unnecessary or Duplicative Items

The school must avoid the acquisition of unnecessary or duplicative items. Additionally, consideration must be given to consolidating or breaking out procurements to obtain a more economical purchase; and, where appropriate, an analysis must be made of leases versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

These considerations are given as part of the process to determine the allowability of each purchase made with federal funds. Such considerations are accessible in the procedure attached to Policy 626: Allowability of Costs – Federal Programs.

Use of Intergovernmental Agreements and Cooperative Purchasing

To foster greater economy and efficiency, the center (school) enters into state and local intergovernmental agreements where appropriate for cooperative purchasing or use of common or shared goods and services, as permitted by the Intergovernmental Cooperation Act, the School Code and the Commonwealth Procurement Code. (Pol. 613; 53 Pa. C.S. Ch. 23; 24 P.S. 521; 62

Pa. C.S. Ch. 19, 2 CFR 200.318 (e)).

When procuring supplies or services for federally funded purposes to which the Uniform Guidance applies, the school shall verify and document that the organization conducting the procurement pursuant to such agreements complies with the applicable procurement methods, requirements and standards of the Uniform Guidance as outlined in this procedure.

Use of Federal Excess and Surplus Property

The school considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Recovered Materials

The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire or use products and services that can be reused, refurbished or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. (2 CFR 200.323)

Debarment and Suspension

The school awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

[See Additional Provisions for Food Service Program Notes below for reference to state requirements regarding contracts with food service management companies and contractors of pre-plated meals.]

The school may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over $25,000 the school verifies that the contractor with whom the school intends to do business is not excluded or disqualified. (2 CFR Part 200, Appendix II, and 2 CFR Sec. 180.220 and 180.300).

All successful contractors must provide written certification that they have not been suspended or debarred from federal projects. The Business Manager will be responsible for verification. Such verification to determine whether a potential subrecipient is subject to any suspension or debarment restrictions must include one of the following:

1. Accessing the online federal System for Award Management (SAM); or

2. Collecting a certification from that person; or

3. Adding a clause or condition to the covered transaction with that person. (2 CFR 180.300)

Maintenance of Procurement Records

The school must maintain records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred.

Maintenance of records of procurement will be governed by Joint Operating Committee policy 800 Records Management and the school's established records retention schedule. (Pol. 800)

Time and Materials Contracts

The school may use a time and materials type contract only: (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. **Time and materials type contract** means a contract whose cost to the school is the sum of: the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the center (school) must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Settlements of Issues Arising Out of Procurements

The school alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the school of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Protest Procedures to Resolve Dispute

The school maintains protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency. Protest procedures will be acted on in accordance with current state law and regulations, established administrative regulations and the advice of the solicitor. (Pol. 610)

ADDITIONAL PROVISIONS FOR FOOD SERVICE PROGRAMS

Exemption from Bidding for Perishable Food Items -

The School Code exempts purchases of perishable food items from bidding requirements. Bidding for perishable food items is required only if the cost would be at or over the federal threshold at which formal competitive bidding is required **($350,000).** Simplified acquisition procedures may be used for purchases below **$350,000**, or micro-purchase procedures for purchases below **$15,000**. Use of bidding should be considered as an option if it is feasible and likely to result in cost savings.(24 P.S. Sec. 504(d))

Geographic Preferences -

The school is permitted to apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When a geographic preference is applied, the school has discretion to determine the local area to which the geographic preference option will be applied.

Unprocessed locally grown or locally raised agricultural products means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two (2) or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk. (7 CFR Sec. 210.21, 215.14a, 220.16)

Buy American -

The school shall purchase, to the maximum extent practicable, domestic commodities or products for food service purposes.

The term **domestic commodity or product** means: (7 CFR Sec. 210.21, 220.16)

1. An agricultural commodity that is produced in the United States; and

2. A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States; meaning over 51% of a food product must consist of agricultural commodities that were grown domestically.

All procurement procedures, solicitations and contracts related to food service programs must include language regarding the *Buy American* requirements for food purchases.

The two (2) main exceptions to the *Buy American* requirements are:

1. The product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality; or

2. Competitive bids reveal the costs of a United States product are significantly higher than the non-domestic product.

Mandatory Contract Clauses -

The following provisions shall be included in all cost reimbursable contracts for food services purchases, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts: (7 CFR Sec. 210.21, 215.14a, 220.16)

1. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;

2. (a) The contractor must separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or

   (b) The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;

3. The contractor's determination of its allowable costs must be made in compliance with the applicable departmental and program regulations and Office of Management and Budget cost circulars;

4. The contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the state agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;

5. The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and

6. The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the state agency, or the department.

Contracts with Food Service Management Companies -

Procedures for selecting and contracting with a food service management company (FSMC) shall comply with guidance provided by the Pennsylvania Department of Education, Division of Food and Nutrition, including standard forms, procedures and timelines for solicitation, selection and approval of proposals and contracts. (7 CFR Sec. 210.16, 210.19, 210.21, 215.14a, 220.16)

Pre-Plated Meals -

Procedures for selecting and contracting with contractors of pre-plated meals shall comply with guidance provided by the Pennsylvania Department of Education, Division of Food and Nutrition, including standard forms, procedures and timelines for solicitation, selection and approval of proposals and contracts. (7 CFR Sec. 210.16, 210.19, 210.21, 220.16)

Standards of Conduct -

The school will comply with the written standards of conduct in Policy 827. Conflict of Interest which governs the actions of employees and Joint Operating Committee members regarding the selection, award and administration of contracts.

No employee or Joint Operating Committee member may participate in the selection, award or administration of a contract supported by a federal award if s/he has a real or apparent conflict of interest as well as any other circumstance in which the employee, Joint Operating Committee member, any member of his/her immediate family, his/her business partner, or an organization which employs or is about to employ any of them, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. (2 CFR 200.318)

Violations of the standards of conduct by employees may result in disciplinary action up to and including discharge, fines and possible imprisonment. Disciplinary actions shall be consistent with Joint Operating Committee policies, procedures, applicable collective bargaining agreements and state and federal law.

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