8561 PROCUREMENT PROCEDURES FOR SCHOOL NUTRITION PROGRAMS

The Board of Education adopts this Policy to identify their procurement plan for the United States Department of Agriculture's (USDA) School Nutrition Programs. School Nutrition Programs include, but are not limited to: the National School Lunch Program (NSLP); School Breakfast Program (SBP); Afterschool Snack Program (ASSP); Special Milk Program (SMP); Fresh Fruit and Vegetable Program (FFVP); Seamless Summer Option (SSO) of the NSLP; Summer Food Service Program (SFSP); the At-Risk Afterschool Meals component of the Child and Adult Care Food Program (CACFP); and the Schools/Child Nutrition USDA Foods Program.

The Board is ultimately responsible for ensuring all procurement procedures for any purchases by the Board and/or a food service management company (FSMC) comply with all Federal regulations, including but not limited to: 7 CFR Parts 210, 220, 225, 226, 245, 250; 2 CFR 200; State procurement statutes and administrative codes and regulations; local Board procurement policies; and any other applicable State and local laws.

The procurement procedures contained in this Policy will be implemented beginning immediately, until amended. All procurements must maximize full and open competition. Source documentation will be maintained by the School Business Administrator/Board Secretary or designee and will be available to determine open competition, the reasonableness, the allowability, and the allocation of costs.

The Board intentionally seeks to prohibit conflicts of interest in all procurement of goods and services.

A. General Procurement

The procurement procedures will maximize full and open competition, transparency in transactions, comparability, and documentation of all procurement activities. The school district's plan for procuring items for use in the School Nutrition Programs is as follows:

1. The School Business Administrator/Board Secretary will ensure all purchases will be in accordance with the Federal Funds Procurement Method Selection Chart – State Agency Form #358. Formal procurement procedures will be used as required by 2 CFR 200.318 through .326 and any State and local procurement code and regulations. Informal procurement procedures (small

purchase) will be required for purchases under the most restrictive small purchase threshold.

2. The following threshold amounts apply for all purchases:

   Board Micro-Purchase Threshold: $7,950

   Board Small Purchase Threshold: $53,000

   The Board will follow formal procurement procedures for all purchases over the Small Purchase Threshold amount.

   The Board will perform a cost or price analysis to determine the estimated dollar amounts for purchases and thus the required procurement method.

B. Micro-Purchase Procedures

1. Public/Charter Schools

   Purchases of supplies or services, as defined by 2 CFR 200.67, will be awarded without soliciting competitive price quotations if the price is reasonable in accordance with N.J.S.A. 18A:18A-37.~~(~~a.~~)~~ and below thresholds established by the State Treasurer for informal receipt of quotations. Purchases will be distributed equitably among qualified suppliers with reasonable prices. Records will be kept for micro-purchases.

2. Non-Public Schools

   Purchases of supplies or services, within the Federal micro-purchase threshold as defined by 2 CFR 200.67 will be awarded without soliciting competitive price quotations if the price is reasonable. Purchases will be distributed equitably among qualified suppliers with reasonable prices. Records will be kept for micro-purchases.

C. Small Purchase Procedures

If the amount of purchases for items is less than the Board's small purchase threshold, the following small purchase procedures including quotes will be used. Quotes from a minimum number of three qualified sources will be required.

1. Written specifications will be prepared and provided to all vendors.

2. Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of three vendors must be contacted.

3. The School Business Administrator/Board Secretary or designee will be responsible for contacting potential vendors when price quotes are needed.

4. The price quotes will receive appropriate confidentiality before award.

5. Quotes will be awarded by the School Business Administrator/Board Secretary. Quotes will be awarded based on the lowest price.

6. The School Business Administrator/Board Secretary will be responsible for documentation of records to show selection of vendor, names of all vendors contacted, price quotes from each vendor, and written specifications.

7. The School Business Administrator/Board Secretary or designee will be responsible for documentation that the actual product specified is received.

8. Any time an accepted item is not available, the School Business Administrator/Board Secretary will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.

9. The School Business Administrator/Board Secretary or designee is required to sign all quote tabulations, signifying a review and approval of the selections.

D. Formal Procurement

When a formal procurement method is required, Invitation for Bid (IFB) or Request for Proposal (RFP) procedures will apply:

1. An announcement of an IFB or a RFP will be placed in the Board designated official newspaper to publicize the intent of the Board to purchase needed items.

    a. The advertisement of the IFB or legal notice will run for one day a minimum of ten calendar days prior to the bid opening.

b. The advertisement of the RFP or legal notice will run for one day a minimum of twenty calendar days prior to the proposal due date.

2. An advertisement is required for all purchases over the school district's small purchase threshold. The announcement (advertisement or legal notice) will contain:

   a. A general description of items to be purchased;

   b. The deadline for submission of questions and the date written responses will be provided, including addenda to bid specifications, terms, and conditions as needed;

   c. The date of the pre-bid meeting, if provided, and if attendance is a requirement for bid award;

   d. The deadline for submission of sealed bids or proposals; and

   e. The address of the location where complete specifications and bid forms may be obtained.

3. In an IFB or RFP, each vendor will be given an opportunity to bid or propose on the same specifications.

4. The developer of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.

5. The IFB or RFP must clearly define the purchase conditions. The following list includes requirements, not exclusive, to be addressed in the procurement document:

   a. Contract period for the base year and renewals as permitted;

   b. The Board is responsible for all contracts awarded (statement);

   c. Date, time, and location of IFB/RFP opening;

   d. How the vendor is to be informed of bid acceptance or rejection;

   e. Delivery schedule;

f. IFB requirements (terms and conditions) that bidder must fulfill in order for bid to be awarded;

g. RFP requirements (terms and conditions) that proposer must fulfill in order for proposal to be evaluated and awarded;

h. Benefits to which the Board will be entitled if the contractor cannot or will not perform as required;

i. Statement assuring positive efforts will be made to involve small and minority businesses, women's business enterprises, and labor surplus area firms;

j. Statement regarding the return of purchase incentives, discounts, rebates, and credits under a cost reimbursement FSMC contract to the Board nonprofit school food service account;

k. Contract provisions as required in Appendix II to 2 CFR 200:

(1) Termination for cause and convenience – contracts in excess of $10,000;

(2) Equal Opportunity Employment – "Federally assisted construction contracts";

(3) Davis-Bacon Act – construction contracts in excess of $2,000;

(4) Contract work Hours and Safety Standards – contracts in excess of $100,000;

(5) Right to inventions made under a contract or agreement – if the contract meets the definition of a "funding agreement" under 37 CFR 401.2(a);

(6) Clean Air Act – contracts in excess of $150,000;

(7) Debarment and Suspension – all Federal awarded contracts;

(8) Byrd Anti-Lobbying Amendment – contracts in excess of $100,000; and

(9) Contracts must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

l. Contract provisions as required in 7 CFR 210.21(f) for all cost reimbursable contracts;

m. Contract provisions as required in 7 CFR 210.16(a)(1-10) and 7 CFR 250.53 for food service management company contracts;

n. Price adjustment clause for renewal of multi-year contracts as defined in N.J.S.A. 18A:18A-42. – Definitions. The "index rate" means the annual percentage increase rounded to the nearest half percent in the implicit price deflator for State and local government purchases of goods and services computed and published quarterly by the U.S. Department of Commerce, Bureau of Economic Analysis;

o. Method of evaluation and type of contract to be awarded (solicitations using an IFB are awarded to the lowest responsive and responsible bidder; solicitations using a RFP are awarded to the most advantageous proposer with price as the primary factor among other factors considered);

p. Method of award announcement and effective date (if intent to award is required by State or local procurement requirements);

q. Specific bid protest procedures including contact information of person and address and the date by which a written protest must be received;

r. Provision requiring access by duly authorized representatives of the Board, New Jersey Department of Agriculture (NJDA), USDA, or Comptroller General to any books, documents, papers, and records of the contractor which are directly pertinent to all negotiated contracts;

s. Method of shipment or delivery upon contract award;

t. Provision requiring contractor to maintain all required records for three years after final payment and all other pending matters (audits) are closed for all negotiated contracts;

u. Description of process for enabling vendors to receive or pick up orders upon contract award;

v. Provision requiring the contractor to recognize mandatory standards/policies related to energy efficiency contained in the Energy Policy and Conservation Act (PL 94-163);

w. Signed statement of non-collusion;

x. Signed Debarment/Suspension Certificate, clause in the contract or a copy of search results from the System for Award Management (SAM);

y. Provision requiring "Buy American" as outlined in 7 CFR Part 210.21(d) and 7 CFR Part 220.16(d) and USDA Guidance Memo SP 23-2024;

z. Specifications and estimated quantities of products and services prepared by the Board and provided to potential contractors desiring to submit bids/proposals for the products or services requested; and

aa. The Board's Electronic Signature Policy (see New Jersey Uniform Electronic Signature Transaction Act, N.J.S.A. 12A:12-1 et seq.).

6. If any potential vendor is in doubt as to the true meaning of specifications or purchase conditions, questions may be sent to the representatives listed below. The Board's response will be provided in writing to all potential bidders or proposers within _____ days.

a. The School Business Administrator/Board Secretary will be responsible for providing responses to questions and securing all bids or proposals.

b. The School Business Administrator/Board Secretary will be responsible to ensure all Board procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.

7. In awarding a RFP, a set of award criteria in the form of a weighted evaluation sheet will be provided to each proposer in the initial RFP document materials. Price alone is not the sole basis for award, but remains the primary consideration among all factors

when awarding a contract. Following evaluations, a firm fixed price or cost reimbursable contract is awarded.

a. The contracts will be awarded to the responsible proposer whose proposal is responsive to the request and is most advantageous to the Board, price as the primary, and other factors considered. Any and all proposals may be rejected in accordance with the law.

b. The School Business Administrator/Board Secretary or designee is required to sign on the evaluation criterion score sheet of competitive proposals signifying a review and approval of the selections.

c. The School Business Administrator/Board Secretary shall review the procurement system to ensure compliance with applicable laws.

d. The School Business Administrator/Board Secretary or designee will be responsible for the documentation that the actual product specified was received.

e. Any time an accepted item is not available, the School Business Administrator/Board Secretary will select the acceptable alternate. The contractor must inform the School Business Administrator/Board Secretary within one workday if a product is not available. In the event a nondomestic agricultural product is to be provided to the Board, the contractor must obtain, in advance, written approval for the product. The School Business Administrator/Board Secretary must comply with the "Buy American" provision.

f. Full documentation regarding 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 this documentation is the School Business Administrator/Board Secretary.

g. The School Business Administrator/Board Secretary is responsible for maintaining all procurement documentation.

8. In awarding an IFB, price is the only consideration.

a. The contract will be awarded to the responsible bidder whose bid is responsive to the invitation and is the lowest

price. Any and all bids may be rejected in accordance with the law.

b. The School Business Administrator/Board Secretary is required to sign on the bid tabulations of competitive sealed bids.

c. The School Business Administrator/Board Secretary reviews the procurement system to ensure compliance with applicable laws.

d. The School Business Administrator/Board Secretary is responsible for documentation that the actual product specified is received.

e. Any time an accepted item is not available, the School Business Administrator/Board Secretary will select the acceptable alternate. The contractor must inform the School Business Administrator/Board Secretary within one workday if a product is not available. In the event a nondomestic agricultural product is to be provided to the Board, the contractor must obtain, in advance, written approval for the product. The School Business Administrator/Board Secretary must comply with the "Buy American" provision.

f. Full documentation regarding 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 this documentation is the School Business Administrator/Board Secretary.

g. The School Business Administrator/Board Secretary is responsible for maintaining all procurement documentation.

E. Noncompetitive Proposal Procedures

If items are available only from a single source when the award of a contract is not feasible under small purchase, sealed bid or competitive negotiation, noncompetitive proposal procedures will be used:

1. Written specifications will be prepared and provided to the vendor.

2. The School Business Administrator/Board Secretary will be responsible for the documentation of records to fully explain the

decision to use the noncompetitive proposal. The records will be available for audit and review.

3. The School Business Administrator/Board Secretary or designee will be responsible for documentation that the actual product or service specified was received.

4. The School Business Administrator/Board Secretary will be responsible for reviewing the procedures to be certain all requirements for using single source or noncompetitive proposals are met.

5. A member or representative of the Board ~~of Education~~ will approve, in advance, all procurements that result from noncompetitive negotiations.

F. Miscellaneous Provisions

1. The Board agrees the reviewing official of each transaction will be the School Business Administrator/Board Secretary.

2. Payment will be made to the vendor when the contract has been met and verified and has met the Board's procedures for payment. (If prompt payment is made, discounts, etc., are accepted.)

3. Specifications will be updated as needed.

4. If the product is not as specified, the following procedure, including, but not limited to, will take place: remove product from service; contact vendor for approved alternate product; or remove product from bid.

G. Emergency Purchases

1. If it is necessary to make a one-time emergency procurement to continue service or obtain goods, and the public exigency or emergency will not permit a delay resulting from a competitive solicitation, the purchase must be authorized using a purchase order signed by the School Business Administrator/Board Secretary. The following emergency procedures shall be followed.

   All emergency procurements shall be approved by the School Business Administrator/Board Secretary.

   At a minimum, the following emergency procurement procedures shall be documented.

a. Item name;

b. Dollar amount;

c. Vendor; and

d. Reason for emergency.

H. Purchasing Goods and Services – Cooperative Agreements, Agents, and Third-Party Services (Piggybacking)

1. When participating in intergovernmental and inter-agency agreements the Board will ensure that competitive procurements are conducted in accordance with 2 CFR Part 200.318 through .326 and applicable program regulations and guidance.

2. When utilizing the services of a co-op, agent, or third party the Board will ensure that the following conditions have been met and considered as one source of pricing in addition to other prices:

a. All procurements were subject to full and open competition and were made in accordance with Federal/State/local procurement requirements;

b. The existing contract allows for the inclusion of additional Boards of Educations that were not contemplated in the original procurement to purchase the same supplies/equipment through the original award;

c. The specifications in the existing contract meets their needs and that the items being ordered are in the contract;

d. The awarded contract requires all the Federally required certifications; e.g. "Buy American," debarment, restrictions on lobbying, etc.;

e. The agency will confirm the addition of their purchasing power (goods or services) to the procurement in scope or services does not create a material change, resulting in the needs to re-procure the contract;

f. Administrative costs (fees) for participating in the agreement are adequately defined, necessary and reasonable, and the method of allocating the cost to the participating agencies must be specified;

g. The "Buy American" provisions are included in the procurement of food and agricultural products; and

h. The agreement includes the basis for and method of allocating each discount, rebate, or credit and how they will be returned to each participating agency when utilizing a cost-reimbursable contract.

I. The "Buy American" Act

1. The "Buy American" provision requires the Board to purchase, to the maximum amount practicable, domestic commodities or products. This provision supports the mission of the Child Nutrition Programs, which is to serve children nutritious meals and support American agriculture. Program regulations that govern this provision apply to a Board that operates the NSLP and SBP and are found at 7 CFR 210.21(d) and 7 CFR 220.16(d). The Board complies by:

a. Purchasing domestic commercial food products for the school meals programs;

b. Including "Buy American" provision language in procurement procedures, solicitations, and contracts; and

c. Tracking non-domestic commercial food purchases.

JI. Records Retention

1. The Board shall agree to retain all books, records, and other documents relative to the award of the contract for three years after final payment. If there are audit findings that have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit. Specifically, the Board shall maintain, at a minimum, the following documents:

a. Written rationale for the method of procurement;

b. A copy of the original solicitation;

c. The selection of contract type;

d. The bidding and negotiation history and working papers;

e. The basis for contractor selection;

f. Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;

g. The basis for award cost or price;

h. The terms and conditions of the contract;

i. Any changes to the contract and negotiation history;

j. Billing and payment records;

k. A history of any contractor claims; and

l. A history of any contractor breaches.

K. Code of Conduct for Procurement

1. All procurements must ensure there is open and free competition and adhere to the most restrictive Federal, State, and local requirements. The Board seeks to conduct all procurement procedures in compliance with stated regulations and to prohibit conflicts of interest and actions of employees engaged in the selection, award, and administration of contracts. All procurements will be in accordance with this Policy and all applicable provisions of N.J.S.A. 18A:18A – Public School Contracts Law.

2. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal, State, or local award if they have a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent; any member of their immediate family, their partner; or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

3. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.

4. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. Based on the severity of the infraction, the penalties could include a written reprimand to their personnel file, a suspension with or without pay, or termination.

5. All questions and concerns regarding procurement solicitations, contract evaluations, and contract award, shall be directed to the School Business Administrator/Board Secretary.

L. Food Service Management Company (FSMC)

1. In the operation of the school district's food service program, the school district shall ensure that a FSMC complies with the requirements of the Program Agreement, the school district's Free and Reduced School Lunch Policy Statement, all applicable USDA program policies and regulations, and applicable State and local laws. In order to operate an a la carte food service program, the FSMC shall agree to offer free, reduced price, and full price reimbursable meals to all eligible children.

2. The school district shall monitor the FSMC billing invoices to ensure compliance with Federal and State procurement regulations.

3. In accordance with N.J.S.A. 18A:18A-5.a.(22), RFPs are required in all solicitations for a FSMC.

N.J.S.A. 18A:18A-1 et seq. New Jersey Department of Agriculture
"Procurement Procedures for School Food
Authorities" Model Policy – October 2025

Adopted: