

Fern Ridge School District

**DOCUMENTED PROCUREMENT PROCEDURES
CHILD NUTRITION PROGRAMS**

2 CFR 200.318(a)

This procurement plan contained on the following pages 2 through 16 will be implemented on 12-1-23, from that date forward until amended. All procurements must adhere to the standards outlined in 2 CFR 200 subpart D and applicable program regulations when purchasing good or services from the nonprofit food service account. Sponsors must retain all documentation for each procurement per regulations.

Gary Carpenter

Printed Authorized Name



Authorized Signature

12-5-23

Date

*As referenced in CNP Web:
Executive Contact for National School Lunch Program
Authorized Representative for Child and Adult Care Food Program
Authorized Representative for Summer Foods Service Program

Purchasing will be conducted at the most restrictive procurement threshold and requirements.

Procurement Method	Federal Threshold	State of Oregon Threshold	CNP Sponsor Procurement Threshold (Fill In)
Federal Micro-Purchasing / Oregon Small Procurements	Less than \$25,000- <u>2 CFR 200.320(a)(1)</u>	Less than \$25,000- <u>ORS 279B.065</u>	<u>\$25,000</u>
Federal Small Purchase / Oregon Intermediate Procurement	Less than \$250,000- <u>2 CFR 200.320(a)(2)</u>	Less than \$250,000- <u>ORS 279B-070</u>	<u>\$250,000</u>
Formal (IFB/RFP)	Greater than \$250,00 or any total Food Service Management Contract- <u>2 CFR 200.320(b)(1)(2)</u>	Greater than \$250,000- <u>ORS 279B-055 & ORS 279B.060</u>	<u>\$250,000</u>
Capital Equipment	Over \$5,000- <u>2 CFR 200.439</u>	Over \$5,000	<u>\$5,000</u>

All staff conducting purchasing will be trained on the procurement requirements when using the nonprofit food service account. Procurement training and resources are available on [Oregon Department of Education Child Nutrition Program website](#) and [Institute of Child Nutrition Website](#). Staff that are purchasing good or services will be responsible for referencing USDA Procurement Policy memos at [USDA FNS Documents & Resources website](#).

Does [Fern Ridge School District](#) have a lower simplified acquisition threshold?

Mark the appropriate answer. Yes List the dollar amount \$_____ No

Methods of procurement to be followed.

1. **Micro-Purchase procedures (2 CFR 200.320(a)(1)).** This method applies to the purchase of supplies or services when the aggregate dollar amount does not exceed \$10,000. These purchases may be awarded without soliciting competitive quotes if the Sponsor considers the price reasonable in accordance with 2 CFR 200.404. The Sponsor must distribute the micro-purchases equitably among qualified suppliers and document all purchases.
 - The [Food Service Director and/or Business Manager](#) is responsible for contacting potential vendor/contractor.
 - The [Food Service Director and/or Business Manager](#) is responsible for documentation of records of the purchase, name of vendor/contractor, price, and the written specifications.

- When using the Federal small purchase method /Oregon Intermediate Procurement, the award will always be given to the most responsive and responsible vendor at the lowest price.
 - The Food Service Director and/or Business Manager will verify in the government wide System for Award Management that the awarded Vendor is not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities in accordance with 2 CFR 200.214.
 - The Food Service Director is required to sign documentation, confirming a review and the approval of the purchase of the goods, products, and/or services.
 - The Food Service Director is the Sponsors authorized purchaser.
- 3. Formal purchase procedures: Competitive Sealed Bidding(IFB) & Competitive Sealed Proposals(RFP) (2 CFR 200.320(b)(1)(2), ORS 279B.055, ORS 279B.060).** This method applies to purchases of supplies or services when the aggregate cost amount is more than \$150,000 or greater than the Sponsor's simplified acquisition threshold or for any Food Service Management Company contract. The formal procurement method requires the use of an Invitation for Bid (IFB) or a Request for Proposal (RFP).
- The Business Manager is the Sponsors authorized purchaser.
 - An announcement of an **Invitation for Bid (IFB) or a Request for Proposal (RFP)** will be placed in the Newspaper/media, Website, other internet source to publicize the intent of the Child Nutrition Program Sponsor to purchase needed items. The advertisement for bids/proposals or legal notice will be run for three weeks in accordance with OAR 137-047-0300.
 - An advertisement is required for all purchases over the Sponsor's simplified acquisition threshold of \$150,000. The announcement (advertisement or legal notice) will contain a general description of items to be purchased, the deadline for submission of sealed IFB's and RFP's and the address where complete specifications and other procurement documents may be obtained.
 - In an IFB or RFP, each vendor/contractor will be given an opportunity to bid on the same specifications.
 - The developer of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.
 - The IFB or RFP will clearly define the purchase conditions. The following, shall be addressed in the procurement document:
 - (1) Contract time period
 - (2) CNP Sponsor is responsible for all contracts awarded (statement)
 - (3) Date, time, and location of bid opening
 - (4) How vendor/contractor will be informed of bid acceptance or rejection
 - (5) Delivery schedule
 - (6) Requirements which bidder must fulfill in order for bid to be evaluated

reports must be submitted on a quarterly basis. 2 CFR 200.327, 2 CFR 200.450 and 2 CFR 200 Appendix II (Applies to contracts over \$100,000)

- (22) Certification Regarding Lobbying: Pursuant to 31 USC 1352, the contractor must submit a certification regarding lobbying which conforms in substance with the language provided in 2 CFR 200.450. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions. **(Applies to contracts over \$100,000).**
- (23) Certificate of Independent Price Determination: The vendor admits that all prices in their Offer have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor certification regarding non-collusion. 2 CFR 200.324(a)
- (24) Civil Rights Compliance: In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information required in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (a) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.
- (25) Clean Air Act, Clean Water Act, and Environmental Protection Agency Regulation: The contractor will comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency regulations which prohibit the use, under nonexempt federal contracts, grants or loans to facilities included on the EPA list of Violating Facilities. The CNP Sponsor will report all violations to ADE and to the USEPA Assistance Administrator for Enforcement. **(Applies to contracts over \$150,000)** Appendix II to 2 CFR Part 200
- (26) Contract Work Hours and Safety Standard Act: The contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). **(Applies to contracts over \$100,000).** Appendix II to 2 CFR Part 200
- (27) Debarment, Suspension, Ineligibility and Voluntary Exclusion: By signing the Offer & Award form, the contractor shall certify that they have not been debarred,

(36) Optional:

Applying a Geographical Preference. 7 CFR Part 210.21(g), 7 CFR 225.17(e), 7 CFR 226.22(n).

- A. The Sponsor seeks to increase its purchase of seasonal, minimally processed fresh fruits and raw vegetables as part of the Farm to School Program. Reasons for purchasing local products include the potential cost savings, nutrition education for students, and quality of product.
- B. The Sponsor is interested in the following locally grown products: no certain specifications
- C. The contractor will make every effort to provide the Sponsor with locally grown products according to the definitions below.
 1. Locally Grown: Oregon Grown
 2. Minimally processed: Includes refrigerating, adjusting size (peeling, slicing, dicing, cutting, chopping), washing, packaging and adding ascorbic acid or other preservatives to prevent oxidation or produce (as described in USDA's Final Rule of Geographic Preference).
- D. All products designated under the geographic preference clause shall be labeled with its designating origin (grower name and address/state or area of production) on each case/invoice delivered.
- E. Locally grown products should be generally free from insect damage and decay (flexible on grading for produce only per USDA guidance). Produce items are to be rinsed, cleaned and packed in appropriate commercial produce packaging such as waxed cardboard boxes or sanitary/reusable bins.

➤ Specifications will be prepared in accordance with 2 CFR 200.319 and provided to potential vendors/contractors desiring to submit IFB or RFP for the products or services requested. Vendors/contractors will be selected using the Sponsor's procedures such as:

1. Price
2. Quality
3. Service
4. Delivery

➤ If any potential vendor/contractor is in doubt as to the true meaning of specifications or purchase conditions, an interpretation will be provided by Food Service Director and/or Business Manager.

➤ The Business Manager and/or Superintendent is responsible for securing all IFB or RFP.

➤ The Business Manager and/or Superintendent is responsible to ensure all CNP Sponsor procurements are conducted in compliance with applicable Federal regulations, State General Statutes or policies of the Sponsor.

➤ The following criteria will be used in awarding contracts as a result of bids. (Examples: quality, delivery, service, etc.)

1. Price
2. Services
3. Quality

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(5) After solicitation of a number of sources, competition is determined inadequate.

When a noncompetitive procurement is used the CNP Sponsor must:

- Prepared and provided written specification to the vendor/contractor in accordance with **2 CFR 200.319(d)**.
- The Business Manager is responsible for the documentation of records to fully explain the decision to use the non-competitive negotiation. The records will be available for audit and review.
- The Business Manager is responsible for documentation that the actual product or service specified was received.
- The Business Manager is responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive negotiation are met.
- Non-competitive negotiations shall be used for one-time purchases of a new food item in order to determine food acceptance by students and for samples for testing purposes. A record of non-competitive negotiation purchase shall be maintained by the Business Manager. The record of non-competitive purchases shall include, at a minimum, the following:
 - a. Item name
 - b. Dollar amount
 - c. Vendor/contractor, and
 - d. Reason for non-competitive procurement

E. **Emergency Procurement (2 CFR 200.320(c)(3) and ORS 279B.080)**. If it is necessary to make an emergency procurement to continue service, the purchase shall be made, and a log of all such purchases shall be maintained by the Food Service Director. The following emergency procedures shall be followed. All emergency procurements shall be approved by the Food Service Director. At a minimum, the following emergency procurement procedures shall be documented:

- a. Item name
- b. Dollar amount
- c. Vendor/contractor, and
- d. Reason for emergency

F. **Record Keeping (2 CFR 200.334, 7 CFR 210.23(c), 7 CFR 225.15(c), 7 CFR 226.15(e), and 7 CFR 250.54)**: The SFA and contractor shall agree to retain all books, records and other documents relative to the contract agreement for three (3) years after final payment. The CNP Sponsor, its authorized agents, State Agency, and/or USDA auditors shall have full access to and the right to examine any of said materials during said period. Specifically, the CNP Sponsor 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;

performance of its officers, employees, or agents who are engaged in the award and administration of contracts supported by Child Nutrition Program Funds.

The following conduct will be expected of all persons who are engaged in the awarding and administration of contracts supported by Child Nutrition Program Funds.

- No employee, officer or agent of the Fern Ridge School District shall participate in the selection or in the award or administration of a contract supported by program funds if a conflict of interest, real or apparent, would be involved.
- Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:
 - a. The employee, officer or agent;
 - b. Any member of the immediate family;
 - c. His or her partner;
 - d. An organization which employs or is about to employ one of the above;
 - e. A less-than-arms-length transaction. This is one party's ability to control or influence the other party to the transaction. A less-than-arms-length transaction occurs:
 - i. when a transaction is conducted between related parties, meaning that the integrity of the transaction could be compromised;
 - ii. When one party to the transaction is able to control or influence the actions of the other party.

Examples could include:

1. Hiring the CEO's brother as a janitor.
2. Purchasing goods or services from a business owned by an officer, employee, or relative of the Sponsor's entity.
3. Agreement for computer maintenance between a business and person who are related to the Sponsor's employees or board members.

- The Fern Ridge School District employees, officers or agents must not solicit or accept gratuities, favors, or anything of monetary value from prospective contractors/vendors, potential contractors, or parties of subcontract.
- The Fern Ridge School District must set standards when financial interest is not substantial or the gift is an unsolicited item of nominal value and may be acceptable.
- Disciplinary actions to be applied for violation of Fern Ridge School District written standard of conduct are: (list appropriate actions for your organization).
 - a. Letter or Reprimand
 - b. Possible Plan of Assistance
 - c. Possible dismissal

- I. **Minority, Women Owned and Small Business (2 CFR 200.321):** A Child Nutrition Program Sponsor must take all necessary affirmative steps to assure that minority business, women business enterprise, and labor surplus area firms are used when possible.

The following affirmative steps must be used in determining if a firm is available:

order for Business Manager to be able to document the domestic content, they should include in their procurement process a requirement for certifying the domestic percentage of the agricultural food component of commodities and products.

Solicitation and contract language must be monitored by the Business Manager to determine contractor compliance as required by 2 CFR 200.318(b), in order to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Monitoring is also accomplished by reviewing products and delivery invoices or receipts to ensure the domestic food that was solicited and awarded is the food that is received.

Business Manager also need to 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.

M. Purchasing Goods and Services Using Cooperative Agreements, Agents, and Third-Party Services (USDA Policy Memo SP-05-2017):

Business Manager is responsible when participating in these agreement that the procurement is conducted in accordance with 2 CFR 200.318 through 200.327, 7 CFR 210.21, and USDA Policy Memo SP-05-2017.

Business Manager is responsible for ensuring Fern Ridge School District has all the procurement documents on file detailing the history of the procurement in accordance with 2 CFR 200.318(i).

Business Manager is responsible for ensuring that adding Fern Ridge School district to an existing contract does not create a material change to the original solicitation in accordance with USDA Policy Memo SP 02-2016 and SP 05-2017.

The various purchasing agreements have been classified into three groups:

- 1. CNP Program operator-only and/or CNP State agency cooperative agreement.** This is an agreement formed solely between CNP Program operators and may include CNP State agency cooperatives formed to increase purchasing power. This agreement is not a method of procurement, rather an agreement to competitively procure goods and services. Such agreements may include a fixed fee to cover overhead or administrative costs as specified in the cooperative agreement.
- 2. Agent.** An agent is a person or business authorized to act on a client's behalf. An agency may be necessary for procuring goods or services when/if the client does not have the necessary technical understanding of the equipment, service, food or other food service supplies to be purchased; or lacks time or expertise to conduct a proper procurement. A procurement agent represents a special fiduciary relationship of trust between itself and its client. In other words, the agent must be contractually required to conduct all competitive procurement methods with its client's interests solely in mind. An agent's services in excess of the micro-purchase threshold currently set at \$10,000 must be competitively procured in accordance with Federal procurement methods outlined in 2 CFR 200.320.
- 3. Third-Party entities.** Third-Party entities include State procurement agency agreements, inter-agency agreements, group purchasing organizations, group buying organizations, and third-party vendors.