

Child and Adult Care Food Program (CACFP) Procurement Procedure

Purpose

1. To outline the steps for properly procuring services such as food, equipment, bookkeeping, and auditing. The purpose of an effective procurement procedure is to ensure that such products, goods, and/or services are obtained efficiently, economically, and in compliance with State, Federal or local laws whichever is most stringent.

Legal Requirements

Laws and regulations that serve as the basis for this document include:

- [7 CFR 226.22\(a\)](#)
- [2 CFR 200](#)

Small Purchase Threshold

The small purchase threshold refers to the dollar amount that determines whether the process to purchase an item(s) should be done with formal or informal procurement method. All Programs operating under public and independent schools in CACFP must follow the State small purchase threshold for non-food items of \$25,000. All Programs operating under public and independent schools in CACFP must follow the Federal threshold for food items of \$250,000. For all other programs participating in CACFP, the small purchase threshold for food and non-food items is the Federal threshold of \$250,000. Institutions must use the lower, more restrictive threshold if their respective organizational or local thresholds are set at a lower amount.

Institutions may not split a purchase into smaller units or subgroups for the purpose of avoiding the informal or formal procurement process. The per transaction value should be examined to determine which procurement procedure will apply.

General Procurement Methods

Institutions must use one or more methods of procurement when purchasing food, services, and/or supplies. Procurement procedures may not restrict or eliminate competition; therefore, all procurements must be conducted in a manner to provide full and open competition. Competitive procurement applies to both formal and informal procedures and is when an institution seeks bids from more than one qualified source.

Informal Procurement Procedures: These procedures are used to purchase food or services when a single transaction costs is less than the small purchase threshold. This procedure is also known as the Small/Informal/3 Bids and a Buy Procurement Method. The institution should create written specifications describing qualities, quantities, and other details about needed goods or services. Institutions are required to obtain and document price quotations from at least three qualified sources. The responsive and responsible bidder with the lowest total price should be selected.

1. **Micro-purchases (below \$50,000):** If an Institution is making a single transaction purchase under \$50,000, the Institution may do so without obtaining price quotes provided the price is reasonable and purchases are distributed equitably among qualified vendors/contractors. Institutions may still gather three quotes from vendors/contractors that meet their needs, but it is not required when using the micro-purchase method. To the maximum extent practicable, Institutions should distribute micro-purchases equitably among qualified suppliers. Documentation of all micro-purchases must be kept on file. Free and open competition is maintained by spreading out purchases equally to all qualified vendors, e.g., spread purchases around to all 3 grocery stores in town. It is recommended that that Institutions develop a micro-purchase policy that outlines a radius that they will spread out purchases to achieve equitable distribution of purchases. I.E. *Tiny Tots Childcare will spread all purchases around to qualified vendors within a 12-mile radius given that prices are deemed reasonable.* Staff time and mileage may be considered in determining if prices are reasonable, such that paying staff to drive 40 miles to the next closest grocery store may not be an economically feasible choice.

Formal Procurement Procedures: These procedures are used to purchase food or services when a single transaction costs exceeds the small purchase threshold. All Programs operating under public and independent schools in CACFP must follow the State small purchase threshold for non-food items of \$25,000. All Programs operating under public and independent schools in CACFP must follow the Federal threshold for food items of \$250,000. For all other programs participating in CACFP, the small purchase threshold for food and non-food items is the Federal threshold of \$250,000. If soliciting the services of a food service management company, a formal procurement method **must** be used. If this is the case, please request guidance from AOE.

1. **Competitive Sealed Bids also known as Invitation for Bid (IFB):** This method is used when the only variable is the price of the product because the award must go to the lowest qualified bidder who meets the Institution's terms and conditions.

2. **Competitive Negotiations also known as Request for Proposal (RFP):** This method is used when the price is not the only consideration. If the food, service, and/or supply could be provided in a variety of ways and the purchaser is willing to evaluate the criteria, an RFP is appropriate.
3. **Noncompetitive Negotiation:** This procurement method can only be used under rare circumstances. Please contact AOE if you believe you have reason to award a non-competitive procurement.

Procurement Documentation

Institutions must develop and have on file written procurement procedures for how the organization will:

1. Purchase products, goods, and/or services.
2. Advertise the products, goods, and/or services it plans to purchase.
3. Select and evaluate various bids or proposals submitted by potential vendors/contractors.
4. Evaluate potential vendors/contractors.

Institutions must maintain documentation on file for every procurement transaction made with CACFP funds. This documentation would include:

1. Copies of the documentation of the prices submitted by potential vendors/contractors.
2. Names of the vendors/contractors who submitted price quotations that were compared.
3. Identifying which vendor/contractor was chosen.
4. Stating why that vendor/contractor was chosen.

Purchasing Meals Within Your Agency

If an institution has a child care center and another department within the same institution provides meals to the center, a separate procurement is not required, even if the department charges the child care center for meals.

If an institution utilizes a third-party provider (Contractor, Vendor, FSMC, Caterer, etc.) for the entire organization's food service, not just for CACFP, then the Institution is not required to conduct a separate procurement. However, the Institution must ensure that program requirements are included and addressed in the original bid specifications when procuring its third-party provider. Adding a CACFP program to an existing FSMC contract is generally not permitted without rebidding that contract. Contact AOE for more guidance.

Purchasing Meals Through a Vendor:

Purchasing meals from a School Food Authority (SFA): Institutions that will obtain vended meals from a School Food Authority (SFA) of a local school district may do so without completing a competitive procurement as long as the SFA providing the meal is self-operated for its own food service.

When the SFA operates its own food service under a Food Service Management Company (FSMC) or Vended Meal Contract, an institution is not required to complete a separate competitive procurement as long as the SFA included the requirements for CACFP in the bid specifications. If the vending arrangement was not included in the original procurement of the SFA's FSMC contract, then one of the entities may be required to complete the proper competitive procurement. Institutions may not be aware of what the SFA included in their original contract. SFAs are required to adhere to contract language established that addresses vending agreements.

Purchasing meals from a non-school contractor: Institutions that seek to obtain a non-school contractor (Caterer, Restaurant, Community Organization, etc.) to deliver meals are required to complete a competitive procurement to establish the contract. A non-school contractor also includes other CACFP sponsors who are self-operated for their own meals.

Sponsors and Vendor Responsibilities

Institutions and vendors/contractors have specific responsibilities when entering into an agreement. Institutions are responsible for making sure all purchased meals and snacks are reimbursable. Daily vendor receipts are required to ensure that food was delivered and is consistent with the Agreement.

Sponsor Responsibilities are as follows:

- Review all menus prior to ordering to ensure compliance with all Program requirements.
- Work with the vendor/contractor to adjust menus as necessary to meet Program requirements.
- Receive and retain all Daily Vendor/Contractor Receipts.
- Examine meals as delivered for acceptability
- Document any discrepancies with food items or number of meals received at the time of receipt on the Daily Vendor/Contractor Receipt
- Work with vendor/contractor to rectify any problems with service, food quality, frequent substitutions, or inadequate meals
- Pay vendor/contractor billing invoices as agreed upon in the Agreement

Vendor Responsibilities are as follows:

- Work with the Sponsor to plan meals meeting all CACFP requirements.
- Deliver meals on time and as specified in the Agreement.
- Work with the Sponsor to make adjustments to menus and service, as needed.
- Send billing invoices as agreed upon in the Agreement.

Written Codes of Conduct and Conflicts of Interest

Institutions are required to develop and implement a written code of conduct designed to oversee the performance of employees engaged in procurement. The code of conduct must address the following:

1. *Conflict of interest:* Institutions must ensure that any person involved in the preparation of bid documents, the procurement process, or administration of the contract does not have an organizational, personal, or financial interest in the bid award.
2. *Gifts:* The code of conduct must prohibit employees from soliciting gifts, travel packages, and other incentives from prospective contractors.
3. *Additional standards:* The code of conduct must outline organizational standards of acceptability when financial interest is not substantial, or the gift is an unsolicited item of nominal value.
4. *Violations:* the code must provide the disciplinary actions that will be taken in the event standards are violated.

Non-discrimination statement:

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

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

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. **fax:**
(833) 256-1665 or (202) 690-7442; or
3. **email:**
program.intake@usda.gov

This institution is an equal opportunity provider.