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FISCAL YEAR 2015
CHILD AND ADULT CARE FOOD PROGRAM
FAMILY DAY CARE HOME SPONSOR MEMORANDUM #3

TO: Family Day Care Home Sponsors

FROM: Marla J. Moss, Director
Office of School Support Services

DATE: December 18, 2014

SUBJECT: Procurement

The purpose of this memorandum is to provide further guidance on procurement for **Non-School Institutions** that participate in the United States Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP). Non-school Institutions include non-profit and for-profit organizations, local government agencies, and community service organizations.

This memorandum will (1) describe the required threshold for the purchase of ***food, services, and/or supplies*** *(non-food items)* used in the CACFP; (2) provide specific guidelines and ***procurement methods*** *(formal and informal)* applicable to all Institutions in the CACFP for the purchase of food, services, and/or supplies; (3) explain the procurement required to obtain ***vended meals***; (4) explain the ***market basket approach*** to purchasing; (5) address ***conflicts of interest***; and (6) clarify the procurement requirements as it relates to ***Group Purchasing Organizations***.

Public School Districts, Academies, Intermediate School Districts, and Non-Public Schools that participate in the School Meals Programs (National School Lunch and School Breakfast) may also refer to **School Year 2014-2015 Food Service Administrative Policy Memo No. 10** currently posted on the School Nutrition Programs and Food Service Contract websites. The procurement procedures outlined in that memorandum are applicable for all Child Nutrition Programs including CACFP.

OVERVIEW:

Per program regulations set forth under 7 CFR 226.22, CACFP Institutions are required to competitively procure all **food, services, and/or supplies (non-food items specifically used for food service operations)** used in the operation and administration of the program.

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All Institutions in the CACFP **must** have policies in place regarding procurement, and all transactions must be conducted as outlined in the policies.

Institutions may use their own procedures for procurement to the extent that procurements comply with applicable State or local laws, the standards set forth in 7 CFR Part 3016 (public institutions), 7 CFR Part 3019 (non-profit or private institutions), as well as those established by the Michigan Department of Education to help prevent abuse, fraud, and waste.

SMALL PURCHASE THRESHOLD AND SINGLE TRANSACTIONS

The **small purchase threshold** refers to the dollar amount that dictates whether the process to purchase an item(s) should be done with the formal procurement method or with the informal procurement method. The small purchase threshold applicable for food and non-food items in the Federal Child Nutrition Programs is **$150,000**.

Institutions **must** use the lower, more restrictive threshold if their respective organizational thresholds are set at a lower amount as indicated in its adopted policies**.** For example, CACFP Institutions that are public school entities are required by State law to use lower thresholds for food and equipment purchases (Refer to SY 2014-2015 Food Service Administrative Policy #10 for details).

When determining how the small purchase threshold applies, it is **not** permissible for the CACFP Institution to split a purchase into smaller units or subgroups for the purpose of avoiding the formal procurement process. The **aggregate** total of the item(s) or service over the course of the year or from one vendor should be examined.

Example: If an Institution purchases $150,000 of bread, the Institution may not split the purchase of bread between two suppliers at $75,000 a piece in order to avoid the formal procurement process.

This is not to say the Institution must use a single supplier for bread. As an example, if the Institution wants two different types of bread and wants the option to award the contract to more than one supplier on that basis, the appropriate method would be to complete the formal procurement process but in the bid specifications clearly state it *may* be a multi-award contract.

The key here is that the formal procurement process is conducted because the amount the Institution pays for bread in aggregate over the course of the year will be $150,000.

Depending on the specifics of the purchase(s), a **single transaction** may refer to any of the following:

- A single purchase order for an item or items;
- The aggregate total of all invoices of a service contract;
- The aggregate total of all purchase orders from a single supplier; or
- The aggregate total of all purchase orders for a specific item or group of items normally purchased together from multiple suppliers.

Example: An Institution needs a new oven. This will not be an ongoing service, but a one-time purchase. The Institution can safely assume one oven will cost less than $150,000 and therefore can use the informal procurement method to make the purchase.

Example: A **distributor** is a commercial food company that receives and/or stores commercial food products to sell, deliver and bill to a recipient organization. Sometimes distributors can be referred to as wholesale vendors or commercial retailers.

If an Institution prepares its own meals, but wishes to purchase food and non-food items from a distributor on a continuous basis, it would not be appropriate to apply the total cost of one invoice/purchase order to the small purchase threshold.

Instead, when the aggregate total of all purchase orders over the course of the Fiscal Year meets or exceeds $150,000, the Institution must complete the formal procurement process to obtain the distributor.

This is also true when an Institution purchases its food and non-food items from multiple distributors. Just as in the example above with bread, if the Institution wants to award its business to multiple distributors, then the bid specifications must identify that possibility and to the best extent possible detail the terms this would occur (i.e. loaves of sliced sandwich bread will have one award and hamburger buns will be another award).

In order to assist Institutions in the CACFP in determining which method of procurement to use, formal or informal, a flow chart is attached at **Attachment 1** at the end of this memorandum.

GENERAL PROCUREMENT METHODS

As the flow chart indicates, there are two types of procurement, formal and informal, that all Institutions in the CACFP must use when purchasing food, services, and/or supplies (non-food items). **All procurements must be conducted in a manner providing full and open competition.** The term "**Competitive Procurement**" applies to both formal **and** informal procedures/methods when Institutions seek bids from more than one legitimate source.

Informal and formal procurement must be done to assure compliance with all applicable federal regulations and guidance. A standard of conduct should be identified for all procurements; and procedures must ensure maximum free and open competition.

Note: Noncompetitive negotiation, or sole source procurement, may only occur under specific criteria identified in 7 CFR 226.22 (i)(4) where competition is determined inadequate and infeasible under informal or formal procurement methods. If an Institution believes this type of procurement is applicable to its specific needs, a discussion with MDE is required prior to initiating the procurement.

Formal Procurement procedures are used to purchase food or services when the single transaction cost exceeds the small purchase threshold. Non-school Institutions must use a competitive process by issuing an Invitation for Bid (IFB) or Request for Proposal (RFP) for any procurement over the small purchase threshold. It includes the requirement to publicly advertise and contain reasonable bid specifications.

- Invitation for Bid, also called a sealed bid, is a formal competitive procurement procedure used to publicly solicit bids for securing food, services, and/or supplies that cost more than the small purchase threshold. A firm fixed price contract is awarded to the responsible bidder whose bid conforms to all of the material terms and conditions of the Invitation for Bid **and** is the lowest in price.

- Request for Proposal, also called a competitive proposal, is a procedure conducted where more than one source submits an offer for securing food, services, and/or supplies; that costs more than the small purchase threshold; and where either a fixed price or cost reimbursable contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.

Under both methods, any price adjustments allowed for changes in the base price of a product are validated using standards (Consumer Price Index, Market Basket, etc.) specified in the bid. It should be noted that methods allowing "cost plus a percentage of cost" or "cost plus percentage of income" are not allowed.

Note: For general procurement of food and non-food items under the formal procurement method, Institutions may utilize the IFB document its organization normally uses for the purchase of goods as long as it contains specifications in compliance with the CACFP program. The Institution must include the required elements of a contract as identified in 7 CFR 226.22 (l)(1-7) and (m). Refer to **Attachment 2.**

For the formal procurement of a <u>vended meal contract</u>, please refer to the section of this memorandum entitled "Obtaining Meals from a Non-School Contractor."

Per 7 CFR 3016.36 and 3019.44, upon request, Institutions must submit their pre-award and procurement documents to MDE when (1) the Institution's procurement procedures/operation fails to comply with the federal procurement standards; (2) the procurement is expected to exceed the $150,000; (3) the procurement specifies a brand named product; (4) the contract is going to be awarded to a bidder other than the apparent low bidder under the sealed procurement method of an IFB; (5) or when a proposed contract modification will change the scope of a contract or increases the contract amount by more than $150,000.

Informal Procurement procedures are used when the purchase of food, services, and/or supplies from a supplier (wholesaler, retailer, and/or vendor) for a single transaction is less than the small purchase threshold. The Institution must contact **at least three** known (legitimate) suppliers of the food, services, and/or supplies needed and obtain competitive price quotations. Bid quotes obtained by telephone should be followed up with a written document or communication from the vendor confirming items and prices discussed.

Generally with the informal procurement process, the responsive and responsible bidder with the lowest total price should be selected. If the lowest price of the responsive and responsible bidder is not selected, the organization must submit justification to the State Agency for prior approval. Therefore, Institutions should take care to draft thorough bid specifications to ensure bidders are made aware of all requirements and services that would address responsiveness and responsibility. All information and prices discussed must be documented in the program's procurement files.

Institutions must ensure that all suppliers receive the same information about the food, services, and/or supplies. To the extent possible, a comparison should be made of equivalent food, services, and/or supplies, and all suppliers should be informed of any special need that could affect the price. An example of a special need would be the delivery of the product to a specific building or kitchen.

A sample procurement log and instructions for completing this log are provided to facilitate documentation of purchases using the informal procurement process by the school or non-school Institution. Refer to **Attachments 3 and 4** at the end of this memorandum.

CACFP Institutions that are self-operated (i.e. provide meals themselves) can utilize the **market basket approach** to food and supply purchases when the aggregate total does not exceed $150,000.

MARKET BASKET APPROACH

Institutions must maintain free and open competition when procuring food and non-food items for use in the CACFP. It is necessary to have some method for determining which retailer offers the best quality at the best price.

Wholesale vendors or distributors use a different pricing structure than retail vendors or stores. In order to ensure the best pricing with a wholesale vendor, contract instead of the market basket should be used.

If an Institution purchases from retail stores (i.e. grocery), the best approach for determining where to buy food and supplies is the **market basket**. A market basket is a representative list of items (food and non-food) a center uses in a typical week.
To obtain price quotes using the market basket:

- Make a list of the most frequent foods and non-food items and quantities that the center uses in a typical week,
- Document the prices of the foods and non-food items from retail stores in your community,
- Compare the prices using **line-item** or **bottom-line** method,
- Determine which vendor offers the **lowest** price,
- Make a recommendation to your board/owners to purchase from that retailer.

When compiling the list, you may find it necessary to split the foods and non-food items into several smaller market baskets (i.e. one for frozen foods, one for fresh vegetables, etc.).

In accordance with the requirements of the informal procurement method, Institutions are required to obtain price quotes from **at least three** separate and legitimate retail stores.

Line-item Price Comparison:
When an Institution awards business on a line-item basis, the Institution must look at the lowest price quote for each item purchased. The **unit price** of each item is compared across all three potential retailers. Unit prices are the prices of single items (i.e. the price for one can or one case, etc.)

Example: The unit price for one case of pears from Retailer A is $25.

Bottom-Line Price Comparison:
When an Institution awards business on a bottom-line basis, the Institution looks at all items in a group from the same vendor and then awards to the retailer with the lowest bottom line (total cost of all items at each store). This method is less time consuming than line item, but it is up to the discretion of the Institution.

With the bottom-line method, **extended prices** not unit prices are compared. Extended prices are unit prices multiplied by the quantity of the item a center wants to purchase (i.e. the price for three cans or cases).

Example: The Center will purchase 10 cases of peaches in a year.

The unit price of one case of peaches from Retailer A is $25.

Extended Price = 10 cases of peaches x $25 per case = $250

Refer to **Attachment 3** for more detail on how to award based on line-item award and bottom-line award.

How Often to Complete the Market Basket:
MDE requires that the market basket be done at least annually, but it can be done as many times as necessary to ensure the Institution is getting the best value.

How to Handle Exceptions to the Market Basket Award:
If there are instances where it is necessary to purchase from a retailer other than the one selected from the market basket, the Institution may do so by documenting the reason with the invoice/receipt or on a separate log if the Institution wishes. The note should indicate the employee name, date and justification. For example, "on 10/14/2014, Jane Doe checked the market basket approved store for beets, but there were none available in stock."

PURCHASING MEALS FROM ANOTHER DEPARTMENT WITHIN YOUR OWN 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. This is the case 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 its entire organization's food service, not just the CACFP center, then the Institution is not

required to conduct a separate procurement just for CACFP. However, the Institution **must** ensure that the program requirements of the CACFP for the child care center are included and addressed in the original bid specifications and subsequent contract when procuring its third party provider.

OBTAINING VENDED MEALS FROM AN OUTSIDE ENTITY

Purchasing Meals from a Local School District:
CACFP Institutions that will obtain vended meals from the 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 a Vended Meal Contract, an Institution is **not** required to complete a separate competitive procurement **as long as** the SFA included the requirements for the CACFP Institution in the bid specifications for the FSMC/Vended contract.

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 to establish the relationship.

Institutions may not be aware of what the SFA included in its original FSMC contract procurement documents. SFAs are required to adhere to contract language established that addresses vending agreements. Thus, it is best to discuss the potential agreement with the food service contract staff of MDE to ensure the applicable process to establish the relationship is followed.

Purchasing Meals from a Non-School Contractor:
CACFP Institutions that seek to obtain a non-school contractor (i.e. Vended Meal Company, Caterer, Restaurant, Community Organization, etc.) to deliver ready to eat meals to its centers are required to complete a competitive procurement to establish the contract. A non-school contractor also includes CACFP sponsors who are self-operated for their own meals.

In determining which competitive procurement method to use, formal or informal, the Institution must evaluate the small purchase threshold.

Example: An Institution pays $50,000 per year at three different sites for vended meals. The total aggregate cost of the vended meal contracts for the entire Institution is $150,000.

It would not be permissible for the Institution to only look at the $50,000 it pays at each site and then complete informal procurement. Instead, the Institution would be required to complete the formal procurement method to obtain the vendor.

If the Institution wants multiple vendors to provide service to different locations, the Institution must indicate the contract may be multi-award and under what circumstances it will be awarded as such in its bid specifications.

For Institutions that will have a contract that exceeds the small purchase threshold of $150,000, MDE provides a prototype Invitation for Bid (IFB)/Contract and has detailed instructions available on the procurement process available.

Institutions that will have a contract under the $150,000 small purchase threshold may use whatever contract they normally use for such services, but must indicate bidders must adhere to the program requirements and regulations of the USDA CACFP program.

Per the authority set forth under 7 CFR 226.21, MDE has elected to establish a **pre-review requirement** of all bid documents for the formal **and** the informal procurement processes to obtain a vended meal provider. The benefits of the pre-review requirement are two-fold.

> First, MDE will help ensure bid documents are in compliance with the CACFP program regulations outlined in 7 CFR 226 and the Federal procurement regulations set forth in 7 CFR 3016 and 3019.
>
> Second, during pre-review, MDE can help Institutions develop strong bid specifications that will ensure the Institution receives the type of meals and service they expect (i.e. types of meals, food quality, etc.).

Per 7 CFR 226.21 (a)(7), for all bids that total $50,000 or more, the Institution must submit their selection and procurement documents to MDE for approval **prior to** awarding the final contract. MDE will respond to any request for approval within 10 working days of receipt. MDE will work with the Institution as quickly as possible to ensure the 10 day time frame however, there may be circumstances where additional information/documentation is needed from the Institution before MDE can issue approval.

MDE approval is also required for all bids that are <u>under</u> $50,000 if the Institution has **not** selected the lowest price of the responsive and responsible bidders out of its informal procurement.

<u>WRITTEN CODE OF CONDUCT AND CONFLICTS OF INTEREST IN PROCUREMENT</u>

Per federal regulations, Institutions are required to develop and implement a written code of conduct designed to govern the performance of employees engaged in procurement. The code of conduct should address the following:

> Conflict of Interest: Institutions must ensure that any person involved in the preparation of bid documents, the procurement process including evaluation and selection/award or administration of the contract does not have an organizational, personal or financial interest in the bid award, including familial relationships that have personal or financial interests in the bid award. This extends to any other legal or financial conflict of interest whether it is real or apparent.
>
> Gifts: The code of conduct must inhibit employees from soliciting gifts, travel packages, and other incentives from prospective contractors.

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.

Violations: The code must also provide for disciplinary actions in the event the standards are violated.

CACFP Institutions will be required to submit their procurement code of conduct policy and procedures to the CACFP program staff at the same time as other required policies.

7 CFR 3016.36(b)(3)(i-iv) and 3019.43 and 7 CFR 226.22(d) and CACFP 03-2015

GROUP PURCHASING ORGANIZATIONS AND THIRD PARTY PURCHASING AGENTS

All CACFP Institutions must follow Federal procurement regulations when entering into agreements or membership with entities for goods or services. As a result, Institutions are required to conduct procurement transactions in a manner providing full and open competition in accordance with Federal regulations at 7 CFR 226.21, 226.22, 3016.36 (c)(1) and 3019.43.

Those requirements apply even when an Institution seeks the services of an organization that buys on behalf of other entities in large quantities such as a Group Purchasing Organization. **This is true even when services are offered free of charge.** Competition ensures the best quality product or service at the lowest price.

Note: There are many names for such an organization: Group Purchasing Organization (GPO), Group Buying Service or Organization (GBS or GBO), purchasing cooperative, purchasing consortium, etc.

When an Institution signs up for a *free* membership with a GPO, membership does not relieve the Institution from conducting competitive procurements. There are two different ways this applies:

1. A GPO as an Institution's **procurement agent** also known as a **third party purchasing agent**. A procurement agent is person, company, or agent authorized to conduct the procurement of goods on the Institution's behalf.

   When utilizing the services of a procurement agent for CACFP food service, the Institution would be required to competitively procure the services of a procurement agent. The bid specifications of the procurement should ensure that the third party purchasing agent adheres to Federal procurement requirements when making purchases on the Institution's behalf.

2. If the Institution does <u>not</u> procure the GPO as its third party purchasing agent and is participating in membership for the buying power of the group, the Institution is still required to ensure purchases made from the GPO or its suppliers is done competitively.

In this structure, the Institution may **not** simply rely on the procurement methods of the GPO because the GPO does not act on the Institution's behalf as its third party purchasing agent.

Therefore, the Institution should always seek advice from MDE before agreeing to use any services without conducting a competitive procurement.

CONTACT INFORMATION

General Procurement Questions regarding this memorandum may be directed to the CACFP Unit at 517-373-7391.

For a copy of the prototype vended meal IFB or with questions regarding procurement of vended meal contracts may be directed to the Food Service Contract staff at 517-373-4017.

Attachments: Procurement Procedures Flow Chart
Instructions for Completing Informal Procurement Log/Market Basket
Informal Procurement Log
Contract Provisions

Michigan Department of Education
Office of School Support Services

Attachment 1

Procurement Procedures Flow Chart – CACFP Non-School Institutions

FOOD and/or SERVICES *		SUPPLIES (NON-FOOD ITEMS)	
Non-School Institutions ↓		Non-School Institutions ↓	
If purchase by single transaction is:		If purchase by single transaction is:	
Less than $150,000, use informal method ↓	$150,000 or more, use formal method ↓	Less than $150,000, use informal method ↓	$150,000 or more, use formal method ↓
Determine bid specifications ↓	Determine bid specifications ↓	Determine bid specifications ↓	Determine bid specifications ↓
Contact three (3) known suppliers and document price quotes ↓	Advertise ↓	Contact three (3) known suppliers and document price quotes ↓	Advertise ↓
Complete "Informal Procurement Log" ↓	Issue Invitation For Bid (IFB) ↓	Complete "Informal Procurement Log" ↓	Issue Invitation For Bid (IFB) ↓
Select and notify suppliers according to informal procurement procedures in the agency's policy.	Award contract according to pre-determined criteria	Select and notify suppliers according to informal procurement procedures in the agency's policy.	Award contract according to pre-determined criteria

***For the procurement of a Vended Meal Contract for CACFP, contact the Michigan Department of Education before beginning formal and informal procurement to ensure applicable pre-review requirements are met. If the Institution has its own policies that require a lower small purchase threshold or procurement procedures that extend beyond the scope outlined above, the more restrictive threshold and procedures must be used.**

Attachment 2
Contract Provisions

Contracts should have provisions defining a sound and complete procurement ensuring the maximum open and free competition will be conducted and the following elements where applicable:

1. **Program Regulations:** In all cases, it is recommended that all contracts reference the adherence to the Child and Adult Care Food Program regulations set forth under 7 CFR 226.
2. **Bid Specifications:** In all cases, the contract should include specifications and pertinent attachments that clearly define the items/services needed in order for the bidders to properly respond to the solicitation.
3. **Time to Respond:** In all cases, there should be sufficient time for the bidders to respond to the Invitation for Bid or even informal solicitation of bid quotes. Generally, for formal procurements, anything less than three weeks is not sufficient timing. It is recommended to give at least three to four weeks or more depending on the in-depth nature of the IFB. For informal procurements, less time may be acceptable depending on how in-depth the bid specifications.
4. **Advertisement:** For bids totaling $150,000 or more, the IFB shall be announced publicly at least 14 calendars prior to the bid opening. The announcement shall include the time and place of the bid opening.
5. **Public Bid Opening:** For bids totaling $150,000 or more, all bids shall be publicly opened at the time and place identified in the IFB. Bidders and MDE must be given 14 calendar day notice of the time, date and location of the bid opening.
6. **Bid Award/Rejection:** For bids totaling $150,000 or more, a firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is the lowest. A cost plus percentage is not allowed. Factors such as discounts and transportation costs shall be considered in determining which bid is the lowest. Payment discounts may only be used to determine a low bid when prior experience of the grantee indicates that such discounts are generally taken. Any or all bids may be rejected when there are sound documented business reasons in the best interest of CACFP.
7. **Non-performance:** In all cases, there must be a provision that allows the Sponsor to pursue all administrative, contractual, legal remedies, and to seek all sanctions and penalties as may be appropriate against the Vendor in the event of the Contractor's non-performance under the contract or breach of the contract terms.
8. **Contract Duration:** The duration of an agreement is generally limited to a single year. However, to be consistent in the administration of all Child Nutrition Programs (7 CFR 210.16(d) and SFSP 09-2007), CACFP sponsors with MDE approval, may execute agreements with Contractors that include an option for renewal for all contract types that does not exceed four additional years from the original agreement. MDE may revoke this allowance for any contract if MDE determines the procurement was not conducted in accordance with Federal procurement standards or the integrity of the CACFP is compromised.
9. **Termination:** All contracts in excess of $10,000 shall contain suitable provisions for termination by the Institution including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
10. **Equal Employment Opportunity:** All contracts awarded in excess of $10,000 by institutions and their contractors shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
11. **Work Hours and Safety Standards:** Applicable to all contracts in excess of $2,500 that involve the employment of mechanics or laborers, shall include a provision indicating the Contractor shall comply with section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 330).
12. **Civil Rights:** There shall be a provision indicating the Contractor shall comply with all applicable civil rights laws, as amended, which include but are not limited to: Title VI and Title VII of the Civil Rights Act or 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; 7 CFR Parts 15, 15a, and 15b; the Americans with

Disabilities Act; FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities; the Michigan Elliott-Larsen Civil Rights Act; and the Michigan Persons with Disabilities Civil Rights Act.

13. **Books and Records:** There must be a provision that requires the Sponsor and Contractor to provide any and all books and records of the Contractor pertaining to the CACFP operations to be made available, upon demand, in an easily accessible manner for a period of three (3) years from the end of the contract term (including renewals) to which they pertain, for audit, examination, excerpts, and transcriptions by the SFA and/or any state or federal representatives and auditors, or longer should any audit for that time still be open. If audit findings regarding the Contractor's records have not been resolved within the three (3) year record retention period, the records must be retained beyond the three (3) year period, for as long as required for the resolution of the issues raised by the audit. The Vendor shall not remove state or federal required records from Sponsor premises upon contract termination.
14. **Clean Air and Water:** Contracts in excess of $100,000 shall contain a provision which requires compliance 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 non-exempt Federal contracts.
15. **Energy Efficiency:** Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy efficiency conservation plan issued in compliance with the Energy Policy and Conversation Act (Pub. L. 94-163).
16. **Buy American:** The Institution must ensure the Contractor shall comply with the Buy American provision for contracts that involve the purchase of food products with Federal funds, 7 CFR Part 250.23.
17. **Geographic Preference Option**: Institutions may apply a Geographic Preference when procuring unprocessed locally grown or locally raised agricultural products. The institution has the discretion to determine the local area to which the option will be applied but not in a manner that will inhibit free and open competition. The bid documents must clearly define how the bids will be evaluated with the application of this option. The Institution must ensure that it does not inhibit free and open competition.
18. **Small and Minority Businesses:** Where applicable, Sponsor or Contractor shall take affirmative steps to ensure small and minority businesses are solicited whenever they are potential sources and to use the services and assistance of the Small Business Administration and Minority Business Enterprise of the Department of Commerce as required (7 CFR 226.22(f).

Attachment 3
Instructions for Completing Informal Procurement Log/Market Basket

The Informal Procurement Log is to be used to document all competitive price quotations during the informal procurement procedure. The Institution must contact at least three known suppliers of the food, services, and/or supplies needed and obtain competitive price quotations. All information and prices discussed **should be followed up with a written document or communication from the vendor** and must be documented in program files. **Bid quotes should be obtained in writing.** Institutions must ensure that all potential vendors receive the same information about the food, services, and/or supplies required. Procurement records must be kept for three years after the close of the fiscal year.

Attached to this document is an "Informal Procurement Log" that may be used or may guide you in developing your own form and in utilizing the **Market Basket Approach**. Below is a sample of how this form can be used.

Items to be Purchased	Quantity Expected to Buy	Vendor #1: XYZ Company		Vendor #2: ABC Company		Vendor #3: LMN Company	
		Unit Price	Extended Price (Quantity x Unit Price)	Unit Price	Extended Price (Quantity x Unit Price)	Unit Price	Extended Price (Quantity x Unit Price)
Peaches, diced 6/10 cans	25 cs	$20.19	$504.75	$18.87	$471.75	$22.40	$560.00
Pears, sliced 6/10 cans	10 cs	$20.94	$209.40	$23.01	$230.10	$23.26	$232.60
Pineapple, chunks 6/10 cans	15 cs	$25.98	$389.70	$28.03	$420.45	$24.89	$373.35
	Total		$1,103.85		$1,122.30		$1,165.95
Vendor Selected		☐		☑		☐	
Date and Method of Contact		September 27 Faxed in price quotes (Quote sheets must be attached)		September 28 Price given per phone. Will confirm in writing		September 28 Visited store and obtained prices. (Price sheets must be attached)	
Additional Notes:		Best price but will need to drive 15 miles to pick up product. Estimate that this will raise costs by 10%, making this a more costly alternative than Vendor #2		Slightly higher price, but 5 minute drives from site.			
Signature of Person Completing the Form:				Date:			

Line-Item Award: This example does not select on the basis of line-item. However, if it did, for peaches, Vendor 2 represents the lowest price. For pears Vendor 1 has the lowest price. For pineapple, Vendor 3 should be selected with the lowest unit price (and subsequently extended price).

Bottom-Line Award: The total of the extended prices is evaluated under this method of award. In this example, Vendor 1 had the lowest total of all of the items on the list. However, you will note that if there are other factors that contribute to the cost, another Vendor may be identified, but it must be documented.

The CACFP has authorized its Institutions to utilize the **market basket approach** to purchase food and supplies under the informal procurement method. Using the market basket, Institutions are to consider the items they routinely purchase in a given month. It is recommended to consider the menu for the month and the supplies that will be used in the food service (i.e. napkins, plates, etc.) and to compile the list of items accordingly. It is an option for an Institution to have more than one market basket list of items. For example, if the Institution wishes to have one for dry goods, one for fruits and vegetables, and one for frozen foods. The market basket approach is a method of procuring food and supplies, but not services. To informally procure services, the informal procurement log may be utilized to document the process of obtaining bid quotes.

Attachment 4

INFORMAL PROCUREMENT LOG

Items to be Purchased	Quantity Expected to Buy	Vendor #1		Vendor #2		Vendor #3	
		Unit Price	Extended Price (Quantity x Unit Price)	Unit Price	Extended Price (Quantity x Unit Price)	Unit Price	Extended Price (Quantity x Unit Price)
TOTAL			$		$		$
Vendor Selected		☐		☐		☐	
Date and Method of Contact							
Additional Notes:							
Signature of person completing this form:						Date:	