



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

MICHAEL P. FLANAGAN
STATE SUPERINTENDENT

FOOD SERVICE

ADMINISTRATIVE POLICY NO. 10 SCHOOL YEAR (SY) 2014-2015

SUBJECT: Guidance on Procurement Procedures for United States Department of Agriculture (USDA) Child Nutrition Programs

DATE: October 3, 2014 **Replaces Previous Version of Administrative Policy No. 6 SY 2013-2014**

As a result of recent United States Department of Agriculture (USDA) memoranda and recent legislation passed in Michigan, procurement procedures have been modified. The purpose of this memorandum is to (1) describe the required threshold for the purchase of **food, services, and/or supplies** (non-food items) used in USDA Child Nutrition Programs and funded by a non-profit food service account, and (2) provide specific guidelines and procurement methods (formal and informal) applicable to all participants in the Child Nutrition Programs for the purchase of food, services, and/or supplies.

FOOD and/or SERVICES

Non-public schools and **non-school institutions**¹ in the Child Nutrition programs are required to obtain competitive bids (formal purchase method defined later in this guidance) for procuring **food and/or services** purchased in a single transaction² if the purchase is **\$150,000** or more. This is referred to as the small purchase threshold. However, a school's board of education or an institution's board of directors can set small purchase thresholds lower than \$150,000 for food and/or services. Participants must use a lower, more restrictive threshold if their respective organizational thresholds are set at a lower amount as indicated in the agencies' adopted policies. All participants in the Child Nutrition Programs must have policies in place regarding procurement, and all transactions must be conducted as outlined in these policies.

Participants in the Child Nutrition Programs including **public schools, public school academies, and intermediate school districts** are required to obtain competitive bids

¹ Non-school institutions are non-profit and for-profit institutions, local government agencies, and community service agencies.

² Single transaction may refer to different situations. See the "Small Purchase Threshold and Single Transactions" section of this memo.

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(formal purchase method defined later in this guidance) for procuring **food** purchased in a single transaction³ if the purchase is **\$100,000** or more (M.C.L. 380.623a and 380.1274). Participants in the Child Nutrition Programs including **public schools, public school academies, and intermediate school districts** are required to obtain competitive bids (formal purchase method defined later in this guidance) for procuring **services (relating to the food service program)** purchased in a single transaction if the purchase is **\$150,000** or more. This is referred to as the small purchase threshold.

However, a school's board of education or an institution's board of directors can set small purchase thresholds lower than \$100,000 for food and \$150,000 for services. Participants must use a lower, more restrictive threshold if their respective organizational thresholds are set at a lower amount as indicated in the agencies' adopted policies. All participants in the Child Nutrition Programs must have policies in place regarding procurement, and all transactions must be conducted as outlined in these policies.

SUPPLIES (non-food items)

In addition, **non-public schools** and **non-school institutions** are required to obtain competitive bids for procuring **supplies (non-food items)** purchased in a single transaction if the purchase is **\$150,000** or more. However, school boards or boards of directors can set thresholds lower than \$150,000 for supplies and the lower threshold must be used.

The small purchase threshold for the purchase of **supplies (non-food items)** is lower for **public schools, public school academies, and intermediate school districts**. Schools are required to obtain competitive bids for purchasing **supplies (non-food items)** purchased in a single transaction if the purchase is **\$23,126** or more. However, school boards can set thresholds lower than \$23,126 for supplies. The lower threshold must be used in these situations. This base amount, or threshold, is for the **2014-2015 Fiscal Year**. It is set by Michigan legislation and is adjusted annually. The Michigan Department of Education communicates changes to this base amount on an annual basis to all affected schools.

In order to assist participants in the Child Nutrition Programs in determining which method of procurement, formal or informal, to use, a flow chart is attached. The chart is divided into two sections: one for **Public Schools, Public School Academies, and Intermediate School Districts** and then one for **Non-Public Schools and Non-School Institutions**.

SMALL PURCHASE THRESHOLD AND SINGLE TRANSACTIONS

When determining how the small purchase threshold applies, it is **not** permissible for the institution to split a purchase into smaller units or subgroups for the purpose of avoiding the formal procurement process.

For example, if a participant (in this case a non-public school institution) purchases \$150,000 of bread, the participant 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

³ Single transaction may refer to different situations. See the "Small Purchase Threshold and Single Transactions" section of this memo.

to say the participant must use a single supplier for bread. If the participant wants two different types of bread, the appropriate method would be to complete the formal procurement process but in the bid specifications indicate it may be a multi-award contract based on the two different types of bread. The key here is that the formal procurement process is conducted because the amount the participant pays for bread in aggregate over the course of the year will be \$150,000.

Another example is if a participant pays over \$150,000 for vended meal contracts to multiple sites. It would not be permissible for the participant to only look at the \$50,000 it pays at each of the three sites and then do informal procurement for each site. Instead, the participant must total the cost of the vended meals at all three sites to establish an aggregate total cost and apply that to the small purchase threshold. If the aggregate total meets or exceeds \$150,000 then the formal procurement method is required. If the participant wants multiple vendors to provide service to different locations, then the participant can *formally* procure a contract but indicate in the bid specifications that it will be a multi-award contract based on a specific identifier.

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
- The aggregate total of all purchase orders for a specific item or group of items from multiple suppliers

PROCUREMENT PROCESS

As the flow chart indicates, there are two types of procurement methods that all participants in the Child Nutrition Programs must use when purchasing food, services, and/or supplies (non-food items): formal or informal.

Formal Procurement procedures are used to purchase food or services when the single transaction cost exceeds the small purchase threshold. Schools and non-school institutions must use a competitive process by issuing an Invitation for Bid (IFB) or a Request for Proposal (RFP) for any procurement over the small purchase threshold. Both must be formally advertised 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. Price and non-price criteria may be used to determine award with price assigned with at least 51% weight.

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 school and non-school institution must contact at least three known 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. **Bid quotes should be obtained in writing.**

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, school and non-school 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.

Schools and non-school 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 attachment – Instructions for Completing Informal Procurement Log.)

Participants of the **Child and Adult Care Food Program (CACFP)** have been informed by the program area that they can utilize the market basket approach to food and supply purchases when the aggregate total does not exceed \$150,000. Refer to Fiscal Year 2015 CACFP Operational Memorandum #3 on procurement for additional guidance.

All Competitive Procurement procedures, be it Informal and formal, must be done to assure compliance with all applicable federal regulations and guidance, including:

- A standard of conduct.
- Open and full competition.
- Equal employment opportunity.
- 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.
- Procedures are properly documented and all documentation is kept for three years after the close of the fiscal year or as long as there are unresolved audit findings or investigations related to those records.

- Bid specifications do not limit supplier companies' operation or structure based on geographic preference. However, the purchase of unprocessed, locally grown and locally raised agricultural products is exempt from the geographic preference requirement.
- Any person that develops specifications, requirements, statements of work, invitations for bid, requests for proposals, contract terms and conditions, or other documents is excluded from competing for contract awards resulting from that procurement.

Participants in the National School Lunch Program, the Child and Adult Care Food Program, or the Summer Food Service Program that wish to obtain a food service management or vended meal contract must contact MDE for the prototype contracts and to satisfy pre-review requirements prior to starting a competitive procurement process.

Questions regarding this memo may be directed to 517-373-8642.

Attachments: Procurement Procedures Flow Charts
Instructions for Completing Informal Procurement Log
Informal Procurement Log

Michigan Department of Education
 Office of School Support Services

Procurement Procedures Flow Chart – Public School Districts, Academies and ISDs

SERVICES *		FOOD		SUPPLIES (NON-FOOD ITEMS)	
Public Schools, Public School Academies, Intermediate School Districts		Public Schools, Public School Academies, Intermediate School Districts		Public Schools, Public School Academies, Intermediate School Districts	
↓		↓		↓	
If purchase by single transaction is:		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 \$100,000, use informal method	\$100,000 or more, use formal method	Less than \$23,126, use informal method	\$23,126 or more, use formal method
↓	↓	↓	↓	↓	↓
Contact three (3) known suppliers and document price quotes	Determine bid specifications	Contact three (3) known suppliers and document price quotes	Determine bid specifications	Contact three (3) known suppliers and document price quotes	Determine bid specifications
↓	↓	↓	↓	↓	↓
Complete "Informal Procurement Log"	Advertise	Complete "Informal Procurement Log"	Advertise	Complete "Informal Procurement Log"	Advertise
↓	↓	↓	↓	↓	↓
Select and notify suppliers according to informal procurement procedures in the agency's policy.	Issue Invitation For Bid (IFB) or Request For Proposal (RFP)	Select and notify suppliers according to informal procurement procedures in the agency's policy	Issue Invitation For Bid (IFB) or Request For Proposal (RFP)	Select and notify suppliers according to informal procurement procedures in the agency's policy	Issue Invitation For Bid (IFB) or Request For Proposal (RFP)
↓	↓	↓	↓	↓	↓
Award contract according to pre-determined criteria	Award contract according to pre-determined criteria	Award contract according to pre-determined criteria	Award contract according to pre-determined criteria	Award contract according to pre-determined criteria	Award contract according to pre-determined criteria

*For the procurement of a food service management company or vended meal contracts in NSLP, CACFP, or SFSP, School Food Authorities are required to notify Michigan Department of Education before beginning formal and informal procurement, to obtain prior written approval before issuing Request for Proposal or Request for Quotation, and prior to executing final contracts.



Michigan Department of Education
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Procurement Procedures Flow Chart – Non-Public School and Non-School Institutions

FOOD and/or SERVICES *		SUPPLIES (NON-FOOD ITEMS)	
Non-Public Schools and Non-School Institutions		Non-Public Schools and 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
↓	↓	↓	↓
Contact three (3) known suppliers and document price quotes	Determine bid specifications	Contact three (3) known suppliers and document price quotes	Determine bid specifications
↓	↓	↓	↓
Complete "Informal Procurement Log"	Advertise	Complete "Informal Procurement Log"	Advertise
↓	↓	↓	↓
Select and notify suppliers according to informal procurement procedures in the agency's policy.	Issue Invitation For Bid (IFB) or Request For Proposal (RFP)	Select and notify suppliers according to informal procurement procedures in the agency's policy	Issue Invitation For Bid (IFB) or Request For Proposal (RFP)
↓	↓	↓	↓
	Award contract according to pre-determined criteria		Award contract according to pre-determined criteria

*For the procurement of a food service management company or vended meal contracts for NSLP, CACFP, or SFSP, Non-School Institutions are required to notify Michigan Department of Education before beginning formal and informal procurement, to obtain prior written approval before issuing the Invitation for Bid or Informal Quote Request, and prior to executing final contracts.

Instructions for Completing Informal Procurement Log

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. **It is not permissible for the institution to split a purchase into smaller units or subgroups for the purpose of avoiding the formal procurement process (see example above).** 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. 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		<input type="checkbox"/>		<input checked="" type="checkbox"/>		<input type="checkbox"/>	
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 this form:
Ima
Sam
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Date:
09/30
/14

Although this example only compares three items, school and non-school institutions are expected to compare all the food, services, and/or supplies, they plan to purchase. Participants of Child Nutrition Programs that allow the market basket approach to purchase food and supplies may refer to the applicable program's individual policy memo on procurement.

