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**FISCAL YEAR 2009
CHILD AND ADULT CARE FOOD PROGRAM
OPERATIONAL MEMORANDUM #5**

TO: Child and Adult Care Food Program Institutions

FROM: Mary Ann Chartrand, Director
Grants Coordination and School Support

DATE: May 5, 2009

SUBJECT: Guidance on Procurement Procedures for U.S. Department of Agriculture (USDA) Child Nutrition Programs

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.

All participants in the Child Nutrition Programs, including public schools, public school academies, intermediate school districts, non-public schools, and non-school institutions¹ 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 \$100,000 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/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.

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 \$100,000 or more. However, school boards or boards of directors can set thresholds lower than \$100,000 for supplies and the lower threshold must be used.

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

² Single transaction is a single purchase order or contract.

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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 \$20,959 or more. However, school boards can set thresholds lower than \$20,959 for supplies. The lower threshold must be used in these situations. This base amount, or threshold, is for the 2008-2009 school 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 the purchase of **Food and/or Services**, and one for the purchase of **Supplies (Non-Food Items)**. Note that all participants follow the same thresholds for **Food and/or Services**. However, thresholds for **Supplies (Non-Food Items)** vary by type of organization.

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 with 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.

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. The negotiation of prices and terms with one or more of the suppliers contacted is permitted. All information and prices discussed, whether by telephone or in writing, 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.)

Informal and formal procurement 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, effective October 1, 2008, 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.

Questions regarding this memo may be directed to 517-373-7391.

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

Procurement Procedures Flow Chart

FOOD and/or SERVICES		SUPPLIES (NON-FOOD ITEMS)			
Public Schools, Public School Academies, Intermediate School Districts, Non-Public Schools, and Non-School Institutions ↓		Non-Public Schools and Non-School Institutions ↓		Public Schools, Public School Academies, and Intermediate School Districts ↓	
If purchase by single transaction is:		If purchase by single transaction is:		If purchase by single transaction is:	
Less than \$100,000, use informal method ↓	\$100,000 or more, use formal method ↓	Less than \$100,000, use informal method ↓	\$100,000 or more, use formal method ↓	Less than \$20,959, use informal method ↓	\$20,959 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

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. The negotiation of prices and terms with one or more of the suppliers contacted is permitted. All information and prices discussed, whether by telephone or in writing, should be documented in program files. 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.** 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		May 8 Faxed in price quotes (Quote sheets must be attached)		May 11 Price given per phone. Will confirm in writing		May 11 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 drive from site.			
Signature of person completing this form: <i>Ima Sample</i>				Date: <i>4/27/09</i>			

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.

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		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
Date and Method of Contact							
Additional Notes:							
Signature of person completing this form:						Date:	