



Georgia Department of Early Care and Learning

2 Martin Luther King Jr. Drive, SE, Suite 754, East Tower, Atlanta, GA 30334
(404) 656-5957

Nathan Deal
Governor

Amy M. Jacobs
Commissioner

MEMORANDUM

To: All Institutions and Sponsors Participating in the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP)

From: Falita S. Flowers, Nutrition Services Director (*Original Signed*)

Date: September 1, 2016

Subject: Standards for Development of Procurement Policy Consistent with CACFP and SFSP Federal Requirements (revised)

Legal Authority: 7 CFR Parts 225, 226, and 2 CFR Part 200

In December 2014, States were notified of newly organized procurement standards for Child Nutrition Program use under Super Circular 2 C.F.R. §200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl, formerly, 7 CFR Part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. This memorandum provides general guidance on procurement standards for the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP) under this provision and the procurement standards outlined in 7 C.F.R. §226 and §225. Additionally, this guidance supersedes DECAL policy memoranda, *Small Purchase Threshold*, August 14, 2008 and *Standards for Development of Procurement Policy Consistent with CACFP and SFSP Federal Requirements*, October 1, 2015. Revisions to this document are highlighted in yellow.

Procurement (or purchase acquisition) means the act of purchasing goods or services. When acquiring goods or services for the CACFP and/or SFSP, Federal law has specific guidelines and standards in place to ensure: (a) free and open competition among responsive and responsible vendors; (b) receive an overall better price for the value of the good and/or service; and (c) maintain program integrity and ethical standards while using Federal funds. Therefore, CACFP institutions and SFSP sponsors are required to follow general procurement standards when purchasing goods or services for their programs [2 CFR §200.318]. Institutions and sponsors must:

- Comply with Federal regulations 7 CFR 225.15, 7 CFR 225.17 (for SFSP) and 226.22 (for CACFP) and therefore must also conduct all procurements in accordance with these regulations and 2 CFR Part 200.317-326, formerly 7 CFR Part 3019 as noted above. These procurement

standards must be followed regardless of dollar amount, meals served, or frequency of purchases;

- Use its own written procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards;**
- Maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders;
- Maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.
- Avoid acquisition of unnecessary or duplicative items;
- Consider and is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services;
- Consider and is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs;
- Award contracts only to **responsive and responsible vendors, suppliers, or contractors** possessing the ability to perform successfully under the terms and conditions of a proposed procurement;
- Maintain sufficient records to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price;
- If deemed that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk, then consider using a time and materials type contract.** Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:
 - (i) The actual cost of materials; and
 - (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit;
- Assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls; and
- Always use and be responsible for good administrative practice and sound judgment,** for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.

When planning and executing purchases for the Program(s), there are seven (7) essential steps institutions and sponsors must follow to ensure an acceptable procurement process which includes:

1. Forecasting:

- Identify the specific good/service.
- Outline important dates to receive good/service.
- Develop cost analysis from previous years to project upcoming spend.

- **Research!** Can a local School Food Authority (SFA), governmental entity, or General Services Administration (GSA) federal contract be used to provide the same goods/services?

2. Selecting the proper procurement method:

- Address market and budget constraints.
- Is the total purchase under or over threshold limit? Identify appropriate procurement method.
 - **Informal:** Less than \$3,500 is a Micro-purchase.
 - **Informal:** More than \$3,500 but less than \$150,000 is a Small purchase (requires a minimum of two (2) quotes from qualified sources, three quotes (3) are preferred)
 - **Formal:** More than \$150,000 –use the following Invitation for Bid (IFB) or Request for Proposal (RFP). Templates are available on DECAL website.

3. Developing a solicitation:

- Develop detailed specifications and identify instructions for bidders, i.e. are meals unitized, separated, milk packaged along with meal or separate?
- Organize proper documentation. Below are questions and suggestions your institution should address:
 - Who is the issuing officer?
 - How are responses submitted? How long will solicitation be open? Identify the due date and time to submit responses.
 - Include conflict of interest clause in solicitation.
 - Are food samples being requested?
 - Request bidder qualification requirements. This includes business history, licenses, certifications, and/or resumes.
 - Utilize geographic preference as a bidding parameter.
 - Include Surety, Performance, and/or Bid bond requirements.
 - Include submission of immigration and security compliance and/or health inspections from Food Service Management Companies and Vendors.
 - Identify technical and performance requirements.
 - Encourage small business, women, and minority suppliers to participate (7 CFR 225.17 (d), 3016, and 3019).

4. Advertising the solicitation:

- Public advertisement must be posted for (14) calendar days before the bid opening date.
- Email, newspaper ads, websites, flyers, etc. can be used.
- Make sure to enforce restriction of communication between institution staff and potential bidders. All questions shall be addressed to issuing officer.
- Schedule mandatory or non-mandatory pre-bid meetings/conferences to openly discuss bid requirements, and issue addenda if needed.
- Send solicitation to DECAL's Procurement and Purchasing Compliance Officer for review and approval.

5. Evaluating proposals/offers:

- When bid packages are received, it's the best practice to time and date-stamp each one.
- DECAL approves selection based on institution's administrative review (7 CFR 225.6 (h) (6)).
- Consider having an odd number of people to evaluate bids (reduces risk of tie).

6. Awarding the Contract:

- Ensure a protest process is in place and instruct bidders of process.
- Publicly announce award to bidders.
- Awarded bidder completes agreement to furnish food (appendix C) contract provided by institution. Institution returns copy of signed agreement to DECAL.

7. Managing the Contract

- Follow up with vendor/supplier on a quarterly or yearly basis to ensure contract requirements are being followed.

To assist CACFP institutions and SFSP sponsors with fulfilling the written procurement procedures requirement, attached is a template for institutions/sponsors' use as a checklist when developing procedures. The document is a sample and is not intended to be all inclusive; however, the document does provide the **minimum requirements** for planning and executing an acceptable procurement process and represents the institution/sponsor's procurement policy for the specific good and/or service. Institutions and sponsors are ultimately responsible for ensuring their written procedures comply with all Federal Regulations, State Procurement Code and Regulations and local procurement policies.

RESOURCES

In addition to the contents in this memorandum and the attached checklist, institutions and sponsors must follow Bright from the Start: Georgia Department of Early Care and Learning's (DECAL) **Procurement Guidance Manual**, 7 C.F.R. §§ 225.15, 225.17, 7 C.F.R. §226.22, and 2 C.F.R. §200 for complete guidance on procurement standards and requirements under the CACFP and SFSP. DECAL sponsored trainings can also be most useful when understanding the procurement process. Please occasionally refer to the decal website for upcoming training dates and/or information at <http://www.decal.ga.gov/Nutrition/NutritionServicesMain.aspx>.

Additional resources and their accessible links include the following:

DECAL Procurement Guidance Manual

<http://www.decal.ga.gov/documents/attachments/ProcurementManual.pdf>

Procurement Templates

<http://decal.ga.gov/documents/attachments/InvitforBid-Cont.pdf>

<http://decal.ga.gov/documents/attachments/InvitforBidCACFP-ContVendors.pdf>

http://decal.ga.gov/documents/attachments/InvitforBidSFSP_FSMC.pdf

<http://decal.ga.gov/documents/attachments/InvitforBidSFSPContVendors.pdf>

Attachment R – Procurement Checklist

<http://www.decal.ga.gov/documents/attachments/ProcurementPlanPrototype.pdf>

DECAL Advertisement Checklist

<http://www.decal.ga.gov/documents/attachments/ADChecklist.pdf>

Child and Adult Care Food Program Regulations

<http://decal.ga.gov/documents/attachments/CACFPRegulations7CFR226.pdf>

Food Service Program Regulations

<http://www.decal.ga.gov/documents/attachments/SFSPRegulations7CFR225.pdf>

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

DECAL Policy Memorandum, “*Written Codes of Conduct and Performance of Employees Engaged in Award and Administration of Contracts (revised)*”. October 1, 2015.

<http://dec.al.ga.gov/documents/attachments/WrittenCodesofConductandPerformanceofEmployees.pdf>

UDSA Policy Memorandum, “Procurement Geographic Preference Q&As - Part II”

<http://www.fns.usda.gov/sites/default/files/SP03-2013os.pdf>

For questions or assistance concerning procurement, please contact the Procurement and Purchasing Compliance Officer at 404-656-2472.



Georgia Department of Early Care and Learning

2 Martin Luther King Jr. Drive, SE, Suite 754, East Tower, Atlanta, GA 30334
(404) 656-5957

Nathan Deal
Governor

Amy M. Jacobs
Commissioner

**WRITTEN PROCUREMENT PROCEDURES CHECKLIST for the
CHILD AND ADULT CARE FOOD PROGRAM (CACFP) and SUMMER FOOD SERVICE PROGRAM (SFSP)**

Name of Institution

Agreement Number

The procurement procedures checklist contained on the following pages _____ through _____ will be implemented on _____ from that date forward until amended. All purchase acquisitions must adhere to free and open competition. Source documentation must be available to determine open competition, the reasonableness, the allowability and the allocation of costs.

Signature of Principal

Date

Organization

Signature of Board Chair (when applicable)

Date

Organization

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, audiotope, 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 requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
Fax: (202) 690-7442; or
Email: program.intake@usda.gov.
This institution is an equal opportunity provider.

General Description of Purchase Acquisition

Select the proposed vendor/acquisition type. If more than one is selected, please determine procurement method for each located on Page 3. Then complete separate checklist per purchase acquisition.

- _____ Independent Vendor/Supplier (Submit a copy of agreement to furnish food CACFP or SFSP to DECAL)
- _____ Food Service Management Company
(Submit a copy of agreement to furnish food CACFP or SFSP to DECAL)
- _____ **School System/School Food Authority (Complete Section I)**
- _____ National Vendor (applies to multi-state sponsors)
- _____ Government/University System
- _____ Military/National Defense
- _____ Combination of above (specify): _____

Section I – Answer each question as applicable.

If School Food Authority, 1) submit a copy of the Agreement to Furnish Food -Appendix C; 2) sign and date on page 2 of this checklist. You do not have to complete the remaining Sections or Steps.

- 1) Was the organization required to conduct a formal procurement last year?
 - YES If yes, answer #3.
 - NO If no, complete the Step-by-Step Checklist in Section II below as it applies to your organization and the procurement process that was actually conducted. Do not proceed to question 3.
- 2) Is the contract for the upcoming year essentially the same as last year's contract and the contract being renewed?
 - YES If yes, sign and date page 2 of the checklist, attach a copy of the renewal contract and submit with the application.
 - NO If no, a new procurement is needed. Proceed to Section II and complete the checklist based on the new procurement that was conducted

Section II

Refer to the Procurement Manual and Use the STEP-BY-STEP guide (beginning on page 6) to work through the procurement process and complete the steps based on how the procurement was conducted.

Step 1: Check below the type of Institution that is purchasing services/meals from prospective vendors.

- Public School
- Public Institutions (local governments)
- Private Non-profit Organization
- Private For-profit Organization

Step 2: Find your type of institution, refer to column 5 of the Step-by-Step Guide (page 4 of Procurement Manual), then check below the procurement codes that were be used to when conducting the procurement.

Public School

- State procurement codes
- Local procurement codes

***If using local procurement codes, submit a copy of the procurement guidelines with the contract.**

Public Institution

- State procurement codes
- Local procurement codes*

***If using local procurement codes, submit a copy of the procurement guidelines with the agreement/contract.**

Private Non-profit Organization

- Federal procurement codes
- Institutions procurement codes*

***If using the institution’s procurement codes, submit a copy of the procurement guidelines with the agreement/contract.**

Private For-profit Organization

- Federal procurement codes
- Institutions procurement codes*

***If using the institution’s procurement codes, submit a copy of the procurement guidelines with the agreement/contract.**

Step 3: Indicate the aggregate (total) amount of goods/services to be purchased for the upcoming contract year. Refer to the Step-by-Step Guide for information on how to determine the aggregate amount of the contract.

Price per Meal	Meal Type	X	# Meals Needed Per Day *	X	# of Operating Days for Contract Period **	=	Estimated Total Cost of Food Service Contract
\$	Breakfast	X		X		=	\$
\$	AM Snack	X		X		=	\$
\$	Lunch	X		X		=	\$
\$	PM Snack	X		X		=	\$
\$	Supper	X		X		=	\$
\$	Evening Snack	X		X		=	\$
					Total Estimated Cost of Food Service for Contract Period***		\$

If the number of meals varies per day, submit documentation to indicate how the organization estimated the number of meals needed for the contract period and determined the total contract price. The contract period should not extend beyond one year. Therefore, the number of operating days should equal the total number for the year. If contract price is below Small Purchase threshold, an Agreement can be signed. Otherwise formal procurement must be conducted.

Step 4: Check your type of institution. Write in the small purchase threshold of the codes being used. If the Total Estimated Cost of Food Service amount in Step 3 is larger than the small purchase threshold, formal procurement is required. Check the type of procurement conducted.

Public School- State/local small threshold is \$_____.

- Formal procurement –If formal procurement must be done
- Informal (Small Purchase) procurement

Public Institution- State/local small threshold is \$_____.

- Formal procurement
- Informal (Small Purchase) procurement

Private Non-profit Organization- Federal small purchase threshold is \$150,000.

Institution's own small purchase threshold is \$_____.

- Formal procurement (required if contract is greater than \$150,000)
- Informal (Small Purchase) procurement (required if contract is less than \$150,000)

If an informal procurement can be used, do not proceed to Step 5. The institution may use the Agreement to Furnish Food-Appendix C provided by Bright from the Start with the prospective vendor. Submit the Agreement with this checklist.

Step 5: If formal procurement was necessary, indicate the method that was used.

- Sealed Bid – **Must use Bright from the Start's prototype Invitation for Bid or Request for Proposal unless waiver granted by State Agency**
- Other: _____ (Must have prior approval from State Agency and or USDA.)

- I certify that the organization has made every effort in good faith to conduct a procurement process in compliance with the applicable regulations and will maintain all documentation of the procurement process.

Signature of Authorized Official

Date

Disclaimer: This document is a sample and is not intended to be all inclusive. Institutions and sponsors are ultimately responsible to ensure that when exercising procurement (purchase acquisition), all Federal Regulations, State Procurement Code and Regulations and local procurement policies are applied and the process meets Bright from the Start: Georgia Department of Early Care and Learning's (DECAL) approval.

I. DETERMINING WHICH PROCUREMENT METHOD TO USE

Institution/Sponsor must check the procurement method below based on the acquisition selected on Page 2

Formal Procurement

Purchases at or above the simplified acquisition threshold of \$150,000.00 require full and open competition and/or outside of full and open competition methods that are consistent with 2 C.F.R. §200.319, 7 C.F.R. §§ 225.15, 225.17 and 7 C.F.R. 226.22. The goal of full and open competition is to ensure objective contractor performance, transparency, and eliminate unfair competitive advantage. Due to the potential for purchases beyond \$150,000.00, it will be the responsibility of (Title of person/position) to document the amounts to be purchased so the correct method of procurement will be followed. The following summarizes formal procurement methods. The **institution/sponsor will use the formal procurement method selected:**

 Sealed Bid (Formal Advertising): Invitation for Bid (IFB)

Sealed bids are a competitive procurement method used when the best value is expected to result from a selection of the lowest evaluated price offer. The bids are specific, are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded. This procurement method relies on a solicitation document called an Invitation for Bids (IFB). A detailed checklist for completing the IFB process can be found in Section II, A, 1.

 Competitive Negotiation/ Request for Proposal (RFP)-CACFP ONLY

A Competitive Negotiation or Request for Proposal (RFP) is a competitive negotiation procurement method used when the best value is expected to result from selection of technically acceptable proposals and when cost is the primary consideration while evaluation criteria are specified in the solicitation (i.e. delivery, packaging requirements, etc.). RFP's are requested from a number of sources and is publicized.

Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. The proposals shall be solicited from an adequate number of qualified bidders to permit reasonable competition consistent with the nature and requirements of the procurement. The institution shall provide a scoring method for technical evaluation of the proposal received, determinations of responsible bidders for the purpose of written or oral discussions, and selection for contract award. The award may be made to the responsible bidder whose proposal will be most advantageous to the Institution. Unsuccessful offerors must be notified promptly. **A competitive proposal is not a required procurement method in the SFSP.** A detailed guide on the RFP process can be found: <http://www.theicn.org/ResourceOverview.aspx?ID=70> (Page 21)

 Non-Competitive Proposals (Sole Source)- With Approval from USDA

Procurement by a noncompetitive proposal is procurement through solicitation of a proposal from only one source, or a sole source, thus limiting full an open completion. Sole source procurement requires prior

written approval by the United States Department of Agriculture (USDA) Food and Nutrition Services Regional Office (FNSRO).

Noncompetitive proposals may be used only when one or more of the following circumstances apply:

- The item is available only from a single source, meaning only one responsible source is available and no other supplies or services will satisfy the solicitors requirements;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- USDA or DECAL expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity;
- For National security purposes or public interest; or
- After solicitation of a number of sources, competition is determined inadequate.

A detailed checklist for completing the non-competitive proposal process can be found on <http://www.theicn.org/ResourceOverview.aspx?ID=70> (Page 30)

Informal Procurement

Purchases below \$150,000.00 require micro purchases or small purchase procurement methods. When using these methods, institutions and sponsors must obtain at least two written quotes (recommended three quotes) from qualified sources and must maintain the documentation in accordance with DECAL's CACFP and/or SFSP recordkeeping policies. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable. Note: Although not required, institutions and sponsors may use formal procurement methods for small purchases as a preference. **The institution/sponsor will use the informal procurement method selected below.**

Micro Purchase

Procurement by micro-purchase, a subset of the small purchase method, is the purchase of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold of \$3,500.00. Aggregate must be defined in terms of quarterly, annual, or etc. spend in a period of time. This must be stated in the purchasing policy prior to conducting the purchase.

Micro purchases are defined as transactions or costs in the aggregate of supplies or services that do not exceed the micro purchase threshold of \$3,500. Micro-purchase procedures are used in order to expedite the completion of the lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. Purchases must, to the extent practicable, be equitably distributed among qualified suppliers and purchases shall not be split (in the same categorized grouping) to avoid the requirements for competition above their respective thresholds.

A detailed checklist for both the small and micro-purchase procurement processes can be found on Bright from the Start (BFTS) Procurement Manual.

Small Purchase (Simplified Acquisition Threshold)

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods [2 C.F.R. §200.88]. The small purchase threshold remains at \$150,000 for all Child Nutrition Programs. This means institutions and sponsors must use formal

procurement methods to procure anything that costs more than \$150,000.00. State and local agencies may set a lower small purchase threshold and thereby impose more restrictive procurement methods as authorized in 7 C.F.R., §226.22(c)(1) (SFSP) and 7 C.F.R., §225.17(c) (CACFP). If this is the case, State and local procurement requirements would apply thereby superseding the Federal threshold.

The small purchase threshold applies to the same vendor during a one-year period. For example, if a school plans to purchase \$150,000.00 or more worth of products in one year from the same vendor, the institution or sponsor must use the formal procurement method. Institutions and sponsors are prohibited from arbitrarily splitting purchases, whether the purchase is coming from the same vendor or not, if the only justification is to keep the price below the small-purchase threshold.

II. DEVELOPING THE SOLICITATION TO EXECUTING THE AWARD

A. Using Formal Procurement

1. Invitation for Bid (IFB) or Competitive Proposal (Request for Proposals)

When a formal procurement method is required, the institution/sponsor will apply the following Invitation for Bid (IFB), or Competitive Negotiation (Request for Proposals) procedures:

- Prepare the solicitation, **Invitation for Bid (IFB) or a Request for Proposal (RFP).**
- An advertisement is required for all purchases over the small purchase threshold of (\$150,000 or the State required threshold if it is more restrictive than the Federal small purchase threshold.)
- An announcement (advertisement, public notice or legal notice) of an Invitation for Bid (IFB) or a Request for Proposal (RFP) will be placed in the _____ (Newspaper/media, IPS Website, other internet source) to publicize the intent of the institution/sponsor to purchase needed items. Electronic means of soliciting are encouraged through e-procurement platforms or social media; however, should be used in conjunction with newspaper advertisements. The advertisement for bids/proposals or legal notice will be run for (not less than 14 calendar days before the bid opening date).
- The announcement will contain:
 - For Vended Meals, the School Food Service first right of Refusal Letter.
 - General description of items to be purchased (i.e. meal service), procurement type, USDA non-discrimination statement, CACFP/SFSP purpose, begin and end dates of CACFP/SFSP contract operation dates,
 - Deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms and conditions as needed,
 - Contact person to receive bids, date of pre-bid meeting, if provided, and if attendance is a requirement for bid award,
 - Deadline for submission of sealed bids or proposals, and
 - Address of location where complete specifications and bid forms may be obtained.
 - Please refer to BFTS Appendix B: Advertisement Checklist.
 - o <http://www.dec.al.ga.gov/documents/attachments/ADChecklist.doc>

- The institution/sponsor will notify DECAL of the time and place 14 calendar days before the bid opening date.
- In an IFB or RFP, each vendor 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 list includes requirements, not exclusive, that must be addressed in the procurement document:
 - Contract period (Maximum of 5-years; inclusive of applicable 1-year renewals)
 - The institution/sponsor is responsible for all contracts awarded (statement)
 - Date, time, and location of bid opening (IFB); proposal submission deadline/closing dates
 - How vendor is to be informed of bid acceptance or rejection
 - Delivery schedule
 - Set forth requirements (terms and conditions) which bidder must fulfill in order for bid to be evaluated
 - Benefits to which the institution/sponsor will be entitled if the contractor can not or will not perform as required
 - Statement assuring positive efforts will be made to involve minority and small business
 - Statement regarding the return of purchase incentives, discounts, rebates, and credits to the institution/sponsor non-profit Child Nutrition account
 - Contract provisions as required in 2 CFR § 200.326
 - Contract provisions as required in 2 CFR § 200.101 for all cost reimbursable contracts
 - Procuring instrument to be used are purchase orders from firm fixed prices after formal bidding
 - Price adjustment clause (escalation/de-escalation) based on appropriate standard or cost index (Consumer price index, or other as stated in terms and conditions for pricing and price adjustments)
 - Method of evaluation and type of contract to be awarded
 - Method of award announcement and effective date (if intent to award is required by State or local procurement requirements)
 - Specific bid protest procedures including contact information of person and address and the date by which a written protest must be received
 - Provision requiring access by duly authorized representatives of the institution/sponsor, DECAL, United States Department of Agriculture, or Comptroller General to any books, documents, papers and records of the contractor which are directly pertinent to all negotiated contracts
 - Method of shipment or delivery upon contract award
 - Provision requiring contractor to maintain all required records for *three* years after final payment and all other pending matters (audits) are closed for all negotiated contracts
 - Description of process for enabling vendors to receive or pick up orders upon contract award
 - Provision requiring the contractor to recognize mandatory standards/policies related to energy efficiency contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165)
 - Signed statement of non-collusion (non-conspiracy) and Conflict of Interest form.
 - Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).
 - Statement regarding institution/sponsor may apply geographic preference when procuring

- unprocessed locally grown or locally raised agriculture products.
- Bonding requirements as outlined in 225.15(5-7) (SFSP only) and 200.325 (CACFP/SFSP).
 - Specifications and estimated quantities of products and services prepared by the institution and provided to potential contractors desiring to submit bids/proposals for the products or services requested.
 - If any potential vendor is in doubt as to the true meaning of specifications or purchase conditions, interpretation will be provided in writing to all potential bidders by (Title of person/position) and date specified.
 - The (Title of person/position) will be responsible for securing all bids or proposals.
 - The (Title of person/position) will be responsible to ensure all SFA procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.
 - The following criteria will be used in awarding contracts as a result of bids/proposals.
 - i. Price
 - ii. _____ (Ex.: quality, delivery, service, etc.)
 - iii. _____
 - In awarding a competitive negotiation (RFP), a set of award criterion in the form of a weighted evaluation sheet will be provided to each bidder in the initial bid document materials. Price alone is not the sole basis for award, but remains the primary consideration when awarding a contract. Following evaluation and negotiations, a firm fixed price or cost reimbursable contract is awarded.
 - The contracts will be awarded to the responsible bidder/proposer whose bid or proposal is responsive to the invitation and is most advantageous to the institution/sponsor's price, and other factors considered. Any and all bids or proposals may be rejected in accordance with law.
 - (Title of person/position) is required to sign on the bid tabulation of competitive sealed bids or the evaluation criterion score sheet of competitive proposals signifying a review and approval of the selections.
 - (Title of person/position) is responsible for reviewing the procurement system to ensure compliance with applicable laws.
 - (Title of person/position) is responsible for documentation the actual product specified is received.
 - Any time an accepted item is not available, the (Title of person/position) will select the acceptable alternate. The contractor must inform (Title of person/position) (time/by when) a product is not available. In the event a non-domestic agricultural product is to be provided to the institution/sponsor, the contractor must obtain, in advance, the written approval of the product.
 - Full documentation as to the reason an accepted item was unavailable, and to the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for this documentation is (Title of person/position).
 - The (Title of person/position) responsible for maintaining all procurement documentation.

- The (Title of person/position) will monitor contractor performance to make sure the institution/sponsor:
 - Receives the quantity and quality of the goods and services requested;
 - Receives the goods and services on time; and
 - Is charged correct prices as bid and within budget.

2. Non-competitive Proposals

If items are available **only** from a single source *when the award of a contract is not feasible under small purchase, sealed bid or competitive negotiation*, the institution/sponsor will use the following **NON-COMPETITIVE PROPOSAL** (non-competitive negotiation) procedures:

- Written specifications will be prepared and provided to the vendor.
- The (Title of person/position) will be 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 (Title of person/position) will be responsible for documentation (i.e., sole-source justification form, etc.) that the actual product or service specified was received.
- The (Title of person/position) will be responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive proposals are met.
- Non-competitive proposals 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 proposal purchase shall be maintained by the institution/sponsor. The record of non-competitive purchases shall include, at a minimum, the following:
 - item name
 - dollar amount
 - vendor, and
 - reason for non-competitive procurement
- A member or representative of the institution/sponsor Governing Board and DECAL will approve, in advance, all procurements that result from non-competitive proposals.

B. USING INFORMAL PROCUREMENT METHODS

If the amount of purchases for items is less than the small purchase threshold, the institution/sponsor will follow **SMALL PURCHASE** (purchases under \$150,000.00) or **MICRO PURCHASES** (purchase transaction(s) within established aggregate category costs under \$3,500.00) procurement procedures. The following are required under the small purchase and/or micro-purchase procurement procedures.

- Written specifications will be prepared and provided to the vendor.
- Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of two (2) (three (3) preferred) responsive and responsible vendors shall be contacted (**not required for micro-purchases**).

- The (Title of person/position) will be responsible for contacting potential vendors when price quotes are needed.
- The price quotes will receive appropriate confidentiality before vendor selection(s).
- Quotes will be selected by (Title of person/position). Quotes selected will be the lowest and best quote based upon quality, service availability, price, and/or _____.
- The (Title of person/position) will be responsible for documentation of records to show selection of vendor, reasons for selection, names of all vendors contacted, price quotes from each vendor, and written specifications (**not required for micro-purchases**).
- The (Title of Person) will be responsible for documentation that the actual product specified is received/proof of payment.
- Any time an accepted item is not available, the (Title of person/position) will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.
- Quotes will be selected on the following criteria (**not required for micro-purchases**):
 - Price* _____ (Ex.: quality, delivery, service, etc.)
 - _____
 - _____
- The (Title of person/position) is required to sign all quote tabulations, signifying a review and approval of the selections.

C. MISCELLANEOUS PROVISIONS

- New product evaluation procedures will include:
 - _____
 - _____
 - _____
- The institution/sponsor agrees that the reviewing official of each transaction will be the (Title of person/position).
- Payment will be made to the vendor when the contract has been met and verified and has met the [Name of Institution's] procedures for payment. (If prompt payment is made, discounts, etc. are accepted.)
- Specifications will be updated as need.
- If product is not as specified, the following procedure will take place:
 - _____
 - _____
 - _____

III. USING ALTERNATE PROCUREMENT METHODS

- One-time Emergency or “Pressing Need” Procurement (2 CFR 200.320)**
- An emergency procurement is defined by a circumstance that impacts the welfare of the public. Examples include: natural disasters, unforeseen labor stoppages, the vendor going bankrupt, or other circumstances beyond the Institutions control.**

If it is necessary to make a one-time emergency procurement to continue service or obtain goods, contact DECAL (in writing) prior to the purchase and receive their approval. Keep a log of all such purchases and have maintained by the institution/sponsor. At a minimum, the following emergency procurement procedures must be documented:

- Item name
 - Dollar amount
 - Vendor, and
 - Reason for emergency
- Piggybacking**

If it is necessary, in the course of a pressing need, or to make a purchase by means of “piggybacking” on the bid of another solicitation/competitive process (purchasing entity), the institution/sponsor will apply the following conditions and procedures:

- Must provide written notice to DECAL’s Procurement and Purchasing Compliance Officer explaining why the Institution is using the piggybacking method.
- The institution/sponsor originating the competitive procurement must have a “piggyback provision” in the original solicitation;
- Documentation of the emergency requiring the piggybacking must be maintained;
- Approval from the purchasing entity’s governing board will be obtained and documented;
- Approval from the purchasing entity that originated the competitive procurement will be obtained and documented;
- Approval from the Vendor that was awarded the Contract (original solicitation) will be obtained and documented;
- If required, a public notice of the purchasing entity’s “*Intent to Waive Competitive Bidding*” will be issued at least 10 calendar days prior to the regularly scheduled governing board meeting;
- Approval to piggyback will be obtained and documented from the governing board during a regularly scheduled meeting following the public notice;
- Notification to the Vendor of final approval will be documented and issued;
- A contract with the Vendor will be developed including:
 - The contractor shall agree to retain all books, records and other documents relative to the contract agreement for three (3) years after final payment, or until audited by the purchasing entity, whichever is sooner. The purchasing entity, its authorized agents, and/or DECAL or USDA auditors shall have full access to and the right to examine any of said materials during said period.

IV. RETAINING PURCHASE ACQUISITION RECORDS for CACFP and SFSP

The institution/sponsor shall agree to retain all books, records and other documents relative to the award of the contract for three (3) years after final payment. Specifically they shall maintain, at a minimum, the following documents:

- Written rationale for the method of procurement;
- A copy of the original solicitation;
- The selection of contract type;
- The bidding and negotiation history and working papers;
- The basis for contractor selection;
- Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;
- The basis for award cost or price;
- The terms and conditions of the contract;
- Any changes to the contract and negotiation history;
- Billing and payment records;
- A history of any contractor claims; and
- A history of any contractor breaches.

V. IMPLEMENTING CODES OF CONDUCT AND PERFORMANCE OF EMPLOYEES ENGAGED IN AWARD AND ADMINISTRATION OF CONTRACTS

The institution/sponsor shall ensure all persons who are engaged in the awarding and administration of contracts supported by CACFP and SFSP Funds follow the written standards of conduct as outlined in 2 CFR §200.318(c). DECAL Policy Memorandum, *Written Codes of Conduct and Performance of Employees Engaged in Award and Administration of Contracts (revised), August 30, 2015*. In accordance with regulations and state policy:

- No employee, officer or agent of the institution/sponsor 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 vendor selected for the award:

- The employee, officer or agent;
- Any member of the immediate family;
- His or her partner;
- An organization which employs or is about to employ one of the above.

- The institution/sponsor employees, officers or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

- Penalties for violation of the standards of code of conduct of the institution/sponsor the institution/sponsor CACFP and SFSP shall be:

- Reprimand by institution/sponsor;
- Dismissal by institution/sponsor;
- Any legal action necessary.

VI. SUMMER FOOD SERVICE PROGRAM (SFSP)

GA DECAL instructs SFSP sponsors with additional business activities involving the sale of meals (serving as vendor or FSMC's) to properly allocate shared costs. Additionally, SFSP sponsors are required to document

whether they are using a vendor or FSMC to prepare meals through completing items #37-46 of the Institution Application section in GA ATLAS. Costs associated with producing both agreed-upon Program meals and non-Program meals are considered “shared costs” and DECAL requires these costs to be allocated in the SFSP sponsor’s Program budget based upon “the number meals served.”

Costs contributing to the production of meals sold to other SFSP sponsors, or to other non-SFSP entities, are not considered allowable SFSP costs and must be paid with income (revenue) from the sale of those meals or another income source. Please see the DECAL’s **Budget Guidance Manual** and DECAL policy memorandum, *Reporting and Allocating Program Costs Associated with SFSP Sponsors Serving as Food Vendors and/or Food Service Management Companies to other SFSP Sponsors or Non-SFSP Entities*, July 6, 2016 (<http://www.dec.al.ga.gov/documents/attachments/ProgramCostsAsstSFSPasVendorsFSMC.pdf>), for additional guidance and information.

References:

CACFP Recordkeeping Policy - <http://www.dec.al.ga.gov/documents/attachments/CACFPPolicy18.pdf>

SFSP Recordkeeping Policy - <http://www.dec.al.ga.gov/documents/attachments/SFSPPolicyNo.5.pdf>

Other State or local procurement requirements that may be required.