

Procurement

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Additional Resources

- ISBE Nutrition Financial Management website
<https://www.isbe.net/Pages/Nutrition-Financial-Management.aspx>

Rules and Regulations

This procurement guidance and requirements is for all Child Nutrition Programs, including School Nutrition Programs (such as the National School Lunch Program, Special Milk Program, and School Breakfast Program), the Summer Food Service Program, and the Child and Adult Care Food Program. Procurement means the process of obtaining goods and/or services in accordance with applicable rules and regulations. Procurement rules ensure that program benefits are received by eligible schools and participants, and that taxpayer dollars are used effectively and efficiently, with no waste or abuse. Regulations require that all purchases made, whether funded wholly or in part with Child Nutrition Program funds, comply with all federal, state, and local procurement requirements.

All procurement transactions must be conducted in a manner that provides maximum open and free competition. Procurement procedures must ensure they do not foster noncompetitive practices between firms, do not create organizational conflicts of interest, and do not restrict or eliminate competition. Procurement must not place unreasonable requirements on firms, require unnecessary experience, or establish unrealistic bonding requirements. There must be descriptions of all products purchased and identical instructions provided to all potential vendors.

2 CFR 200.323(d): Cost plus a percentage of revenue and/or expenses contracts are not allowable.

Formal standards of conduct should govern the performance of officers, employees, and agents in the award and administration of contracts. These standards should provide that officers, employees, or agents should not solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties of sub-agreements.

LOCAL

- School Food Authority/ Sponsoring Organizations may set more restrictive purchasing thresholds per board/local policy and documented in written procurement procedures.

STATE

- [105 ILCS 5/10-20.21](#): The Illinois Public School Code on Contracts

FEDERAL

- [2 CFR 200](#): Uniform Administrative requirements, Cost Principles and Audit Requirements for Federal Awards
- [7 CFR Part 210](#): National School Lunch Program
- [7 CFR Part 215](#): Special Milk Program
- [7 CFR Part 220](#): School Breakfast Program
- [7 CFR Part 225](#): Summer Food Service Program
- [7 CFR Part 226](#): Child and Adult Care Food Program

Procurement Methods

Methods by which goods and/or services may be obtained. The primary contracting methods used by the federal government are micro-purchasing, informal (small) purchase, and formal (large) purchase.

When procuring goods and services for the Child Nutrition Programs, a School Food Authority (SFA) must determine whether they must use an informal or formal procurement method. It is important to understand and then identify which method best meets the needs of your individual food service operation. Informal procurement occurs when an SFA's purchases fall at or below the federal, state, or local small purchase threshold (whichever is more restrictive).

INFORMAL

Procurement by informal purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$ 250,000 (or a lower amount as required by local/district board policy). Also known as simplified acquisition or informal purchase. Although this method is permitted when the amount of a purchase falls at or below the most restrictive small purchase threshold, an SFA could choose to use the formal procurement method (see below for more information) rather than the informal procurement method. There are two types of formal procurement:

1. **Micro-purchasing:** Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$ 10,000.
 - Micro-purchases may be awarded without soliciting competitive price or rate quotations, if the Program Operator considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. ([2 CFR 200.320\(a\)\(1\)\(ii\)](#))
 - Should distribute micro-purchases equitably among qualified suppliers.
 - Simple purchase.
 - Maintain all documents on file for potential audit purposes.
 - Per USDA guidance "[Updates to the Federal Micro-Purchase Threshold in 2 CFR 200.320\(a\)\(1\) SP 02-2022](#)," program operators have the discretion to utilize the micro-purchase method of procurement for purchase up to \$50,000 if specific criteria are met.
 - SFA's are "responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk and its documented procurement procedures." To assist, complete the "[Increased Micro-Purchase Threshold Worksheet](#)" and maintain on file.
 - This option is not applicable to Food Service Management Company (FSMC) contracts. All FSMC contracts must be formally procured utilizing the [three-step process described on our website](#).
2. **Small purchase:** Procurement by small purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$ 250,000 (or a lower amount as required by local/district board policy). Also known as simplified acquisition or informal purchase.

- In applying the small purchase threshold, the SFA must adhere to the most restrictive, lowest limit set.
- Develop a written purchase description of the services/items being solicited;
- Solicit quotes/bids from an adequate number of qualified sources potential vendors based on the purchase description; document vendor names along with the date and method of contact - be sure to maintain free and open competition;
- Obtain price quotes from a minimum of three qualified vendors, hence this method also being called 3 bids and a buy.
- Record all quotes/bids received and any notification received from vendors declining to bid;
- Evaluate the quotes for conformance to the purchase description;
- Award the purchase/contract (record the justification for the award); and
- Maintain all documents on file for potential audit purposes.

FORMAL

Procurement by formal purchase is the acquisition of supplies or services, the aggregate dollar amount of which does exceed \$ 250,000 (or a lower amount as required by local/district board policy). Also known as simplified acquisition or informal purchase. There are two types of formal procurement:

1. **Sealed Bid/ Invitation for Bid (IFB):** This is a procurement method in which bids are publicly solicited through an invitation and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforms with all the material terms and conditions of the invitation and is the lowest in price. The sealed bids procurement method is preferred for procuring construction services.
 - Bids must be solicited from an adequate number of qualified sources, providing them with sufficient response time prior to the date set for opening the bids. Unless specified by the Federal agency, the recipient or subrecipient may exercise judgment in determining what number is adequate. For local governments, the invitation for bids must be publicly advertised.
 - The invitation for bids must define the items or services with specific information, including any required specifications, for the bidder to properly respond;
 - All bids will be opened at the time and place prescribed in the invitation for bids. For local governments, the bids must be opened publicly.
 - A firm-fixed-price contract is awarded in writing to the lowest responsive bid and responsible bidder. When specified in the invitation for bids, factors such as discounts, transportation cost, and life-cycle costs must be considered in determining which bid is the lowest. Payment discounts must only be used to determine the low bid when the recipient or subrecipient determines they are a valid factor based on prior experience.
 - The recipient or subrecipient must document and provide a justification for all bids it rejects.
2. **Request for Proposal (RFP):** This is a procurement method used when conditions are not appropriate for using sealed bids. This procurement method may result in either a fixed-price or cost-reimbursement contract. They are awarded in accordance with the following requirements:

- Requests for proposals require public notice, and all evaluation factors and their relative importance must be identified. Proposals must be solicited from multiple qualified entities. To the maximum extent practicable, any proposals submitted in response to the public notice must be considered.
- The recipient or subrecipient must have written procedures for conducting technical evaluations and making selections.
- Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the recipient or subrecipient considering price and other factors.

INFORMAL VERSUS FORMAL

When the estimated dollar value of the contract and/or purchase meets one of the following criteria:

- Public Schools: purchase of perishable foods and beverages is greater than \$250,000.
- Public Schools: purchase of non-perishable food/supplies/equipment/services is greater than \$35,000.
- Non-Public Schools and non-school participants: purchases above \$250,000.

**Note that these are the federal and state thresholds, if your SFA has a more restrictive amount, the more restrictive amount must be followed.*

***Note, as per [Public Act 102-1101](#), public schools are only permitted to utilize the RFP method if the SFA gives scorable preference to ALL five items listed within the bill.*

The estimate should be based on the estimated/planned value of the contract over the year. In general, purchases cannot be split to fall below the threshold. However, it is common/allowable to see separate procurements for a prime vendor and a separate procurement for bread and one for milk, but it is not allowable to split other items out of the prime vendor bid/proposal for the purpose of attempting to utilize the informal or micro-purchase procurement methods.

TYPES OF ITEMS	ANNUAL VALUE OF PURCHASES
Milk and/or fresh dairy products	In excess of \$250,000
Fresh bread	In excess of \$250,000
Fresh produce	In excess of \$250,000
General groceries	In excess of \$250,000
Vended meals	In excess of \$250,000
Supplies	In excess of \$35,000
Equipment	In excess of \$35,000
Services	In excess of \$35,000

General Procurement Requirements

All procurement transactions must be conducted in a manner that provides maximum open and free competition. Procurement procedures must ensure they do not foster noncompetitive practices between firms, do not create organizational conflicts of interest, and do not restrict or eliminate competition. Procurement must not place unreasonable requirements on firms, require unnecessary experience, or establish unrealistic bonding requirements. Cost plus a percentage of purchase is not an allowable system. There must be descriptions of all products purchased, and identical instructions provided to all potential vendors.

Code of Conduct Policy

Each SFA is required to have written standards of conduct covering conflicts of interest that prohibit officers, employees, and agents from soliciting or accepting gratuities, favors or anything of monetary value from contractors or parties of subcontracts. Procedures must provide for disciplinary actions for violations by officers, employees, or agents.

Procurement Procedures

Each SFA is required to have its own documented procurement procedures in place that reflect applicable state and local laws and regulations, provided that procurements made with Child Nutrition Program funds adhere to the standards set forth in 2 CFR 200.318(a).

- The SFA must have oversight procedures and documentation.
- The SFA must have written standards of conduct (see above).
- The procedures must avoid acquisition of unnecessary or duplicate items.
- The SFA must award contracts only to responsible contractors.
- The SFA must maintain records sufficient to detail the history of the procurement.
- The SFA must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, including contract modifications.
- The SFA must take steps to assure that small, minority and women's businesses enterprises and labor surplus firms are used when possible.

Geographic Preferences

SFAs may use local (e.g., “locally grown”, “locally raised”, or “locally caught”) as a specification for local unprocessed agricultural products purchased for program meals, snacks, and milk. SFAs can require that an unprocessed agricultural product be locally grown, raised, or caught to meet the solicitation requirements and remove products or bids that do not meet this standard from consideration.

CNP operators may also continue to apply a geographic preference through additional points or credit during evaluation for local unprocessed agricultural products. This memo will now refer to this strategy as a “defined scoring advantage,” to help differentiate between the concept of a geographic preference option and the two strategies that may be used to implement it.

In summary, under the expanded geographic preference option, beginning July 1, 2024, SFAs may choose to:

- Use local as a specification (i.e., the written description of a product or service that a vendor must meet to be considered responsive to a solicitation) for local unprocessed agricultural products;

- Use a defined scoring advantage (e.g., additional credit or points given to local unprocessed agricultural products during the evaluation of responses to a solicitation) for local unprocessed agricultural products;
- Adopt a mix of both strategies; or,
- Elect not to use any of these approaches.

Buy American

School food authorities are required to adhere to the Buy American provisions found in federal regulations ([7 CFR 210.21\(d\)](#)). Actions an SFA should take to comply with these requirements are as follows:

- Include a Buy American clause in all procurement documents (product specifications, bid solicitations, purchase orders, etc.);
- Monitor contractor performance;
- Require suppliers to certify the origin of the product;
- Examine product packaging for identification of the country of origin; and
- Ask suppliers for information about the percentage of U.S. content in the food product.

Sample clauses for inclusion in procurement documents are available on the Nutrition Programs website at http://www.isbe.net/nutrition/htmls/contract_other.htm.

Solicitation Document Development

Federal regulations, [2 CFR 200.319\(a\)](#), prohibit the awarding of contracts to any person or entity that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other procurement documents. In failing to fulfill its responsibilities to draft its own specifications and procurement documents, an SFA which copies a list of features or evaluation and ranking criteria drafted by a potential vendor and then permits that potential vendor to submit a bid/proposal has violated federal regulation 2 CFR 200.319(a). This pertains to all child nutrition program procurements, including software acquisitions.

While SFAs have broad discretion in gathering information for use in connection with procurements, information from potential offerors must be appropriately modified to develop tailored specifications; otherwise, these offerors must be excluded from competing for such procurements. This is to ensure objective contractor performance and eliminate unfair competitive advantage.

Contract Renewals

Contracts renewals, with price changes in the second and subsequent years, are allowed provided:

- The original contract is competitively solicited in accordance with federal and state regulations.
- The solicitation document clearly states price changes will be permitted after the first year of the contract.
- The maximum number of contract renewal terms is specifically stated in the solicitation document.

- All terms and conditions of the contract remain constant during the duration of the contract.
- The contract specifically states federal funding is not guaranteed beyond the end of the federal fiscal year.
- Strict limitations are placed on any price escalation by linking price increases to a recognized measurable index (such as the [consumer price index](#) or a market index). Flat percentages may not be used to define a maximum allowable increase but may be used to cap or limit an increase that is linked to a recognized measurable index.
- Vendors are required to document, through a provided detailed cost/price analysis, the need for price increases.

Protests

Any action that diminishes open and free competition seriously undermines the integrity of the procurement process and may subject any School Food Authority/ Sponsoring Organization to bid protests. School Food Authorities/Sponsoring Organizations are responsible for properly responding to protests and concerns raised by potential contractors. Pursuant to 2 CFR 200, School Food Authorities/Sponsoring Organizations must have protest procedures in place to handle and resolve disputes relating to their procurements and must in all instances disclose information regarding a protest to the Illinois State Board of Education Nutrition Department.


Food Service Management Company / Vended Meals Contracts

There are separate procurement requirements, which are not discussed in detail here, for SFAs contracting with food service management companies (FSMC) for management services or for Vended meal services. Please visit our [website](#) for detailed information.

While NSLP regulation [7 CFR Part 210.16](#) permits an SFA to contract with an FSMC to manage its school food service operations, the regulations prohibit delegation of certain duties. It is the SFA's responsibility to ensure its food service operation is in conformance with the SFA's agreement under the program. The SFA is responsible for:

- Observing limits on the use of nonprofit food service revenues including the use of nonprofit food service account funds, to pay only allowable costs regardless of the costs billed by the FSMC;
- Determining and verifying the eligibility of children for free and reduced-price meals;
- Ensuring only reimbursable meals are included on the Claim for Reimbursement regardless of the number of meals billed by the FSMC; and
- Not permitting the accrual of all income and expenses to the FSMC.
- Ensuring the validity of meal counting and claiming systems at the schools under its jurisdiction. An SFA is required to have specific procedures in place to determine the validity of meals claimed for reimbursement, including conducting an [On-Site Review](#) of each school prior to February 1 of each school year. If the review identifies problems with a school's meal counting or claiming procedures, the SFA shall ensure the school implements corrective action and, within 45 days of the review, the SFA must conduct a Follow-Up Review to determine if the corrective action resolved the problems. Whether an SFA self-operates its food services or uses an FSMC, the SFA must conduct the On-Site Review and remains responsible for ensuring deficiencies are identified and effective actions are taken to correct any deficiencies found.

Purchasing Equipment

The [OMB guidance](#) and U.S. Department of Agriculture (USDA) regulations at [2 CFR 200.313](#)  define "equipment" as tangible personal property (including information technology systems) having a useful life of one year or longer and a per-unit acquisition cost that equals or exceeds the lesser capitalization level established for financial statement purposes, \$10,000, or a lower threshold set by local level regulations.

During administrative reviews required by [7 CFR 210](#), [7 CFR 215](#), [7 CFR 225](#), and [7 CFR 226](#) and procurement audits as required by [2 CFR 200.501](#), ISBE will review equipment purchases, ensuring purchases were made based on either the approved equipment list or the ISBE prior approval process. If equipment purchase(s) are deemed unallowable during any audit or review process, ISBE may disallow the purchase(s) and require the SFA/ Sponsoring Organization to replenish the non-profit school food account as appropriate.

Costs associated with remediation or repair to the facility (i.e., plumbing, heating, air conditioning, construction, etc.) that would add to the permanent value of the facility are unallowable. These costs should be borne by the School Food Authority's/ Sponsoring Organization's general fund.

All equipment purchased must be deemed necessary, reasonable and allocable ([2 CFR 200.403](#), [2 CFR 200.404](#), [2 CFR 200.405](#)) for proper and efficient performance and administration of the Child Nutrition Programs (CNP) prior to purchasing.

- [Purchasing Equipment Process Overview](#) 
- [ISBE Pre-Approved Equipment List](#) 
- [Equipment Purchase Attestation Form](#)  (for equipment purchased on the pre-approved list)
- [Equipment Purchase/Capital Expenditure Request Form](#)  (for equipment purchased **NOT** on the pre-approved list)










Competitive Procurement and Private Grants for School Food Programs

The United States Department of Agriculture recently brought to our attention that some school districts may be applying for or participating in grant programs that are aimed at assisting schools with start-up or expansion of the Child Nutrition Programs, specifically the School Breakfast and Summer Food Service Programs. The foundations sponsoring the grants are associated with companies that provide goods and services to the school meals programs. Review of these grant programs revealed that at least some contain a mandatory purchasing component, requiring recipients to purchase and use a vendor's specified product for a stipulated amount of time.

Please remember, all SFAs must comply with the federal procurement requirements set forth in program regulations and require that procurements are conducted in a competitive manner.

Due to the proprietary purchasing requirements imposed by these grant programs, an SFA would be unable to participate in the grant while adhering to all required program regulations, specifically those addressing procurement activities. SFAs that have already received such a grant must take immediate steps to curtail the grant or to ensure that all purchases made as a result of the grant requirements come only from non-program funding sources. The SFA may not go forward with the grant purchasing requirements using nonprofit school food service account funds.

USDA Policies and Resources

- [SP/CACFP/SFSP 02-2010: Procurement Questions](#)
- [USDA Processing Memo FD-40 Value Pass Through Methods](#) 
- [USDA Procurement Regulations](#)
- [SP02-2022 CACFP 03-2022 SFSP 01-2022: Updates to the Federal Micro-Purchase Threshold in 2 CFR 200.320\(a\)\(1\)](#)
- [SP20 CACFP074 SFSP06-2019: Federal Micro-Purchase and Simplified Acquisition Thresholds](#)
- [SP04 SFSP01 CACFP04-2018: Market Basket Analysis Memo](#)
- [Code of Conduct](#) 
- [SP 22-2024 CACFP 08-2024 SFSP 13-2024: Geographic Preference Expansion](#)
- [Large/Formal Purchase Method: For FSMC/Vended Meals](#) 
- [Large/Formal Purchase Method: For Food/Supplies/Equipment/Services](#) 
- [Micro Purchase Method](#) 
- [Procurement Procedure](#) 
- [Purchasing Equipment](#) 
- [Small Purchase Method](#) 
- [Terminologies](#) 

Common Questions and Answers

Question: I heard bidding is no longer required, is that correct?

Answer: No.

In 2022, [Public Act 102-1101](#) was updated. This update to the law allows for the use of the IFB procurement method or the RFP procurement method if certain criteria are met. SFAs must continue to solicit bids or proposals in the purchasing of goods, services and/or food service management. There has been no change to the dollar thresholds that determine whether the purchase/contract can utilize the micro purchase, informal or formal procurement method. There has also been no change to the required 3 step process for the procurement of vended meals and/or Food Service Management Company contracts. It does however allow for the SFA to determine if the IFB or RFP would be the best option for their SFA.

Question: I have heard that we can just pick who to award the contract to now - is that correct?

Answer: No.

- SFAs will need to determine which procurement method will be best for their SFA and complete the procurement process. SFAs must ensure that the award of each contract follows their code of conduct, procurement procedures and make determinations in a transparent & ethical manner. While also ensuring that the SFA is a good steward of federal and state funds. It is important that SFAs should utilize their legal department to ensure compliance and in order to respond to any bid protests that may occur.
- Full and open competition must be maintained, and the procurement must not restrict or eliminate competition.
- If choosing the IFB method, the SFA will develop their specifications and bidders that are responsible, responsive and can meet their requirements at the lowest price would be awarded the contract.
- If choosing to utilize the RFP method, the SFA will develop a scoring matrix that will be used in the review of submitted proposals and price must be a primary factor in the scoring.

Question: Do RFPs make meals healthier for our students?

Answer:

- SFAs determine what their meal programs look like. The SFA needs to define the content of their meals in their solicitation. All meals served as part of the federal meal programs must at a minimum meet the federal meal pattern requirements. SFAs may have additional requirements or preferences regarding meal content with both an IFB and an RFP.
- Both IFBs and RFPs allow for SFAs to define what they want their meals to look like. For Example, if an SFA wants fresh local fruits and vegetables served 3 days per week, that should be listed in their IFB or RFP solicitation. If an SFA wants unprocessed scratch cooked meals, the SFA should list that in their IFB or RFP solicitation.
- Once the contract is awarded, the SFA are required to manage the contract and ensure their meal program has continued compliance with their contract requirements, regardless of the procurement method used.

Question: Are RFPs better for the SFA than IFBs?

Answer:

Neither an RFP or an IFB is "better" than the other. They both have their purpose and **the SFA** needs to consider a variety of factors in order to determine which procurement method would be best for each procurement they conduct. Some of the factors that play into the SFA determining which method is best for each procurement include but are not limited to the SFAs:

- Timeline - how quickly do you need what you are procuring?
- Does the SFA have a clear understanding of the product or service needs or does the SFA want ideas or suggestions?
- Does the SFA possess the technical skills necessary to develop the written evaluation and scoring criteria, complete a review of the responses received in order to evaluate and score the proposals as specified in the solicitation, and negotiate with proposers?
- Do you want a process in which you have requirements that **MUST** be met or do you have a sliding scale for preferences that you would like to have met?
- How much time do you have to manage your contract (after throughout the year)?
- These are just a few of the factors that the SFA should consider when determining which procurement method they should use for each procurement. Keep in mind that the SFA needs to make this decision based on their needs and if the SFA wishes to talk through the options ISBE procurement staff are available to talk through it.

Question: Do I have to formally solicit for perishable food and beverages that totals \$250,000 or less in a fiscal year?

Answer: No.

Since the state regulation (Illinois School Code) exempts purchases of perishable foods and beverages from formal solicitation, the federal threshold takes precedence. If purchases are in excess of \$250,000, they must be formally solicited. If purchases are \$250,000 or less, then an informal procurement must be conducted, and obtain price quotes from a minimum of three potential suppliers. Contracts for purchasing only prepared foods from vendors must adhere to the \$250,000 threshold.

Question: Can SFAs split up large purchases into smaller amounts in order to fall below the small purchase threshold?

Answer: No.

SFAs cannot intentionally split purchases in order to fall below the Federal, State, or local small purchase threshold in an effort to avoid more rigorous procurement practices.

Question: An SFA is able to conduct procurement under the small purchase threshold. Can the SFA procure unprocessed locally grown or locally raised agricultural products directly from a local farmer or local market?

Answer: Yes.

However, the procurement must be conducted in a manner that maximizes full and open competition. According to Federal regulations, the SFA can conduct procurement under the small purchase threshold if the procurement is under \$250,000 in value. The SFA should put the number, quality, and type of goods in writing before contacting any potential offerors. When using the small purchase threshold, quotes must be obtained from an adequate number of sources who are eligible, able, and willing to provide the unprocessed locally grown or locally raised agricultural product. Refer to the section on *Informal Bidding Procedures* above.