



**PROCUREMENT PLAN  
CHILD NUTRITION PROGRAM**

This procurement plan contained on the following pages 2 through 7 is hereby adopted by the KEDC board of Directors from this date forward until amended. All procurements 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.

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Chief Executive Officer

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Date

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Board Chairperson

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Date

*Adopted: March 16, 2016*

*Amended September 20, 2017*

*Amended July 29, 2020 (pending final approval at September Board meeting)*

## Kentucky Educational Development Corporation

### PROCUREMENT PLAN

#### A. General Procurement Standards

- This cooperative provides this plan to member SFAs participation in the USDA's Child Nutrition Programs for whom this cooperative provides procurement services.
- This cooperative uses procurement procedures that reflect state and local law while also ensuring compliance with applicable federal law.

#### B. Procurement Management

KEDC's Chief Executive Officer or designee is primarily responsible for overseeing all procurement for this cooperative on behalf of SFA members that participate in the USDA's Child Nutrition Programs. This responsibility includes, but is not limited to, the responsibilities set forth below:

- Ensuring that a cost and/or price analysis is performed in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications (2 CFR 200.323 Contract cost and price).
- Managing contacts and overseeing vendors and/or ensuring that vendors perform in accordance with the terms, conditions, and specifications of vendor contracts and/or purchase orders.
- Ensuring that vendors who develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals are **excluded** from competing for such contracts and/or purchase orders.
- Ensuring that all contractual and administrative issues arising out of procurements for the SFA's food service department is handled in accordance with good administrative practice and sound business judgment.
- Ensuring that sufficient records detailing the cooperative's procurement history are maintained.
  - The records maintained for contracts include, at a minimum, the following records:
    - Rationale for methods of procurement
    - Selection of procurement type
    - Selection or rejection of vendor
    - Basis for contract price
  - These records are maintained for at least three years after a contract expires or longer if otherwise required by law.
- Ensures that the cooperative maintains policies and/or procedures that govern the conduct of employees who are engaged in the selection, award, and administration of contracts for member SFAs. These policies and procedures can be found at [www.kedc.org](http://www.kedc.org). These policies and procedures meet the minimum requirements set forth in federal law.
- Ensures that the cooperative maintains policies and/or procedures that cover organizational conflicts of interest in accordance with the requirements of federal law.
- Ensures that all procurement transactions conducted for SFA's food service department is conducted in a manner that provides full and open competition in accordance with federal law.
- Ensures that affirmative steps are taken to assure minority business enterprises are used when possible. (2 CFR Part 200.321. Small, minority and women's businesses and labor surplus firms.)

Affirmative steps include:

- (a) Solicitation lists;
- (b) Solicited when sources are available;

- (c) Dividing total requirements, when economical feasible, to allow maximum participation;
- (d) Use Small Business Administration and Minority Business Development Agency; and
- (e) Require prime contractor, in subcontracts, to use affirmative steps.

**C. Type of Procurement Conducted on behalf of member SFAs (Check all that apply)**

Cooperative conducts procurement on behalf of SFA members.

- The cooperative conducts the following types of procurement on behalf of the SFA:
  - Informal Procurement
  - Formal Procurement
  - Emergency Procurement
  - Non-competitive negotiation

**D. Procurement**

Procurement Methods (Check all that apply)

**INFORMAL PROCUREMENT**

(Procurement by Small Purchase Procedure)

Cooperative Simplified Acquisition Threshold is equivalent to that allowed under KRS 45A.385.

KEDC's Chief Executive Officer or Designee is responsible for soliciting quotes using the Small Purchase Procedure. Responsibilities include, but are not limited to the following:

- Contacting potential vendors when price quotes are needed from at least 3 qualified sources.
- Ensuring the confidentiality of price quotes are maintained until purchase is made.

The Local School Food Authority is responsible for making purchases under the small purchase process.

Responsibilities include, but are not limited to the following:

- Reviewing price quotes.
- Providing final approval of the purchase.
- Ensuring small purchases are made based on the lowest price.
- Ensuring documentation is maintained and includes at least the written specifications used, identification of vendors contacted, vendor price quotes received, and vendor selected.

**FORMAL PROCUREMENT**

(Procurement by bid or proposal)

Procurement for services, supplies, or other property exceeding the cooperative's Simplified Acquisition Threshold is conducted by formal procurement. The KEDC Board of Directors or its designee is responsible for procuring goods and/or services for members SFAs using formal procurement.

Responsibilities include, but are not limited to the following:

- Ensuring that a cost and price analysis is performed as an important part of procurement planning and decision making. This will provide an estimate of the total needed to spend and help decide which method of procurement is needed to be used.
  - Prior to advertising and receiving bids, an initial analysis will be performed to establish a fair and reasonable price range for what is needed. Analysis methods to be used but are not limited to the following:
    - Based on adequate price competition from responsive and responsible bidders competing independently.
    - Established in commercial catalogs or commodity market indexes.

- Set by law or regulation.
  - Paid during previous purchases which were determined to be fair and reasonable.
  - Contracted by the federal government.
  - Based on in-house estimates.
  - Paid by other districts.
  - Compared to a substantially similar item.
  - Provided by Requests for Information (RFIs).
- Once bids have been received, a second analysis will be done using the information learned during the initial analysis to help evaluate the bids to choose the winning bidder.
- Ensuring that contracts are awarded to the responsible bidder/proposer whose bid or proposal is responsive to the solicitation and is most advantageous to member SFAs.
- Ensuring that, when weighed criteria is used as part of the solicitation, a weighted evaluation sheet is provided to each bidder in the initial bid document materials; price and other factors are considered with price receiving the highest weight; and a firm fixed price or cost reimbursable contract is awarded following evaluation and/or negotiation (as applicable).
- Ensuring that the bid tabulation or the evaluation criterion score sheet is electronically approved signifying a review and approval of the selections.
- Monitoring the formal procurement system to ensure compliance with applicable laws.
- Ensuring that all procurement documentation relating to formal procurement is maintained.
- Ensuring compliance with the Buy American Provision.
- Ensuring that a vendor obtains in advance, written approval for any non-domestic agricultural product supplied to member SFAs.
- Ensuring that full documentation is received by the member SFAs documenting why an accepted item is unavailable.
- Ensuring that the solicitation is advertised by KEDC's Chief Executive Officer or designee to publicize the cooperative's intent to purchase needed items.
- Ensuring that announcements (advertisements or legal notices) contain:
  - General description of items to be purchased
  - Deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms and conditions as needed
  - Date of pre-bid meeting, if provided, and if attendance is a requirement for bid award
  - Deadline for submission of bids or proposals; and
  - Address of location where complete specifications and bid/proposal forms may be obtained.
- Ensuring that announcements run at least 7 days prior to the opening as required by KRS 45A.365(3).
- Ensuring that a record is maintained indicating who was notified of the solicitation, the distribution date, completion date, and response status.
- Ensuring that vendors are given the same opportunity to bid on the same product specifications.
- Ensuring that purchase conditions are clearly defined in the solicitation.
- Ensuring that the initial procurement solicitation and the final awarded contract includes all required contract language and meets the requirements of federal and state law:
  - Solicitation Requirements for contracts that are **NOT** cost reimbursable:
    - There is a clear and accurate description of the technical requirements for the material, product, or services being procured.

- Requirements are identified that must be fulfilled as well as all other factors used in evaluating bids or proposals.
  - INCLUDE IF APPLICABLE - Solicitation Requirements for cost reimbursable contracts
    - The school food authority must include the following provisions in all cost reimbursable contracts, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts:
      - (i) Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;
      - (ii)(A) Contractor will separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or (B) Contractor will exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;
      - (iii) Contractor's determination of its allowable costs will be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;
      - (iv) Contractor will identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit.
      - (v) Contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and
      - (vi) Contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department.
  - **ALL** contracts contain provisions covering the following, as applicable.
    - Contracts for more than the simplified acquisition threshold address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
    - All contracts in excess of \$10,000 address termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
    - When a federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the

requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- All contracts, except as otherwise provided under 41 CFR Part 60, that meet the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- Contracts in excess of \$150,000 contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- Contract awards are not made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.”
- Contractors applying for or bidding for an award exceeding \$100,000 must file the required certification as required by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

## X NON-COMPETITIVE NEGOTIATION

Non-competitive negotiation is used when items are available **ONLY** from a single source and ***when the award of a contract is not feasible under small purchase or formal purchase procedures.***

The **KEDC Board of Directors or its designee** is responsible for handling non-competitive negotiations. Responsibilities include, but are not limited to the following:

- Ensuring that written specifications are prepared and provided to the vendor.
- Ensuring that a record of non-competitive negotiation is maintained including, at a minimum, the following:
  - item name
  - dollar amount
  - vendor, and

- reason for non-competitive procurement
- Kentucky Department of Education, School and Community Nutrition approves, in advance, all procurements that result from non-competitive negotiations.

The Local School Food Authority is responsible for making the purchase under the emergency purchase process. Responsibilities include, but are not limited to the following:

- Ensuring documentation that the actual product or service specified is maintained.
- Ensuring the product or service was received.

**X EMERGENCY OR “PRESSING NEED” PURCHASES**

KEDC’s Chief Executive Officer or Designee is responsible for soliciting quotes for emergency purchases.

Responsibilities include, but are not limited to the following:

- Providing written specifications to at least three (if possible) potential vendors.
- Ensuring the confidentiality of price quotes are maintained until purchase is made.

The Local School Food Authority is responsible for making the purchase under the emergency purchase process. Responsibilities include, but are not limited to the following:

- Preparing written specifications.
- Ensuring that the actual product or service specified is received.
- Ensuring that a record of the emergency purchase procedure is maintained and available for audit and review. The record includes, at a minimum, the following:
  - item name
  - dollar amount
  - vendors contacted, and
  - reason for emergency
- Kentucky Department of Education, School and Community Nutrition approves, in advance, all emergency procurements that exceed the Cooperatives Simplified Acquisition Threshold.

Procurement by Category (Check all that apply)

Cooperative utilizes the following methods for the following purchase categories:

| Category   | Procurement Method | Evaluation Used | Contract Award Type       | Contract Duration/Frequency                       |
|--|--------------------|-----------------|---------------------------|---|
| Grocery<br>Includes: <ul style="list-style-type: none"> <li>– Frozen foods</li> <li>– Canned foods</li> <li>– Pasta</li> <li>– Cleaning supplies</li> <li>– Paper and plastic supplies</li> <li>– Dish machine chemicals</li> <li>– Small wares</li> <li>– Bakery</li> </ul> | Formal             | Weighted        | Prime Vendor, fixed price | One year with renewals. Not to exceed five years. |
| Fresh Bakery   | Formal             | Weighted        | Fixed Price               | One year with renewals. Not to exceed five years. |
| Fresh Dairy  | Formal             | Weighted        | Fixed or Escalating Price | One year with renewals. Not to exceed five years. |
| Capital Equipment  | Formal             | Weighted        | Fixed Price               | One year with renewals. Not to exceed five years. |
| Office Supplies  | Formal             | Weighted        | Fixed Price               | One year with renewals. Not to exceed ten years.  |
| Nutrition Consultant   | Formal             | Weighted        | Fixed Price               | One year with renewals. Not to exceed five years. |
| Nutrition Software – Menu Display  | Formal             | Weighted        | Fixed Price               | One year with renewals. Not to exceed five years. |
| Nutrition Software – Cycle Menu  | Formal             | Weighted        | Fixed Price               | One year with renewals. Not to exceed five years. |