



PROCUREMENT PLAN

A. General Procurement Standards

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

B. Procurement Management

The director is primarily responsible for overseeing all procurement for UPC 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:

- Managing contracts 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 UPC 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 3 years after a contract expires or longer if otherwise required by law.
- Ensures that UPC maintains policies and/or procedures that govern the conduct of employees who are engaged in the selection, award, and administration of contracts for the SFA. These policies and procedures meet the minimum requirements set forth in federal law.
- Ensures that UPC maintains policies and/or procedures that cover conflict of interest in accordance with the requirements of federal law.
- Ensures that all procurement transactions conducted for SFA's food service department in 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. Procurement Conducted on behalf of member SFA

UPC conducts the following types of procurement on behalf of the SFA:

- Cafeteria Food, Beverage, Pizza, Snack, Commodity
- Dairy
- Ice Cream and Novelties
- Bread
- Fresh Produce
- Smallwares
- Paper and Disposables
- Kitchen Equipment

D. Procurement Method

FORMAL PROCUREMENT - Procurement by bid or proposal

Procurement for services, supplies, or other property exceeding the co-operative's Simplified Acquisition Threshold of \$20,000 is conducted by formal procurement. The director is responsible for procuring goods and/or services for member SFAs using formal procurement. Responsibilities include, but are not limited to the following:

- Ensuring that all bids are kept sealed until the day and time of the formal opening.
- Ensuring that contracts are awarded to the responsible bidder/proposer whose bid or proposal is responsive to the solicitation and is most advantageous to the SFA.
- 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 signed 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 emailed to known qualified bidders and advertised on the website (www.upcorv.org) and placed in area newspaper to publicize the member district'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 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 currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must 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 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
 - Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts 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 1126, “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.”
 - Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
 - Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) Where applicable, all contracts awarded by the non-Federal entity in excess of

\$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- Right to Inventions Made Under a Contract or Agreement. If the 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.
- Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of \$150,000 contain a provision that requires the non-Federal Award 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).
- Disbarment and Suspension (Executive Orders 12549 and 12689) A contract award (see 2 CFR 180.220) must not be 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.” SAM Exclusions contain names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid 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.

- Solid Waste Disposal Act - A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintain a satisfactory level of completion, when purchase price of the item exceed \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeding \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for recovered materials identified in the EPA guidelines.



Procurement by Category

- UPC utilizes the following procurement methods for the following purchase categories

Category	Procurement Method	Evaluation	Contract Award Type	Contract Duration/Frequency
Food Beverage Pizza Snack	Formal/IFB	Award to the low responsive, responsible bidder, determined by the Cafeteria FS Catalog Committee, unless otherwise qualified in solicitation <ul style="list-style-type: none">• Line Item	Fixed Price	Annual w/option to renew for an additional 12 months
Fresh Produce	Formal/IFB	Award to the low responsive, responsible bidder, determined by the Cafeteria FS Catalog Committee, unless otherwise qualified in solicitation <ul style="list-style-type: none">• Line Item	Fixed Price	Bi-annual (July 1 –January 31; February 1 – June 30)
Small Wares	Formal/IFB	Award to the low responsive, responsible bidder, determined by the Cafeteria FS Catalog Committee, unless otherwise qualified in solicitation <ul style="list-style-type: none">• Line Item	Fixed Price	Annual w/option to renew for an additional 12 months
Ice Cream and Novelties	Formal/IFB	Award to the low responsive, responsible bidder, determined by the Cafeteria FS Catalog Committee, unless otherwise qualified in solicitation <ul style="list-style-type: none">• Line Item	Fixed Price	Two year with renewal for 2 additional years
Fresh Bread (UPC)	Formal/IFB	Award to the low responsive, responsible bidder, determined by the Cafeteria FS Catalog Committee, unless otherwise qualified in solicitation <ul style="list-style-type: none">• Line Item	Fixed Price	Annual w/option to renew for an additional 12 months
Milk and Dairy Products	Formal/IFB	Award to the low responsive, responsible bidder, determined by the Cafeteria FS Catalog Committee, unless otherwise qualified in solicitation <ul style="list-style-type: none">• Bottom Line	Fixed price w/price adjustment tied to index as specified in solicitation	Two year with renewal for 1 or 2 additional years
Paper Disposables	Formal/IFB	Award to the low responsive, responsible bidder, determined by the Cafeteria FS Catalog Committee, unless otherwise qualified in solicitation <ul style="list-style-type: none">• Line Item	Fixed Price	Annual w/option to renew for an additional 12 months



Code of Conduct

Unified Purchasing Cooperative of the Ohio Valley

Policy Name: Written Code of Conduct

Regulations: 2 CFR Part 200.318, formerly 7 CFR Part 3016.36(b)(3), State Procurement Code and Regulations, and Unified Purchasing Cooperative of the Ohio Valley.

Procedures: Unified Purchasing Cooperative seeks to conduct all procurement procedures:

- In compliance with federal and state regulations; and
- To prohibit conflicts of interest and actions of employees engaged in the selection, award and administration of contracts; and
- By contracting with and utilizing small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible; and
- By purchasing, to the maximum extent practicable, domestic commodities or products. This Buy American provision supports the mission of the Child Nutrition Programs, which is to serve children nutritious meals and support American agriculture.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal, State, or local award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value.

The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. Based on the severity of the infraction, the penalties could include a written reprimand to their personnel file, a suspension with or without pay, or termination.

For questions and concerns regarding procurement solicitations, contract evaluations, and award, contact:

Contacts: Director- Unified Purchasing Cooperative 513-674-4598