



**PROCUREMENT PLAN
FOR CHILD NUTRITION PROGRAMS**

This procurement plan will be implemented on July 1, 2022 and remain in place from that date forward until amended.

/s/ Angela Miller
Chief Financial Officer/Food Service Director

12/15/2022
Date

**This policy was updated in December 2022 to include the Buy American Provision upon completion of our Administrative Review by the Arkansas Department of Education Child Nutrition Unit.

SECTION I- Procurement Plan Requirements

The plan for eStem Public Charter Schools (School Food Authority or SFA) is to procure items for use in the Child Nutrition Programs and is as follows:

- a. The procurement plan provides for free and open competition, transparency in transactions, comparability, and documentation of all procurement activities.
- b. The following *Code of Conduct* will be expected of all persons who are engaged in the awarding and administration of contracts supported by the non-profit school food service account. These written standards of conduct include:
 - a. No employee, officer, or agent shall purchase or establish a contract 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 firm selected for the award:
 - The employee, officer, or agent
 - Any member of the immediate family
 - Her or his partner
 - An organization that employs or is about to employ one of the above
 - b. 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.
 - c. Disciplinary actions will result from any violation of the code of conduct. The disciplinary actions should be in accordance with the SFA/LEA's policies.
- c. Regardless of procurement method, the following factors will be determined regarding the allowability of costs:
 - a. Be necessary and reasonable for proper and efficient administration of the program(s)
 - b. Be allocable to federal awards applicable to the administration of the program(s)
 - c. Be authorized and not prohibited under state and local law.
- d. Purchasing will be conducted at the most restrictive procurement threshold.
 - a. "Micro-purchases" are purchases with a value of less than:
 - i. Ten thousand dollars (\$10,000) when purchased with Federal funds: or
 - ii. The State bid purchase threshold for purchases for the District's child nutrition programs when purchased with Federal funds.
 - b. "State bid purchase threshold" means the purchase threshold amount set in A.C.A. § 6-21-304 and updated by Commissioner's Memo that requires District purchases be through the District's formal purchase procedures, such as sealed bids.
- e. All staff conducting purchasing will be trained on the procurement procedures.
- f. All purchasing records must be maintained no less than the current year plus three additional years.

g. **Buy American Provision**

Section 104(d) amended Section 12(n) of the National School Lunch Act (NSLA) (42 U.S. 1760) to require SFAs participating in the NSLP and SBP in the United States to purchase for those programs, to the maximum extent practicable, domestic USDA Foods or products. For purposes of this provision, the term domestic food commodity or product means an agricultural commodity produced in the United States, including Guam, American Samoa, the Virgin Islands, Puerto Rico, and the Northern Mariana Islands, and food products processed in the United States SUBSTANTIALLY using agricultural USDA Foods that are produced in the United States. For products procured by SFAs for use in the Child Nutrition Programs, the food component of the product is the agricultural commodity. Food component is defined as one of the food groups which comprise reimbursable meals. The food components are: meats/meat alternates, grains, vegetables, fruits, and fluid milk.

All solicitations that involve the purchasing of a food component shall include a requirement that the SFA purchase domestic commodities to the maximum extent practicable and shall include procedures for limited exceptions. The SFA shall include following language in solicitations:

eStem Public Charter Schools participates in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A 'domestic commodity or product' is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d).

Exceptions to the Buy American provision are very limited; however, an alternative or exception may be approved upon request. To be considered for an alternative or exception, the request must be submitted in writing to a designated official, a minimum of **10 days** in advance of delivery. The request must include the:

- (1) Alternative substitute(s) that are domestic, OR
- (2) Reason for exception: limited/lack of availability or price (include price):
 - (a) Price of the domestic food product; and
 - (b) Price of the non-domestic product that meets the require specification of the domestic product.

SECTION II – EMERGENCY PURCHASING

If it is necessary to make a one-time emergency procurement to continue service or obtain goods, the purchase shall be made, and a log of all such purchases shall be maintained by the SFA. The following emergency procedures shall be followed. All emergency procurements shall be approved by the Chief Financial Officer. At a minimum, the following emergency procurement procedures shall be documented:

- item name
- dollar amount
- vendor
- reason for emergency

SECTION III – PURCHASING EQUIPMENT

If the amount of purchases for equipment is greater than \$1,000 (the SFA's local capitalization threshold), the following procedure will be used:

1. Complete the Equipment Purchase Approval Tree to determine if the equipment purchase is allowable and if the equipment is on the Prior Approved List.
 - a. <https://www.cde.state.co.us/nutrition/capitalequipmentpurchases>
 - b. If the equipment is allowable and on the prior approved list, keep the Approval Tree for SFA records. The SFA may purchase the equipment and **does not** need further approval. The price quotes will receive appropriate confidentiality before award.
2. If the equipment is allowable but it is **not** on the Prior Approved List, the Approval Tree will be submitted to CFO to add to the prior approved list.
3. SFA shall keep documentation of approval and all documentation related to the procurement of capital equipment.

SECTION IV – MICROPURCHASING

***Name and Title of those responsible for Micro-Purchase Procedures:
Angela Miller, CFO**

If the amount of purchases for items is less than \$10,000 the following procedure will be used:

1. Purchase prices shall be reasonable.
2. Micro-purchases shall be spread equitably among qualified suppliers. If the SFA is unable to spread purchases equitably, it shall document the reason why (example: the next grocery store is located 50 miles away from the school LEA).

SECTION V – SMALL PURCHASE PROCUREMENT

***Name and Title of those responsible for Small Purchase Procedures:
Angela Miller, CFO**

If the amount of purchases for items less than \$250,000, Small Purchase Procedures must be followed. Quotes documented from an adequate number of qualified sources will be required.

1. Written specifications will be prepared and given to a minimum of two vendors.
2. The CFO will be responsible for contacting potential vendors when price quotes are needed.

- a. Clear and accurate descriptions of the technical requirements provided for the product, or service being procured shall be provided.
 - b. The SFA shall not restrict competition in any way, including unreasonable requirements, excessive bonding, or specifying a brand name without allowing an equal product to be bid.
 - c. Buy American requirements shall be included when applicable.
3. Quotes will be awarded by CFO and approved by the School Board. An award will be made to the responsive and responsible vendor whose quote is lowest in price.
 4. The CFO 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.
 5. The CFO will be responsible for documentation that the actual product specified is received at the documented price.
 6. Any time an accepted item is not available, the CFO will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item. Substituted items will not be made at the vendor's discretion.

SECTION VI – FORMAL PROCUREMENT

*Name and Title of those responsible for Formal Procurement Procedures:

Angela Miller, CFO

**eStem PCS contracts with an FSMC and follows the ADE-CN procurement process, as required. Should the need arise to make large purchases outside of the FSMC contract, the following process will be followed:

1. For purchases over \$250,000, formal procurement procedures will be used as required by 2 CFR Part 200.318-326.
 - a. When a formal procurement method is required, the following ***COMPETITIVE PROPOSAL in the form of a Request for Proposal (RFP)*** procedures will apply:
 - b. An announcement of an **Invitation for Bid (IFB) or a Request for Proposal (RFP)** will be placed in the Arkansas Democrat-Gazette (local newspaper) to publicize the intent to purchase needed items. The advertisement for bids/proposals or legal notice will be run for 30 days.

The public advertisement will include:

- A general description of items to be purchased.
 - The deadline for submission of questions and the date written responses will be provided including an addendum to bid specifications, terms and conditions as needed.
 - A date of pre-bid meeting, if applicable, and if attendance is a requirement for bid award.
 - A deadline for submission of sealed bids or proposals, and address of location where complete specifications and bid forms may be obtained.
- c. Any person who develops written specifications or descriptions for procurements will be **prohibited** from submitting bids or proposals for such products or services.

d. The RFP will clearly define the purchase conditions. The following list includes requirements, not exclusive, to be addressed in the solicitation document:

- SFA information
- Description of the goods and services to be procured
- Contract period
- SFA is responsible for all contracts awarded (statement).
- How a vendor will be informed of bid/proposal acceptance or rejection.
- The terms and conditions which bidder/proposer must fulfill.
- Statement assuring efforts will be made to involve minority and small business.
- Protest procedures
- Technical requirements, specifications, and forecasted quantities
- Proposal withdrawal procedures
- Options for “piggybacking” or adding new products if applicable
- Criteria for award and method for evaluating cost
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- All required federal contract provisions (as applicable) outlined in 2CFR200 Appendix II.

e. Request for Proposals

In awarding a competitive negotiation (RFP) a set of award criteria 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. Price is the highest weighted criteria at 35%.

Evaluation Criteria the LEA can use to award an RFP.

(Price must be given the highest points and award must equal 100 points). SFA may tailor evaluation criteria to each procurement as appropriate.

<i>Weight (points)</i>	<i>Criteria</i>
35	<i>Price</i>
25	<i>Menu or Product Evaluation</i>
15	<i>Business Practices</i>
15	<i>Quality</i>
10	<i>Experience, References</i>

100 points

TOTAL

- f. Specifications and estimated quantities of products and services prepared by SFA and provided to potential contractors desiring to submit proposals for the products or services requested.
- g. If any potential vendor asks questions regarding the specifications or purchase conditions, interpretation will be provided in writing to all potential bidders by the CFO and date specified
- h. The CFO will be responsible for securing all bids or proposals.
- i. The CFO will be responsible to ensure all SFA/Sponsor procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.
- j. **Lobbying Certification**
The Byrd Anti-Lobbying Amendment requires a lobbying certification to be obtained for procurement contracts of more than \$100,000. Any vendor whose contract award is for more than \$100,000 must complete a Certification Regarding Lobbying form. The SFA must keep this signed certification statement on file with a copy of the vendor's contract.