

Merit College  
Preparatory  
Academy

**PROCUREMENT  
PROCEDURES  
CHILD  
NUTRITION  
PROGRAM**

The procurement procedures contained on the following pages 1 through 8 will be implemented on December 1, 2017 from that date forward until amended. All procurements must maximize full and open competition. Source documentation must be available to determine open competition, the reasonableness, the allowability and the allocation of costs.

Merit Academy intentionally seeks to prohibit conflicts of interest in all procurement of goods and services. The code of conduct is identified in section G herein.

Chairman, Board of Education      Date

Director      Date

(Rev.11/30/2017)

**(Name of School Food Authority)**

**PROCUREMENT PROCEDURES**

1. The Merit Academy plan for procuring items for use in the Child Nutrition Program is as follows. The procurement procedures maximize full and open competition, transparency in transactions, comparability, and documentation of all procurement activities.

2. If the amount of purchases is more than the small purchase threshold currently valued at \$10,000.00, formal procurement procedures will be used as required by 2 CFR 200.318-.326 and Utah State Procurement Code 63G-6a and Utah Administrative Code Title R33. Informal procurement procedures (small purchase) will be required for purchases under the most restrictive small purchase threshold as defined by the following: The individual procurement threshold is \$1,000. The “single procurement aggregate” threshold is defined as individual items costing less than \$1,000 and collectively less than \$3,500 (Federal Micropurchase Threshold). The “annual cumulative” threshold is \$50,000.

3. The following procedures will be used for all other purchases:

4. Formal bid procedures will be applied on the basis of:

Category	Procurement Method	Evaluation Used	Contract Award Type	Contract Duration/ Frequency
All perishable and non-perishable foods and Manual-All Purpose Cleaning Supplies, Paper and Plastic Supplies	Formal	Bottom line	Cost-reimbursable plus fixed fee	Five years
Dish machine Chemicals	Formal	Bottom line	Fixed price with price adjustment	Five years
Small wares	Formal	Bottom line	Fixed price	Five years
Capital Equipment	Formal	Bottom line	Fixed price	Five years
Fresh Bread	Formal	Bottom line	Fixed price with price adjustment	Five years

Milk and Dairy Products	Formal	Bottom line	Fixed price with price adjustment	Five years
Office Supplies	District contract	Bottom line	Cost reimbursable plus fixed-fee	Five years
Processing USDA Foods	Formal	Bottom line	Fixed price	1 year (must terminate on June 30 each year), plus 2 1 year renewals
<b>Emergency</b>	Micro-purchase/ small purchase procedures (requires authorized PO)	Price reasonable	No contract, equitable distribution, transactions limited to \$3,500 each	As needed: <u>Approved locations:</u> Walmart, Winco, Sam's Club, Costco, Smiths, Reams

1. Formal bid procedures will be applied on *the basis of an:* Individual School

2. Because of the potential for purchasing more than \$10,000, it will be the responsibility of the director of Merit Academy to document the amounts to be purchased so the correct method of procurement will be followed.

**B.** When a formal procurement method is required, the following **COMPETITIVE SEALED BID in the form of an Invitation for Bid or COMPETITIVE PROPOSAL in the form of a Request for Proposal (RFP)** procedures will apply:

- An announcement 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 School Food Authority to purchase needed items. The advertisement for bids/proposals or legal notice will be run for 7 - 10 days.
- An advertisement is required for all purchases over the districts shall purchase threshold of \$10,000.00 The announcement (advertisement or legal notice) will contain a:
  - 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 sealed bids or proposals, and
  - address of location where complete specifications and bid forms may be obtained.
- 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, to be addressed in the procurement document:
    - Contract period
    - SFA is responsible for all contracts awarded (statement)
    - Date, time, and location of IFB/RFP opening
    - 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 School Food Authority 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 School Food Authority's non-profit Child Nutrition account
    - Contract provisions as required in Appendix II to 2 CFR 200
    - Contract provisions as required in 7 CFR 210.21(f) for all cost reimbursable contracts
    - Contract provisions as required in 7 CFR 210.16(a)(1-10) and 7 CFR 250.53 for Food Service Management Company contracts
    - Procuring instrument to be used are purchase orders from firm fixed prices after formal bidding

- Price adjustment clause (tied to a standard 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 – solicitations using an invitation for bid are awarded to the lowest responsive and responsible bidder; requests for proposal are awarded to the most advantageous bidder/offeror with price as the primary factor among factors considered
  - 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 School Food Authority, State Agency, United State 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
  - Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).
  - Provision requiring “Buy American” as outlined in 7 CFR Part 210.21(d); specific instructions for prior approval of all of non-domestic product (s).
- Specifications and estimated quantities of products and services prepared by SFA 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 the nutrition director and date specified.
- The nutrition director will be responsible for securing all bids or proposals.
- The nutrition director 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. Quality Delivery (ie. quality, delivery, service, etc.)

In awarding an 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 among all factors 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 SFA, price as the primary and other factors considered. Any and all bids or proposals may be rejected in accordance with law.
- The nutrition director 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.
- The nutrition director reviewing the procurement system to ensure compliance with applicable laws.
- The nutrition director is responsible for documentation the actual product specified is received.
- Any time an accepted item is not available, the nutrition director will select the acceptable alternate. The contractor must inform the nutrition director if a product is not available. In the event a non-domestic agricultural product is to be provided to the SFA, the contractor must obtain, in advance, the written approval of the product. The nutrition director must comply with the Buy American Provision. Once the contract is awarded and products are delivered, the kitchen staff will check labels to make sure the Buy American Provision is being met.
- 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 the nutrition director.

- The nutrition director is responsible for maintaining all procurement documentation.

C. If the amount of purchases for items is less than the district's small purchase threshold, the following, **SMALL PURCHASE PROCEDURES, including quotes**, will be used. Quotes from an adequate number of qualified sources will be required.

1. Written Specifications will be prepared and provided to the vendor.
2. Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of two vendors shall be contacted.
3. The nutrition director will be responsible for contacting potential vendors when price quotes are needed.
4. The price quotes will receive appropriate confidentiality before award.
5. Quotes will be awarded by the nutrition director. Quotes awarded will be to the lowest and best quote based upon quality, service availability and price.
6. The nutrition director 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*.
7. The nutrition director will be responsible for documentation that the actual product specified is received.
8. Any time an accepted item is not available, the nutrition director will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.
9. Bids will be awarded on the following criteria:
  - a. Price is the main consideration
  - b. Delivery schedule and time
  - c. Quality of the product

The nutrition director is required to sign all quote tabulations, signifying a review and approval of the selections.

**D.** 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*, **NON-COMPETITIVE PROPOSAL** procedures will be used:

1. Written Specifications will be prepared and provided to the vendor.
2. The nutrition director will be responsible for the documentation of records to fully explain the decision to use the noncompetitive proposal. The records will be available for audit and review.
3. The nutrition director will be responsible for documentation that the actual product or service specified was received.
4. The nutrition director will be responsible for reviewing the procedures to be certain all requirements for using single source or noncompetitive proposals are met.

D. 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 negotiation purchase shall be maintained by the nutrition director. 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 local Board of Education or Governing Board will approve, in advance, all procurements that result from non-competitive negotiations.

**E.** Miscellaneous Provisions:

The School Food Authority agrees that the reviewing official of each transaction will be the business manager for Merit Academy.

Payment will be made to the vendor when the contract has been met and verified and has met the SFA'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:

- Return for Credit

## **F. Emergency or “Pressing Need” Purchases**

1). If it is necessary to make a one-time emergency procurement to continue service or obtain goods, the purchase must be authorized using a purchase order signed by the business office of Merit Academy.. The following emergency procedures shall be followed. All emergency procurements shall be approved by the nutrition director. At a minimum, the following emergency procurement procedures shall be documented:

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

2). If it is necessary, in the course of a pressing need, to make an emergency purchase by means of “piggybacking” on the bid of another district, the following conditions must exist and approved procedures must be followed and appropriately documented as follows:

- The SFA 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 SFA’s governing board will be obtained and documented;
- Approval from the SFA 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;
- 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:
  - i. 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 SFA, whichever is sooner. The SFA, its authorized agents, and/or State and/or USDA auditors shall have full access to and the right to examine any of said materials during said period.

**3).** The SFA 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 the SFA 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.

**G.** The following conduct will be expected of all persons who are engaged in the awarding and administration of contracts supported by School Food and Nutrition Program Funds. These written standards of conduct include:

1. No employee, officer or agent of Merit Academy 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 firm selected for the award:

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

3. Penalties for violation of the standards of code of conduct of Merit Academy's Child Nutrition Program should be:
  - a. Reprimand by Board of Education;
  - a. Dismissal by Board of Education;
  - b. Any legal action necessary (63G-6a-2404).