

# Academy for Integrated Arts

## **Procurement Plan**

This procurement plan contained on the following pages: 1 through 32 will be implemented on March 30, 2023 from that 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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Printed Name Board President

Date

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Signature Board President

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Printed Name Executive Director

Date

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Signature Executive Director

## **Academy for Integrated Arts**

### **Section I – General Procurement Procedures**

- a. The procurement plan provides for free and open competition, transparency in transactions, comparability, and documentation of all procurement activities for use in the Child Nutrition Programs.
- b. Regardless of procurement method, the following factors will be determined regarding the allowability of costs:
  - i. Be necessary and reasonable for proper and efficient administration of the program(s)
  - ii. Be allocable to federal awards applicable to the administration of the program(s)
  - iii. Be authorized and not prohibited under state and local law.
- c. All staff conducting purchasing will be trained on the procurement procedures.
- d. All purchasing records must be maintained no less than the current year plus three additional years. These records will include, but are not necessarily limited to the following: invoices, request for quotes, specifications, Buy American requirements, quotes, IFB/RFP solicitations, advertisements, bid/RFP/quote analyses, contractor selection or rejection, and contracts including prices.

#### **e. Minority and Women's Businesses**

The LEA will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

#### **f. Buy American Provision**

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

The LEA 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 14 day (s) in advance of delivery. The request must include the:

- (1) Alternative substitute(s) that are domestic and meet the required specifications:
  - (a) Price of the domestic food alternative substitute(s); and
  - (b) Availability of the domestic alternative substitute(s) in relation to the quantity ordered.
- (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 required specification of the domestic product.

- g. If the amount of purchases is more than the state small purchase threshold (currently valued at \$250,000 or LEA approved threshold if less), formal procurement procedures will be used as required by 2 CFR Part 200.318-326. Informal procurement procedures (micro purchase or small purchase) may be used for purchases under the most restrictive small purchase threshold, which is \$  
 \_\_\_\_\$10,000\_\_\_\_ for Academy for Integrated Arts.

- h. Purchasing will be conducted at the most restrictive procurement threshold:

	<b>Federal Procurement Threshold</b>	<b>LEA Procurement Threshold</b>
<b>Micro-Purchase</b>	Less than \$10,000	\$10,000
<b>Small (Informal) Purchase</b>	Less than \$250,000	\$25,000
<b>Formal Purchase</b>	Greater than \$250,000	\$50,000
<b>Capital Equipment/Not on Pre-Approved List</b>	Greater than \$5,000	\$10,000

## **SECTION II – Micro Purchase Procedures**

If the amount of purchases for food, supplies and services is less than \$10,000 *or less than the LEA's micro-purchase threshold*, the following procedure will be used:

1. The aggregate dollar value of each transaction shall be less than the micro-purchase threshold above. Purchases will not be separated into 2 or more purchases to meet or be below the threshold.
2. Purchase prices shall be reasonable.
3. Micro-purchases shall be spread equitably among qualified suppliers. If the LEA 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 III – Small (Informal) Purchase Procedures**

If the amount of purchases for items less than \$250,000 *or the LEA's small purchase threshold*, 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. Clear and accurate descriptions of the technical requirements must be provided for the product or service being procured.
3. The LEA 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.
4. Buy American requirements shall be included when applicable.
5. Each vendor will be contacted and given an opportunity to provide a price quote based on the same specifications.
6. Quotes will be awarded by the Executive Director. An award will be made to the responsive and responsible vendor whose quote is lowest in price.
7. The Operations and Enrollment Coordinator 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.
8. The Operations and Enrollment Coordinator will be responsible for documentation that the actual product specified is received at the documented price.
9. Any time an accepted item is not available, Operations and Enrollment Coordinator 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 IV – Formal Procurement Procedures

If the amount of purchases is above the LEA's threshold, or a Food Service Management Contract, formal procurement procedures will be used as required by 2 CFR Part 200.318-326.

1. When a formal procurement method is required, the following ***COMPETITIVE PROPOSAL (Request for Proposal [RFP])*** procedures will apply:
  1. Contact the State agency for instructions and copies of the latest RFP/Contract prototypes.
  2. Care must be taken to ensure that the RFP:
    - a. Contains the required 21-day menu cycle, AS PREPARED BY THE LEA, to be used as a standard for basing bids or estimating average costs per meal. Be sure to designate menu planning method used to plan menus; and
    - b. Makes it clear that the food management company must adhere to the menu cycle for the first 21 days of meal service; and,
    - c. Indicates that nonperformance subjects the food management company to specified sanctions in instances where the food management company violates or breaches contract terms.
  3. Use the enclosed RFP/Contract checklist to review RFP.
  4. Must submit RFP to the State agency for review.
  5. Upon completion of review, formally advertise bid for contracted food management services and mail a copy of the complete RFP to prospective bidders; i.e., those companies that are believed to be qualified and that might reasonably be expected to respond to the solicitation. School districts are encouraged to allow 21 days from the time bids/proposals are solicited to the time they are due or follow the LEA's local procurement timeframe. Non-public schools are encouraged to allow 45 days for IFBs and 60 days for RFPs from the time the bids/proposals are solicited to the time they are due.
  6. For any contract that will be in excess of \$100,000 the LEA must require each bidder to submit, along with the bid, the signed Certification Regarding Debarment, Suspension form. This signed Certification Statement must be kept in the LEA's files. (See prototype form in packet.)
  7. For any contract that will be in excess of \$100,000 the LEA must require each bidder to submit, along with the bid, the signed Certification Regarding Lobbying form, and if applicable, the Disclosure of Lobbying Activities form. (See prototype forms in packet.)
  8. Select most advantageous bid, fully documenting selection process.
  9. Prepare, in conjunction with selected food management company, actual food management contract.
  10. Use the enclosed RFP/Contract checklist to review contract.
  11. Forward proposed food management contract to State agency for review. The State agency will then examine the contract to determine that it contains, at a minimum, the necessary legal references as outlined by 7 CFR 210, National School Lunch Program regulations.

12. Forward signed copies of the Certification Regarding Debarment, Suspension form; the Certification Regarding Lobbying form; and if applicable, the Disclosure of Lobbying Activities form. Also, submit to the state agency a copy of formal advertisement or Affidavit of Publication.

13. Upon completion of contract review: officially enter into contract, sign contract, and forward signed copy of contract to State agency. NOTE: For district protection, management company operations should not commence until after date of contract signing.

2. An announcement of an Request for Proposal (RFP) will be placed in the Northeast News and <https://afiakc.org/> to publicize the intent of the Local Education Agency to purchase needed items. The advertisement for bids/proposals or legal notice will be run for 30 days. LEAs must publish the advertisement at least two times. The first advertisement must be at least 15 days before the public opening.

The public advertisement will include:

- a. A general description of items to be purchased.
  - b. The deadline for submission of questions and the date written responses will be provided including an agenda to bid specifications, terms and conditions as needed.
  - c. A date of pre-bid meeting, if applicable, and if attendance is a requirement for bid award.
  - d. A deadline for submission of sealed bids or proposals, and address of location where complete specifications and bid forms may be obtained.
3. The developer of written specifications or descriptions for procurements are **prohibited** from submitting bids or proposals for such products or services.
  4. The LEA will perform a cost analysis in connection with every procurement in excess of the Small Purchase Threshold including contract modifications. The cost/price analysis is to be maintained on file at the LEA. The approximate dollar value of the procurement should be included in the bid.
  5. The IFB or RFP will clearly define the purchase conditions. The following list includes requirements, not exclusive, to be addressed in the solicitation document:
    - a. LEA information
    - b. Description of the goods and services to be procured
    - c. Contract period
    - d. LEA is responsible for all contracts awarded (statement).
    - e. Date, time, and location of bid/ proposal opening. (IFB requires a public opening)
    - f. How a vendor will be informed of bid/proposal acceptance or rejection.
    - g. The terms and conditions which bidder/proposer must fulfill.
    - h. Protest procedures.
    - i. Technical requirements, specifications, and forecasted quantities.
    - j. Buy American Provision.
    - k. Proposal withdrawal procedures.
    - l. Options for “piggybacking” or adding new products if applicable.
    - m. Type of contract to be awarded (IFB- fixed price only, RFP- fixed price or cost- reimbursable).
    - n. Criteria for award and method for evaluating cost.

- o. (Cost-reimbursable contracts only) Statement regarding the return of purchase incentives, discounts, rebates, and credits to the non-profit Child Nutrition account.
- p. All required federal contract provisions (as applicable) outlined in 2CFR200 Appendix II.

## 6. Invitation for Bid

In awarding an Invitation for Bid (IFB) a firm fixed price is awarded to the bidder that is most responsive and responsible and is the lowest in price. An IFB must result in a fixed fee/firm fixed price contract.

## 7. 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 does not have to be 51% of points but must be the highest weighted criteria.

## 8. Evaluation Criteria the LEA can use to award an RFP.

- a. Price
- b. Service Capability Plan
- c. Experience, References
- d. Financial Condition/Stability, Business Practices
- e. Accounting and Reporting Systems
- f. Personnel Management
- g. Innovation
- h. Promotion of the School Food Service Program
- i. Involvement of Students, Staff and Patrons

## 9. The Operations and Enrollment Coordinator will be responsible to ensure all LEA procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.

# SECTION V – Non-Competitive Negotiation

## 1. In order to use a noncompetitive proposal, one of the following circumstances must apply:

- a. The item is available only from a single source
- b. The public exigency or emergency does not permit a delay resulting from competitive solicitation
- c. The awarding agency authorizes noncompetitive proposals
- d. After solicitation of a number of sources, competition is determined inadequate

## 2. 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 proposal, NON-COMPETITIVE NEGOTIATION*** procedures will be used:

- a. Written Specifications will be prepared and provided to the vendor.
- b. The Operations and Enrollment Coordinator will be responsible for the documentation of records to fully explain the decision to use the non-competitive negotiation. The records will be available for audit and review.

- c. The Operations and Enrollment Coordinator will be responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive negotiation are met.
- d. Non-competitive negotiations 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 Operations and Enrollment Coordinator. The record of non-competitive purchases shall include, at a minimum, the following:
  - i. item name
  - ii. dollar amount
  - iii. vendor
  - iv. reason for non-competitive procurement

## SECTION VI – Purchasing Equipment

If the amount of purchases for equipment is greater than \$5,000 (or the LEA's local capitalization threshold) the following procedure will be used.

1. Determine if the equipment purchase is allowable and if the equipment is on the USDA Memo: CACFP 241-2, CACFP DCH 241-2, SFSP 241-2, SNP 241-2: Child Nutrition Program Equipment Purchases
  - a. If the equipment is less than the \$5,000 or the LEA local capitalization threshold (whichever is lower) **and** on the USDA Approved Equipment List, the LEA may purchase the equipment and **does not** need further approval. The price quotes will receive appropriate confidentiality before award.
  - b. If the equipment is over the \$5,000 (or the LEA's capitalization threshold), OR is **not** on the Approved Equipment List, Department of Elementary & Secondary Education (DESE) must approve the equipment before it can be purchased.
2. LEA shall keep documentation of approval and all documentation related to the procurement of capital equipment.

**Capital Equipment** is defined by Federal regulations as tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the LEA for financial statement purposes, or \$5,000.00.

## SECTION VII – Emergency Purchasing

1. 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 LEA. The following emergency procedures shall be followed. All emergency procurements shall be approved by the



Executive Director. At a minimum, the following emergency procurement procedures shall be documented:

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

2. If the emergency purchasing need requires a contract, all books, records, and other documents relative to the award of the contract must be retained for three (3) years (or until a procurement audit has been completed) after final payment. Specifically, the LEA shall maintain, at a minimum, the following documents:

- Written rationale for award cost or price;
- A copy of the original solicitation;
- 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 terms and conditions of the contract;
- Any changes to the contract and negotiation history;
- Billing and payment records;
- A history of any contractor claims;
- A history of any contractor breaches

## **SECTION VIII – Resources Appendices**

Appendix A – Buy American Certification

Appendix B – Small Purchase Checklist

Appendix C – Phone Log

Appendix D – Email Log

Appendix E – Formal Procurement Checklist

Appendix F – Debarment & Suspension/Anti-Lobbying Certification

Appendix G – List of Required Solicitation Clauses

## Buy American Certification

Buy American regulation requires school food authorities (LEAs) to purchase domestic commodities or products to the maximum extent possible. Domestic commodities or products are defined as:

1. An agricultural commodity that is produced in the U.S.
2. A food product that is processed in the U.S. substantially using agricultural commodities produced in the U.S.
3. Unprocessed, agricultural commodities must be domestic.
4. Processed foods must be processed domestically using domestic agricultural food components that comprise over 51% domestically grown items, by weight or volume.

I certify that the products listed below **do not** meet the qualifications of Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1988.

FNS does allow for limited exceptions to the Buy American provisions when 1 of 2 events occur: 1: a specific product is not produced or manufactured in the U.S. "in sufficient and reasonable available quantities of a satisfactory quality"; and  
2: when competitive bids show that the costs of the U.S. products are significantly higher than nondomestic products. LEAs that use one of these exceptions are not required to request a waiver in order to purchase a nondomestic product, but they must maintain documentation justifying the exception

Product Name	Product/Manufacturer's Code	Country of Origin	Qualification #1 or 2?

I certify the accuracy of the information provided above:

Distributor Name:			
Distributor Representative:			
Title:			
Signature:		Date:	

## Small Purchase Checklist

### Did the LEA...

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- **Forecast product needs**

Cycle menus, velocity reports, and production records are common tools used to forecast product needs. If the estimated value of goods or services needed (during the time period you wish to purchase them in) is greater than the micro-purchase threshold, and less than the small purchase threshold, the LEA should use the small purchase method of competitive quotations.

\*The Federal micro-purchase method is \$10,000 and the Federal small purchase threshold is \$250,000 for perishables.

- **Seek to obtain price quotations from an adequate number of qualified sources**

At least two sources should be used to obtain price or rate quotations. Quotes may be obtained verbally or through writing (example: email) but must be documented.

- **Give clear and accurate specifications**

Clear and accurate descriptions of the technical requirements must be provided for the product or service being procured. Specifications can be given verbally or in writing. In addition, if the LEA specifies a brand name product, it must allow an equal product to be offered.

- **Not restrict competition**

An LEA may not restrict competition by placing unreasonable requirements on vendors to qualify for business, requiring unnecessary experience or excessive bonding, or any other means of restricting competition.

- **Include Buy American Requirements when applicable**

LEAs are required by the Buy American Provision to purchase, to the maximum extent practicable, domestic commodities or products. An LEA must require that vendors understand and can meet these requirements. This can be done during the quotation process, by communicating the requirements to vendors verbally or in writing. An LEA may also obtain a certification statement from the vendor if it chooses to do so.

- **Select the correct vendor**

After quotes are obtained, the LEA must select the correct vendor based on the products or services requested and the vendor responses provided. If an LEA chooses to reject an offer, it should document why. For example, the vendor cannot deliver on the days or times that the LEA needs. If more than one vendor can provide all of the requested services and products, the award should be made to the lowest price offer.

- **Maintain records sufficient to detail the history of procurement**

Although quotations may be written or verbal, the LEA must document the quotations. A written agreement is not required but may be helpful to document all the terms and conditions of the agreement.

- **Keep records**

All procurement records must be kept for three years plus the current year. Invoices/receipts should show that the goods or services were purchased at the price that was quoted.

## SMALL/INFORMAL PURCHASING LOG EXAMPLE

Vendor Name:										
<u>Items to be Purchased:</u> <ul style="list-style-type: none"> <li>Product specifications</li> <li>Delivery Frequency</li> <li>Packaging</li> </ul>	Quantity Expected to Buy	Unit Price	Extended Price (Quantity x Unit Price)	*VS (✓)	Unit Price	Extended Price (Quantity x Unit Price)	*VS (✓)	Unit Price	Extended Price (Quantity x Unit Price)	*VS (✓)
1.										
2.										
3.										
4.										
5.										
6.										
7.										
TOTAL			\$			\$			\$	
*Vendor Selected (VS)		<input type="checkbox"/>			<input type="checkbox"/>			<input type="checkbox"/>		
<b>Date &amp; Method of contact:</b>										
<b>Name of person quoting pricing:</b>										
<b>Duration quoted pricing is good for:</b>										
Additional Notes:										
Signature of person completing this form:								Date:		

\*Vendor Selected (VS); you can award all items to one bidder (lowest total price) or you can award bid on a line item basis (lowest item price).

USDA Child Nutrition Programs  
Informal Procurement Log

## Instructions for completing “Phone Quote”

This form can be saved as a file on the computer and then reused as needed.

There are 4 areas to complete in this document: **1<sup>st</sup> Section, 2<sup>nd</sup> Section, 3<sup>rd</sup> Section, and 4<sup>th</sup> Section**

**1<sup>st</sup> Section:** Titled: “Prepared by” and followed by 3 additional lines

Prepared by: Write/type your name here (or the person completing the form).

Date prepared: Write/type today’s date

Date quotes due: Write/type the date you need all quotes back

Time quotes due: Write/type the time of day you are requesting all quotes back.

**2nd Section:**

Along the left-hand side of this section are 4 areas labeled: “Name of company”, “Company contact”, “Contact phone number”, and “Quote good for”. Running horizontally in this area are 3 areas labeled: Distributor 1, Distributor 2, Distributor 3. All areas will be completed.

**Name of company:** Write/type the company you are contacting for a bid (i.e. Reinhart Foods, Cash-Wa, FSA, etc.). Each company has its own section that you will complete (i.e. Distributor 1, Distributor 2, Distributor 3).

**Company contact:** Write/type the person you are talking to regarding the quote (typically the sales-person that services or stops at your LEA).

**Contact phone number:** Write/type the phone number of the person you contacted in the previous line.

**Quote good for:** Write/type the number of days that the company is willing to guarantee the quoted price.

**3<sup>rd</sup> Section:**

The first 3 columns are where you write/type the bid specifications (item you want to purchase). You may or may not have an item number.

**Item:** Write/type the Manufacturer number.

**Description:** Write/type the bid specifications here.

**Quantity:** Write/type the amount of product you need.

Under Distributor 1, Distributor 2, and Distributor 3, complete the unit price quoted and the delivery frequency of the product (i.e. weekly, monthly, etc.) as you receive them.

**4<sup>th</sup> Section:**

**Name of Distributor Selected:** Write/type the company awarded the quote

**Signature of school/agency person making bid selection:** write/type the person who made the bid selection (this may or may not be the person who collected the information).

**Date of selection:** Date selection was made (the selection date needs to be after the date the quotes are due by (top section of form)).

**General comments:** You may or may not have information to add here. Include any information that affected your bid award.

# Phone Quotes

\*\*\*\*\*This is not an order\*\*\*\*\*

Use this form to document requests for price quotes. Buy American Provision, to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States must be purchased. "Substantially" means the final processed product contains over 51% domestically grown agricultural products.

Prepared by:

Date prepared:

Date quotes due:

Time quotes due:

	Distributor 1	Distributor 2	Distributor 3
Name of company			
Company contact			
Contact phone number			
Quote good for:	____ days	____ days	____ days

			Distributor 1		Distributor 2		Distributor 3	
Item	Description	Quantity	Unit Price	Delivery Date/Freq	Unit Price	Delivery Date/Freq	Unit Price	Delivery Date/Freq
			\$		\$		\$	
			\$		\$		\$	
			\$		\$		\$	
			\$		\$		\$	
			\$		\$		\$	
			\$		\$		\$	
			\$		\$		\$	
			\$		\$		\$	
			\$		\$		\$	

\_\_\_\_\_  
Name of Distributor Selected

\_\_\_\_\_  
Date of selection

\_\_\_\_\_  
Signature of school/agency person making bid selection

General Comments:

\_\_\_\_\_

**USDA Child Nutrition Programs  
Informal Procurement Log**

## **Instructions for completing “Request for E-mail Quote”**

This form can be saved as a file on the computer and then reused as needed. After you complete the document, save the file, and then attach the file to the email.

There are 3 areas to complete in this document: **Part 1, Part 2, and Part 3.**

**Part 1:** Titled: “TO: Distributor and FROM: LEA Name”

A. TO: Distributor. Put the cursor on the word *Distributor*. Type the company’s name that you are requesting the quote from.

Tab to B. FROM: LEA Name. Place the cursor on the word *LEA Name*. Type in the School Food Authority name in this blank (i.e. the school district’s name, etc.)

Tab to C. TO: Distributor Contact Person. Place the cursor on the word *Distributor Contact Person*. Type in the name of the person receiving this email.

Tab to D. FROM: LEA Contact Person. Place the cursor on the word *LEA Contact Person*. Type your name here (or the person completing the form).

Tab twice to E. PHONE: LEA Contact Phone Number. Place the cursor on the word *LEA Contact Phone Number*. Type the phone number here.

Tab to: F. Date: Click here to enter a date. On the right-hand side, you will see a box with a ▼ that when you click on provides a dropdown calendar. Choose today’s date.

**Part 2:**

1. Place the cursor over the Return by email to: “Name”. Type your name here.
2. Place the cursor over the “Time” and type the time (i.e.2:00pm) by which the document should be returned to you.
3. Place the cursor over the works “Click here to enter a date”. On the right-hand side, you will see a box with a ▼ that when you click on provides a dropdown calendar. Choose the date that the quote is due back to you by.
4. Place the cursor over the e-mail address. Type in the email address that the quote should be returned to.
5. Date that product is needed at LEA. Place the cursor over the works “Click here to enter a date”. On the right-hand side, you will see a box with a ▼ that when you click on provides a drop-down calendar. Choose the date you need the item(s) in your kitchen.

**Part 3:** Titled: “Description, Quantity, Price per Unit, & Total”



Column A: Place the cursor on “Click here to enter text” and type in the food item you need pricing on.

Column B: Place the cursor over ##### and enter the Manufacturer #

Column C: Place the cursor over the ##### and type in the amount of product you need.

Column D and E: **NOTE: The “Price per Unit” and “Total” sections of the bottom table will be completed by the Distributor receiving this quote. Distributor will also complete the “Pricing will be held firm for ### days FOB Destination as well as provide an electronic signature.**

**Request for E-mail Quote**  
**\*\*\*\*\*This is not an order\*\*\*\*\***

**Part 1**

TO: A. Vendor	FROM: B. LEA Name
TO: C. Vendor Contact Person	FROM: D. LEA Contact Person
Number of Pages: # of Pages.	PHONE: E. LEA Contact Phone Number
Quote good for: (# of days)# of Days/Months	DATE: F. Insert Date

**Part 2**

**Return by e-mail to** Name **by** Time **on** Click here to enter a date. **at** e-mail address

**Date that product is needed at LEA:** Click here to enter a date.

**Delivery Address:** Enter Address of Delivery Location

**Buy American Provision,** to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States must be purchased. Substantially means the final processed product contains over 51% domestically grown agricultural products.

**Alternate bids** will be considered on products, which meet or exceed products indicated on quote. If bidding alternate items, please include dietary specifications for the product to include: CN Label or Product Formulation Statement, and Nutrition Facts. If these dietary specifications are not included, bid will be considered incomplete.

Distributor is to mark clearly alternate proposals.

Any reference to brand names is meant as descriptive, not restrictive.

**“OR EQUAL”:** any brand name listed in the specifications as “or equal” or “or equivalent” shall establish the minimum requirements for quality, utility, durability, function, purpose, etc. Other product brands may be offered that are equal to or better than the product brand name. Bidder may show cost differences, alternates, and options in the space provided in the quote. This clause is not meant to be restrictive, but to set the minimum standard. AGENCY SHALL DETERMINE, IN ITS SOLE DISCRETION, WHETHER A PRODUCT OFFERED IS “EQUAL”. When the designation is “or equal” or “equivalent” Agency shall make it decision after Bid Closing.

**Part 3:**

A. Description	B. Mfg. #	C. Quantity	D. Price Per Unit	E. Total
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price
Click here to enter text.	##### or equal	#####	\$ Price	\$ Total Price

**Award will be made:** Select one: By Line Item, All or Nothing, By Category (be sure to specify categories).

Signature of Distributor and Date (required): \_\_\_\_\_  
Quote good for: (# of days/months) \_\_\_\_\_

## Formal Procurement Checklist - Did the LEA...

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### Forecast product needs

Cycle menus, velocity reports, and production records are common tools used to forecast product needs.

### Conduct a cost or price analysis

Estimate the total dollar value of the contract, which includes product or service purchases for the duration of the contract.

- o LEA may use forecasted product needs and current or past product pricing to complete the cost analysis

### Write product specifications

Product specifications should include the product name, description, case pack and weight, minimum and maximum sizes and pieces, main ingredients, prohibited ingredients, nutritional standards or CN requirements, quality indicators, run and code numbers, etc.

- o Note: specifications may include a brand name but must include 'or equal'. A bidder should have the opportunity to propose an equal product
- o An LEA may pre-screen products and provide bidders with a list of preapproved equal products. The LEA must ensure maximum free and open competition during the procurement process, and pre-screening procedures should be included in the LEAs written procurement procedures.

### Create a solicitation document

There are two types of formal solicitations: Invitation for Bid (IFB) and Request for Proposals (RFP)

#### Invitation for Bid (sealed bid)

Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid:

- o conforms with all the material terms and conditions of the invitation for bids, and
- o Is the lowest price

#### Request for Proposals (competitive proposal)

The contract is awarded to the responsible and responsive vendor whose proposal scored the highest number of points, and is most advantageous to the program with price and other factors considered

A well-written solicitation gives a bidder clear information on what the LEA is planning to purchase and how. A solicitation should include:

Background information on the LEA

- o Size, number of meals served, etc.
- o General descriptions of the goods and/or services to be purchased
- o Solicitation should indicate if distribution services are requested
- o Include distribution for processed USDA foods, if applicable
- o Information about pre-proposal meeting to be held (if applicable)
- o Date and time for solicitation submission
  - Time and location of public opening if IFB

- o Time period of the contract and options for renewals
  - Generally, 1 year with 4 optional renewals
- o Type of contract to be awarded
  - An IFB must result in a fixed fee or firm fixed price contract.
  - An RFP may result in a fixed fee or cost reimbursable contract. Cost plus percentage is not allowable.
  - Fixed fee may be tied to a price index or price escalator/de-escalator clause
  - Cost reimbursable contracts must not include unallowable costs. The vendor must return all rebates, discounts, and credits to the LEA. A cost-plus fixed fee contract may also be used.
- o Protest procedures
- o Proposal withdrawal procedures
- o List of all products to be purchased and specifications
- o Options for 'piggybacking', adding goods or services, or increasing contract volume over time
  - Changes to the contract may not result in a material change- no more than a 10% change in contract value is recommended
- o Criteria for award
  - IFB- award will be made to the lowest bidder
  - RFP- include all criteria that will be used to evaluate proposals
    - Cost must be the highest weighted factor but does not have to be 51%
    - A scoring rubric is required that identifies all evaluation factors and their relative importance
    - If using geographic preference, indicate how preference will be given
- o Method for evaluating cost
  - How will cost be evaluated for the products or services requested? Common ways to evaluate cost are:
    - By line item: each line is awarded separately based on individual product cost
    - By product groupings: the total cost of groups of products are evaluated and awarded as a group. Example: frozen, produce, canned goods.
    - Bottom line (all-or-nothing): the total cost of the goods or services is evaluated; all products/services are awarded together.
    - Market basket cost analysis: representative sample of products, called a 'market basket' is used to estimate the total cost. The sample should consist of products that represent at least 75% of the total value of the contract (high-velocity items). The LEA must obtain a price for all products not included in the market basket prior to the award of the contract.
- o Technical requirements of the vendor
  - Responsibilities of the vendor: delivery days, delivery windows, HACCP plan, staff requirements, etc.
  - Procedures for recalls or substitutions
  - Buy American Provision Requirements
  - Common legalities
  - Required forms and certifications: suspension and debarment, lobbying activities, anti-collusion, etc.
- o Contract provisions required by 2 CFR 200 appendix II (as applicable):
  - Termination for cause and convenience- contracts in excess of \$10,000
  - Equal Opportunity Employment- 'federally assisted construction contracts'
  - Davis-Bacon Act- construction contracts in excess of \$2,000

- Contract Work Hours and Safety Standards- contracts in excess of \$100,000 that involve the employment of mechanics or laborers
- Right to inventions made under a contract or agreement- if the contract meets the definition of a 'funding agreement' under 37 CFR 401.2 (a)
- Clean Air Act- contracts in excess of \$150,000
- Debarment and Suspension- all federally awarded contracts
- Byrd Anti-Lobbying Amendment- contracts in excess of \$100,000
- o Required provisions for cost reimbursable contracts:
  - 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.
  - The contractor must 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 that the contractor must 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.
  - The contractor must 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.
  - The 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.
  - The 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.

## **Publicize the solicitation**

Formal solicitations must be publicly advertised and seek/invite two or more qualified sources willing and able to compete.

## **Allow enough time for vendors to respond**

Response time may vary depending on the complexity of the solicitation. A minimum of two weeks for IFBs and 30-35 days for RFPs is recommended.

## **Accept bids or proposals from responsive and responsible vendors**

An LEA must determine if the vendor is responsive and responsible before accepting their bid or proposal.

- o **Responsive:** Did the vendor respond to the IFB or RFP on time and include all required attachments, certifications, etc.?

- o **Responsible:** Does the vendor meet the criteria outlined in the solicitation? Do they have a good track record with providing products and services to similar institutions?

## Evaluate the bids or proposals

### IFB:

- o Bids are publicly opened at the location, date, and time prescribed in the IFB
- o Any or all bids may be rejected if there is a sound, documented reason
- o Cost is evaluated as outlined in the IFB, which includes all costs such as transportation and delivery costs

### RFP:

- o Proposals cannot be opened until after the closing date and time specified in the RFP
- o An evaluation committee should score the proposals *only* on the criteria outlined in the RFP
- o An LEA may conduct negotiations of the top-ranked proposals to ensure that each vendor fully meets the needs of the RFP. This must be done before cost proposals are opened. The LEA may also allow vendors to amend their cost proposal to reflect any changes made during the proposal negotiation. All negotiations must be done fairly and may not give a competitive advantage to one vendor.

## Award the contract

Formal procurement should always result in a (signed) written contract between the two parties. The contract should include:

- o Identification of the parties involved in the contract
- o Contract duration
- o Scope of work
- o A complete list of products, including specifications (and price)
- o Type of contract (fixed price or cost reimbursable)
  - Fees must be identified and agreed upon
- o Contract renewal options, including provisions for changes such as the addition of goods or services
- o Contract modification and change procedures
- o Default and breach of contract provisions, remedies, cancellation procedures, and penalties
- o Required compliance certifications
- o Contract termination rights for cause and convenience
- o Recordkeeping requirements
- o Laws that govern the contract
- o Cost reimbursable contracts: requirements that all costs be net of discounts, rebates, and other applicable credits
- o Sanitation and licensing requirements
- o Professional certification requirements

## Manage the contract

LEAs are responsible for ensuring that vendors are compliant with all terms of the contract. Contract management is ongoing for the duration of the contract.

## Maintain records

The LEA must maintain records enough to detail the history of procurement. All records must be kept for a period of 3 years after the submission of the final claim for reimbursement for the fiscal year or longer if an audit has not been resolved.

### **Renew the contract as applicable**

If the contract allowed for renewal options, both parties may agree to renew the contract for additional terms as applicable.

### **Add products to the contract**

New products may be added to the contract if the cost of the new products does not create a material change (no more than 10% of the contract value is recommended). Substitutions for unavailable products are not considered new products.

The LEA should evaluate the estimated cost of new product(s) for the duration of the contract period and determine if the cost would be considered a material change against the total estimated contract value. No more than a 10% change is recommended.

If the cost to add new products would not constitute a material change, the LEA may add new products to the contract. During the contract renewal, the LEA must amend the contract to include additional items.

A new contract value is determined annually (or at the end of the contract term), and the new contract value may be used to estimate material changes moving forward.

If the cost to add new products would constitute a material change, the LEA may procure new products using another approved procurement method (micro-purchase, small purchase, formal purchase).

# **SUSPENSION AND DEBARMENT CERTIFICATION**

## **UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**

### *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion -* **Lower-Tier Transaction**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, Title 2 CFR Part 200.212 and Appendix II of 2 CFR Part 200). The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the USDA agency with which this transaction originated.

**(Before completing certification, read instructions on next page.)**

1. The prospective lower-tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Organization Name

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PR/Award Number or Project Name

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Name(s) and Titles of Authorized Representative(s)

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Signatures

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Date



# INSTRUCTIONS FOR SUSPENSION DEBARMENT CERTIFICATION

By signing and submitting this form, the prospective lower-tier participant is providing the certification set out on the previous page in accordance with these instructions.

The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

The prospective lower-tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

The prospective lower-tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

The prospective lower-tier participant further agrees by submitting this form that he or she will include this clause titled Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower-Tier Covered Transactions, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principles. Each participant may, but is not required to, check the Nonprocurement List.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant are not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment

# LOBBYING CERTIFICATION

Applicable to Grants, Sub grants, Cooperative Agreements, and Contracts Exceeding \$100,000 in federal funds.

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by Section 1352, Title 31, and U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of a federal contract, the making of a federal grant, the making of a federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of the undersigned shall complete and submit Standard Form LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all covered sub awards exceeding \$100,000 in federal funds at all appropriate tiers and that all sub recipients shall certify and disclose accordingly.

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Name and Address of Organization

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Name/Title of Submitting Official

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Signature

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Date

## 1. Required Contract Provisions

### a. Contractual Procedures

Contracts for **more than \$250,000** for perishables, **\$25,000** for services or supplies, 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.

### b. Termination Clause

All agreements in excess of **\$10,000** must address:

- Termination for cause and for convenience by the non-Federal entity, and
- The manner in which it will be affected and the basis for settlement.

The LEA may use the following sample language in solicitations as applicable:

#### Termination for Cause:

Except as may be otherwise provided by this document, the awarded contract may be terminated in whole or in part by either party to the awarded contract in the event of failure by the other party to fulfill its obligations under the awarded contract through no fault of the terminating party; provided that no such termination may be implemented unless and until the other party is given:

- a. at least thirty (30) days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and
- b. an opportunity for consultation with the terminating party, followed by a reasonable opportunity, of not more than ten (10) business days or such other reasonable amount of time as may be required under the circumstances, to rectify the defects in products or performance, prior to termination.

#### Termination for Convenience

The LEA may terminate an award prior to the expiration of the term, without cause and without penalty, upon thirty (30) days written notice to the selected Vendor.

### c. 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 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.”

- ***Federally assisted construction contract*** means any agreement or modification thereof between any applicant and a person for construction work which is paid

for in whole or in part with funds obtained from the U.S. Government or borrowed on the credit of the U.S. Government pursuant to any federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the U.S. Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

- **Construction work** means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

The LEA shall include the following sample language in solicitations as applicable:

The vendor certifies it is an Equal Opportunity Employer, a provider of services and/or assistance, and is in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Orders 11246 and 11375. The vendor assures compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336), all amendments to, and all requirements imposed by the regulations issued pursuant.

d. **Davis-Bacon Act**

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. 3141-3144, and 3146-3148) 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 the 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.

- i. In addition, contractors must be required to pay wages not less than once a week.
- ii. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation.
- iii. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination.
- iv. 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 in Part by Loans or Grants from the United States").

- v. The Act provides that each contractor or sub-recipient 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.

- vi. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

**e. Contract Work Hours and Safety Standards Act**

Where applicable, all contracts awarded by the nonfederal entity in **excess of \$100,000 that involve the employment of mechanics or laborers** must include a provision for compliance with 70 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 a 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.

- ***Laborers and mechanics.*** This chapter applies to all laborers and mechanics employed by a contractor or subcontractor in the performance of any part of the work under the contract—
  - (A) including watchmen, guards, and workers performing services in connection with dredging or rock excavation in any river or harbor of the U.S., a territory, or the LEA of Columbia; but
  - (B) Not including an employee employed as a seaman.

**f. Rights 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 sub recipient 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 sub recipient 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.

**g. Clean Air Act**

Contracts in **excess of \$250,000** shall contain provision that require compliance with all applicable standards, orders, or requirements issued under Section 306 of the *Clean Air Act* (42 U.S.C. 1857[h]), Section 508 of the *Clean Water Act* (33 U.S. C. 1368), Executive Order 11738, and *Environmental Protection Agency (EPA) Regulation* (40 CFR §15), which prohibit

the use of nonexempt federal contracts, grants, or loans of facilities included on the EPA list of violating facilities. The provision shall require reporting of violations to the grantor agency and to the EPA Assistant Administrator for Enforcement (EN-329). The contract must recognize mandatory standards and policies relating to energy efficiency that are contained in the State Agency conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

#### **h. Debarment and Suspension Certification**

An LEA is prohibited from contracting with an individual or company that has been debarred or suspended in accordance with 2 CFR § 180, as adopted and modified by USDA regulations at 2 CFR §417. There are three methods that may be used to verify that vendors have not been debarred, suspended, or excluded or otherwise ineligible for participation in Federal programs:

1. Check <https://www.sam.gov/portal/SAM/##11>
2. Collect certification from vendor
3. Add clause/condition to transaction with vendor

The LEA will use the following sample language when adding a clause to a solicitation/contract with a vendor:

The Vendor certifies that neither the Vendor or its principals; the sub-recipients or their principals; or the subcontractors or their principals are suspended, debarred, proposed for debarment, voluntarily excluded from covered transactions, or otherwise disqualified by any federal department or agency from doing business with the Federal government pursuant to Executive Orders 12549 and 12689. The Vendor specifically covenants that neither the Vendor nor its principals; the subcontractors or their principals; nor the sub-recipients or their principals are included on the Excluded Parties List System ("EPLS") maintained by the General Services Administration ("GSA"). By responding to this solicitation the Vendor is certifying they are in "Good Standing".

#### **i. 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 LEA must keep this signed certification statement on file with a copy of the vendor's contract.

#### **J. Assurance Clause**

"The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which

the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.”

“By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.”

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

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