



OSPI Child Nutrition Procurement Review Results and Findings Report

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Seattle Public Schools 2023-2024

OSPI Child Nutrition Procurement Review – Results and Findings Report

LEA: Seattle Public Schools

WINS No.: 159880

	Reviewed Y/N?		Technical Assistance Provided	Corrective Action Required
Procurement Procedures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Code of Conduct	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Micro Purchases	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Small/Informal Purchases	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Formal Purchases	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Processing Contracts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Resources and Results

The procurement of goods and services is a responsibility of Local Education Agencies (LEAs). Federal, state and local regulations specify the methods LEA’s must follow when procuring goods and services. Child Nutrition Services (CNS) is required to ensure that LEA’s comply with applicable provisions.

This report covers the procurement review conducted covering expenditures for the 2022-2023 school year.

Corrective action is required as a result of this Procurement Review. Please complete the “Procurement Corrective Action Plan” included in this email and submit a copy to barbara.krogstad@k12.wa.us.

Corrective Action Due Date: September 6, 2024

Resources for procurement may be found in the Procurement Section of the OSPI Child Nutrition Services website at [Procurement | OSPI](#)

NOTE: It is the expectation of OSPI and USDA that changes made as a result of the Procurement Review will be carried forward throughout all Child Nutrition Programs.

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Review of Procurement Procedures and Code of Conduct:

LEAs must show that they have documented Procurement Procedures and a Code of Conduct per federal procurement regulations. [2 CFR 200.318, 7 CFR 210.21]

Procurement Procedures:

Comments: Board policy #6220 was reviewed and did not meet all federal procurement regulations. Missing procurement thresholds when using federal funds. Procurement procedures missing language for the cost or price analysis requirement. Board policy #6220SP.B was reviewed and is outdated (reference to a CFR that has been removed), although it was updated and approved in June 2022. Reviewer recommends updating all procurement policies during the next revision of board policies.

Technical Assistance: Sponsors must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations for procurement transactions. [2 CFR 200.319-320]
Procurement procedures must include a requirement for the sponsor to perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold. [2 CFR 200.324(a)]
Reviewer recommends adding missing policies to next revision of Board Policies.

Additional information may be found on the OSPI CNS website: [Procurement Procedures Reference Sheet \(ospi.k12.wa.us\)](https://ospi.k12.wa.us)

Code of Conduct:

Comments: Missing language that prohibits officers, employees, and agents from soliciting or accepting gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. Missing language for disciplinary action be applied for policy violation.

Technical Assistance: The Code of Conduct must prohibit officers, employees and agents from soliciting or accepting gratuities, favors or anything of monetary value from contractors. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the subrecipient. [2 CFR 200.318(c)(1)]
Reviewer recommends adding missing policies to next revision of Board Policies.

Note: The Washington State School Directors' Association has updated Policy 6220 to reflect these requirements.

Additional information may be found on the OSPI CNS website: [Code of Conduct Reference Sheet \(ospi.k12.wa.us\)](https://ospi.k12.wa.us)

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Review of Procurement for Goods and Services:

LEAs must provide copies of all purchases, invoices, receipts, contracts, and any other documentation needed to complete the Local Agency Procurement Review. Child Nutrition Services uses these documents to determine compliance with all procurement regulations.

Micro Purchases:

Comments: Purchases from Office Depot Inc., Amazon, and Spiceology were reviewed and met all federal procurement regulations. Reviewer noted purchases from Office Depot total less than \$200 before the micro purchase threshold is exceeded. Reviewer recommends requesting quotes from 2-3 vendors for office supplies to ensure compliance with federal regulations.

Technical Assistance: The Uniform Grant Guidance was revised November 12, 2020, with changes made to Micro purchasing. Sponsors are now required to document their files for determination of reasonable prices for all Micro purchases. [2 CFR 200.320(a)(1)(ii)] Reasonableness can be determined based on research, experience, purchase history or other information. See suggestion included via email with this Report for how to be compliant with this regulation.

Small/Informal Purchases:

Comments: Purchases from Preserve Products, Post 5 Cattle Company and Pacific Support Systems were reviewed and did not meet all federal procurement regulations. Other than invoices, no documentation of evidence of competition or request for quotes was submitted. No evidence of verification the vendors have not been suspended or debarred from receiving federal funds. Missing the Buy American Provision due to no quotes being requested.

Findings: Missing price or rate quotations. [2 CFR 200.320(a)(2)(i) and RCW 28A.335.190] **Repeat issue from prior PR.**

- Missing Buy American Provision [7 CFR 210.21(d)] **Repeat issue from prior PR.**
- Missing suspension and debarment verification for Preserve Products, Post 5 Cattle Company and Pacific Support Systems. [2 CFR 200.214]
- Missing documentation of the history of the procurement process. [2 CFR 200.318(i)]

Technical Assistance: Price or rate quotations must be obtained from an adequate number of qualified sources. At least two quotes are required for purchases between the micro purchase threshold and \$40,000. Three quotes are required for all purchases between \$40,000 and the formal procurement threshold. [2 CFR Part 200.320(a)(2)(i)] [RCW 28A 335.190] Additionally, sponsors must comply with the following requirements for small purchases:

- Specifications must be clear and accurate and describe the technical requirements of the product or service being procured. [2 CFR 200.319(d)(1)]
- Maintain records sufficient to detail the history of a procurement process. [2 CFR 200.318(i)]
- Solicitations must include the Buy American Provision. [7 CFR 210.21(d)]
- Verify that all vendors receiving \$25,000 or more in federal funds have not been suspended or debarred from participating in federal programs. [2 CFR 200.214] This can be accomplished by:
 - Collecting a written certification from the vendor
 - Adding a clause or condition into the contract
 - Checking the federal Exclusions List on sam.gov

Additional information may be found on the OSPI CNS website: [CNS Procurement Reference Sheet \(ospi.k12.wa.us\)](https://ospi.k12.wa.us)

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Corrective Action Required: Submit documentation to show that proper procurement procedures will be followed for the 2024-2025 school year, which includes obtaining quotes from vendors for small/informal purchases.

- Include the Buy American clause in the solicitation, as applicable for agricultural products.
- Choose the vendor with the lowest quote that also meets written specifications, provide additional documentation of reason for selection of “other” vendor, if applicable.
- If anticipated expenditures exceed \$25,000, submit verification that the vendor has not been suspended or debarred from accepting federal funds.
- Include any forms created.

Formal Purchases:

Comments: Purchases from Dairy Fresh Farms were reviewed and did not meet federal procurement regulations. Solicitation missing the Byrd anti-lobbying clause and language for contract award to the lowest responsive and responsible bidder. No documentation was submitted for evidence the sealed bid opening occurred at the time and place prescribed or evidence of evaluation of submitted bids. Missing sufficient detail of the procurement history. It is unknown if this procurement was completed as noncompetitive due to insufficient response.

Purchases from Pacific Coast Fruit were reviewed and did not meet federal procurement regulations. A Request for Qualifications was completed rather than a compliant Formal procurement process (RFP or IFB). No verification of suspension or debarment was submitted for review.

Purchases from Sysco were reviewed and did not meet federal procurement regulations. Solicitation was advertised as an Invitation for Bid or sealed bid with no evaluation factors or language related to awarding to the lowest responsive and responsible bidder. Award was made to US Foods and Sysco. Without additional documentation, this dual award could be considered an arbitrary action in the procurement process [2 CFR 200.319(b)(7)]. Missing documentation for evidence the sealed bid opening occurred at the time and place prescribed or evidence of evaluation of submitted bids. No documentation submitted of rejected bids and documented reason.

Purchases from Tyson Foods, Inc. were reviewed and did not meet federal procurement regulations. Solicitation missing the Byrd anti-lobbying clause. Reviewer noted the “notes” page of evaluators notes on product sampling was not signed or dated. Solicitation missing identification of all evaluation factors and their relative importance.

Purchases from the Puget Sound Food Hub were reviewed and did not meet federal procurement regulations. No evidence of competition was submitted for review. No verification of suspension or debarment was submitted.

Findings:

- Missing a cost or price analysis to estimate the cost of goods or services prior to issuing a solicitation. [2 CFR 200.324(a)] **Repeat issue from prior PR.**
- Missing a formal procurement process (IFB or RFP) for expenditures in excess of the Simplified Acquisition Threshold (SAT). The SAT for Washington state is \$75,000. No formal procurement was conducted in connection with purchases from Pacific Coast Fruit or Puget Sound Food Hub. [2 CFR 200.320(b) and RCW 28A.335.190]
- Missing language in the IFB to award to the lowest responsive and responsible bidder. [2 CFR 200.320(b)(1)(ii)(D) and (E)]
- Missing the Byrd Anti-lobbying clause for purchases from Dairy Fresh Farms, Pacific Coast Fruit, Puget Sound Food Hub, and Tyson. [2 CFR 200 Appendix II] **Repeat issue from prior PR.**
- Missing the Buy American Provision due to non-compliant procurement activities for purchases from Pacific Coast Fruit and Puget Sound Food Hub. [7 CFR 210.21(d)] **Repeat issue from prior PR.**
- Missing documentation to show that bids were opened at the time and place prescribed. [2 CFR 200.320(b)(1)(ii)(C)]
- Missing documentation of the history of the procurement process. [2 CFR 200.318(i)]

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- Missing documentation showing suspension and debarment was checked for Puget Sound Food Hub, and Pacific Coast Fruit. [2 CFR 200.214]

Technical Assistance: A formal procurement process, (IFB or RFP) must be conducted for expenditures in excess of the Simplified Acquisition Threshold (SAT). The SAT for Washington State is \$75,000. If the local SAT is lower than \$75,000, the local threshold must be used. [2 CFR 200.320(b)]

- A cost price analysis must be conducted to estimate the cost of goods or services prior to issuing a solicitation. [2 CFR 200.324(a)]
- For an Invitation for Bid or sealed bid: A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and (E) Any or all bids may be rejected if there is a sound documented reason. [2 CFR 200.320(b)(1)(ii)(D) and E]
- For a Request for Proposal: Evaluation factors that determine the award of a contract and their relative importance, with price as the primary factor, must be included in all solicitations. [2 CFR 200.320(c)(2)(iii)] The solicitation must contain the requirement for a contract to be awarded to the lowest responsive and responsible offer most advantageous to the program with price and other factors considered. [2 CFR 200.320(b)(2)(iii)]
- The solicitation must include a clause that requires the responder to certify the responder has not used federal funds to participate in lobbying activities in connection with procurement contracts. [2 CFR 200 Appendix II]
- Solicitations must include the Buy American Provision. [7 CFR 210.21(d)] [Buy American Provision Reference Sheet \(ospi.k12.wa.us\)](https://www.ospi.k12.wa.us/Portals/0/Docs/Procurement/BuyAmericanProvisionReferenceSheet.pdf)
- Sponsors must annually verify that all vendors receiving \$25,000 or more in federal funds have not been suspended or debarred from participating in federal programs. [2 CFR 200.214] This can be accomplished by:
 - Collecting a written certification from the vendor
 - Adding a clause or condition into the contract
 - Checking the federal Exclusions List on sam.gov

Corrective Action Required: Submit a written plan for how compliance will be achieved showing the steps and process for formal procurement of goods and services to prevent repeat findings during the next review cycle.

- Submit documentation of a cost or price analysis completed prior to issuing the solicitation.
- Provide copies of a new Formal solicitation (IFB or RFP) that includes the required information to meet federal procurement regulations in 2 CFR 200. Submit documentation showing the Buy American Provision, Byrd anti-lobbying clause, and award evaluation factors were included in the solicitation and award documents.
- Submit documentation of verification of suspension and debarment for chosen vendors.
- Submit documentation the sealed bid opening occurred at the time and place prescribed, if conducting an Invitation for Bid.
- Submit documentation of the completed evaluation of responses, if conducting a Request for Proposal.

Processing Purchases:

Comments: Purchases from Tyson Foods, Inc. were reviewed and met all federal procurement regulations for a processing solicitation.