

USDA Procurement Review: Off-Site/Review Questions

General Procurement Policies & Practices	
2100.	<p>Does the SFA/LEA have written codes of conduct that include prohibiting conflicts of interest for employees engaged in selection, award, and administration of contracts?</p> <p>Tips:</p> <ul style="list-style-type: none"> • Written codes of conduct can be specific to the food service department or can be held at the LEA level in the form of district board policies. <ul style="list-style-type: none"> ○ If the LEA uses Colorado Association of School Boards (CASB) templates, the updated code of conduct policy that meets federal requirements is policy GBEA.
2101.	<p>If Yes to 2100, does the code of conduct prohibit soliciting or accepting gratuities, favors or anything of monetary value from contractors or parties of subcontracts?</p> <p>Tips:</p> <ul style="list-style-type: none"> • The written code of conduct must prohibit staff from soliciting or receiving any gifts or favors of monetary value from vendors. It is up to the SFA/LEA to determine what the threshold of monetary value is (For example, the Colorado State limit is \$25.00). The policy does not need to list a dollar value.
2102.	<p>If Yes to 2100, does the code of conduct include disciplinary actions for violations?</p> <p>Tips:</p> <ul style="list-style-type: none"> • The written code of conduct must include disciplinary actions for violations of the policy. The policy does not have to list out specific disciplinary actions, but should at least refer to existing policies for disciplinary action when the code of conduct policy is violated.
2103.	<p>Does the LEA/SFA's have documented Procurement Procedures?</p> <p>Tips:</p> <ul style="list-style-type: none"> • The SFA/LEA must have written procurement procedures that outline how the SFA should conduct procurement. These procedures may be specific to food service, but should include federal, state, and local procurement regulations when applicable. For example, if the LEA small purchase threshold is \$100,000, then the SFA should follow the more restrictive threshold (vs. the federal small purchase threshold of \$250,000). The LEA may also have policies that are specific to federal purchases, which the SFA would follow over other LEA procurement policies. The purchasing procedures may be a combination of LEA policies and internal food service procurement procedures. <ul style="list-style-type: none"> ○ If the LEA uses Colorado Association of School Boards (CASB) templates, the updated code of conduct policy that meets federal requirements is policy DJB and DJB-R (need both to meet all requirements).

USDA Procurement Review: Off-Site/Review Questions

2104.	<p>If yes to 2103, do the written procurement procedures Include State, local and Federal laws and regulations?</p> <p>Tips:</p> <ul style="list-style-type: none">• The written procurement procedures should reflect Federal, State, and local regulations when applicable. Federal requirements include:<ul style="list-style-type: none">○ The procurement methods to be used (micro-purchase, small purchase, formal, and their dollar thresholds)○ Costs incurred must be necessary and cost-effective○ Procurement procedures must avoid the acquisition of unnecessary or duplicative items○ Procurement transactions must provide full and open competition○ SFA/LEA must maintain records sufficient to detail the history of procurement○ Solicitations must incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured○ Solicitations must identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals
2105.	<p>If yes to 2103, do the written procurement procedures prohibit the acquisition of unnecessary or duplicative items?</p> <p>Tips:</p> <ul style="list-style-type: none">• The written procurement procedures should prohibit the acquisition of unnecessary or duplicative items. When using Federal money, it is important the SFAs thoroughly evaluate their needs to ensure that any purchases are necessary, reasonable, and allocable to the program.
2106.	<p>If yes to 2103, do the written procurement procedures ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured?</p> <p>Tips:</p> <ul style="list-style-type: none">• The written procurement procedures should ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used. The specific features of the named brand which must be met by offers must be clearly stated.

USDA Procurement Review: Off-Site/Review Questions

2107.	<p>Does the SFA/LEA perform a cost or price analysis in connection with every procurement action in excess of the Small Purchase Threshold including contract modifications?</p> <p>Tips:</p> <ul style="list-style-type: none">• SFA/LEAs must perform a cost or price analysis in connection with every procurement action in excess of the Small Purchase Threshold, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the SFA/LEA must make independent estimates before receiving bids or proposals.
2108.	<p>Does the SFA/LEA take steps to assure that small, minority and women's businesses enterprises and labor surplus firms are used when possible?</p> <p>Tips:</p> <ul style="list-style-type: none">• SFA/LEAs must perform take steps to assure that small, minority and women's businesses enterprises and labor surplus firms are used when possible. Affirmative steps should be outlined in the SFA/LEA's written procurement procedures and may include:<ul style="list-style-type: none">○ Placing qualified small and minority businesses and women's business enterprises on solicitation lists;○ Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;○ 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;○ Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;○ 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○ Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
2109.	<p>How does the LEA/SFA ensure, each vendor complies with all contract provisions prior to approving vendor invoices for payment?</p> <p>Tips:</p> <ul style="list-style-type: none">• SFA/LEAs must ensure that the vendor is compliant with all contract terms before making payments to the vendor. Activities include but are not limited to: checking in orders at the time of delivery, approval of substitutions, verifying Buy American requirements, receiving credit for damaged or spoiled items, etc. The SFA/LEA should be aware of all contractual requirements of the vendor and hold them accountable to those terms. Any issues should be resolved before payment

USDA Procurement Review: Off-Site/Review Questions

	<p>is made to the vendor. Processes for ensuring vendor compliance should be included in the SFA/LEA's internal control policies.</p>
2110.	<p>How does the LEA/SFA confirm that vendors have not been debarred, suspended or otherwise excluded or ineligible for participation in Federal programs or activities?</p> <p>Tips:</p> <ul style="list-style-type: none"> • The SFA/LEA must confirm that vendors have not been debarred, suspended or otherwise excluded or ineligible for participation in Federal programs or activities prior to making purchases from the vendor. 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: <ul style="list-style-type: none"> ○ (a) Check https://www.sam.gov/portal/SAM/##11 or ○ (b) Collect certification from vendor; or ○ (c) Add clause/condition to transaction with vendor
2111.	<p>Did your district receive Supply Chain Assistance Funds in the spring 2022 or fall 2022 allocation cycles? (yes/no – if no, questions stop here)</p> <p>Tips:</p> <ul style="list-style-type: none"> • SFAs/LEAs had an opportunity to opt into Supply Chain Assistance Funds in both the spring and fall of 2022.
2112.	<p>Were the funds deposited in the SFA's Nonprofit Food Service Account?</p> <p>Tips:</p> <ul style="list-style-type: none"> • Per grant terms, sponsors were required to deposit SCA funds in their nonprofit food service account • For private schools who do not have a separate nonprofit food service account, the funds should be assigned a unique code in their account.
2113.	<p>Have you maintained documentation to show that the SCA funds have only been used for allowable purposes?</p> <p>Tips:</p> <ul style="list-style-type: none"> • Allowable uses for SCA funds can be found in our sponsor facing SCA Fund resource.

USDA Procurement Review: Off-Site/Review Questions

	<ul style="list-style-type: none"> • SCA funds deposited to the NPFSA do not need to be separated from other monies within the account and are not tracked separately from an accounting standpoint. However, the sponsor will need to have documentation showing that domestic, unprocessed/minimally processed food products were purchased in amounts that are at least equal to funds received. Therefore, if a SFA receives \$7,000 in SCA funds, the SFA would need to have receipts showing that at least \$7,000 worth of allowable products were purchased.
2114.	<p>Briefly describe your plan to expend your SCA allocation.</p> <p>Tips:</p> <ul style="list-style-type: none"> • Milk, fruit, and vegetable purchases are common ways sponsors are using these funds. • Sponsors cannot use SCA funds for USDA Foods items or food items that are reimbursed through other grants (ie, local food program)
2115.	<p>Describe your recordkeeping processes related to the receipt and storage of USDA Foods. (ie, delivery receipt documentation, inventory recording, temperature documentation)</p> <p>Tips:</p> <ul style="list-style-type: none"> • USDA recommends that sponsors record the delivered temperature and date of delivery on the Bill of Lading that is provided with USDA Foods deliveries. This documentation should be kept following existing recordkeeping practices (ie, for four years).
2116.	<p>Did your SFA experience food loss/destruction with USDA Foods? (yes or no)</p>
2117.	<p>If yes to 2116, was the loss recorded in the SFA's financials?</p> <p>Tips:</p> <ul style="list-style-type: none"> • If the SFA experiences food loss/destruction with USDA Foods, it should be recorded in their financials.
2118.	<p>If yes to 2116, is there a plan in place to prevent loss in the future?</p> <p>Tips:</p>

USDA Procurement Review: Off-Site/Review Questions

	<ul style="list-style-type: none"> The SFA should develop a plan to prevent future food loss/destruction of USDA Foods.
2119.	<p>If yes to 2116, was the loss reported to CDHS if it was considered theft or fraud?</p> <p>Tips:</p> <ul style="list-style-type: none"> Per 7 CFR 250.14(c), the SFA is required to report food loss to CDHS if the loss was considered theft or fraud.
<p><i>The following sections will be completed after your reviewer does a vendor selection and the SFA provides appropriate receipts, invoices, etc. to CDE reviewer. Not all sections apply to all sponsors.</i></p> <p>Micro-purchases</p>	
2200.	<p>Was each transaction with this vendor below \$10,000? (or LEA/SFA micro-purchase threshold)</p> <p>Tips:</p> <p>The aggregate dollar value of each transaction should not exceed the micro-purchase threshold (\$10,000 or the SFA/LEA's more restrictive threshold). The total of all transactions over the course of the school year should not exceed the micro-purchase threshold.</p>
2201.	<p>Were purchase prices reasonable?</p> <p>Tips:</p> <ul style="list-style-type: none"> Because competitive price quotes are not required with the micro-purchase procurement method, purchase prices must be reasonable to ensure that federal money is spent responsibly. The question may be asked, would a prudent person pay the same price as the SFA did? For example, \$10 for a loaf of bread would not be considered reasonable.
2202.	<p>Based on a review of invoices/receipts, is the SFA compliant with the use of the micro-purchase method?</p> <p>Tips:</p> <ul style="list-style-type: none"> The procurement reviewer will review up to three invoices from each selected micro-purchase vendor. Read more about procurement methods here.

USDA Procurement Review: Off-Site/Review Questions

Small Purchases	
2300.	<p>Was this procurement in compliance with the requirements for the appropriate threshold? (Federal, State, and Local)</p> <p>Tips:</p> <ul style="list-style-type: none"> • The small purchase procurement method is allowable for purchases that do not exceed the small purchase threshold (or Simplified Acquisition Threshold). The federal small purchase threshold is \$250,000, but the LEA/SFA may have a more restrictive threshold in place. When determining the value of the purchase, the reviewer will look at the total dollar value spent over the term of the 'contract'. This is typically the school year but could be a different time period defined by the SFA.
2301.	<p>Were price or rate quotations obtained from an adequate number (2 or more) of qualified sources?</p> <p>Tips:</p> <ul style="list-style-type: none"> • Price quotations can be obtained verbally or in writing, but must be documented by the SFA. At a minimum, two or more quotes must be obtained from qualified sources (best practice is 3 quotes minimum). If the SFA requests quotes from multiple qualified vendors and only one responds or can provide the product requested, the SFA would still be in compliance for obtaining price quotes.
2302.	<p>Did the SFA allow for full and open competition, and not restrict competition in any way?</p> <p>Tips:</p> <ul style="list-style-type: none"> • The SFA must not restrict competition during the procurement process in any way. Examples of restricting competition include but are not limited to: <ul style="list-style-type: none"> ○ Noncompetitive contracts given to consultants on retainer ○ Organizational conflicts of interest, for example personal or family relationships ○ Noncompetitive pricing practices between firms or between affiliates companies ○ Vendors developing or drafting solicitations, specifications, or requirements ○ Any arbitrary action in the procurement process <p>Note: the SFA may specify a brand name product if an equal product is allowed to be offered. It is up to the SFA to determine if alternate products are considered 'equal', and should have a consistent and fair process for doing so (student acceptance testing, etc.). Processes for determining equal products</p>

USDA Procurement Review: Off-Site/Review Questions

	<p>should be outlined in the SFA's written procurement procedures and any applicable solicitations.</p>
<p>2303.</p>	<p>Were clear and accurate descriptions of the technical requirements provided for the product, or service being procured?</p> <p>Tips:</p> <ul style="list-style-type: none"> • The description(s) may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated (product description, ingredient requirements, case/pack size, etc.)
<p>2304.</p>	<p>Did the solicitation include a requirement that goods must be produced and processed in the United States ("Buy American")?</p> <p>Tips:</p> <ul style="list-style-type: none"> • When applicable, the SFA should communicate the Buy American requirements when obtaining written or verbal price quotations. 'Buy American' applies to the food components of the reimbursable meal: meat/meat alternate, grain, vegetable, fruit, and fluid milk. The SFA should communicate that food products purchased must comply with the Buy American requirements, and outline a process for limited exceptions when the vendor is unable to provide a domestic commodity or product. All exceptions for non-domestic products must be approved by the SFA prior to delivery.
<p>2305.</p>	<p>Did the SFA maintain records sufficient to detail the significant history of the procurement?</p> <p>Tips:</p> <ul style="list-style-type: none"> • The SFA must maintain all records needed to detail the history of procurement. For small purchases, this should include but is not limited to: <ul style="list-style-type: none"> ○ Written description of the goods or services to be procured, specifications, and other requirements ○ Documented price quotations- written or verbal quotations must be documented by the SFA ○ Written contract/agreement if applicable ○ Invoices or receipts from payment • Records should be kept for three years plus the current year.

USDA Procurement Review: Off-Site/Review Questions

2306.	<p>Was the correct vendor selected based on the products/services requested and the vendor responses provided?</p> <p>Tips:</p> <ul style="list-style-type: none"> • An award should be made to the <i>responsive</i> and <i>responsible</i> vendor whose bid is lowest in price. Responsive means the vendor submitted a bid that meets all requirements outlined by the SFA. Responsible means the vendor is capable and qualified to provide the goods or services requested. If the lowest price is not selected, the SFA should document why another vendor was chosen.
2307.	<p>Does a review of three invoices/receipts show that the SFA purchased the products they solicited from the vendor?</p> <p>Tips:</p> <p>The procurement reviewer will review up to three invoices/receipts for each selected vendor in the small purchase category. Receipts/invoices should show that the SFA purchased the products that were solicited at the price that was quoted by the awarded vendor. Prices should be effective for the duration of the 'contract' period specified by the SFA.</p>
Group Purchasing (if applicable)	
2700.	<p>Did the SFA provide sufficient oversight to ensure contractors performed in accordance with the terms, conditions, and specifications of the cooperative contract prior to vendor payment?</p> <p>Tips:</p> <ul style="list-style-type: none"> • SFAs that are members of a cooperative purchasing group must be aware of the terms, conditions, and specifications of the cooperative contract. Knowledge of vendor and SFA contract requirements allows the SFA to effectively manage the contract on a local level. If there are issues with contract management they may be brought to the cooperative group of SFAs, lead SFA, or cooperative manager. If the vendor is not compliant with any contract terms, issues should be resolved prior to vendor payment. Examples include but are not limited to: delivery days and times, spoiled product, product exceptions, Buy American compliance, food temperatures, etc.
2701.	<p>Does a review of three invoices/receipts show that the SFA purchased the products they solicited from the vendor?</p> <p>Tips:</p> <ul style="list-style-type: none"> • SFAs should be aware of and purchase products from the approved cooperative contract. Typically, a product and price list is shared with the cooperative, or an online order guide is shared to allow the SFA access to a list

USDA Procurement Review: Off-Site/Review Questions

	<p>of solicited products. If the SFA purchases goods outside of the cooperative contract using the same awarded vendor, then those goods must be procured using the appropriate procurement method.</p>
2702.	<p>Did the SFA purchase a significant amount of their food/supply products from the awarded vendor?</p> <p>Tips:</p> <ul style="list-style-type: none"> • Most cooperative purchasing groups have an internal agreement that requires the SFA to use the awarded vendor for a significant amount of their purchases. This maximizes purchasing volume and lowers prices for cooperative members.
2703.	<p>If the SFA uses an agent, is the SFA compliant with procuring the agent services using the applicable procurement standards in 7 CFR 210.21 and 2 CFR 200.320?</p> <p>Tips:</p> <ul style="list-style-type: none"> • A purchasing agent is a person or business that is authorized to act on an SFA's behalf to conduct the procurement process. The agent or businesses' services exceeding the SFA/LEA's micro-purchase threshold must be procured using applicable federal, state, and local regulations. Fees must be fixed based on a purchase unit, volume, or cost (percentage of cost fees are not allowable). Paying a fee does not constitute a solicitation or contract with an agent. Solicitation language must include a requirement that the purchasing agent follow federal, state, and local procurement regulations. It is recommended that the SFA provides a copy of their procurement policies or procedures in the solicitation and contract.
2704.	<p>Is the SFA compliant with ensuring the agent complies with the Program and government-wide regulations in 7 CFR 210.21 and 2 CFR 200.318-326 as the SFA agent?</p> <p>Tips:</p> <ul style="list-style-type: none"> • Because a purchasing agent acts on behalf of the SFA, the SFA must ensure that the purchasing agent conducts procurement in accordance with federal, state, and local procurement regulations. The SFA must also ensure that the agent is representing SFA's best interests when conducting procurement on the SFA's behalf. The SFA should review all procurement documents and/or conduct periodic reviews of the agent's procurement.

USDA Procurement Review: Off-Site/Review Questions

2705.

If the SFA purchases using a third-party entity, non-Child Nutrition Program entity, is the SFA compliant with using the third party's pricing as one source when soliciting prices for goods and services from this entity (ies)?

Tips:

- Third-party entities include State procurement agency agreements, inter-agency agreements, group purchasing organizations (GPO), group buying organizations (GBO), and third-party vendors. These groups conduct procurement for a variety of organizations, and may charge a membership fee for access to contract prices. However, paying a fee does not constitute compliance with procurement regulations. Third-party vendors often are not required to follow federal or state procurement regulations.
- SFA's must conduct procurement for goods and services under a third-party contract. If an SFA pays a membership fee to a third-party entity, then they may consider the price list as one qualified source when making a micro or small purchase. For formal purchases over the small purchase threshold, an SFA may release a formal solicitation that a third party responds to.