



West Indy Cooperative

PROCUREMENT PLAN CHILD NUTRITION PROGRAM

This procurement plan contained on the following pages will be implemented on January 1, 2016 from that date forward until amended. All Cooperative 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.

See attached list of West Indy Cooperative members who purchase under this procurement plan.

For purchases outside of the Cooperative, each individual school district (school) is responsible to implement their own procurement plan.

WEST INDY COOPERATIVE

PROCUREMENT PLAN

A. General Procurement Standards

- This plan is adopted by the West Indy Cooperative's Board of Directors as a condition of the members participation in the USDA's Child Nutrition Programs.
- The Cooperative uses procurement procedures that reflect state and local law while also ensuring compliance with applicable federal law.

B. Procurement Management – Cooperative and Governing Body

The Bid Coordinator is primarily responsible for overseeing all procurement for this co-operative on behalf of SFA members that participate in the USDA's Child Nutrition Programs. This responsibility includes, but is not limited to, the responsibilities set forth below:

- Managing contacts and overseeing vendors and/or ensuring that vendors perform in accordance with the terms, conditions, and specifications of vendor contracts and/or purchase orders
- Ensures that all Cooperative's procurement transactions are conducted in a manner that provides full and open competition in accordance with federal law.
- Managing contracts and overseeing vendors and/or ensuring that vendors perform in accordance with the terms, conditions, and specifications of vendor contracts and/or purchase orders.
- Ensuring that vendors who develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals are **excluded** from competing for such contracts and/or purchase orders.
- Ensuring that all contractual and administrative issues arising out of procurements for the Cooperative are handled in accordance with good administrative practice and sound business judgment.
- Ensuring that sufficient records detailing the Cooperative's procurement history are maintained.
 - The records maintained for contracts include, at a minimum, the following records:
 - Rationale for methods of procurement
 - Selection of procurement type
 - Selection or rejection of vendor
 - Basis for contract price
 - These records are maintained for at least 3 years after submission of the final Claim for Reimbursement for the fiscal year or longer if otherwise required by law.
- Ensures that the Cooperative maintains policies and/or procedures that govern the conduct of members who are engaged in the selection, award, and administration of contracts for the member SFA. These policies and procedures meet the minimum requirements set forth in federal law.

C. Procurement Conducted on behalf of the West Indy Cooperative

West Indy Cooperative member's use a co-operative recognized under Indiana state law to conduct procurement. A copy of the co-operative's procurement plan is attached.

- The co-operative conducts the following procurement on behalf of the SFA:
 - Dairy Bids (optional participation)
 - Bread Bid (optional participation)
 - General Purchasing Organization and Local Bids (blended program) for food and paper
 - USDA Commodity bid

D. SFA Procurement

West Indy Cooperative members are required to have a local school district (school) procurement plan which addresses all procurement outside of the Cooperative's responsibilities. This plan would include, but not be limited to, procurement by micro-purchase, informal procurement, non-competitive negotiation, formal procurement and emergency purchases.

FORMAL PROCUREMENT

West Indy Cooperative uses formal procurement for: **milk, bread, commodities, food and paper**

Procurement by bid or proposal

West Indy Cooperative is responsible for procuring goods and/or services for member SFA using formal procurement. Responsibilities include, but are not limited to the following:

- Ensuring that contracts are awarded to the responsible bidder/proposer whose bid or proposal is responsive to the solicitation and is most advantageous to the Cooperative.
- Ensuring that, when weighed criteria is used as part of the solicitation, a weighted evaluation sheet is provided to each bidder in the initial bid document materials; price and other factors are considered with price receiving the highest weight; and a firm fixed price or cost reimbursable contract is awarded following evaluation and/or negotiation (as applicable).
- Ensuring that the bid tabulation or the evaluation criterion score sheet is signed signifying a review and approval of the selections.
- Monitoring the formal procurement system to ensure compliance with applicable laws.
- Ensuring that all procurement documentation relating to formal procurement is maintained.
- Ensuring compliance with the Buy American Provision.
- Ensuring that a vendor obtains in advance, written approval for any non-domestic agricultural product supplied to the Cooperative.
- Ensuring that full documentation is received by the Cooperative documenting why an accepted item is unavailable.
- Ensuring that vendor documentation is reviewed and audited before the Cooperative selects an acceptable alternative.

- Selects an acceptable alternative when a product is not available.
- Ensuring that the solicitation is advertised by Indiana Business Journal to publicize the Cooperatives intent to purchase needed items.
- Ensuring that announcements (advertisements or legal notices) contain:
 - General description of items to be purchased
 - Deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms and conditions as needed
 - Date of pre-bid meeting, if provided, and if attendance is a requirement for bid award
 - Deadline for submission of bids or proposals; and
 - Address of location where complete specifications and bid/proposal forms may be obtained.
- Ensuring that advertisements run 2 times within a month period.
- Ensuring that vendors are given the same opportunity to bid on the same product specifications.
- Ensuring that purchase conditions are clearly defined in the solicitation.
- Ensuring that the initial procurement solicitation and the final awarded contract includes all required contract language and meets the requirements of federal and state law:
 - **ALL** contracts contain provisions covering the following, as applicable.
 - Contracts for more than the simplified acquisition threshold address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
 - All contracts in excess of \$10,000 address termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
 - When a federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient 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 subrecipient 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.
 - Contracts in excess of \$150,000 contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- Contract awards are not made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.”
- Contractors applying for or bidding for an award exceeding \$100,000 must file the required certification as required by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

NON-COMPETITIVE NEGOTIATION (Not used by West Indy Coop)

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- 1) The item is available only from a single source;
- 2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- 3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals **in response** to a written request from the non-Federal entity (SFA); **or**
- 4) After solicitation of a number of sources, competition is determined *inadequate*.

The member SFA is responsible for handling non-competitive negotiation. Responsibilities include, but are not limited to the following:

- Ensuring that written specifications are prepared and provided to the vendor.
- Ensuring that a record of non-competitive negotiation is maintained including, at a minimum, the following:
 - item name
 - dollar amount
 - vendor, and
 - reason for non-competitive procurement
- Ensuring documentation that the actual product or service specified was received is maintained.

EMERGENCY OR “PRESSING NEED” PURCHASES (NOT USED BY WEST INDY COOP)

The member SFA is responsible for handling emergency purchases. Responsibilities include, but are not limited to the following:

- Ensuring that written specifications will be prepared.
- Ensuring that the actual product or service specified is received.
- Ensuring that a record of the emergency purchase procedure is maintained and available for audit and review. The record includes, at a minimum, the following:
 - item name
 - dollar amount
 - vendors contacted, and
 - reason for emergency

WEST INDY COOPERATIVE CODE OF ETHICS & CONFLICT OF INTEREST

In accordance with the general procurement standards in Title 2, Code of Federal Regulations (2 CFR), Section 200.318(c), These written standards govern the actions of the West Indy Cooperative and any members engaged in the selection, award, and administration of contracts funded by federal awards.

Code of Conduct:

- **West Indy Cooperative employees or members will not accept travel packages, and other incentives from prospective contractors**
- **West Indy Cooperative will prohibit employees or members from participating in the selection, award, and administration of any contracts supported by a federal award if they have a real or apparent conflict of interest**
- **West Indy Cooperative will conduct a review and have possible disciplinary actions in the event the Code of Conduct are violated**

A conflict of interest arises when a West Indy Cooperative employee, member, officer, agent, or any member of their immediate family, a partner, or an organization that employs or is about to employ any immediate family member, has a financial or other interest in—or would gain a tangible personal benefit from—a firm considered for a contract.

Procurement Standards

CNP agencies must conduct all procurement transactions in a manner that allows full and open competition consistent with the standards stated in 2 CFR, Section 200.319. To ensure objective vendor performance and eliminate any unfair competitive advantage, vendors that develop or draft specifications, requirements, statements of work, invitations for bid (IFB), or requests for proposal (RFP) must be excluded from competing for the bid (2 CFR, Section 200.319[a]).

Actions that restrict competition include, but are not limited to:

- **Placing unreasonable requirements on firms in order for them to qualify to do business**
- **Requiring unnecessary experience and excessive bonding**
- **Conducting noncompetitive pricing practices between firms or between affiliated companies**
- **Awarding noncompetitive contracts to consultants who are on retainer contracts**
- **Allowing organizational conflicts of interest**
- **Specifying a brand name product instead of allowing an equal product to be offered by describing product performance or other relevant requirements**
- **Engaging in any arbitrary action during the procurement process, such as awarding a contract—without a valid reason—to a vendor that did not rank first (or lowest in price) according to the West Indy Cooperative evaluation criteria when awarding a contract**

Incentives

Incentives that may serve to induce or influence a West Indy Cooperative employee or member engaged in the selection, award, or administration of contracts may be unlawful. Examples of incentives include, but are not limited to:

- **Extra goods or services that were not solicited**
- **Gifts (such as free merchandise, event tickets, gift cards)**
- **Money for scholarships**
- **Cash**
- **Points that can be redeemed for merchandise**

Any incentives offered by a bidder for any West Indy Cooperative employee or member for personal use is prohibited.

