

**Hawthorn Academy
Procurement Procedures
Child Nutrition Program**

The Child Nutrition Program procurement procedures for Hawthorn Academy (the “School”) are contained in this document. All procurements must maximize full and open competition where required. Source documentation must be available to determine open competition and the reasonableness, allowability, and allocation of costs.

A. Introduction

1. The School’s procedures for procuring items for use in the Child Nutrition Program are contained in this document. These procurement procedures are meant to maximize full and open competition, transparency in transactions, comparability, and documentation of all required procurement activities. The School assures that positive efforts will be made to involve small and minority businesses, women’s business enterprises, and labor surplus area firms, where possible, when procuring items for use in the Child Nutrition Program (2 CFR 200.321). The School will also purchase domestic commodities and products for meals to the maximum extent practicable. Buy American Provisions (7 CFR 210.21(d)) will be included in all solicitations and final contract documents for agricultural products.
2. All procurement activities will be done in accordance with 2 CFR 200; the Utah Procurement Code in Title 63G, Chapter 6a; and the Utah Administrative Code Title R33, as applicable. The most restrictive principles will be applied when conflicts in requirements exist.

B. Purchasing Thresholds

1. If an individual item (or multiple items together) to be purchased costs **\$5,000 or less**, the School will follow the “No-Quote Small Purchase Procedures” in **Section C**.
2. If an individual item to be purchased costs more than **\$5,000 but less than \$50,000.01**, the School will follow the “Two-Quote Small Purchase Procedures” in **Section D**.
3. If the item(s) to be purchased cost **more than \$50,000**, the School will follow the “Formal Procurement Purchase Procedures” in **Section E**.
4. It will be the responsibility of the Kitchen Manager or his/her designee to document the amounts to be purchased so the correct procurement method will be followed. Cost analysis documentation will also be required for any amendments to resulting contracts when the amendment is expected to exceed **50,000.00**.

C. No-Quote Small Purchase Procedures

1. The most restrictive small purchase thresholds are found in Title R33-105-102, which sets (1) the “Individual Procurement” threshold at a maximum amount of \$5,000 for a procurement item; (2) the ”Single Procurement Aggregate” threshold at a maximum

- amount of \$10,000 for multiple individual procurement items purchased from one source at one time; and (3) the "Annual Cumulative" threshold at a maximum amount of \$50,000 for small purchases made by direct award (*i.e.*, without a solicitation process/seeking competitive bids or quotes) from one source during one year.
2. The School will abide by Title R33-105-102 and its small purchase thresholds by doing the following:
 - a) If an individual item (or multiple items together) costs \$5,000 or less, the School will select the best source by direct award without seeking competitive bids or quotes. In other words, under such circumstances the School will purchase the item(s) from the vendor it considers the best without having to first seek competitive bids or quotes.
 - b) The School may purchase up to \$10,000 worth of items that each cost \$5,000 or less from one vendor at one time without having to first seek competitive bids or quotes.
 - c) The School may also purchase up to \$50,000 worth of items that each cost \$5,000 or less from one vendor during one year without having to first seek competitive bids or quotes.

D. Two-Quote Small Purchase Procedures

1. The most restrictive small purchase rules requiring quotes are found in Title R33-105-103. Title R33-105-103 requires procurement units to obtain a minimum of two competitive quotes that include minimum specifications before making a purchase of any individual item costing more than \$5,000 but less than \$50,000.01.
2. The School will abide by Title R33-5-103. When any individual item to be purchased costs more than \$5,000 but less than \$50,000.01, the School will do the following:
 - a) Prepare written specifications and provide them to at least two vendors. When specifying a "brand name," an "equal" product must be allowed to be offered (2 CFR 200.319(6)).
 - b) Contact each vendor and give them an opportunity to provide a price quote on the same written specifications by a certain date and time. The Kitchen Manager or his/her designee will be responsible for contacting potential vendors when price quotes are needed.
 - c) The price quotes will receive appropriate confidentiality before award.
 - d) Quotes will be awarded by the Kitchen Manager or his/her designee. Quotes awarded will be to the responsible vendor offering the lowest quote that meets the written specifications.
 - e) The Kitchen Manager or his/her designee 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.

- f) The Kitchen Manager or his/her designee will be responsible for documentation that the actual product specified is received.
- g) Any time an accepted item is not available, the Kitchen Manager or his/her designee will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.
- h) Quotes will be awarded on criteria such as:
 - i. Price; and
 - ii. Ability to meet the written specifications.
- i) The Kitchen Manager or his/her designee may sign all quote tabulations, signifying a review and approval of the selections.

E. Formal Procurement Purchase Procedures

1. The School will abide by the Utah Procurement Code in Title 63G, Chapter 6a when the item(s) to be purchased cost more than \$50,000. In such circumstances, the School will procure the item(s) through a formal Invitation for Bids (“IFB”) or a Request for Proposals (“RFP”), as follows:
 - a) An IFB or an RFP will be prepared and posted on the School’s website or on the Utah Public Procurement Place website to publicize the intent of the School to purchase the needed items. The IFB or RFP will be posted for a minimum of seven (7) days.
 - b) The IFB or RFP will contain:
 - i. A general description of items to be purchased;
 - ii. The deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms and conditions as needed
 - iii. The date of pre-bid meeting, if provided, and if attendance is a requirement for bid award
 - iv. Instructions for submitting a proposal (for an RFP) or a bid (for an IFB), including the deadline for submitting a proposal or bid;
 - v. The objective criteria (including, if applicable, cost) the School will use to evaluate a proposal or bid and, in the case of an RFP, the subject criteria the School will use to evaluate a proposal;
 - vi. Information about the time and manner of opening proposals or bids; and
 - vii. The terms and conditions that the School intends to include in a contract resulting from the RFP or IFB process.
 - c) The developer of written specifications or descriptions for the IFB or RFP will be prohibited from submitting a bid or proposal for such products or services.

- d) The IFB or RFP will include the purchase conditions. The following list includes the information to be addressed in the IFB or RFP, as applicable and as required by law:
- i. Contract period;
 - ii. The School is responsible for all contracts awarded (statement);
 - iii. Date, time, and location of IFB or RFP opening;
 - iv. Description of the criteria that will be used to evaluate the bid or proposal;
 - v. The relative weight that will be given to each score for the evaluation criteria, including cost;
 - vi. The formula that will be used to determine the score awarded for the cost of each bid or proposal;
 - vii. How a vendor is to be informed of bid or proposal acceptance or rejection;
 - viii. Delivery schedule;
 - ix. Requirements (terms and conditions) that the bidder/proposer must fulfill in order for a bid or proposal to be evaluated;
 - x. Benefits to which the School will be entitled if the contractor cannot or will not perform as required;
 - xi. Statement regarding the return of purchase incentives, discounts, rebates, and credits to the School's non-profit Child Nutrition account;
 - xii. Buy American Provision requirements;
 - xiii. Contract provisions as required in Appendix II to 2 CFR 200;
 - xiv. Contract provisions as required in 7 CFR 210.21(f) for all cost reimbursable contracts;
 - xv. Contract provisions as required in 7 CFR 210.16(a)(1-10) and 7 CFR 250.53 for Food Service Management Company contracts;
 - xvi. Procuring instrument to be used are purchase orders from firm fixed prices after formal bidding;
 - xvii. Price adjustment clause (tied to an appropriate Consumer price index, or other as stated in terms and conditions for pricing and price adjustments);
 - xviii. Specific bid protest procedures;
 - xix. Provision requiring access by duly authorized representatives of the School, State Agency, United State Department of Agriculture, or Comptroller General to any books, documents, papers, and records of the contract which are directly pertinent to all negotiated contracts;
 - xx. Method of shipment or delivery upon contract award;
 - xxi. Provision requiring contractor to maintain all required records for six years after final payment and all other pending matters (audits) are closed for all negotiated contracts;
 - xxii. Description of process for enabling vendors to receive or pick up orders upon contract award;
 - xxiii. Provision requiring the contractor to recognize mandatory standards/policies related to energy efficiency contained in the State

Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165);

- xxiv. Signed statement of non-collusion; and
- xxv. Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).

- e) The School will include in the IFB or RFP written specifications and estimated quantities of products and services. When specifying a “brand name,” an “equal” product must be allowed to be offered (2 CFR 200.319(6)).
 - f) If any potential vendor is in doubt as to the true meaning of specifications or purchase conditions, an interpretation will be provided in writing to all known potential bidders/proposers by the Kitchen Manager or his/her designee before the deadline for submission of the bid or proposal.
 - g) The Kitchen Manager will be responsible to ensure all School procurements for the Child Nutrition Program are conducted in compliance with applicable Federal, State, and local procurement regulations.
 - h) The criteria the School will use in awarding contracts as a result of bids or proposals includes but is not limited to:
 - i. Price;
 - ii. Quality;
 - iii. Service; and
 - iv. Delivery.
2. When doing an RFP, a set of award criterion in the form of a weighted evaluation sheet or evaluation criterion summary will be provided in the RFP materials (can be included in the RFP itself). When doing an IFB, an explanation as to how the bid will be awarded to the lowest responsive and responsible bidder will be provided to each bidder in the initial bid materials or in the IFB itself. Price alone is not the sole basis for award in an RFP but should be the primary consideration among all factors when awarding a contract. Following evaluation and negotiations, a firm fixed price or cost reimbursable contract will be awarded.
- a) The contracts will be awarded to the responsible bidder/proposer whose bid or proposal is responsive to the solicitation and is most advantageous to the School, with price as the primary factor and with other factors considered. Any and all bids or proposals may be rejected in accordance with law.
 - b) The Kitchen Manager or his/her designee may sign on the final bid tabulation(s) when completing an IFB review process, and the evaluation committee must sign the final evaluation criterion score sheet(s) when completing an RFP review process, to signify a review and approval of the selections.
 - c) The Kitchen Manager or his/her designee will review the procurement system to ensure compliance with applicable laws.

- d) The Kitchen Manager or his/her designee is responsible for documentation that the actual product specified is received.
 - e) Any time an accepted item is not available, the Kitchen Manager or his/her designee will select the acceptable alternate. The contractor must inform the Kitchen Manager or his/her designee as soon as reasonably possible if a product is not available. In the event a non-domestic agricultural product is to be provided to the School, the contractor must obtain from the Kitchen Manager or his/her designee, in advance, the written approval of the product. The Kitchen Manager or his/her designee must comply with the Buy American Provision.
 - f) Full documentation as to the reason an accepted item was unavailable, and to the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for this documentation is the Kitchen Manager or his/her designee.
 - g) The Kitchen Manager or his/her designee is responsible for maintaining all procurement documentation.
3. When issuing a formal IFB or RFP is necessary, the Kitchen Manager or his/her designee may contact Academica West (the School's education service provider) for assistance in completing the formal procurement process and complying with these procedures.

F. Sole Source Purchase Procedures

1. If items are available only from a single source (one vendor) and when the award of a contract is not feasible under small purchase, sealed bid/proposal, or competitive negotiation, the following NON-COMPETITIVE PROPOSAL procedures will be used by the School:
 - a) If the cost exceeds the School's small purchase threshold, the non-competitive proposal (sole source) will be publicly posted.
 - b) Written specifications will be prepared and provided to the vendor.
 - c) The Kitchen Manager or his/her designee will be responsible for the documentation of records to fully explain the decision to use the non-competitive proposal. The records will be available for audit and review.
 - d) The Kitchen Manager or his/her designee will be responsible for documentation that the actual product or service specified was received.
 - e) The Kitchen Manger or his/her designee will be responsible for reviewing the procedures to be certain all requirements for using single source or noncompetitive proposals are met.

- f) A record of non-competitive negotiation purchase shall be maintained by Kitchen Manager or his/her designee. The record of non-competitive purchases shall include, at a minimum, the following:
 - i. Item name;
 - ii. Dollar amount;
 - iii. Vendor; and
 - iv. Reason for non-competitive procurement.
2. The School's Director/Principal will approve, in advance, all procurements that result from non-competitive negotiations. The School's Director/Principal may contact Academica West regarding any questions related to sole source purchases.
3. The School will abide by R33-108-101a when engaging in a sole source purchase.

G. Emergency Purchases Procedures

1. If it is necessary to make a one-time emergency procurement to avoid a lapse in meal service at the School, avoid harm or risk of harm to the health safety, welfare, or property of the School or its students, or to protect the legal interests of the School, the purchase may be made but must be authorized using a purchase order signed by the School's Director/Principal. All such emergency procurements shall be approved by the School's Director/Principal. At a minimum, the following information related to an emergency procurement shall be documented:
 - a) item name;
 - b) dollar amount;
 - c) vendor; and
 - d) reason for emergency.
2. In addition, after an emergency procurement is made pursuant to the procedures above, the School shall make the following publicly available on its website (via the procurement landing page) within 14 days of the emergency procurement:
 - a) a written document describing the specific emergency that necessitated the emergency procurement;
 - b) the name of the highest ranking School official that approved the emergency procurement; and
 - c) each written contract related to the emergency procurement.
3. Emergency procurements shall be made with as much competition as reasonably practicable under the circumstances.

H. Record Keeping Procedures

1. The School shall retain all books, records and other documents relative to the award of a contract for six (6) years after final payment, or a lesser period if specified by law. Specifically, the School shall maintain, at a minimum, the following documents:
 - a) Written rationale for the method of procurement;
 - b) A copy of the original solicitation;
 - c) The selection of contract type;
 - d) The bidding and negotiation history and working papers;
 - e) The basis for contractor selection;
 - f) Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;
 - g) The basis for award cost or price;
 - h) The terms and conditions of the contract;
 - i) Any changes to the contract and negotiation history;
 - j) Billing and payment records;
 - k) A history of any contractor claims; and
 - l) A history of any contractor breaches.

I. Conflicts of Interest

1. In accordance with Utah Code § 63G-6a-2400, the following conduct will be expected of all persons who are engaged in the awarding and administration of contracts supported by School's Child Nutrition Program Funds. These written standards of conduct are:
 - a) No employee, officer, or agent of the School shall participate in the selection or in the award or administration of a contract supported by program funds if a conflict of interest, real or apparent, would be involved.
 - b) Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:
 - i. The employee, officer or agent;
 - ii. Any member of the immediate family;
 - iii. His or her partner; or
 - iv. An organization which employs or is about to employ one of the above.
2. Employees, officers, or agents of the School shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

3. Penalties for violation of the standards of code of conduct of the School Child Nutrition Program may, depending on the facts and circumstances, include:
 - a) Reprimand;
 - b) Corrective action;
 - c) Dismissal; or
 - d) Any legal action necessary.

J. Miscellaneous Provisions

1. New product evaluation procedures will include:
 - a) Considering the School's needs and requirements
 - b) Considering what options are available in the market
 - c) Sampling/testing products when possible
2. Kitchen Manager will be the reviewing official of each transaction.
3. Payment will be made to the vendor when the contract has been met and verified and has met the School's procedures for payment. (If prompt payment is made, discounts, etc. are accepted.)
4. Specifications will be updated as need.
5. If product is not as specified, the following procedure will take place:
 - a) The Kitchen Manager will contact the vendor by phone or email to share the concerns
 - b) Discuss what options are available to remedy the concerns
 - c) Discuss what will be done to prevent future concerns going forward