

New Jersey Department of Agriculture
Division of Food and Nutrition

Code of Conduct for Procurement and Procurement Procedure Checklist

Background

In December 2013, the federal government released Title 2, *Code of Federal Regulations* (2 *CFR*), Part 200, which includes the requirements for all child nutrition programs to develop and maintain two procurement documents: (1) a written code of conduct for procurement and (2) a written procurement procedure policy.

Purpose

The purpose of this checklist is to provide agencies with the basic components required in these procurement documents. For further guidance on the required components of the Code of Conduct and Procurement Procedures, refer to 2 *CFR* Part 200, Section 318-326. In addition, please refer to 2 *CFR*, Part 200.1 for a comprehensive list of procurement definitions.

Instructions

- If your agency has an existing written code of conduct for procurement and procurement procedures, cross-reference the checklist with your agency's procurement documents to ensure that all of the applicable components are included. Document where each applicable component is addressed in your procurement documents by noting the page and paragraph number in the appropriate columns of the checklist.
- If your agency does not have a written code of conduct for procurement and procurement procedures, refer to the checklist to help your agency develop the required procurement documents. Indicate where each applicable component is addressed in your procurement documents by noting the page and paragraph number in the appropriate columns of the checklist
- Agencies must retain their written code of conduct for procurement and procurement procedures and ensure that they are available upon request by the New Jersey Department of Agriculture, Division of Food and Nutrition.

Code of Conduct for Procurement and Procurement Procedure Checklist

Code of Conduct for Procurement Components	Page Number	Paragraph Number
<p>1. Code of Conduct (2 CFR, sections 200.318[c][1] and 400.2): Develop a code of conduct that addresses conflicts of interest and regulates the actions of employees engaged in the selection, award, and administration of contracts. The code of conduct should ensure that employees, officers, or agents do not participate in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent conflict of interest. The written code of conduct must define a conflict of interest and include disciplinary action for violations.</p>		
<p>2. Gratuities, Favors, or Gifts (2 CFR, sections 200.318[c][1] and 400.2): Include a prohibition on soliciting or accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub agreements. Agencies may define a set of standards for situations in which financial interest or gratuity is not substantial or the gift is an unsolicited item of nominal value. If the latter is chosen, include the definition of nominal value.</p>		
<p>3. Organizational Conflicts of Interest (2 CFR, Section 200.318[c][2]): If your agency has a parent, affiliate or subsidiary and your agency is not a state, local government or Indian tribe, include how your agency will manage relationships that may prohibit the ability to be impartial in conducting a procurement action involving a related organization.</p>		
Procurement Procedures Components	Page Number	Paragraph Number
<p>1. Authorization Title Page: Include the date the procedures are effective, the name, title, and signature of the authorized representative, and the date it is signed.</p>		
<p>2. Surplus Property (2 CFR, Section 200.318 [f]): Identify whether the agency would consider purchasing government surplus property in lieu of purchasing new equipment. If so, include the process for conducting this type of procurement.</p>		
<p>3. Duplication of Goods/Services (2 CFR, Section 200.318[d]): Describe the process used to ensure that there is no acquisition of unnecessary or duplicate goods or services.</p>		
<p>4. Small and Minority Businesses, Women Business Enterprises, and Labor Surplus Area Firms (2 CFR, Section 200.321): Describe the affirmative process to ensure that minority businesses, women business enterprises, and labor surplus area firms are used when possible.</p>		
<p>5. Intergovernmental Procurement (2 CFR, Section 200.318[e]): Describe the procedures staff must use when conducting intergovernmental purchases.</p>		
<p>6. Cooperative Procurement (2 CFR, Section 200.318 [e]): Describe the procedures staff must use if procuring goods from a purchasing cooperative.</p>		
<p>7. Micropurchase Procedures (2 CFR, Section 200.320[a]): Describe the process for procuring goods and/or services when the dollar amount does not exceed \$3,500 (or the current micropurchase threshold) per procurement transaction.</p>		
<p>8. Small Purchase Procedures (2 CFR, Section 200.320[b]): Describe the process for procuring goods, and/or services when the total dollar amount is less than your agency's relevant small purchase threshold per procurement transaction.</p>		

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Procurement Procedures Components	Page Number	Paragraph Number
9. Formal Purchase Procedures (2 CFR, Section 200.320[c] and [d]): Describe the process for procuring goods and/or services when the dollar amount is more than your agency's relevant small purchase threshold per procurement transaction.		
10. Noncompetitive Procurement (2 CFR, Section 200.320[f]): Describe the process for procuring goods and/or services that cannot be conducted through normal competitive procurement methods, and the lack of a contract would seriously threaten the function of the agency, including emergency or sole source procurement.		
11. Cost and Price Analysis (2 CFR, Section 200.323): Describe the process for performing a cost or price analysis for every procurement action in excess of the small purchase threshold.		
12. Clear Description (2 CFR, Section 200.319[c][1]): Describe staff requirements and required components for writing a clear description of the material, product, or service to be procured.		
13. Contractor Involvement (2 CFR, Section 200.319[a]): Include procedures that prohibit prospective contractors' involvement in the development of specifications, bid documents, and contracts.		
14. Geographic Preference (7 CFR, Section 210.21[g]): Outline procedures for geographic preference that are not so restrictive as to limit the number of qualified firms that may compete for a contract.		
15. Buy American Provision (7 CFR, Section 210.21 [d][1-3]; USDA Policy Memo SP-24-2016) (for school food authorities only): Describe the process for procuring domestically grown and processed agricultural commodities.		
16. Brand Name or Equivalent (2 CFR, Section 200.319[a][6]): Describe the use of brand name or equivalent description in solicitations.		
17. Discounts, Rebates, and Credits (7 CFR, Section 210.21[f][iv]): Describe the process used to ensure that all solicitations and contracts that are cost-reimbursable (including fixed-price contracts with cost-reimbursable provisions) include provisions which require the return of rebates, discounts, and other applicable credits.		
18. Bonding Requirements (2 CFR, Section 200.325): Identify whether the construction or facility improvement bonding requirements apply to an agency's procurement processes.		
19. Certifications (2 CFR, Appendix II): Include applicable requirements to include certifications in the solicitation. Typical certifications include: Energy Policy, Clean Air Act, Debarment and Suspension, Certification of Lobbying, Disclosure of Lobbying Activities, Equal Employment Opportunity, Drug Free Workplace, Independent Price Determination, and Iran Contracting Act of 2010		
20. Evaluation Procedures (2 CFR, Section 200.319[c][2]): Describe the process to evaluate sealed bids and competitive proposals, including consideration of contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.		
21. Suspension and Debarment (2 CFR, Appendix II, Section [H]): Include instructions that disallow entering into a contract with parties that have been debarred or suspended, and how staff make that determination.		

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22. Bid Protest (2 CFR, Section 200.318[k]): Define procedures by which a bidder or respondent can protest a procurement contract.		
23. Contract Monitoring (2 CFR, Section 200.318[b]): Describe the process used to ensure that contractors perform in accordance with terms, conditions, and specifications of the contract.		
24. Maintenance of Records (2 CFR, Section 200.318 [i]): Include the procedures by which records will be maintained to detail the history of procurement. The records will include, but are not limited to: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.		
25. Advertisements (2 CFR, Section 200.320 [2]) : Describe the process staff must follow when placing advertisements for bid proposals.		