



**HENDERSON COLLEGIATE, INC.
PROCUREMENT PLAN ADOPTION FOR THE SCHOOL NUTRITION PROGRAM**

The procurement plan described on the following pages (pages 1 through 28) was adopted by the **Henderson Collegiate Charter School** Board of Directors (BOD) and will be implemented effective March 15, 2018 and from that date forward until amended. All procurement processes and activities will be consistent with the principles of free and open competition. Henderson Collegiate, Inc. (hereinafter referred to as “SFA,” which stands for School Food Authority) will avoid unreasonable conditions that restrict competition. All reasonable efforts will be made to solicit bids, proposals and/or quotes from as many qualified vendors as possible; all qualified vendors are invited to respond to solicitations.

The procurement of all goods and services using School Nutrition funds will be carefully documented during each phase of the procurement process. The BOD shall award contracts to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed solicitation. The BOD will restrict awards, sub-awards and contracts with any party that is debarred, suspended or otherwise excluded from participation in Federal assistance programs or activities. All parties involved in the procurement process involving School Nutrition funds will comply with a written code of ethics/conduct, which includes a conflict of interest policy. Adherence with the code of ethics/conduct and conflict of interest policies is fundamental to the integrity of the procurement process.

Stephanie Rogers
Chair, Henderson Collegiate Board of Directors

7/31/2018
Date

Eric Sanchez
Executive Director, Henderson Collegiate, Inc.

7/31/2018
Date



**HENDERSON COLLEGIATE, INC.
PROCUREMENT PLAN**

The Henderson Collegiate, Inc. (hereinafter referred to as the School Food Authority (SFA) plan for procuring goods and services for use in its School Nutrition Program is described in detail herein. This plan includes all Federal food-assistance programs administered by the SFA. Adherence with the procurement plan is intended to ensure free and open competition in an environment that promotes transparency in all transactions, documented comparability for ethical decision-making, and adequate documentation to substantiate the allowable use of School Nutrition funds.

**PART I: CODE OF ETHICS / CONDUCT GOVERNING THE PROCUREMENT OF
GOODS AND SERVICES USING SCHOOL NUTRITION FUNDS**

The following conduct will be expected of all persons who are engaged in the award and administration of contracts supported by School Nutrition funds.

1. No employee, officer or agent of the Local Education Agency (LEA) shall participate in the development of a solicitation, selection of a recipient, and/or administration of a contract supported by School Nutrition funds if a conflict of interest, real or apparent, would be involved.
2. Conflicts of interest arise when a member of the LEA or SFA has a financial or other interest in the contractor selected for the award, conflicts of interest would include:
 - a. Any employee, officer or agent of the contractor;
 - b. Any member of the immediate family of the contractor;
 - c. The contractor's partner; and/or
 - d. An organization which employs or is about to employ one of the above.
3. Employees, officers or agents of the SFA shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. (*Note: the SFA may establish local policy indicating



School Nutrition personnel may accept an unsolicited item of nominal value where the exact value is established and recorded in this procurement plan or participate in a group event where the financial interest is not significant and the event is open to all attendees or participants.)

4. It is acknowledged that the penalty for violation of the Code of Ethics/Conduct may include any of the following:
 - a. Reprimand by the BOD; or
 - b. Dismissal by the BOD; or
 - c. Any legal action necessary.
5. Henderson Collegiate, Inc.'s Conflict of Interest Policy is shown in attachment A.

PART II: PROCUREMENT METHODS USED TO PURCHASE GOODS AND SERVICES USING SCHOOL NUTRITION FUNDS

A combination of formal and informal purchasing methods will be used to procure all goods and services on behalf the non-profit School Food Authority (SFA). Formal purchasing methods will include the use of an Invitation for Bid (IFB) or a Request for Proposal (RFP). As required by 2 CFR 200.317 – 200.326 and NC General Statute, Article 8, Chapter 143, formal purchasing methods will always be used for any purchase that exceeds the lesser of the State's small purchase threshold of \$90,000.00 or the SFA's board-approved small purchase or simplified acquisition threshold. For purchases below the lesser of the State's simplified acquisition threshold of \$90,000 or the board-approved simplified acquisition threshold, informal procurement procedures involving a documented Request for Quote (RFQ) will be utilized when seeking competitive pricing. Micro-purchase procedures as defined in 2 CFR 200.320 may be used for goods or services reflecting separate or aggregate purchases in an amount equal to or less than \$3,500.00 in aggregate on an annual basis. Non-competitive negotiation or sole source procurement, is rare and requires the prior written approval of the North Carolina Department of Public Instruction (NCDPI) prior to purchase and/or contract execution. Contracts will be awarded only to responsible contractors



possessing the ability to perform successfully under the terms and conditions of the base solicitation; consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources. All procurement transactions (formal, informal, sole source and emergency) will be thoroughly documented and available for review and/or audit by Federal, State and local authorities upon request.

The SFA will make all efforts to avoid the acquisition of unnecessary or duplicative items. Where appropriate, an analysis will be made of lease-versus-purchase alternatives, and any other appropriate analysis to determine the most economical approach, including purchases made using existing contracts that were competitively procured by the State of North Carolina and in accordance with State General Statute. Where feasible, the SFA will consider the purchase of gently-used or surplus equipment in lieu of purchasing new equipment.

Overly-prescriptive specifications will be avoided to promote competition. When it is impractical to make a clear, definitive description, a “brand name or equivalent” description will be used as a means to define a product or service. In this case, the specific features of the named brand, which must be met by contractors, must be clearly stated. In order to ensure objective contractor performance, any potential contractor that develops or drafts specifications, requirements, statements of work or other solicitation documents or resources, will be excluded from competing for such procurements. All solicitation documents will identify the specific requirements which the contractor must fulfill and any other factors that will be considered when evaluating quotes, bids, or proposals.

A. Formal Procurement Methods

Formal methods of procurement including an Invitation for Bid (IFB) or a Request for Proposal (RFP) will be used for any and all purchases in excess of the SFA’s simplified



acquisition (or small purchase) threshold OR the State simplified acquisition (or small purchase) threshold of \$90,000.00, whichever is less.

The SFA's Simplified Acquisition Threshold is \$90,000. This amount will be used to determine whether formal or informal purchasing methods will be used.

Formal procurement methods will be applied on the basis of a/an:

- Centralized or administrative office purchase
- Individual school purchase
- Multi-School systems' purchases
- Previously competitively-procured State contract
- Combination of above (specify):
- Other

An IFB will be used when the sole criteria for awarding a contract to the most responsive, responsible bidder is the cost of goods or services. A RFP will be used when other factors, objective and subjective, will be used to award the contract. When using an RFP, cost will be a significant factor in the contract award along with other evaluation criteria. The specific evaluation criteria will be provided as part of the original solicitation to enable all potential contractors to clearly understand the basis of the award.

Given the potential to purchase more products and services above the SFA's Simplified Acquisition Threshold of \$90,000 using School Nutrition funds, it will be the responsibility of School Nutrition Director to document the specific cost of a purchase to determine and document which formal procurement method will be used and the justification for doing so.

The School Nutrition Director will perform a cost analysis for every procurement action in excess of the SFA's simplified acquisition threshold where formal procurement



methods will be used; the documentation of the cost analysis will be kept on file with other procurement documents and will be subject to review and/or audit.

When a formal procurement method is required, the following procedures shall apply:

1. A public advertisement is required to solicit bids or proposals for all purchases over the SFA's simplified acquisition (or small purchase) threshold of \$90,000. The announcement (advertisement or legal notice) will contain a general description of items to be purchased; specific procedures for submission of a bid or proposal; deadline for submission of sealed bids or proposals, and the address where complete specifications and bid/proposal instructions may be obtained and the contact person to whom questions may be addressed.
2. The public announcement of an Invitation for Bid (IFB) or a Request for Proposal (RFP) will be placed in the News and Observer to publicize the intent of the SFA to purchase needed items. The legal notice of advertisement for bids/proposals will be run in these media outlets for at least one day.
3. In an IFB or RFP, each vendor will be given an opportunity to submit a bid or proposal using the same complete, adequate and realistic specifications.
4. Specifications will be developed and provided to all potential contractors desiring to submit bids or proposals for the products or services requested. Vendors will be selected to receive the solicitation using the following methods:
 - a. Prior acceptable service with the SFA
 - b. Consistent Delivery Time
 - c. Quality of products

Any party that assists the SFA in the development of the written specifications, product descriptions or services to be provided, will be disqualified from submitting bids or proposals for such products or services. Potential vendors are prohibited from developing or assisting in the development of specifications, product descriptions or services to be provided.

6. If any potential vendor is in doubt as to the true meaning of the specifications or purchase conditions, an interpretation will be provided by School Nutrition Director. If



a single vendor requests clarification on an item in an IFB, RFP, or other solicitation, a response will be provided to all potential vendors that originally requested and/or received the solicitation.

7. The IFB or RFP will clearly define the purchase conditions. The following shall be addressed in the solicitation and final contract documents:
 - a. Intent of the procurement activity
 - b. Contract period
 - c. SFA is responsible for all contracts awarded (statement)
 - d. Date, time and location of pre-bid or pre-proposal meeting (if any)
 - e. Date, time and location of bid opening and bid/proposal submission procedures with SFA contact information
 - f. How the vendor is to be informed of bid/proposal acceptance or rejection
 - g. Type of contract (i.e. fixed price with firm price for delivery, etc.)
 - h. Specific requirements potential contractor must fulfill in order for the bid or proposal to be evaluated
 - i. Statement indicating any and all bids or proposals may be rejected at the discretion of the SFA
 - j. Benefits to which the SFA will be entitled if the contractor cannot or will not perform as required in accordance with the terms and conditions of the contract
 - k. Statement regarding any contract extension or “rollover” options based upon the mutual agreement of both parties
 - l. Statement concerning any intent for piggybacking, should a reasonable need emerge
 - m. Statement regarding the return of rebates, discounts and other purchase incentives to the SFA’s non-profit School Nutrition account
 - n. Historically Underused Businesses (HUB) Statement to involve minority businesses where possible
 - o. Remedy for non-performance/termination of contract; termination provisions and the basis for any settlement for all purchases and service contracts over \$10,000.00



- p. Non-collusion statement
- q. Assurance of ethical practices statement
- r. Bid/proposal protest procedures
- s. Provision requiring compliance with Executive Order 11246 entitled “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in the Department of Labor regulations required for all contracts over \$10,000.00
- t. Instrument to be used for obtaining goods or services (such as a purchase order or other system of ordering) to be described by the SFA in detail, including how the contractor will be notified using the purchase instrument
- u. Escalation/de-escalation clause for future contract renewal periods (should such be allowed) based on appropriate standard or cost index
- v. Statement of assurance of protection under Civil Rights laws
- w. Provision requiring access by duly authorized representatives of the SFA, State agency, United States Department of Agriculture, or Comptroller General to any books, documents, papers and records of the contractor which are directly pertinent to all negotiated contracts
- x. Method of payment (invoices, statements, etc.)
- y. Method of shipment or delivery upon contract award
- z. Delivery schedule and delivery requirements
- aa. Provision requiring contractor to maintain all required records for three years plus the current year (and any contract periods open as a result of unresolved matter) after final payment and all other pending matters are closed for all negotiated contracts
- bb. Bid/proposal Certification form
- cc. Specifications that are sufficient to obtain the exact goods or services needed, but not so detailed as to restrict competition
- dd. Product/service specifications to include approved brand or equivalent, quantity, quality, packaging, pricing (unit and extended), procedures for documenting/pre-approving any substitutions or deviations



- ee. Provision requiring the contractor to recognize mandatory standards and policies related to energy efficiency which are contained in the State Energy Plan
 - ff. Provision requiring the contractor to recognize mandatory standards and policies related to energy efficiency which are contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165)
 - gg. All contracts over \$100,000.00 will require compliance with the Clean Air Act issued under Section 306, Executive Order 11738
 - hh. Signed Certificate of Lobbying for all contracts over \$100,000.00
 - ii. Signed Statement of non-collusion
 - jj. Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS)
 - kk. Provision requiring "Buy American" as outlined in Policy Memorandum SP 38 - 2017; specific instructions for prior approval of any and all of non-domestic products
 - ll. Provision requiring the Contractor to abide with the Jessica Lunsford Act (sample language is attached with this document)
 - mm. Provision requiring the Contractor to abide with the Iran Divestment Act of 2015 (as modified).
8. The School Nutrition Director will be responsible for publicly advertising and coordinating the procurement process for all purchases using School Nutrition funds. The School Nutrition Director will be responsible for receiving and securing all bids, proposals, quotes and other collateral documents if indicated as part of the solicitation process.
9. The School Nutrition Director will be responsible to ensure all SFA procurements are conducted in compliance with applicable Federal regulations, State General Statutes or policies of the BOD and that the Procurement Checklist shown at the end of this document will be completed for each formal procurement, signed and dated by the School Nutrition Director and maintained on file with the original procurement documents.



10. The following criteria will be used to award contracts (based on bids or proposals):
 - a. Price
 - b. Prior contract performance (quality, service, etc.)
 - c. Service
 - d. Availability
11. In awarding an RFP, a set of award criteria in the form of a weighted objective evaluation tool will be provided to each potential vendor in the initial solicitation documents/materials. Price alone will not be the sole basis on which an award will be made, but remains the primary consideration when awarding the contract. Following evaluation and competitive negotiations, a firm fixed-price contract will be awarded to the successful vendor.
12. Contracts will be awarded to the most responsible bidder/proposer whose bid or proposal is most responsive to the solicitation and is most advantageous to the SFA, price, and other factors considered. Any and all quotes, bids or proposals may be rejected at the discretion of the SFA and/or LEA or appropriate governing body.
13. The School Nutrition Director is required to sign the bid tabulation of competitive, sealed bids or the evaluation criterion score form of competitive proposals signifying a fair and impartial review and approval of the successful bidder/proposer.
14. The School Nutrition Director will annually review the SFA's Written Procurement Plan in the context of current local, State and Federal regulations to ensure compliance with applicable laws. This individual will also be responsible to update the School Nutrition Procurement Plan as often as required to reflect current Federal, State and local procurement policies.
15. The School Nutrition Director will be responsible for documentation that the actual product(s) or service(s) specified are received.
16. Any time a previously agreed-upon item is not available, the School Nutrition Director will review, select and approve the acceptable alternate. The contractor must inform School Nutrition Director no later than 24 hours before that a product is not available and that a substitute item may be considered. The School Nutrition Director shall review and approve all product/service substitutions in advance and in writing to the contractor. No product or service shall be used in the School Nutrition



program that was not approved, in writing, in advance, by the School Nutrition Director. In the event a non-domestic agricultural product is to be provided to the SFA, the contractor must obtain, in advance, the written approval of the product from the School Nutrition Director. The School Nutrition Director will oversee compliance with the *Buy American Provision*.

17. Full documentation as to the reason an accepted item was unavailable, and the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for preparing and maintaining this documentation is School Nutrition Director.
18. The School Nutrition Director will be responsible for maintaining all documentation of the procurement process and making documents available for review during announced and unannounced program reviews.
19. When appropriate and approved by School Nutrition Director, the SFA will exercise its option to purchase items that were previously competitively procured by the North Carolina Department of Administration, Purchase and Contract Division, using a duly awarded, active State Term Contract.

B. Informal Procurement Procedures

1. When the cost of products or services is less than the LEA's small purchase threshold of \$90,000, or the Federal micro-purchasing threshold of \$3,500, informal purchasing procedures including the Request for Quotes (RFQ) and Micro-Purchasing Procedures (MPP) will be utilized.
2. When using a RFQ, the following procedures will apply:
 - a. Clearly written specifications will be prepared and provided to each potential vendor; the SFA's approved terms and conditions will also be provided to each potential vendor.
 - b. Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of three (3) vendors shall be contacted.
 - c. The School Nutrition Director will be responsible for communicating with potential vendors when price quotes are required.



- d. Price quotes will receive appropriate confidentiality before awarding a contract.
 - e. Quotes will be awarded by the School Nutrition Director. Quotes awarded will be to the lowest and best quote based upon quality, service, availability, price, and prior contract performance.
 - f. The School Nutrition Director will be responsible for documentation of procedures to show selection of vendor, reasons for selection, names of all vendors contacted, price quotes from each vendor, and written specifications.
 - g. The School Nutrition Director will be responsible for documentation that the actual product(s) or service(s) specified is received.
 - h. Any time an accepted item is not available, the School Nutrition Director will select and approve an acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.
 - i. Bids will be awarded on the following criteria:
 1. Price
 2. Quality
 3. Service
 4. Availability
 5. Prior Contract Performance
 - j. The School Nutrition Director is required to sign all quote tabulations, signifying a fair and equitable review and approval of the selections.
 - k. Quotes from an adequate number of qualified sources will be obtained. Where only one (1) quote is received, the district will provide written documentation as to why there were fewer than three (3) qualified quotes.
 - l. When appropriate and approved by School Nutrition Director, the SFA will purchase items that were previously competitively procured by the North Carolina Department of Administration, Purchase and Contract Division, using a duly awarded, active State Term Contract.
3. When using MPP, the following will apply:



- a. The School Nutrition Director will determine whether the aggregate amount of purchases for goods and/or services does not exceed the micro-purchase threshold of (equal to or less than) \$3,500, a micro-purchasing procedure may be utilized. In so doing, the School Nutrition Director will be responsible to ensure that, under no condition, will purchases be sub-divided into amounts of \$3,500 or less in order to circumvent the formal and informal purchasing requirements.
- b. Purchase orders may be solicited without quotes if the School Nutrition Director determines such practice is consistent with micro-purchasing regulations and consistent with the SFA's written Procurement Plan.
- c. The School Nutrition Director may purchase products and services (similar or dissimilar, purchased at once, as a single, collective unit whose aggregate cost is less than or equal to \$3,500 in a single transaction, without obtaining competitive quotes as long as the School Nutrition Director determines the price to be reasonable.
- d. The School Nutrition Director shall ensure competition is achieved by distributing purchase transactions equitably among qualified sources where the price is reasonable. The School Nutrition Director will document all micro-purchases on a *Micro-purchase Tracking Form*.
- e. For purposes of micro-purchasing, a transaction shall be defined as "an occurrence in which two (2) or more entities exchange goods, services or money between or among them under an agreement formed for their mutual benefit."
- f. The School Nutrition Director agrees to contact the State agency with any questions about allowable/unallowable micro-purchases, and further agrees to maintain all documentation to substantiate micro-purchases including the following:
 1. Rationale for using micro-purchasing;
 2. Estimated cost of the item/service to be procured (indicating a one-time purchase of \$3,500 or less);
 3. Name and address of the vendor;



4. Documentation that purchases are made from a variety of potential vendors as opposed to a single vendor for the majority of micro-purchases;
 5. All micro-purchases were approved by the School Nutrition Director prior to the initiation of a single micro-purchase.
4. The School Nutrition Director will be responsible for the documentation of records to fully explain the decision to use micro-purchasing and to document the micro-purchasing process and outcomes. Such records will be available for audit and review.
 5. The School Nutrition Director will be responsible for documentation that the actual product or service as specified or required was purchased and received.

C. Sole Source of Non-competitive Procurement

When it is determined and documented that a product or service is available only from a single source and when the award of a contract is not feasible under small purchase, sealed bid or competitive negotiation, sole source or non-competitive negotiation procedures will be used and the following procedures shall apply:

1. Written specifications for the product or service will be prepared by the SFA.
2. The School Nutrition Director will be responsible to prepare and issue a Request for Information (RFI) or other information collection tool to objectively determine whether the product or service, as described in the written specification, is available from one or more sources.
3. The School Nutrition Director determines the product or services specified qualifies as a sole source procurement, s/he will be responsible for reviewing the procedures to ensure all requirements for using sole source or non-competitive negotiations are met; this individual shall also be responsible for preparing appropriate documents to fully explain the decision to use the sole source procurement process, including evidence indicating the goods or services were not available from other sources.
The records will be available for audit and review.



4. A member or representative of the BOD will approve, in advance, all procurements, with the exception of product testing purchases, that result from a sole source or non-competitive negotiation.
5. The School Nutrition Director will be responsible for obtaining prior written State agency approval of the sole source or non-competitive negotiation before entering into the purchase of a good or service and will also be responsible for maintaining such documentation on file.
6. Sole source procurement may be used for one-time purchases of a new food for product testing for which there is no brand equivalent in order to obtain product samples for conducting student taste acceptance. A record of non-competitive negotiation purchase shall be maintained by the School Nutrition Director. The record of non-competitive purchases shall include, at a minimum, the following:
 - a. Item name
 - b. Dollar amount
 - c. Vendor name and address, and
 - d. Written justification for non-competitive procurement
7. The School Nutrition Director will be responsible for documentation that the actual product or service specified was received.

D. Emergency or “Pressing Need” Purchases

If it is necessary to make a one-time emergency procurement as a result of a serious, unforeseen event that requires an immediate response in order to obtain goods or services to continue meal service, protect students, personnel or SFA resources, for other purposes that support program accountability and integrity, an emergency purchase shall be made and a log of such purchases will be maintained by the School Nutrition Director.

The following emergency procedures shall be followed:

1. All emergency procurements shall be approved by the School Nutrition Director. At a minimum, the following emergency procurement procedures shall be documented:
 - a. Reason for the emergency



- b. Good or service required
 - c. Cost (all costs to be included, shipping, installation, warranty, etc.)
 - d. Vendor name and address
 - e. Approval of the SFA official (if required)
2. If it is necessary, in the course of a pressing need, to make an emergency purchase by means of “piggybacking” on the solicitation of another SFA, the following conditions must exist and approved procedures must be followed and appropriately documented as follows:
- a. The SFA that originated the solicitation must have included a “piggyback provision” in the original solicitation;
 - b. Documentation that a “pressing need” exists that requires piggybacking on another SFA’s bid will be obtained;
 - c. Approval from the SFA’s governing board will be obtained and documented;
 - d. Approval from the SFA that originated the IFB will be obtained and documented;
 - e. Approval from the vendor that was awarded the Contract (as a result of the IFB) will be obtained and documented;
 - f. A public notice of the district’s *“Intent to Waive Competitive Bidding”* will be issued at least 10 days prior to the regularly scheduled BOD meeting;
 - g. Approval to piggyback will be obtained and documented from the BOD during a regularly scheduled meeting following the public notice;
 - h. Notification to the vendor of final approval will be issued; and
 - i. A contract with the vendor will be developed.

PART III: PURCHASING COOPERATIVES (N/A)

The SFA shall be a voluntary participant in the North Carolina School Nutrition Procurement Alliance (NCPA). In doing so, the SFA shall agree to the terms and conditions established and subsequently modified by the NCPA’s elected Board of



Directors. The original signed agreement between the SFA and the NCPA shall remain on file in the office of the School Nutrition Director. (Note: If the SFA does not participate in the NCPA, this paragraph may be deleted.)

If the SFA plans to engage the services of a Group Purchasing Organization (GPO), the following procedures will be implemented to ensure the GPO has been competitively procured and in accordance with Federal and State procurement requirements:

PART IV: ADDITIONAL PROCUREMENT PROVISIONS

1. In order to evaluate a new product, the following methods will be used:
 - a. **Document Review:** Nutrient Facts Label and Nutrient Analysis
 - b. **Physical Review:** Product packaging and appearance
 - c. **Student Testing:** Student review of the prepared product
2. Payment will be made to the contractor when all terms and conditions of the contract have been met and verified as stipulated in the contract. (If value added features are available, payment will be based on the mutually-agreed upon value added feature. For example, if prompt payment is made, discounts, etc. are allowable.)
3. Specifications will be updated by School Nutrition Director as products change.
4. If a product or service is not received as specified, the following procedures will be implemented:
 - a. Contracts may be terminated at any time, on 30 days' notice, upon the mutual agreement of both parties.
 - b. The School Nutrition Director may terminate the contract, if the successful contractor fails to perform at the level specified in the contract document
 - c. The successful contractor may terminate the contract, if the BOD fails to meet the specified payment terms.

Each party shall follow the procedure outlined below, if a contract is to be terminated.



Step 1: Issue warning letter outlining the violation(s) and length of time to correct the problem.

Step 2: Issue the letter of intent to 'Cancel Contract,' if the problem is not resolved by a given date.

Step 3: Issue a letter to cancel the contract.

5. If the SFA chooses to use the services of an entity to maximize allowable rebates, the following procedures will be implemented:
 - a. N/A
6. The School Nutrition Director will oversee the process of managing rebates provided by a third-party participant and will:
 - a. Track all interactions with and rebates provided by said third party
 - b. Provide written documentation to the third-party rebate provider that all rebates must accrue to the non-profit School Nutrition Account. (All rebate checks must be made payable to the SFA's School Nutrition account.)
 - c. Document the deposit of all rebates into the non-profit School Nutrition account.
7. The SFA will designate an individual to monitor each contract to ensure the Contractor and the SFA adhere to all terms and conditions of the contract.
8. All contracts shall result in a fixed, firm price contract and/or cost plus fixed fee contract.

PART V: DOCUMENTATION AND RECORDS RETENTION

In all transactions except micro-purchases, the contractor shall agree to retain all invoices, records and other documents relative to the contract for a period of three (3) years after final payment plus the current year. The SFA, its authorized agents, and/or USDA auditors shall have full access to and the right to examine any of said materials during said period.



The SFA shall agree to retain all books, journals, records and other documents relative to the award of the contract agreement for three (3) years after final payment.

Specifically, the SFA shall maintain, at a minimum, the following documents:

1. Written rationale for the method of procurement;
2. A copy of the original solicitation;
3. The selection of contract type;
4. The bidding and negotiation history and working papers;
5. The basis for contractor selection; and/or rejection
6. Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;
7. The basis for award where cost or price is not the primary factor for the decision;
8. The terms and conditions of the contract;
9. Any and all contract amendments or modifications;
10. Billing and payment records;
11. Any history of any contractor claims; and
12. Any history of any contractor breaches.

The SFA will complete the most current *School Nutrition Procurement Checklist* for all purchases using School Nutrition funds. The checklist should remain on file with the district's procurement documents as an indicator the SFA has taken all reasonable efforts to procure goods and services in a manner that is consistent with Federal regulations and policy. The checklist is shown in Attachment B.



PART VI: OTHER PROCUREMENT REQUIREMENTS

1. All contractors must agree to abide with the terms and conditions of the Jessica Lunsford Act. The vendor acknowledges that N.C. General Statute 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. This prohibition applies to persons required to register under Article 27A who have committed any offense in Article 7A of Chapter 14 or any offense where the victim of the offense was under the age of 16 years at the time of the offense.
2. The SFA will make all reasonable efforts to assure that minority businesses, women's business enterprises and labor surplus area firms are engaged in solicitations and awarded contracts when possible.
3. The SFA and its contractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
4. All Contractors must agree to abide with the requirement for criminal background checks. The vendor shall conduct criminal background checks on each of its employees who, pursuant to this Agreement, engage in any services on Henderson Collegiate property or at Henderson Collegiate events. The Contractor shall provide documentation that criminal background checks were conducted on each of its employees prior to hiring, and shall refuse employment to any person convicted of a felony or any other crime, whether misdemeanor or felony, that indicates the person poses a threat to the physical safety of students, school personnel or others. Such



checks shall include an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. The vendor shall not assign any employee or agent to provide services pursuant to this contract if (1) said worker appears on any of the listed registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any crime, whether misdemeanor or felony, involving sex, violence, or drugs; or (4) said worker has engaged in any crime or conduct indicating that the worker may pose a threat to the safety or well-being of student or school personnel. Henderson Collegiate reserves the right to prohibit any individual employee of the vendor from providing services on Henderson Collegiate property or at Henderson Collegiate events if Henderson Collegiate determines, in its sole discretion, that such employee poses a threat to the safety or well-being of students, school personnel or others.

5. All contractors must agree to abide with the IRAN DIVESTMENT ACT CERTIFICATION. N.C.G.S. 147-86.59 which requires:
 - a. Certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required whenever a bid is submitted, a contract is entered into, or a contract is renewed.
6. Contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List. The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and will be updated every 180 days.

The Iran Divestment Act of 2015 may be found online at:

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_147/Article_6E.pdf**

The Act's requirements use the term "State agency." G.S. 147-86.57(7) provides that in the Act, the term "State agency" includes not only State departments, boards,



commissions, executive departments, officers and institutions, but also “any political subdivision of the State” such as a Local Government Unit.

7. Should the Henderson Collegiate BOD determine it is in the best interest of the SFA to outsource the preparation of meals to a qualified catering company, the SFA agrees to notify the department before procuring the services of a catering company and to use the NC Department of Public Instruction’s (NCDPI) RFP Template / Contract to solicit, evaluate, negotiate and contract with the successful vendor.
8. Should the Henderson Collegiate BOD determine it is in the best interest of the SFA to seek a for-profit Management Company to operate its non-profit School Nutrition Program, the Henderson Collegiate shall notify the NCDPI of its intent to outsource the program no later than six months prior to the desired date of the contract. Further, the SFA agrees to and agrees to use the solicitation/contract template required by the NCDPI and shall comply with the State and Federal guidelines for contracting with Management Companies. The BOD further agrees to appoint a qualified employee of the SFA to monitor the contract between the SFA and the Management Company on daily basis.

PART VII: CONTRACT OVERSIGHT

1. The School Nutrition Director shall designate an individual by name and title who will oversee each contract using School Nutrition funds to ensure all terms, conditions and deliverables are adhered to in a manner that is consistent with the contract.
2. Each contract will be monitored on a frequency that is established at the beginning of the contract period; any failure of the contractor to abide with the terms and conditions of the contract will be reported to the School Nutrition Director immediately and immediate, documented corrective action will be required and/or contract termination proceedings will begin.
3. The SFA alone will be responsible, in accordance with good administrative practice and sound business judgment, of the settlement of all contractual and administrative



issues arising out of procurements using School Nutrition funds. These issues include, but are not limited to, source evaluation, protests, disputes and claims. These standards do not relieve the SFA of any contractual responsibilities under its contracts.

4. It is understood by the SFA that neither the US Department of Agriculture nor the North Carolina Department of Public Instruction will substitute their judgment for that of the SFA unless the matter is primarily a Federal or State concern.

Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.



ATTACHMENT A

HENDERSON COLLEGIATE BOARD OF DIRECTORS CONFLICT OF INTEREST POLICY

In their capacity as directors, the members of the Board of Directors (the “Board”) of Henderson Collegiate must act at all times in the best interests of Henderson Collegiate. The purpose of this policy is to help inform the Board about what constitutes a conflict of interest, assist the Board in identifying and disclosing actual and potential conflicts, and help ensure the avoidance of conflicts of interest where necessary. This policy may be enforced against individual Board members as described below.

CONFLICT OF INTEREST POLICY

1. Board members have a fiduciary duty to conduct themselves without conflict to the interests of Henderson Collegiate. In their capacity as Board members, they must subordinate personal, individual business, third-party, and other interests to the welfare and best interests of Henderson Collegiate.
2. A conflict of interest is a transaction or relationship that presents or may present a conflict between a Board member’s obligations to Henderson Collegiate and the Board member’s personal, business or other interests.
3. All conflicts of interest are not necessarily prohibited or harmful to Henderson Collegiate. However, full disclosure of all actual and potential conflicts, and a determination by the disinterested Board (or Henderson Collegiate Executive Committee) members – with the interested Board member(s) recused from participating in debates and voting on the matter – are required.
4. All actual and potential conflicts of interests shall be disclosed by Board members to the Henderson Collegiate Executive Committee through the annual disclosure form and/or whenever a conflict arises. The disinterested members of the Henderson Collegiate Executive Committee shall make a determination as to whether a conflict exists and what subsequent action is appropriate (if any). The Henderson Collegiate Executive Committee shall inform the Board of such determination and action. The Board shall retain the right to modify or reverse such determination and action, and shall retain the ultimate enforcement authority with respect to the interpretation and application of this policy.
5. On an annual basis, all Board members shall be provided with a copy of this policy and required to complete and sign the acknowledgment and disclosure form below. All completed forms shall be provided to and reviewed by the Henderson Collegiate Executive Committee, as well as all other conflict information provided by Board members.



ATTACHMENT B

Specific Procurement Procedures for the purchase of all goods and services by the SFA.

Category of Items to be Purchased	Procurement Method to be Used	Method of Award (line item, bottom line, market basket etc.)	Frequency of Purchase
Food and Non-Food Supplies (over small purchase threshold)	Invitation for Bid (IFB)	Bottom Line	Annually
Food and Non-Food Supplies (under small purchase threshold)	Request for Quote (RFQ)	Bottom Line	Annually or as needed
Produce	Invitation for Bid	Market Basket	Weekly, quarterly or as needed
Bread/Dairy	Invitation for Bid	Bottom Line	Annually
Locally grown produce (limited quantities)	Request for Quote	Bottom Line	As needed
Chemicals for Cleaning (over small purchase threshold)	Invitation for Bid	Bottom Line	Annually
Chemicals for Cleaning (under small purchase threshold)	Request for Quote	Bottom Line	Semi-Annually or as needed
Commodity Processing	Invitation for Bid	Line Item	Annually or as needed



Computer Hardware	Request for Quote	Bottom Line	Every five years or as often as needed
Technology Service and Support	Request for Quote OR Sole Source which must be approved, in advance, by the State agency	Based upon pre-established evaluation tool with numeric scores; awarded by an evaluation committee	Annually or as often as required for operations/maintenance contract or license
Consultant Services	Request for Quote OR Sole Source which must be approved in advance by the State agency	Based upon pre-established evaluation tool with numeric scores; awarded by an evaluation committee	Annually or as often as needed for professional support and consultation
Hood Cleaning	Request for Quote	Bottom Line	Annually, with option to renew based on mutual agreement of both parties
Equipment Replacement Parts	Micro-purchasing procedures if a one-time purchase of less than \$3,500		As needed
Smart Snack-compliant vending	Request for Quote		
Equipment Repair	Request for Quote		
Uniforms	Micro-purchasing procedures if a one-time purchase of less	Lowest price submitted by the most responsive,	Annually or as needed



	<p>than \$3,500; if purchase is greater than micro-purchase level and less than small purchase threshold, use RFQ. If purchase exceeds small purchase threshold, use IFB if award will be based on cost only; use RFP if other factors will be considered when awarding the Contract (NOTE: cost must be a predominate factor in the evaluation criteria)</p>	<p>responsible bidder (IFB) OR scored evaluations if using a RFP</p>	
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Note: All categories of purchases used by the SFA must be included in the table shown above.



ATTACHMENT C
Procurement Checklist

Goods/Services to be procured: _____

Procurement date: _____

Person overseeing procurement process: _____

This checklist will be used when preparing solicitation documents, conducting informal and formal procurements, evaluating bids and proposals and executing contracts that involve the use of School Nutrition Funds.

Procurement Plan:

- _____ Written procurement plan
- _____ Authorized purchaser(s) specified
- _____ Detailed procurement methods to be used (quotes, IFB, RFP, micro-purchasing, non-competitive negotiation) including detailed procedures for each purchasing method
- _____ Advertising procedures
- _____ Award method clearly described (i.e., line item, bottom line, market basket analysis or written evaluation of product/service)
- _____ Vendor notification of award/non-award of contract
- _____ Code of ethics/conflict of interest policy
- _____ Instructions for documentation and record-keeping
- _____ Assignment for Contract oversight
- _____ Assurance of compliance with all Federal procurement policies
- _____ Assurance of compliance with all State procurement policies
- _____ Other local requirements



Procurement Procedures:

- _____ Letter of invitation
- _____ Intent of procurement activity
- _____ Contract time-period
- _____ Bid/proposal/quote submission procedures (i.e. sealed bid, written, etc.)
- _____ Pre-bid/proposal meeting date/time/location (if applicable)
- _____ Bid opening date/time/location; Proposal opening procedures
- _____ Contact information
- _____ Civil Rights Statement
- _____ Other local requirements

Terms and Conditions:

- _____ Certification regarding disclosure of lobbying (\$100,000+)
- _____ Debarment/suspension certification form (\$25,000+)
- _____ Non-collusion statement
- _____ Assurance of ethical practices
- _____ Escalation/de-escalation clause
- _____ Price determination statement (fixed, fixed with firm price for delivery, etc.)
- _____ Contract Extension or “roll-over” clause if warranted
- _____ Buy American statement and instructions
- _____ Bid/proposal protest procedures
- _____ Remedy for non-performance/termination of contract
- _____ HUB statement to involve minority business where possible
- _____ “Equal Employment Opportunity” compliance statement (\$10,000+)
- _____ Energy Policy and Conservation Act statement
- _____ Clean Air/Water Act statement (\$100,000+)
- _____ Civil Rights Act statement
- _____ Compliance with the Jessica Lunsford Act
- _____ Return of Discounts, Credits and Rebates to SFA statement
- _____ Record retention and record access requirements (records maintained for three years (plus the current year) from final payment of contract and/or renewal;



all base solicitations must be maintained for three years after the final payment on the contract)

- _____ Method of shipment/delivery requirements
- _____ Method of payment, invoices, statements, etc.
- _____ Purchase instrument to be used and how vendor will receive purchase orders
- _____ Bid certification form
- _____ Other State or local requirements
- _____ Specifications that are sufficiently detailed to get what is needed but not so specific as to restrict competition
- _____ Product specifications (approved brand and/or equivalent)
- _____ Quantity
- _____ Quality
- _____ Packaging
- _____ Pricing (unit and extended)
- _____ Procedure for documenting/pre-approving any substitutions and/or deviations
- _____ Other local requirements

Documentation and Records:

- _____ All IFBs/RFPs/RFQs with appropriate documentation and signatures of authorized purchasers maintained on the original solicitations
- _____ Comparison charts to document procurement decisions and contract awards
- _____ Record of public bid openings and/or proposal openings if proposals will be publicly opened
- _____ Copies of contract award/non-award letters
- _____ Copies of advertisements for solicitation of good/services
- _____ Determination/document of correct procurement method used
- _____ Evaluation of escalation/de-escalation clause
- _____ Evaluation of Contract Extension/Amendment (roll-over clause)



_____ Evaluation/documentation of contract re-negotiations/changes to original contract at the timelines and under the same conditions specified in the original solicitation document

_____ Evaluation of return of discounts, credits and rebates (as applicable) and detailed procedure indicating how/when the discounts, rebates and credits would be assigned to the SFA by the contractor

_____ Evaluation of whether procurement methods/activities are consistent with the SFA's approved written procurement plan

_____ Evaluation of procedures for ensuring records retention requirements are met and where/how all documents pertaining to the solicitation and contract/contract amendments will be maintained

_____ Non-competitive purchases (sole source, emergency, etc.) are appropriately documented and have received approval from State agency or governing board prior to award, including purchases through means of *piggybacking* onto another SFA's solicitation document

_____ Invoices/payments for items purchased with school nutrition funds

_____ Documentation of any contractor performance or breach of contract from vendor

_____ Provision requiring the Contractor to abide with the Iran Divestment Act of 2015.

_____ Other local requirements



In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992.

Submit your completed form or letter to USDA by:

Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

Fax: (202) 690-7442; or

Email: program.intake@usda.gov.

This institution is an equal opportunity provider.

This plan was updated to reflect Federal Regulations in March 2018.