

Procurement of Foods:  
**COOPERATIVE  
PURCHASING  
GROUPS**

Participant's Workbook



# Procurement of Foods: Cooperative Purchasing Groups

## Participant's Workbook

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Key Area 2: Operations  
USDA Professional Standards: 2400

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# Institute of Child Nutrition

## The University of Mississippi

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### **PURPOSE**

Improve the operation of child nutrition programs through research, education and training, and information dissemination.

### **VISION**

Lead the nation in providing research, education, and resources to promote excellence in child nutrition programs.

### **MISSION**

Provide relevant research-based information and services that advance the continuous improvement of child nutrition programs.

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## Introduction

### *Cooperative Purchasing Groups*

Cooperative purchasing groups are entities formed through an agreement between school food authorities (SFAs) and may include Child Nutrition Programs (CNPs) State agencies to increase purchasing power. This agreement between Program operators is not a method of procurement, rather an agreement to competitively procure goods and services.

Due to time constraints, this training will focus primarily on cooperative purchasing groups comprised of SFAs and/or CNP State agencies. It is important to note that there are other group purchasing options. The intended audience for this training are individuals that currently belong or are may want to join a cooperative purchasing group.

**Note: This training focuses on cooperative purchasing groups and is not intended to discuss the specific details of contracts or procurement methods.**

### *Cooperative Purchasing*

Cooperative purchasing groups come together to accomplish all or part of the purchasing process for goods and services for its members.

A cooperative purchasing group can utilize its increased purchasing power and combined expertise to effect reductions in:

- Food and supply costs
- Labor costs
- Administrative costs

Cooperative purchasing groups may pool knowledge from members, local purchasing officials, the State agency, legal counsel, etc. This variety of expertise is needed to ensure compliance

with Federal, State, and local procurement standards. These groups operate across the country in a variety of structures using procurement procedures that must comply with the most restrictive Federal, State, and local requirements.

There are advantages and disadvantages with cooperative purchasing groups. We will discuss these considerations in more detail later throughout the training.

### ***School Food Authority (SFA)***

The School Food Authority (SFA) is the governing body responsible for the administration of one or more schools and has legal authority to operate the National School Lunch Program and/or School Breakfast Program. The SFA may also administer other child nutrition programs. We refer to districts as SFAs throughout the duration of the training.

### ***Full and Open Competition***

It is the ultimate responsibility of the SFA to ensure full and open competition regardless if the SFA procures goods, products, or services on its own, or belongs to a cooperative purchasing group. Full and open competition means that all suppliers have the same opportunity to compete. Ensuring full and open competition includes

- avoiding situations that restrict competition
- complying with all State and local procurement standards, if more restrictive;
- publishing solicitations and contracts using the applicable procurement method with all terms, conditions, required contract provisions, as applicable;
  - awarding only fixed-price or cost-reimbursable contract types
  - including required contract provisions when cost-reimbursable contracts are used
- identifying clearly all product descriptions, specifications, and estimated quantities required.

### *Examples of Restrictive Competition*

Procurement procedures may never unduly restrict or eliminate competition.

- Some of the situations considered to be restrictive of competition include but are not limited to:
  - Placing unreasonable requirements on firms in order for them to qualify to do business;
  - Requiring unnecessary experience or excessive bonding;
  - Using noncompetitive pricing practices between firms or between affiliated companies;
  - Awarding noncompetitive contracts to consultants on retainer;
  - Exercising organizational conflicts of interest;
  - Including brand name without “an equal” that describes relevant requirements; and
  - Taking arbitrary action in the procurement process.

## Training

This training provides general concepts about cooperative purchasing groups. This training does not discuss in detail federal regulations pertaining to the procurement system. The purpose of this training is to assist stakeholders in identifying key considerations for participation in a cooperative purchasing group.

To help guide you through this training, the Institute of Child Nutrition has provided each of you with a Participant's Workbook. The workbook contains important information and activities developed specifically for this training. On the upper right corner of the slides, you will see a reference to the corresponding lesson in the Participant's Workbook.

This training will cover a variety of topics, and questions are highly encouraged. Because all your questions are important, please write them on self-adhesive notes, and post them to the Bike Rack. Sometimes questions may require research or a longer answer than time allows at that point.

Please note: The Institute of Child Nutrition is developing a variety of procurement training modules, and these trainings are replacing the discontinued ICN resource, *Procurement in the 21<sup>st</sup> Century*.

## Training Overview

This training will discuss the following topics:

- Types of Cooperative Purchasing Groups
- Advantages of Cooperative Purchasing Groups
- Disadvantages of Cooperative Purchasing Groups
- Join a Cooperative Purchasing Group
- Form a Cooperative Purchasing Group
- Members' Roles and Responsibilities

Each topic will include a number of sub-topics, many of which will include activities to reinforce the concept.

### ***Comfort Level***

During this training, we encourage you to determine your level of participation based on your individual needs.

### ***Pre-Assessment***

A pre-assessment is a training tool that provides the participants' baseline knowledge of the training topic.

### ***(Activity): Pre-Assessment***

Place a unique identifier on the top right corner of the handout. The same identifier will be used at the conclusion of the training on the post-assessment. It is not necessary for you to write your name on the pre-/post-assessments.

### ***Icebreaker***

Write your name and where you work on an index card. On the other side of the card, write something you would like to learn about cooperative purchasing groups. We will collect the cards and randomly distribute each to training participants.

**(Activity): Icebreaker**

Using name tags, locate the individual whose name appears on the card. Introduce yourself, and briefly discuss what you would like to learn from this training. In five words or less, answer this question, "What is the first thought that comes to your mind when you hear the words Cooperatives Purchasing Groups?"

At the end of the activity, you will introduce each other to the rest of the group, state what each of you would like to learn from this training and provide your first thoughts on cooperative purchasing groups.

***USDA Professional Standards and Learning Objectives***

Professional Standards for school nutrition professionals is a key provision of the Healthy, Hunger-Free Kids Act of 2010 (HHFKA). The rule requires a minimum amount of annual training hours for all state directors of school nutrition programs, state directors of distributing agencies, school nutrition program directors, managers, and staff. Required training topic areas will vary according to position and job requirements. There are also minimum hiring standards for new state directors of school nutrition programs, state directors of distributing agencies that oversee USDA Foods, and school nutrition program directors. The USDA Professional Standards and Learning Objectives serve as a foundation for this training. Let's take a few minutes to review the **USDA Professional Standards and Learning Objectives Handout** in the Participant's Workbook for this training.

**USDA Professional Standards and Learning Objectives Handout**

Review the following **USDA Professional Standards and Learning Objectives Handout** for this training.

# USDA Professional Standards and Learning Objectives Handout

## USDA Professional Standards

### Key Area 2

#### Operations

#### USDA Professional Standard – Operations

2400 – Purchasing and Procurement

#### Learning Objectives

Using the information provided in this training, participants will:

- Identify various types of cooperative purchasing groups.
- Review the advantages and disadvantages of procuring through a cooperative purchasing group.
- Identify the tools to make an informed decision about joining a cooperative purchasing group.
- Identify the tools to form a cooperative purchasing group.
- Review the roles and responsibilities for each group member.





## ***Key Terms***

Key terms are included in the discussion of this training. Some of the terms listed may not be included in the training but may serve as a reference at another time.

## **Key Terms Handout**

Review the following **Key Terms Handout**.



## Key Terms Handout

### **Agent**

An agent is a person or business authorized to act on a client's behalf. An agency may be necessary for procuring goods or services when/if the client does not have the necessary technical understanding of the equipment, service, food or other food service supplies to be purchased, or lacks time or expertise to conduct a proper procurement. A procurement agent represents a special fiduciary relationship of trust between itself and its client. The agent must be contractually required to conduct all competitive procurement methods with its client's interests solely in mind. An agent's services in excess of the micro-purchase threshold currently set at \$3,500 must be competitively procured in accordance with Federal procurement methods outlined in 2 CFR 200.320.

### **Average Daily Participation (ADP)**

The Average Daily Participation (ADP) for the National School Lunch and School Breakfast Program is based on attendance rather than enrollment. Calculating ADP in this manner is considered to be fairer to schools as it includes only children that eat lunch/breakfast in the calculation and excludes children who do not eat lunch/breakfast (i.e., part-day kindergarteners).

### **Buy American**

The Buy American provision, as defined in section 12(n) of the National School Lunch Act, requires schools to purchase, to the maximum extent practicable, domestic agricultural commodities and products. Purchases made in accordance with the Buy American provision must still follow the applicable procurement standards to maximize full and open competition. Additional policy guidance that strengthens this provision is found in SP38-2017, *Compliance with and Enforcement of the Buy American Provision*, dated June 30, 2017.

## Key Terms Handout, continued

### Capitalization

Capitalization is the amount and source of money needed to start and operate a business such as a cooperative purchasing group.

### Child Nutrition Programs (CNPs)

The Child Nutrition Programs refer to several programs administered by the United States Department of Agriculture's Food and Nutrition Service. These programs, the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, Summer Food Service Program, Fresh Fruit and Vegetable Program, and Special Milk Program help fight hunger and obesity by reimbursing organizations such as schools, child care centers, and after-school programs for providing healthy meals to children.

### Code of Conduct/Standards of Conduct

Written standards of conduct must be maintained covering conflicts of interest and governing the actions of employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, standards should be set for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. 2 CFR 200.318(c)(1).

## Key Terms Handout, continued

**Code of Federal Regulations (CFR)** contains a codification of documents of general applicability and future effect and is published in the Federal Register by the executive departments and agencies of the Federal government.

### **Competitive Proposals**

One of two formal methods of procurement, competitive proposals, i.e. a request for proposals (RFP), solicit a technical proposal that explains how the prospective vendor will meet the objectives of the solicitation and a cost element that identifies the costs to accomplish the technical proposal. While price alone is not the sole basis for award, price remains the primary consideration when awarding a contract under the competitive proposal method. This type of solicitation may result in either a fixed-price or cost-reimbursable contract.

### **Conflict of Interest**

A conflict of interest is any action that allows a person to benefit at the expense of the public interest or at the expense of their employer. Program operators are required by Federal regulations to maintain a code of conduct that prohibits real or apparent conflicts of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

## Key Terms Handout, continued

### **Contract**

A contract is a formal, legally enforceable agreement between a buyer (client) and a seller (vendor) that establishes a legally binding obligation for the seller to furnish goods and/or services and for the buyer to compensate the seller. A contract must clearly and accurately describe the goods and services to be delivered or performed and the terms and conditions of the agreement. In the case of school nutrition programs, a contract is executed by the authorized representatives of the SFA and the vendor. It calls for the provision of services, materials, supplies, and/or equipment by the vendor in accordance with all conditions and specifications in the solicitation documents for a price to be paid by the SFA prior to execution.

### **Contract Administration System**

The contract administration system refers to the policies and procedures the SFA has in place to ensure that contractors perform in accordance with the terms, conditions, and specifications of their agreements with the SFA.

### **Cooperative Purchasing Groups**

Referred to as **CNP Program operator-only and/or CNP State agency cooperatives** in Memo SP 05-2017, these are groups formed through an agreement between CNP Program operators and may include CNP State agency cooperatives formed to increase purchasing power. This agreement between Program operators is not a method of procurement, rather an agreement to competitively procure goods and services and is encouraged by 2 CFR 200.318(e). Such agreements may include a fixed fee to cover overhead or administrative costs as specified in the cooperative agreement.

## Key Terms Handout, continued

### Cost Analysis

SFAs must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals. 2 CFR 200.323(a).

### Cost Index

A cost index is used in fixed-price contracts as a standard for changes to a contract based on an evaluation of increases or decreases in market prices. Various indexes include labor or material cost consumer price index or others for various products such as milk, fuel, etc. Standards or indexes are specifically identified in the fixed contract. When using a cost index to allow for changes in a contract it is important to clearly state that price adjustments should reflect both increases and decreases in the identified index. For various market indices, see <http://www.ams.gov>.

### Cost-Reimbursable Contract

Cost reimbursable contract means a formal, legally enforceable contract that reimburses the contractor for costs incurred under the contract, but does not provide for any other payment to the contractor, with or without a fixed fee. In a cost reimbursable contract, allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates, and other applicable credits accruing to or received by the contractor.

### Distributor

A distributor is a commercial food company that purchases, receives, or stores commercial food products. Distributors sell, deliver, and bill the receiving agency for goods and services provided. A distributor sells the products made by manufacturers.

## Key Terms Handout, continued

### **Donated Foods (USDA Foods)**

Donated Foods (USDA Foods) means foods purchased by the United States Department of Agriculture for donation in food assistance programs, or for donation to entities assisting eligible persons, in accordance with legislation authorizing such purchase and donation.

Donated foods are commonly referred to as USDA Foods.

### **Economic Price Adjustment Tied to a Standard Index (see Cost Index)**

A price adjustment based on a third-party standard cost index allows for price adjustments in a fixed-price contract based on an evaluation of increases or decreases in market prices.

Standards or indexes are specifically identified in the fixed contract, and when using this cost provision, it is important to clearly state that price adjustments should reflect both increases and decreases in the identified index.

### **Fixed-Price Contract**

Fixed-price means that the price is fixed at the inception of a contract and is guaranteed for a specific period of time. A fixed-price contract may contain an economic cost adjustment provision tied to a standard index. Fixed-price contracts with economic cost adjustment tied to a standard index means the price is fixed for a set period of time specified and an economic cost adjustment based on the stated index may be made to the fixed price at stated intervals.

### **Food and Nutrition Service (FNS)**

The Food and Nutrition Service (FNS) administers the nutrition assistance programs of the U.S. Department of Agriculture (USDA). The mission of FNS is to work with partners to provide food and nutrition education to people in need in a way that inspires public confidence and supports American agriculture. Throughout the existence of the school nutrition programs (SNP), the FNS at the USDA has focused on assisting State agencies and School Food Authorities (SFAs) to find efficient ways of providing nutritious meals to America's school children.



## Key Terms Handout, continued

### **Forecasting**

Forecasting is the process of analyzing current and historical data to determine future trends. In the case of school nutrition programs (SNPs), forecasting involves predicting and estimating the goods and services needed in specified areas for the coming year, and assessing needs by reviewing current procurement activities. Forecasting allows for procurement plans to evolve each fiscal year.

### **Full and Open Competition**

Full and open competition means that all suppliers have the same opportunity to compete. Procurement procedures may never unduly restrict or eliminate competition.

### **Grade Standards**

Grade standards are USDA quality standards and are based on measurable attributes that describe the value and utility of the products. U.S. Grade Standards provide a uniform language for describing the quality and condition for meat, poultry, fresh fruits, and vegetables, in addition to processed fruits and vegetables. While safety inspections are mandatory, the Federal government does not require that all food products be graded. Food grades and specifications may be found at: <https://www.ams.usda.gov/grades-standards>.

## Key Terms Handout, continued

### **Group Purchasing Organizations (GPOs)**

Collectively referred to here as GPOs, these often include CNP and non-Program operators together, such as public and private schools, hospitals, universities, law enforcement, public works, etc. who join a third-party company or service provider. GPOs could be private for-profit or nonprofit entities. A GPO is typically structured in a way that may include a membership fee paid by member users, who are then granted access to the GPO price list of products and services. When competitive procurement methods are conducted by the Program operator, GPO price lists may be one source of prices when using small purchase procedures, sealed bids or competitive proposals, as applicable.

### **Institution of Child Nutrition (ICN)**

The ICN, also known as the Institute, is located at the University of Mississippi, and through its mission, provide relevant research-based information and services that advance the continuous improvement of child nutrition programs. ICN serves as a trusted resource repository of information that includes applied research, education and training, and technical assistance for child nutrition professionals. The Institute offers a wide variety of educational modalities designed to provide continuing educational and professional development opportunities for child nutrition professionals at all levels of responsibilities.

### **Inter-Agency Agreements**

This is an agreement which may include public, private, and non-profit entities formed to procure goods and services together. An example is an educational hub whose purpose is to purchase goods and services for LEAs. When competitive procurement methods are conducted by the Program operator, this agreement may be one source of prices when using small purchase procedures, sealed bids or competitive proposals, as applicable.

## Key Terms Handout, continued

### **Invitation for Bids (IFB)**

An invitation for bid (IFB) is a type of solicitation document used to competitively solicit sealed bids and in which the primary consideration is cost; the expectation is that bids will be received and an acceptance (award) will be given to the responsive and responsible bidder whose bid is lowest in price. An IFB is a formal method of procurement and results in a fixed price contract with or without adjustment factors. The IFB must be publicly advertised and solicited from an adequate number of known suppliers while providing them with sufficient time to respond prior to the date set for opening the bids. Also, the IFB should describe the minimum standards expected of a responsible bidder in measurable terms.

### **Local Educational Agencies (LEAs)**

Local educational agency means a public board of education or other public or private nonprofit authority legally constituted with a State for either administrative control or direction of, or to perform a service function for, public or private nonprofit schools.

### **Manufacturer**

A manufacturer is the company responsible for processing raw products, developing new products, and sending finished products to distributors. In some cases, customers may directly purchase from the manufacturer when volume warrants.

### **Material Change**

A material change is a change made to a contract after the contract has been awarded that alters the terms and conditions of the contract substantially enough, that, had other parties known of these changes in advance, they may have bid differently or more competitively.

## Key Terms Handout, continued

### **Micro-Purchases**

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,500. To the extent practicable, the non-Federal entity must distribute micro-purchases equitably amount qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

### **Noncompetitive Proposal**

Noncompetitive proposal 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: the item is available only from a single source, public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation, the awarding agency expressly authorizes noncompetitive proposals, or after solicitation of a number of sources, competition is determined inadequate. Proposals must include both price and terms using the same procedures that would be followed for competitive proposals.

### **Non-Federal Entity**

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient. FNS commonly uses terms such as SFA or Program operators.

### **Nonprofit School Nutrition Food Service Account**

The nonprofit school nutrition food service account is the restricted account in which all of the revenue from the school nutrition operations conducted by the school food authority principally for the benefit of school children is retained. This account is used only for the operation of or improvement of the nonprofit school nutrition operation.

## Key Terms Handout, continued

### **Piggybacking**

“Piggybacking” is the action of joining a contractual arrangement that has already been awarded in order to take advantage of the same terms and prices of that contract.

### **Procurement**

Procurement is a multi-step process for obtaining goods and services at the best possible price in accordance with applicable rules and regulations. The steps in the process of formal procurement are planning, developing the solicitation, advertising the procurement, receiving and evaluating bids/offers, awarding the contract, and managing the contract.

### **Rebates (Discounts, Rebates, and Applicable Credits)**

Rebates are monetary returns. The regulations require all vendors under cost-reimbursable contracts to provide sufficient information to permit the SFA to identify allowable and unallowable costs, as well as the amount of all such discounts, rebates, and other applicable credits on invoices and bills presented for payment to the SFA [7 CFR 210.21(f), 215.14a (d) and 220.16(e)]. In both fixed-price and cost-reimbursable contracts, a food service management company must credit the recipient agency for the value of all donated foods received for use in the recipient agency's meal service in a school year or fiscal year (including both entitlement and bonus foods). See 7 CFR 250.50-.53.

## Key Terms Handout, continued

### **Request for Proposal (RFP)**

A Request for Proposal (RFP) is a type of solicitation document used for the formal procurement method of competitive proposals. The RFP identifies the goods and services needed and all significant evaluation factors that will be used to evaluate all proposals. FNS requires that price be the primary factor for contract award and the SFA must have a written method for conducting technical evaluations of the proposals received and for selecting recipients. The RFP is publicized and is used to solicit proposals from a number of sources.

Negotiations are conducted with more than one of the sources submitting proposals, and either a fixed price or cost reimbursable type contract is awarded. Competitive proposals may be used if conditions are not appropriate for the use of competitive sealed bids.

### **School Food Authority (SFA)**

The School Food Authority (SFA) is the governing body responsible for the administration of one or more schools, and has legal authority to operate the National School Lunch Program and School Breakfast Program.

### **School Nutrition Association (SNA)**

The School Nutrition Association (SNA) has been advancing the availability, quality, and acceptance of school nutrition programs (SNPs) as an integral part of education since 1946. The School Nutrition Association is the only professional association dedicated solely to the support and well-being of school nutrition professionals in advancing good nutrition for all children.

## Key Terms Handout, continued

### **School Nutrition Programs (SNPs)**

School nutrition programs (SNPs) are federally funded programs and include: National School Lunch Program (NSLP); School Breakfast Program (SBP); After School Snack Program (ASSP); Fresh Fruit and Vegetable Program (FFVP); Special Milk Program (SMP); Seamless Summer Option (SSO); and Summer Food Service Program (SFSP).

### **Sealed Bids**

One of two formal methods of procurement, sealed bids, i.e., invitation for bids (IFB), publicly solicit sealed bids resulting in the award of a fixed price contract to the responsible vendor/bidder whose solicitation is responsive to the IFB, conforms to all the material terms and conditions of the IFB, and is lowest in price. In this case, the IFB must be publicly advertised, and bids must be petitioned from an adequate number of known suppliers, providing them with sufficient time to respond prior to the date set for opening the bids. This type of solicitation may only result in a fixed-price contract.

### **SFA-Only and/or CNP State Agency Cooperative Agreement**

This is an agreement formed solely between SFAs and may include CNP State agency cooperatives formed to increase purchasing power. This agreement is not a method of procurement, rather an agreement to competitively procure goods and services. Such agreements may include a fixed fee to cover overhead or administrative costs as specified in the cooperative agreement.

## Key Terms Handout, continued

### **Small Purchase Procedures/Simplified Acquisition Threshold (SAT)**

Small purchase procedures, also known as informal procurement, are those relatively simple and informal procurement methods for securing services, supplies, or property that may be used when the anticipated acquisition will fall below the small purchase threshold, or simplified acquisition threshold. The Federal small purchase threshold is currently set at \$150,000. State and local regulations often set lower small purchase thresholds that are more restrictive than the Federal level. In applying the small purchase threshold, the school food authority must adhere to the most restrictive, lowest limit set. If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

### **Sole Source Procurement**

Sole Source Procurement refers to one type of noncompetitive proposal found in 2 CFR 200.320(f) (see Noncompetitive proposal, above); in the Child Nutrition Programs this occurs only when the goods or services are available from only one manufacturer through only one distributor or supplier. Sole source describes a condition of the procurement environment. In a true sole source situation, conducting a traditional solicitation (sealed bid, competitive negotiation or small purchase) is a meaningless act, because the element of competition will not exist. When faced with an actual sole source situation, an SFA must first obtain State agency approval, and then go directly to the one source of supply to negotiate terms, conditions and prices. FNS considers the use of sole source procurement to be rare in the procurement.



## Key Terms Handout, continued

### **Solicitations**

A document used by the SFA to acquire goods and/or services, and include an invitation for bids and request for proposals. Solicitations must incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Solicitations must also identify all of the contract provisions required by Federal procurement regulations; requirements, terms, and conditions which the offerors must fulfill; and all other factors to be used in evaluating the bids or proposals. In Child Nutrition Programs, invitation for bid solicitations must result in the lowest price while in request for proposal solicitations the evaluation and scoring criteria must result in a contract award to the lowest responsive and responsible responder whose response is most advantageous to the program with price as the primary factor.

### **Specification**

A specification is a concise statement of a set of requirements to be satisfied by a product, material, and/or process and should be included in all solicitations to ensure full and open competition. It is considered restrictive of competition to specify “only a ‘brand name’ product instead of allowing ‘an equal’ product to be offered and describing the performance or other relevant requirements of the procurement.” See 2 CFR 200.319(a)(6).

### **State Procurement Agency Agreements**

This is an inter-governmental agreement with the State which may include public, private, and non-profit entities. This procurement service is not part of the CNP State agency as the services are conducted for State facility needs using State procurement standards and the State allows local educational agencies (LEAs), school food authorities (SFAs), and other CNP operators to purchase from the State's contracted sources. When competitive procurement methods are conducted by the Program operator, this agreement may be one source of prices when using small purchase procedures, sealed bids or competitive proposals, as applicable.

## Key Terms Handout, continued

### State Agency

State agency means: (a) the State educational agency; (b) any other agency of the state which has been designated by the governor or other appropriate executive or legislative authority of the state and approved by the Department to administer the Program in schools, as specified in 7 CFR §210.3(b); or (c) the FNS Regional Office (FNSRO), where the FNSRO administers the Program as specified in §210.3(c).

### Third-Party Entities

Third-party entities include State procurement agency agreements, inter-agency agreements, group purchasing organizations, group buying organizations, and third-party vendors.

### Velocity Report

Velocity Report provides Program operators with the quantity, date of purchase and other information regarding products purchases from a vendor during a specified period. The report, if provided by the vendor, may provide information when forecasting estimated quantities when Program changes are not substantially changed from one purchase period to another.

### Vendor/Bidder

A vendor/bidder, also referred to as a respondent, is a commercial enterprise, public or nonprofit private organization, or individual that enters into a contract with a school food authority. A vendor may also be a merchandiser of complete meals, meal components, or raw materials.

## Lesson 1: Types of Cooperative Purchasing Groups

**Objective:** Identify various types of cooperative purchasing groups.

### *Types of Cooperative Purchasing Groups*

Cooperative efforts can be divided into three types of purchasing groups:

- SFA-only and CNP State agency cooperatives,
- Agents, and
- Third-Party entities.

### *SFA and CNP State Agency Cooperatives*

The most common cooperative purchasing groups are those formed through agreements between SFAs only or between CNP State agencies and SFAs to increase purchasing power.

This agreement is not a method of procurement, rather an agreement to competitively procure common or shared goods and services. Such agreements may include a fixed fee to cover overhead or administrative costs as specified in the cooperative agreement. Once this agreement is in place, the group goes out for procurement as if they were one large entity, following all applicable rules and regulations.

### *Examples of Cooperatives*

Examples of such cooperatives include:

- SFA-Only Cooperatives
- Educational Service Centers
- State Agency Cooperative Agreements

### *SFA-Only Cooperatives*

This is a group of SFAs agreeing to cooperatively procure together to take advantage of volume pricing for products or services procured under one contract. We will discuss this concept in more detail in other lessons included in this training.

The group of SFAs, as defined in the scope of the solicitation, cannot materially change from the original group who plan to purchase together unless a provision is included that allows for the addition of SFAs. Such a provision must specify limitations of the extension (e.g., dollar value or the number of additional parties that may be added).

Forecasting activities conducted prior to the formation of this cooperative should include actual and potential members of the cooperative. This expected level of membership should be clearly defined in the scope of the solicitation and contract.

### *Educational Service Centers*

Educational Service Centers may be composed of several SFAs in a region (of a state) working together in order to provide shared educational services, including cooperative purchasing in some cases, to the school districts of that region.

They may exist under State statute and/or receive funding from the State legislature and membership may be automatic for public schools in the region.

### State Agency Cooperative Agreements

Some CNP State agencies conduct procurement procedures on behalf of SFAs. In such cases, SFAs may purchase from the CNP State agency's procured sources without further competition if the State agency follows the Federal procurement regulations.

State agencies must clearly define the scope of SFAs represented in the cooperative.

*If the cooperative purchasing group is using a cost-reimbursable contract, the solicitation and contract must outline how the allocable portion of each discount, rebate, and/or credit will be returned and/or disclosed to each participating SFA. Additionally, for both fixed-price and cost-reimbursable contracts the solicitation and contract must outline how each proportionate value pass-through method for crediting the value of USDA foods will be returned and/or disclosed to each participating SFA.*

**Note: This training focuses on cooperative purchasing groups and is not intended to discuss the specific details of contracts or procurement methods.**

### Procurement Considerations

A cooperative purchasing group that is comprised solely of SFAs and/or the CNP State agency may procure as a group. The cooperative purchasing group must follow the procurement regulations that apply to the individual SFA.

If SFAs determine additional goods and services are needed but were not procured by the cooperative, then the addition of these goods and services are permitted. However, a provision allowing such must be included in the solicitation and contract and specify limitations on the addition of goods.

If additional goods or services are not available from the procured source, the SFA must conduct separate competitive procurement procedures using the applicable procurement methods.

Each SFA is responsible for monitoring contractor performance to ensure compliance with all contract provisions. Written agreements delineating roles and responsibilities are encouraged.

*If one of the SFAs has a lower threshold for micro-purchases or small purchases, the purchasing group, as a whole, must follow the most restrictive threshold.*

### **Agents**

An SFA might find it necessary to use an agent. An agent is a person or business authorized to act on a client's behalf for the procurement of necessary goods and services.

### **Considerations to Use an Agent**

SFAs are encouraged to consider their procurement procedures and to determine if the use of a procurement agent is the best approach. When deliberating whether or not to use agent, consider

- the availability of qualified sources,
- time,
- expertise, and
- the agent's fee(s).

### **Benefits of Using an Agent**

**Under what circumstances is the service of an agent beneficial?**

### ***Competitive Procurement for Agents***

An agent's services must be competitively procured in accordance with Federal procurement requirements in the Program and government-wide regulations at 7 CFR 210.21 and 2 CFR 200.318-.326, unless the cost of the service is under the micro-purchase threshold currently set at \$3,500.

### ***Procurement Considerations for Agents***

When an agent is needed to procure goods and services on behalf of the SFA, the SFA has a number of procurement responsibilities:

- Determine if the agent fee is within the micro-purchase threshold or if a competitive procurement method must be conducted for the services of the agent.
- If a solicitation is required, the scope of duties and responsibilities must be clearly defined as well as how prices/costs for services are to be quoted in order to evaluate agents' bids/responses for contract award.

### ***Contract Language***

In the contract with the agent, SFAs must include language that requires agents to comply with following provisions:

- Follow procedures consistent with the Program and government-wide regulations at 7 CFR 210.21 and 2 CFR 200.318-.326, respectively, and the State and local procurement requirements if more restrictive.
- Published solicitations and contracts must include all
  - terms,
  - conditions,
  - required contract provisions, as applicable, and
  - all products descriptions, specifications, and estimated quantities required.
- The Buy American provision in 7 CFR 210.21(d) must be included in all solicitations and contracts for food.
- The required contract provisions in 7 CFR 210.21(f) are required when cost-reimbursable contracts are awarded.

### ***Procurement Agent Responsibilities***

The procurement agent must confirm in its response to the solicitation that it will represent the SFA and will have the SFA's best interests exclusively in mind when preparing solicitations for publication on the SFA's behalf. The agent may not have any conflict of interest, real or apparent. For example, the agent may not use pre-existing contractual relationships in lieu of conducting a competitive procurement on behalf of the SFA.

A procurement agent should be contractually required to conduct all competitive procurement methods in compliance with the Program and government-wide regulations. It should follow the most restrictive micro-purchase and small purchase thresholds with its client's interests solely in mind.

Agents often charge fees to vendors who pass such fees on to the SFA. Fees must be fixed based on a purchase unit, volume or cost (fees cannot be a percentage of cost). Agents cannot be considered if they do not openly provide the full price per purchase unit for their service.



### ***Ensure Full and Open Competition***

In order to ensure full and open competition, the procurement agent must

- work closely with the SFA to understand its needs,
- develop solicitations and product specifications on the SFA's behalf consistent with the Program and government-wide regulations in 7 CFR 210.21 and 2 CFR 200.318-.326 as required for the SFAs,
- award contracts only to responsible contractors whose offer is the lowest or most advantageous to the Program with price as the primary factor,
- award fixed-price or cost-reimbursable contracts, as specified by the SFA or State agency, and
- monitor the ensuing contract on behalf of the SFA if specified in the original solicitation and resulting contract. 2 CFR 200.318(b)

*An agent publishing a solicitation on behalf of an SFA may not respond to such solicitation, as such would constitute an unfair advantage and be in violation of Federal procurement requirements as found in 2 CFR 200.319(a).*

### ***Third-Party Entities***

This group, as the name suggests, involves purchasing agreements with entities other than just between SFAs or with the CN State agency. Although SFAs or CN State agencies may be part of such third-party purchasing entities, the important thing to note with this group is that it is not comprised solely of SFAs or CN State agencies; i.e., not everyone in the group has to follow Federal procurement requirements.

#### **What types of third-party entities exist?**

Each of these entities conducts procurement for a group of members. However, since these third-parties are providing a service and are not required to follow Federal procurement standards, their services must be competitively procured by the SFA in compliance with the Program and government-wide procurement regulations.

SFAs must also follow procurement procedures consistent with the Program and government-wide procurement regulations at 7 CFR 210.21 and 2 CFR 200.318-.326, respectively, even when procuring under agreements with third-party entities.

If the third-party arrangement includes a fee to cover overhead or administrative costs, it must be specified in the agreement.

### ***State Procurement Agency***

An SFA may have an inter-governmental agreement with a state procurement office, which may include public, private, and non-profit entities. This procurement service is not part of the CNP State agency because the services are conducted for state facility needs using state procurement standards. The state allows local educational agencies (LEAs), SFAs, and other CNP operators to purchase from the state's contracted sources.

### ***State Procurement Agency Agreements***

When planning its purchases, an SFA may utilize a non-CNP State agency's procurement. The value of the SFA's purchase determines the manner in which the non-CNP State agency's procurement is used. The SFA is not relieved from the requirement to competitively procure its products.

### ***Using Non-CNP State Agency Procurements Handout***

Review the circumstances under which the SFA can use a non-CNP State agency's procurement.

## Using Non-CNP State Agency Procurements Handout

The purpose of this handout is to review the circumstances under which SFAs may use non-CNP State agency procurements.

Value of Purchase	Competitive Procurement
If the purchase is under \$3,500 (micro-purchase)	The SFA may purchase directly from the State's procured sources as long as the prices are reasonable, and the SFA equitably distributes all procurements among all qualified suppliers available.
If the procurement is less than \$150,000 (small purchase threshold), or the State or local threshold (whichever is most restrictive)	The SFA may obtain a price or rate quotation from the State's procured sources as <b>one source</b> among other qualified sources available.
If the procurement is over \$150,000	The SFA must first conduct a cost analysis (2 CFR 200.323(a)), then develop a solicitation (sealed bid or competitive proposal), and may use vendors and prices from the state's contract as <b>one source</b> .



### *Inter-Agency Agreements*

An inter-agency agreement may include public, private, and non-profit entities formed to procure goods and services together. An example is an educational hub whose purpose is to purchase goods and services for LEAs.

SFAs purchasing through an inter-agency agreement involves competitively procuring common goods and services, then developing and publishing solicitations through sealed bids/competitive proposals.

Each Program operator is responsible for monitoring contractor performance to ensure compliance with all contract provisions.

### *Inter-Agency Solicitations*

These inter-agency solicitations must include procurement procedures consistent with the Program and government-wide regulations at 7 CFR 210.21 and 2 CFR 200.318-.326, respectively, and include

- the terms,
- conditions,
- required contract provisions, and
- all products, descriptions, specifications, and estimated quantities for their Child Nutrition Programs.

### **Group Purchasing Organizations (GPOs)**

Group Purchasing Organizations, Group Buying Organizations, and Third-Party Vendors are collectively referred to as GPOs. GPOs could be private for-profit or nonprofit entities. These GPOs often include entities who join a third-party company or service provider such as:

- Public and private schools
- Hospitals
- Universities
- Law enforcement
- Public works

### **GPOs**

GPOs may offer a variety of services, including facilitating procurement and procuring products and services from an external source for members/member agencies.

A GPO is typically structured in a way that includes a membership fee paid by member users, who are then granted access to the GPO price list of products and services.

However, paying a fee does not constitute compliance with the competitive procurement process that SFAs are required to conduct when procuring products and services.

### **Procurement Considerations for GPOs**

SFAs using the micro-purchase method to pay for membership to GPOs must still conduct a competitive procurement using the GPO's prices as **one source**. This is true when conducting a competitive process using the various procurement methods (i.e., micro-purchase, small purchase procedures, or sealed bids and competitive proposals).

*Even when purchasing goods and services from a GPO using the micro-purchase threshold, a compliant procurement process is required. Using micro-purchases, transactions must be below \$3,500, prices reasonable, and purchases equitably distributed among qualified suppliers.*

### ***Characteristics of Purchasing Groups***

We have discussed three overarching types of purchasing groups from which an SFA may choose:

- SFA-only/CNP State agency cooperatives
- Agents
- Third-party entities
  - State procurement agency agreements
  - Inter-agency agreements
  - Group purchasing organizations

Each of the three purchasing groups has unique characteristics. These distinctions are important. Review the various types of purchasing groups. You will need this information to complete the next activity.

### **Characteristics of Purchasing Groups Handout**

Review the characteristics of various types of purchasing groups.





## Characteristics of Purchasing Groups Handout

The type of agreement will identify the various roles and responsibilities of each party to the agreement. Although the process may vary, all competitive procurements must be in accordance with 2 CFR 200.318-.326 and all other applicable government-wide and FNS regulations and guidance.

	Purchasing Group	Characteristics
	SFA-only and/or CNP State Agency Cooperative Agreements	<ul style="list-style-type: none"> <li>■ Contains only SFA and sometimes CNP State agency.</li> <li>■ Not a method of procurement.</li> <li>■ Agreement to competitively procure goods and services jointly.</li> <li>■ May include fixed fee to cover overhead or prorated share of administrative costs.</li> </ul>
	Agent	<ul style="list-style-type: none"> <li>■ A person or business authorized to act on a client's behalf for the procurement of necessary goods and services.</li> <li>■ Must be contractually required to conduct all procurement using the Program and government-wide regulations, following the most restrictive micro-purchase and small purchase thresholds, and with client's interest solely in mind.</li> <li>■ Agent's services must be competitively procured.</li> </ul>
Third-Party Entities	State Procurement Agency Agreements	<ul style="list-style-type: none"> <li>■ Not exclusively CNPs.</li> <li>■ State procurement agency procures for State facility needs.</li> <li>■ SFAs may consider the price for the State's contracted sources as <b>one source</b> when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids or competitive proposals.</li> </ul>
	Inter-agency Agreements	<ul style="list-style-type: none"> <li>■ Purchasing group of several State agencies, agreeing to procure goods and services together.</li> <li>■ May include public, private and nonprofit entities.</li> <li>■ SFAs may consider the price for the group's contracted sources as <b>one source</b> when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids or competitive proposals.</li> <li>■ SFAs may purchase from group's contracted sources using the vendor price as <b>one source</b> when conducting a competitive procurement.</li> </ul>
	Group Purchasing Organizations	<ul style="list-style-type: none"> <li>■ Commonly fall under heading of GPOs.</li> <li>■ Often includes entities such as public and private schools, hospitals, universities, law enforcement, public works, etc.</li> <li>■ Could be private for-profit or nonprofit.</li> <li>■ Typically includes a membership fee paid by members to cover administrative costs.</li> <li>■ Members may be granted access to the GPO price list of products and services.</li> <li>■ SFAs may consider the price for the GPO's contracted sources as one source when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids or competitive proposals.</li> </ul>
	Group Buying Organizations	
Third-Party Vendors		



***Procurement Requirements by Purchasing Group***

Not only does each purchasing group have unique characteristics, each purchasing group has some unique procurement requirements. A quick summary of the procurement requirement by type is provided in the handout. You will need this information to complete the next activity.

**Procurement Requirements by Type of Agreement Handout**

Review the various procurement process requirements by types of purchasing groups.



## Procurement Requirements by Type of Agreement Handout

The type of agreement will identify the various roles and responsibilities of each party to the agreement. Although the process may vary, all competitive procurements must be in accordance with 2 CFR 200.318-.326 and all other applicable government-wide and FNS regulations and guidance.

Purchasing Group	Procurement Responsibilities	
SFA-only and/or CNP State Agency Cooperative Agreements	<ul style="list-style-type: none"> <li>■ Joining such a cooperative does not require competition;</li> <li>■ SFAs agree to competitively procure goods and services jointly consistent with 7 CFR 210.21 and 2 CFR 200.318-.326;</li> <li>■ If product is not purchased by cooperative or not available from procured source, SFA must conduct separate competitive procurement procedures consistent with 7 CFR 210.21 and 2 CFR 200.318-.326.</li> </ul>	
Agent	<ul style="list-style-type: none"> <li>■ Agent must be selected through competitive procurement based on anticipated agent fee;</li> <li>■ Agent fees must be fixed, not a percentage of cost;</li> <li>■ Agents must follow procurement procedures consistent with 7 CFR 210.21 and 2 CFR 200.318-.326;</li> <li>■ Agent must have the SFA's best interest in mind;</li> <li>■ Agent must not have any conflict of interest;</li> <li>■ SFAs must monitor contractor (agent's) performance</li> </ul>	
Third-Party Entities	State Procurement Agency Agreements	<ul style="list-style-type: none"> <li>■ Entering into an agreement with State procurement is not a competitive procurement process;</li> <li>■ A State procurement agency procures for State facility needs using the State's procurement regulations;</li> <li>■ SFAs may consider the price for the State's contracted sources as <b>one source</b> when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids or competitive proposals.</li> <li>■ SFAs must ensure that their procurements follow purchasing procedures consistent with 7 CFR 210.21 and 2 CFR Part 200.318-.326;</li> </ul>
	Inter-agency Agreements	<ul style="list-style-type: none"> <li>■ Entering into an inter-agency agreement is not a competitive procurement process;</li> <li>■ Members mutually develop and publish solicitations for common goods and services; and</li> <li>■ SFAs may consider the price for the entity's contracted sources as <b>one source</b> when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids or competitive proposals.</li> </ul>
	Group Purchasing Organizations	<ul style="list-style-type: none"> <li>■ GPO must be selected through competitive procurement using the applicable procurement procedures based on the membership fee;</li> <li>■ Typically includes a membership fee paid by members to cover administrative costs and gain access to price lists;</li> </ul>
	Group Buying Organizations Third-Party Vendors	<ul style="list-style-type: none"> <li>■ SFAs may consider the price for the GPO's contracted sources as <b>one source</b> when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids or competitive proposals.</li> </ul>



***Characteristics and Procurement Requirements of Purchasing Groups***

Now we are going to apply the concepts gained from the discussion into the next activity.

**(Activity): Characteristics and Procurement Requirements of Purchasing Groups**

Review the scenarios in the following **Characteristics and Procurement Requirements of Purchasing Groups Worksheet**. Identify the characteristics of purchasing groups and procurement requirements for each scenario. Respond to the corresponding questions in each of the scenarios.





## Characteristics and Procurement Requirements of Purchasing Groups Worksheet

**Instructions:** Review the scenarios. Identify the characteristics of purchasing groups and procurement requirements for each scenario. Respond to the corresponding questions in each of the scenarios.

**Possible answers:**

- SFA-only/CNP State agency cooperative agreements
- Agents
- Third-party entities:
  - State procurement agency agreements
  - Inter-agency agreements
  - Group purchasing organizations

**Scenario: North Plum SFA**

The North Plum SFA has joined with four other SFAs to purchase food and supplies for the Child Nutrition Programs within each of their respective SFAs. After forecasting their needs, they have found that this joint venture will increase their group purchasing power, thereby reducing overall costs to their programs. Under this agreement, there is a small fixed fee for each SFA to cover overhead or administrative costs.

**Question: What purchasing group most closely aligns with this scenario?**

**Question: What are the purchasing responsibilities of the purchasing group you identified?**

## Characteristics and Procurement Requirements of Purchasing Groups Worksheet, continued

### **Scenario: The State Department of Property and Procurement**

The State Department of Property and Procurement, the purchasing agency for the State, competitively procures contracts for paper supplies, cleaning supplies, and other goods. The Department allows SFAs, state prisons, libraries, private schools, and other institutions to purchase off these contracts without having to separately bid for these items.

**Question: What purchasing group most closely aligns with this scenario?**

**Question: What are the purchasing responsibilities of the purchasing group you identified?**

### **Scenario: Three Agencies**

Three agencies within a state, the State Departments of Corrections, Education, and Human Services, have started a consortium to purchase food, paper supplies, cleaning supplies, and other goods for its institutions. The consortium competitively bids for the products and signs contracts with winning vendors. The vendors agree to provide the contracted goods and services at a specified cost over the length of the contract. This agreement allows CNP Program operators, state prisons, libraries, private schools, and other institutions to purchase off these contracts without having to separately bid for these items.

**Question: What purchasing group most closely aligns with this scenario?**

**Question: What are the purchasing responsibilities of the purchasing group you identified?**

## **Characteristics and Procurement Requirements of Purchasing Groups Worksheet, continued**

### **Scenario: The Northwest Cherry State Department of Education (NCSDE)**

The Northwest Cherry State Department of Education (NCSDE), which administers the Child Nutrition Programs, oversees a statewide purchase program for food and supplies. NCSDE competitively solicits bids for various items and issues a bid list which includes authorized vendors and fixed prices for items. All CNP Program operators can order products from this bid list. This process saves time for the Program operators and results in the reduced cost of food and supplies due to volume purchasing.

**Question: What purchasing group most closely aligns with this scenario?**

**Question: What are the purchasing responsibilities of the purchasing group you identified?**

### **Scenario: New Peach SFA**

After analyzing its resources, New Peach SFA determined that it didn't have the expertise or time to conduct a proper procurement for its food for the school year. It competitively procured the services of JJ's Procurement Company for the purchase of all necessary food and supplies. JJ's is contractually required to conduct all competitive procurement processes in accordance with Federal regulations while keeping the SFA's interests solely in mind.

**Question: What purchasing group most closely aligns with this scenario?**

**Question: What are the purchasing responsibilities of the purchasing group you identified?**

## **Characteristics and Procurement Requirements of Purchasing Groups Worksheet, continued**

### **Scenario: South Apple SFA**

After using the small purchase procedures, the South Apple SFA contracted with Big Savings Buyer's Club to take advantage of Big Savings' huge buying power. Big Savings provides its services to CNP and non-Program operators such as public and private schools, hospitals, and universities. Big Savings helps manage the issuance of bid packages/requests for proposals and the award of contracts. The SFA pays a minimal annual membership fee to Big Savings for access to its price list of products and services.

**Question: What purchasing group most closely aligns with this scenario?**

**Question: Which entity is responsible for conducting the procurement activities?**

## Lesson 2: Advantages and Disadvantages of Cooperative Purchasing Groups

**Objective:** Review the advantages and disadvantages of procuring through a cooperative purchasing group.

### *Cooperative Purchasing Group Efforts*

Purchasing through a cooperative purchasing group may or may not be beneficial to your SFA. The benefits may produce considerable savings, improve the quality of products purchased, and offer greater economy and efficiency for procurement or use of common or shared goods or services. On the other hand, the possibility of fewer deliveries or elimination of some specific products may not be beneficial and may actually cause hardship to an SFA.

As with any group effort, there are advantages and disadvantages, and each SFA must make the best decision for their program as approved by their administration and governing board.

### *Advantages and Disadvantages*

Once the advantages and disadvantages of group purchasing have been identified, an informed decision can be made. In the next activity, you will have the opportunity to list the advantages and disadvantages of group purchasing.

### **(Activity): Advantages and Disadvantages of Cooperative Purchasing Groups**

Identify the “Advantages” or “Disadvantages” of belonging to a purchasing group.

## Advantages

Some advantages of a cooperative purchasing group are discussed below.

- Increased Purchasing Power
- Enhanced Quality and Availability of Products
- Reduced Administrative Burden
- Direct to Manufacturer Purchasing
- Increased Purchasing Volume for SFAs
- Networking Opportunities
- Centralized Decision-Making
- Other Benefits

## Increased Purchasing Power

Cooperative purchasing groups issue solicitations to award contracts as a group. The larger volume enables SFAs to leverage their collective purchasing power and potentially receive lower prices.

For example, if eight SFAs purchase individually, the volume will be less and the price higher for each of the eight individual SFAs than if the eight purchased together.

**In what ways can a cooperative purchasing group increase its purchasing power?**

*It is important to provide the vendor with a realistic projection of the actual quantities to be purchased. Overestimating quantities is not beneficial because it commits the group to purchasing a specific quantity of product that if not purchased, could be grounds for breach of contract. It is also not beneficial to the SFA (or group of SFAs) or vendors as this potentially creates legal issues or negative media, and an increased inventory of product(s), or vendors having to find an outlet for products not purchased as contracted.*

### ***Enhanced Quality and Availability of Products***

With their many responsibilities, SFAs are challenged to stay abreast of all new school products. Members of a cooperative purchasing group offer an enhanced knowledge base of products and often share successful menus. This combined knowledge and sharing influences the quality of meals and increases the availability of a variety of menu items. Providing higher quality meals and offering new and different menu items can contribute to customer satisfaction and increased participation.

### ***Reduced Administrative Burden***

SFAs usually purchase from a variety of vendors and are responsible for developing specifications and conducting procurement activities. In addition, multiple deliveries from multiple vendors interrupt the work day at each site, and proper receiving is labor intensive and thus expensive to the SFA. Collaborative purchasing efforts can result in

- fewer deliveries
- fewer invoices
- less paperwork
- fewer payments processed
- less administrative costs

**What is something an SFA should consider before committing to receive fewer deliveries?**

### ***Direct to Manufacturer Purchasing***

Purchasing as a cooperative group may provide the opportunity for volume purchases directly from the manufacturer.

**What are some advantages of purchasing directly from the manufacturer?**

### ***Increased Volume for SFAs***

Cooperative purchasing may be advantageous for small to medium SFAs or an SFA located in a rural location. Larger SFAs usually have a staff dedicated to conduct and oversee the procurement functions. In small to medium-sized SFAs, a director may serve as the

- supervisor,
- nutritionist,
- accountant,
- personnel manager, and/or
- food purchaser.

A cooperative purchasing group may help small and rural SFAs attract more vendors willing to deliver to multiple SFAs rather than to a single SFA.

### ***Networking Opportunities***

Belonging to a cooperative purchasing group is an excellent opportunity to share new ideas and network with other SFA directors. Newer group members benefit from the knowledge of more experienced SFA directors. Each member of the group brings different information about products and vendors, which provides the opportunity to share and learn from each other.



### **Centralized Decision-Making**

One of the most recognizable benefits of group purchasing is the decision-making of the group's governing board. A designated individual from the group has direct contact with the vendor awarded the contract. For example, if a vendor fails to comply with the contract terms, the problem is addressed by a designated representative of the group with consent of the governing body.

That designated individual discusses product specifications and potential new products. Each SFA has very little contact with the vendor and can focus attention and time on other responsibilities. As a member of the group, the SFA has access to support from a skilled leadership team and governing board to help find solutions to procurement problems.

The SFA avoids the time-consuming task of

- preparing a solicitation document,
- evaluating and awarding contracts, and
- managing the contract.

*Every cooperative purchasing group member must focus on oversight of their SFA purchases to ensure contractor performance (2 CFR 200.318(b)).*

### *Other Benefits*

Other potential benefits of cooperative group purchasing efforts include an increase in expertise and resources. The sharing of best practices among members can lead to labor savings for individual SFAs. Over time, the group matures and gains trust in each other, and this can lead to many other areas of cooperation.

Some additional resources that may be developed are

- group marketing plan;
- annual promotion calendar;
- group cycle menus and production records for the various age groups;
- staff training and continuing education programs;
- branding, including labels and paper goods; and
- specialty solicitations such as milk, bread, and processing of USDA Foods.

### **Advantages of Cooperative Purchasing Handout**

Review the following **Advantages of Cooperative Purchasing Handout**. This handout may be beneficial to review if an SFA is considering joining a group purchasing entity.

## Advantages of Cooperative Purchasing Handout

This handout provides some advantages of cooperative purchasing groups. Remember, every member SFA is responsible for monitoring contractor performance to ensure compliance with all contract provisions.

Advantages	Benefits
<ul style="list-style-type: none"> <li>■ Increased Purchasing Power</li> </ul>	<ul style="list-style-type: none"> <li>■ Combined total number of cases to be purchased</li> <li>■ Standardized specifications negotiated among members</li> <li>■ Awarded vendors will see an increase in sales</li> <li>■ Increased cost savings for SFAs</li> <li>■ Reduced labor for the SFAs</li> <li>■ Reduced labor for the vendor</li> </ul>
<ul style="list-style-type: none"> <li>■ Enhanced Quality and Availability of Products</li> </ul>	<ul style="list-style-type: none"> <li>■ Combined and enhanced product knowledge base</li> <li>■ Combined buying power may influence price allowing for increased product quality</li> <li>■ Improved availability of a variety of menu items</li> <li>■ Shared menus</li> <li>■ Increased customer satisfaction and participation</li> </ul>
<ul style="list-style-type: none"> <li>■ Reduced Administrative Burden</li> </ul>	<ul style="list-style-type: none"> <li>■ Reduced interruptions to the work day at each site. Deliveries from a prime vendor results in:               <ul style="list-style-type: none"> <li>○ fewer deliveries</li> <li>○ fewer invoices</li> <li>○ less paperwork</li> <li>○ fewer payments processed</li> <li>○ less administrative costs</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>■ Increased Opportunity to Purchase Directly from Manufacturer</li> </ul>	<ul style="list-style-type: none"> <li>■ Increased volume may serve as an attractive option for some food manufacturers</li> <li>■ Streamlined process by receiving discounts, rebates and credits directly from a manufacturer rather than through distributor</li> <li>■ Reduced costs by saving the vendor fee</li> </ul>
<ul style="list-style-type: none"> <li>■ Increased Volume for SFAs</li> </ul>	<ul style="list-style-type: none"> <li>■ Increased advantages for small to medium SFAs or an SFA located in a rural location</li> <li>■ Procurement expertise</li> <li>■ Lower prices</li> <li>■ Higher quality due to larger volume purchases</li> </ul>

## Advantages of Cooperative Purchasing Handout, continued

Advantages	Benefits
<ul style="list-style-type: none"> <li>■ Increased Networking Opportunities</li> </ul>	<ul style="list-style-type: none"> <li>■ Shared               <ul style="list-style-type: none"> <li>○ new ideas and best practices</li> <li>○ network with other SFAs</li> <li>○ information about products and vendors</li> </ul> </li> <li>■ Gained knowledge from more experienced SFAs</li> <li>■ Increased access to support for solutions to procurement problems</li> </ul>
<ul style="list-style-type: none"> <li>■ Centralized Decision-Making</li> </ul>	<ul style="list-style-type: none"> <li>■ Designated individual from the group has direct contact with the vendor awarded the contract</li> <li>■ Decreased SFA vendor contact by               <ul style="list-style-type: none"> <li>○ avoiding the time-consuming task of preparing a solicitation document</li> <li>○ evaluating responses</li> <li>○ awarding contracts</li> <li>○ managing the contract on a daily basis</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>■ Combined Resources and Other Benefits</li> </ul>	<ul style="list-style-type: none"> <li>■ Combined SFA resources for               <ul style="list-style-type: none"> <li>○ group marketing plan</li> <li>○ annual promotion calendar</li> <li>○ group cycle menus</li> <li>○ production records for the various age groups</li> <li>○ staff training</li> <li>○ continuing education programs</li> <li>○ branding</li> <li>○ specialty solicitations such as milk and bread</li> <li>○ processing of USDA Foods</li> </ul> </li> </ul>

### *Disadvantages of Cooperative Purchasing*

Some disadvantages of cooperative purchasing are:

- Consensus among members
- Deliveries
- Food costs
- Storage
- Administrative costs

### *Consensus Among Members*

Agreeing on product specifications can be one of the biggest challenges for cooperative purchasing groups. It is critical for members to come to a consensus on products.

Some groups allow members to place similar products on the solicitation when members cannot agree on a particular item. Purchases should be consolidated as much as possible to achieve a more economical approach. Failing to consolidate purchases can be problematic for the vendor and create higher prices for the SFAs. To receive the best possible price, the best practice is for members to agree on similar products.

### *Deliveries*

While many cooperative purchasing groups continue to accommodate a once/week delivery option, there is the possibility of larger and less frequent deliveries. The number of deliveries and different location drops can be a major negotiating factor between the group and the vendor. In order to economize, some cooperative purchasing groups choose to have larger quantities of food delivered less frequently. The fewer the deliveries, the more cost-effective the service will be for the group. However, accommodations outside the agreed upon delivery schedule may impose penalties on an SFA.

### **Food Costs**

While one advantage of a cooperative purchasing group is better prices, there is a possibility that the group requires higher quality products than used by an individual SFA prior to becoming a member. Small SFAs could cause costs to increase for larger SFAs.

Agreeing on product specifications can be one of the biggest challenges for group. When the increased quality results in an increased cost that cannot be sustained, the solution is to

- compromise with a suitable substitute,
- eliminate the product from the menu, or
- purchase the item independently using the applicable procurement method.

### **Storage**

In some cases, an SFA's dry and cold storage space cannot accommodate an increased delivery volume due to less frequent deliveries. When this occurs, SFAs often have to purchase additional storage equipment or rent additional storage space. When the cooperative purchasing group establishes a minimum delivery, each SFA may need to compare the savings gained by the group to the cost of purchasing the new equipment or paying rental fees for needed equipment.

### **Administrative Costs**

There may be administrative costs in operating a cooperative purchasing group. Usually membership fees are required for the sustainability of the group. These fees can range from a flat fee based on district enrollment, to a per student fee, or to a fee per case of product delivered. Fees are allowed but must be transparent.

Fees must be included when conducting a cost analysis to participate in the group, especially when the procurement is expected to exceed the most restrictive small purchase threshold (2 CFR 200.323(a)). Fees may offset the potential savings of increased purchasing power as compared to the cost incurred by conducting the procurement on their own.

Other costs may be involved in group purchasing. Often the group requires SFAs to deposit an amount equal to the average of one-month's purchases into a specified account for the purpose of ensuring payments are made in a timely manner. All costs to participate in the group purchasing must be considered to ensure the group effort is in the best interest of the Program.

### **Disadvantages of Cooperative Purchasing Group Handout**

Review the following **Disadvantages of Cooperative Purchasing Group Handout**. This handout may be beneficial to review if an SFA is considering joining a group purchasing entity.





## Disadvantages of a Cooperative Purchasing Group Handout

This handout provides some disadvantages of a cooperative purchasing group. Remember, every member SFA is responsible for monitoring contractor performance to ensure compliance with all contract provisions.

Agreeing on product specifications can be one of the biggest challenges for cooperative purchasing groups. It is critical for members to come to a consensus on products.

Disadvantages	Challenges
<ul style="list-style-type: none"> <li>■ Consensus Among Members</li> </ul>	<ul style="list-style-type: none"> <li>■ Critical for members to come to a consensus on products.</li> <li>■ Some groups allow members to place similar products on the solicitation when members cannot agree on a particular item. Purchases should be consolidated as much as possible to achieve a more economical approach.</li> <li>■ Failure to consolidate purchases can be problematic for the vendor, which can create higher prices for the group.</li> </ul>
<ul style="list-style-type: none"> <li>■ Deliveries</li> </ul>	<ul style="list-style-type: none"> <li>■ Possibility of larger and less frequent deliveries.</li> <li>■ Accommodations outside the agreed upon delivery schedule may impose penalties on an SFA.</li> </ul>

## Disadvantages of Cooperative Purchasing Group Handout, continued

Disadvantages	Challenges
<ul style="list-style-type: none"> <li>■ Food Costs</li> </ul>	<ul style="list-style-type: none"> <li>■ Possibility that the group requires higher quality products than used by an individual SFA. If so, solutions are               <ul style="list-style-type: none"> <li>○ compromise with a suitable substitute</li> <li>○ eliminate the product from the menu</li> <li>○ purchase the item independently using the applicable procurement method.</li> </ul> </li> <li>■ May increase costs to larger SFAs.</li> </ul>
<ul style="list-style-type: none"> <li>■ Storage</li> </ul>	<ul style="list-style-type: none"> <li>■ SFA's dry and cold storage space may not accommodate larger delivery volume. In this case,               <ul style="list-style-type: none"> <li>○ SFAs often have to purchase additional storage equipment or rent additional storage space.</li> <li>○ SFAs may need to compare the savings gained by the group to the cost of purchasing the new equipment or paying rental fees.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>■ Administrative Costs</li> </ul>	<ul style="list-style-type: none"> <li>■ Administrative costs to be in group may be more than cost savings.</li> <li>■ Costs may include:               <ul style="list-style-type: none"> <li>○ membership fees (flat fee based, district enrollment, per case fee)</li> <li>○ a deposit equal to one month's average purchase.</li> </ul> </li> </ul>

## Lesson 3: Join a Cooperative Purchasing Group

**Objective:** Identify the tools to make an informed decision about joining a cooperative purchasing group.

### *Join a Cooperative Purchasing Group*

Different SFAs have different needs, so it is important to determine if a cooperative purchasing group can satisfy the unique needs of an SFA.

Some SFA directors fear that they might lose control of their program if they join a cooperative purchasing group. You should not lose control of your program. As a member of a group, you should have an equal voice in decisions. However, in order to obtain the cost savings associated with the group, the group operates as one and some concessions need to be made by all.

### *Cooperative Purchasing Group Application*

You will be asked to complete an application or agreement for participation in the cooperative purchasing group. The application or agreement will contain the following, at a minimum:

- applicant's request to become a member,
- signature of the applicant's SFA,
- statement of group's acceptance of the applicant,
- signatures of the group president and secretary, and
- statement of the intent and duty of the member.

***Examine Your SFA's Needs***

Depending on the SFA's needs and the scope of the purchasing groups, the SFA may decide to join more than one type of cooperative purchasing group.

In the next activity, you will have a few minutes to assess your SFA's needs. Please write your answers in the Participant's Workbook. You may need to answer a few of the questions when you return back to your SFA.

**(Activity): Examine Your SFA's Needs Worksheet**

Complete the following **Examine Your SFA's Needs Worksheet**.





### *Factors to Consider Before You Join*

You will be expected to be a member in good standing. Your particular time commitments, money, and expertise should be clearly spelled out in any agreements made and considered when joining a cooperative purchasing group. When all members do not fully participate, they are subject to the decisions of the members who do participate.

After you have evaluated your SFA's needs, you should consider a number of factors when deciding to join a cooperative purchasing group. Let's discuss some of those factors.

### **Factors to Consider Before You Join a Cooperative Purchasing Group Handout**

Identify some of the key factors to consider before joining a cooperative purchasing group. Review the following **Factors to Consider Before You Join a Cooperative Purchasing Group Handout**.





## Factors to Consider Before You Join a Cooperative Purchasing Group Handout

Consider these factors before joining a cooperative purchasing group.

- **Food Costs** – Do you consider your current food costs to be higher than expected, or do you have sufficient volume of purchases by yourself to keep costs low? Many purchasing groups charge a fee for administrative overhead. Will this fee offset any cost savings you have?
- **Menus** – You will want to look at your menus and forecast your needs. Many SFAs have discovered they spend approximately 80% of their food budget on 20% of the menu items. If your SFA's high-volume menu items are included on the purchasing group's solicitation specifications, it may be advantageous for your SFA to consider participating in the cooperative purchasing group.
- **Delivery Schedules and Storage Capacity** – Some of the cost savings realized by purchasing groups comes from reducing the frequency of deliveries from vendors, meaning a higher quantity of food being delivered to your schools less frequently. Do you have the storage capacity to accept these larger quantities?
- **Local Regulations** – Are there any unique local regulations which might inhibit your ability to participate in a purchasing group? For instance, your city or county may have a more restrictive small purchase threshold than in areas of other SFAs participating in the purchasing group. The group may not be willing to reduce its small purchases to accommodate your threshold.

## Factors to Consider Before You Join a Cooperative Purchasing Group Handout, continued

- **Group Costs** – What are the costs associated with participating in the cooperative purchasing group? It is important to research all costs associated with membership, e.g. administrative fees, membership fees, additional delivery fees, and any penalties. You must also analyze and compare existing costs for commercial foods and supplies. Likewise, it is important to identify whether the quality of menu items will meet or exceed your current standards.
- **Legal Responsibilities** - As with any legally signed document, agreements are binding. As with any legal document, you should check with your district's business office and legal counsel for the appropriate protocol before signing the agreement. It is also important to understand any additional fees or requirements in case of termination of the agreement.
- **Training** - This resource should be helpful in answering your general questions about cooperative purchasing groups. If you need additional training, you may want to contact other members of the purchasing group, check with your CN State agency, your local SNA chapter, or the Institute of Child Nutrition for information. You may find that your district or state's legal counsel and purchasing office may also be helpful.

## Factors to Consider Before You Join a Cooperative Purchasing Group Handout, continued

- **Farm to School/Local Foods** – Many cooperative purchasing groups will buy unprocessed, locally grown or locally raised agricultural products using the geographic preference option. When this happens, the preference must be specified in the solicitation and contract in addition to the definition of the local area which will receive the geographic preference. When considering different purchasing groups, review the solicitation and contract to determine if locally grown or locally raised agricultural products are available and how the local area is defined.
- **Rebates** – When cost-reimbursable contracts are awarded, the cooperative purchasing group has to set up a structure to ensure that each SFA receives its allocable portion of rebates, discounts, and credits. This allocation should be determined based on the SFA's purchase volume in relation to the total volume purchased. The group must report these to each member SFA.
- **Small Vendors** - Government-wide regulations require that affirmative steps must be taken when possible to use small, minority, and women's business enterprises. Some strategies to assure this include: placing qualified small and minority businesses and women's business enterprises on solicitation lists; assuring such businesses are solicited whenever they are potential sources; dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation; and establishing delivery schedules, which encourage their participation.

## Factors to Consider Before You Join a Cooperative Purchasing Group Handout, continued

- **Menu Items** – There are opportunities for cooperative purchasing groups to procure new and/or a variety of menu items. To comply with procurement regulations, all procurement transactions must be conducted in a manner that maximizes full and open competition. This means using the appropriate procurement method to acquire new products and services. While new products appear on the market all the time, new items must be competitively procured using the applicable method.
- **Legal Counsel** - The legal requirements of cooperative purchasing groups differ around the country. It is highly recommended to seek legal counsel familiar with State statutes on cooperative agreements. An attorney assists in the preparation of the organization's guiding documents; checks the legality of written agreements, solicitations, and contracts; may assist in the development of capitalization plans; financial decisions; and identifying on-going issues that may be identified if retainer services are included in a competitively procured contract. Even after the cooperative is operating, if not already done, an attorney should be retained to help ensure the cooperative conforms to applicable laws.

### **Explore Existing Cooperative Purchasing Groups**

Determine if there are existing cooperative purchasing groups in your area and whether they meet the factors for consideration you find most important. Collect some basic information about each, such as

- how they operate,
- the types of products they offer,
- types of contracts awarded,
- if it complies with Program and government-wide regulations, and
- their reputation for service.

### **Helpful Resources**

Some of the most helpful resources for gathering this information are

- your State agency,
- your local School Nutrition Association chapter,
- neighboring SFAs, and/or
- other professional organizations.

Contact a member of the group directly to obtain details about the group and the markets in which it operates. Also, identify SFAs who are currently participating in the group to determine if your needs are compatible.

During your initial research, you need to assess if your SFA's needs are similar to those in the purchasing group. If your SFA has similar menu items, supply needs, or delivery schedules as the other member SFA, you may find it is beneficial to join the purchasing group.

### **Explore Local Cooperative Purchasing Groups: Questions to Ask the Group's Officers or Designated Representative Template**

Review the following **Explore Local Cooperative Purchasing Groups: Questions to Ask the Group's Officers or Designated Representative Template**.



## Explore Local Cooperative Purchasing Groups: Questions to Ask the Group's Officers or Designated Representative Template

**Instructions:** Use this form as a guide when gathering information directly from a representative of a cooperative purchasing group. These questions can be asked over the phone or sent in an e-mail. This template is only a tool, and SFAs should modify the template to meet their needs.

Name of the purchasing group:

Name, title, and contact information of the person you are interviewing:

What are membership advantages?

Are there membership fees or other requirements for joining the group? (YES or NO)  
If yes, what are the fees and the requirements?

What communication methods are used throughout the procurement process to keep the member districts informed?

If we use a cost-reimbursable contract to procure from you, what mechanism exists for the return of rebates, discounts, credits, and surplus funding from membership fees and how often is reconciliation performed?

What products does your group offer? (Request a written list of high volume products.)

## **Explore Local Cooperative Purchasing Groups: Questions to Ask the Group's Officers or Designated Representative Template, continued**

Do food products comply with the Buy American provision including 100% domestic agricultural commodities and agricultural products where over 51% of the food component by weight or volume is domestic?

How are products chosen for the solicitation?

What is the delivery schedule? What is the minimum/maximum quantity required for each delivery? Are deliveries to individual schools or to a central warehouse?

Is it possible to obtain items outside of the regular delivery schedule? (YES or NO)  
Are there penalties for mistakes or oversights on orders? (YES or NO) If yes, what are the penalties?



### **Ask Questions**

It is also important to reach out to other organizations in the area to assist you in this decision-making process. Some of the organizations to consider are:

- CNP State agency
- Professional organizations such as local chapter of SNA
- SFAs who are participating in a cooperative purchasing group

### **Explore Local Cooperative Purchasing Groups: Questions to Ask State Agencies and Professional Organizations Template**

### **Explore Local Cooperative Purchasing Groups: Questions to Ask Representatives from Other SFAs Who are Members Template**

Review the following **Explore Local Cooperative Purchasing Groups: Questions to Ask State Agencies and Professional Organizations Template** and the **Explore Local Cooperative Purchasing Groups: Questions to Ask Representatives from Other SFAs Who are Members Template**.



## Explore Local Cooperative Purchasing Groups: Questions to Ask State Agencies and Professional Organizations Template

**Instructions:** Use this template as a guide when contacting State agencies or professional organizations for information on existing cooperative purchasing groups in your area. Circle Yes or No as they answer each question, and use the space allowed to document their answers. These questions can be asked over the phone or sent in an e-mail. This template is only a tool, and SFAs should modify the template to meet their needs.

Name, title, and contact information of the person you are interviewing:

Do you know of any cooperative purchasing groups in the area? (YES or NO) If yes, list names and contact information below:

Are there any SFA-only cooperatives or CNP cooperative agreements already in place? (YES or NO)

What type of purchasing group do they participate in? Can you describe it?

Do you know of any SFAs that were members of a purchasing group and are no longer members of the group? (YES or NO) If yes, list names and contact information:

What is the reputation of these purchasing groups among their members and local vendors?

How would you rank the purchasing groups in terms of their product quality and service including compliance with the Buy American provision?

Have any of these purchasing groups been involved in legal disputes involving regulatory violations or a breach of contract with vendors or members? (YES or NO) If yes, explain the circumstances.



## Explore Local Cooperative Purchasing Groups: Questions to Ask Representatives from Other SFAs Who are Members Template

**Instructions:** Use this guide when contacting a representative from another SFA who is currently a member of a cooperative purchasing group. Circle YES or NO as they answer each question, and use the space allowed to document their answers. These questions can be asked over the phone or sent in an e-mail. This is only a tool, and SFAs should modify the template to meet their needs.

Name, title, and contact information of the person you are interviewing:

Is the cooperative purchasing group able to provide all the products you need? (YES or NO) If not, explain the circumstances. How has this problem been resolved?

Are you satisfied with the quality of the products provided including compliance with the Buy American provision? (YES or NO) If not, why not? What specifically has been unsatisfactory?

Are your administrators satisfied with the purchasing group? (YES or NO) If not, why not? What specifically has been unsatisfactory?

Do deliveries usually arrive on time? (YES or NO) If not, how late were the deliveries? How often have they been late? Were there penalties? If so, what were they?

Are product shortages or substitutions a concern? (YES or NO) If not, explain the circumstances.

Are there other membership benefits that you have discovered? (YES or NO) If so, what are they? Are you satisfied with your membership in the group overall? (YES or NO) If not, what specifically has been unsatisfactory?

What were some of the challenges you encountered in your transition and how did you resolve them?



### ***Clarify the Type of Contract***

Clarify the type of contract used by the group. The type of contract the group chooses establishes the degree of risk vendors must take when quoting prices. The two types of acceptable contracts an SFA may use are

- fixed price, with or without a price adjustment clause tied to a standard index; and
- cost-reimbursable, with or without a fixed fee.

*Use of a cost-plus-a percentage-of-cost or cost-plus-a percentage-of-income contracts **by the SFA are prohibited.***

### **Types of Contracts Handout**

Review the type of contracts and the risks and benefits of each in the following **Types of Contracts Handout**.





## Types of Contracts Handout

The type of contract the cooperative purchasing group chooses establishes the degree of risk vendors must take when quoting prices. Each contract also has benefits for the SFA or vendor. Please note that in its own contracting, the SFA may only use the types of contracts listed below, and thus we expound on those.

<b>Types of Contracts</b>	<b>Risks and Benefits</b>
<ul style="list-style-type: none"> <li>■ Fixed price, with or without a price adjustment clause tied to a standard index</li> </ul>	<ul style="list-style-type: none"> <li>■ This contract type has the greatest risk for the vendor without a price adjustment clause.</li> <li>■ This contract type provides the greatest benefit to the SFA by limiting price increases beyond the standard index designated in the solicitation and contract.</li> </ul>
<ul style="list-style-type: none"> <li>■ Cost-reimbursable, with or without a fixed fee</li> </ul>	<ul style="list-style-type: none"> <li>■ Reimbursable contracts have the greatest risk of market place fluctuations to the SFA because the vendor passes along the cost to the SFA without any limitation when costs fluctuate.</li> <li>■ When an SFA awards a cost-reimbursable contract, the contract provisions in 7 CFR 210.21(f) must be included. These include the method for monitoring contractor performance to ensure all discounts, rebates, and credits are returned to the nonprofit food service account of every member.</li> </ul>



### ***Evaluate the Cooperative Purchasing Group***

Once existing cooperative purchasing groups are identified in the area and the SFA's needs have been determined, an evaluation process can determine if there is a group that meets the needs of the SFA. If choosing to join an existing cooperative, an evaluation process must determine if their procedures comply with the Program and government-wide regulations.

### **Evaluating Cooperative Purchasing Groups Template: Will They Meet Your Needs?**

Review the following **Evaluating Cooperative Purchase Groups Template: Will They Meet Your Needs?** This template is helpful to determine whether cooperative purchasing groups in your area will be able to meet your SFA's needs.

### **Evaluate and Compare Features of Cooperative Purchasing Groups Handout**

Review the following **Evaluate and Compare Features of Cooperative Purchasing Groups Handout**. This handout may be beneficial to review if an SFA is considering joining a group purchasing entity.



## Evaluating Cooperative Purchasing Groups Template: Will They Meet Your Needs?

**Instructions:** Use the chart below to help determine whether cooperative purchasing groups in your area will be able to meet your SFA's needs. Rank each factor as Excellent, Good, Satisfactory, Poor, or Unacceptable. Add the scores. The scores will range from 0 to 28 points, with 28 being the highest. This measure can help determine whether a group is a good match for your SFA and help to compare various groups if there are multiple groups in your area. This template is only a tool and SFAs should modify the template to meet their needs.

**Name of cooperative purchasing group:**

**Date:**

Evaluating Cooperative Purchasing Groups					
Criteria	Excellent 4 points	Good 3 points	Satisfactory 2 points	Poor 1 point	Unacceptable 0 points
The group offers the products we need.					
<b>Comments:</b>					
The pricing is equal or better than current pricing.					
<b>Comments:</b>					
The products are equal or better than current quality.					
<b>Comments:</b>					
The group has a delivery schedule that will work for us.					
<b>Comments:</b>					

## Evaluating Cooperative Purchasing Groups Template: Will They Meet Your Needs?, continued

Criteria	Excellent 4 points	Good 3 points	Satisfactory 2 points	Poor 1 point	Unacceptable 0 points
The group will deliver in quantities we can accommodate.					
<b>Comments:</b>					
The group has a good reputation among current members.					
<b>Comments:</b>					
If the group is a cooperative, it is in compliance with Program and government-wide regulations as well as with district regulations and policies.					
<b>Comments:</b>					
<b>Total Points:</b> _____					

# Evaluate and Compare Features of Cooperative Purchasing Groups

## Handout

The questions included on this handout are designed to help an SFA evaluate and compare the features of cooperative purchasing groups. This is template only a tool, and SFAs should modify the template to meet their needs.

- What are the membership policies and requirements for fees, minimum purchase requirements, and contract terms of each group under consideration?
- Who manages the group effort? What is the organizational structure?
- Which other SFAs participate in this group? Are they similar? What do they see as benefits of membership? Are they satisfied with the group?
- How closely do the product offerings meet the needs of your SFA? Will the SFA need to solicit additional products?
- Is the delivery schedule suitable for your SFA? If not, would changing receiving and storage procedures in order to participate be an improvement or an obstacle?
- Are there penalties for mistakes and oversights? Is there a penalty if an item was omitted from the SFA's order or if an item was ordered but omitted from the delivery?
- Can small, familiar vendors provide services through this group?
- Is the contract cooperative using a fixed price or cost-reimbursable?
- Is the group administered in an ethical manner (complies with required code of conduct if a cooperative)? Does the group meet the legal and programmatic requirements of the school district? Does the group adhere to all Federal, State, and local regulations?





### ***Discussion with Administrators***

If you decide to participate in a cooperative purchasing group purchasing effort, you will need to explain the benefits of membership to your administrators. Explain the improvements that will result from taking this action, and identify any hidden costs that might arise.

What benefits will result from taking this action? Improved meal quality, time savings, increased procurement experience, and overall cost savings are examples of benefits. What are the hidden costs? What are the disadvantages of taking this action, and are there compensating advantages?

If there are disadvantages to joining a cooperative purchasing group, communicate the compensating advantages. For example, food costs might be more because the quality of items purchased are of higher quality, but the improved product quality should increase participation, resulting in overall savings. Another example might be that the group might deliver in quantities that would require the purchase of an additional freezer, other storage equipment, or the need to rent additional storage; initially, the cost might be higher, but lower food costs may be diminished because of larger volume purchases, resulting in a projected long-term savings.

### ***Approval to Participate***

Identify any legal and programmatic assistance available in your district and consult with those individuals. This could include officials at the State agency and the school district's legal counsel, and/or school administrators. Then obtain a resolution from the appropriate authority within your district, such as the school board and legal authorities, to participate in the purchasing group. Be prepared if the school board or other authorities request a presentation to clarify their questions.

### ***School Board Presentation***

Keep in mind that the next available school board meeting might be several weeks away, so plan ahead to get on the agenda early. Keep the presentation short and simple. Suggestions of topics to include and the length of time for each section are:

- Introduction (2-3 minutes)
- Advantages of Participation (2-3 minutes)
- Possible Disadvantages (2-3 minutes)
- Conclusion (1-2 minutes)

### **(Activity): Presentation to District Administrators Template: Why We Should Join a Cooperative Purchasing Group**

Review the following **Presentation to District Administrators Template: Why We Should Join a Cooperative Purchasing Group**. Identify key messages. The purpose of this activity is to illustrate the importance of providing a clear, concise message.

**What are some take-home messages that you learned from this activity?**

## **Presentation to District Administrators Template: Why We Should Join a Cooperative Purchasing Group**

**Instructions:** Once you have gathered the necessary information regarding the cooperative purchasing group, it is important to communicate your findings and obtain approval from the district administrators. To do this, you may have to attend an informal meeting or provide a presentation at a school board meeting. Keep in mind that the next available meeting might be several weeks away, so plan ahead to get on the agenda early. The outline and mock script below can serve as a template as you compile and organize a 10-minute presentation. Keep the presentation short and simple. This template is only a tool, and SFAs should modify the template to meet their needs.

### **Introduction (2-3 minutes)**

Give a brief description of what a cooperative purchasing group is and what it does for its members. Describe the purchasing group you would like to join; including how long it has been operating, how many members it has, who those members are, and its reputation. If you spoke with participating members who are satisfied with the group, describe their feedback regarding the products, service, and cost savings.

### **Possible Advantages of Participation (2-3 minutes)**

The main benefits of joining a cooperative purchasing group are cost savings, time savings, and networking. Be prepared to provide numbers when discussing cost savings. Give an estimation of the dollar amounts or percentage that will be saved on each order or on an annual basis. Give examples of some of the ways it will save time.

## **Presentation to District Administrators Template: Why We Should Join a Cooperative Purchasing Group, continued**

### **Possible Disadvantages (2-3 minutes)**

If there are disadvantages (e.g., immediate, short-term expenses) involved in joining the cooperative purchasing group, explain that there are compensating advantages (e.g., long-term savings and administrative resources saved). If the group charges membership fees or delivers in large quantities that will require the purchase of additional storage equipment or renting storage, give an estimate of these costs and justify the investment.

### **Conclusion (1-2 minutes)**

The administrators are interested in the bottom line. Review the cost saving potential of joining the cooperative purchasing group. Be sure to leave some time for questions or comments at the end of your presentation. When you have finished, find out what will be the next step in the approval process for joining the group.

**Tips:** Practice the presentation in advance. As part of the preparation for the presentation, try to think about potential questions and possible responses.

## Lesson 4: Form a Cooperative Purchasing Group

**Objective:** Identify the tools to form a cooperative purchasing group.

### *Form a Cooperative Purchasing Group*

A school district has the authority to establish its own system to procure goods and services, as long as it follows the Federal government's procurement guidelines. Generally, one SFA will take the lead to form a cooperative purchasing group. Before forming a cooperative purchasing group, the following should be considered:

- Review Federal guidelines
- Conduct initial research
- Conduct a member-user survey
- Analyze the financial needs of the purchasing group
- Conduct a meeting with potential members
- Develop a business plan

### *Federal Guidelines*

All procurement transactions must be conducted in a manner that provides full and open competition consistent with the Federal standards found in the Program and government-wide regulations at 7 CFR 210.21 and 2 CFR 200.318-326, respectively. The guidelines exist to ensure that taxpayer dollars are used prudently and judiciously and that there is fair competition among vendors for Federal dollars.

### **General Federal Guidelines Handout**

Review the **General Federal Guidelines Handout**. The purpose of this handout is to provide a list of general Federal guidelines for conducting procurement transactions.



## General Federal Guidelines Handout

The purpose of this handout is to provide a list of general Federal guidelines for conducting procurement transactions. This handout is not intended to be an all-inclusive list of Federal requirements for Child Nutrition Programs.

- There must be written specifications for all products purchased.
- Identical instructions must be provided to all potential bidders.
- A cost analysis must be conducted for products and services with an overall projected value above \$150,000 prior to receiving bids and proposals, and such products and services must be competitively procured using sealed bids or competitive proposals.
- Prices solicited using the applicable procurement methods, micro- and small purchase procedures, sealed bids or competitive proposals.
- Only fixed-price or cost-reimbursable contract types may be awarded.
- Contract provisions in Appendix II to 2 CFR 200 must be included.
- Cost-reimbursable contracts must include required contract provisions in 7 CFR 210.21(f).
- Solicitations and contracts must ensure the SFA complies with the Buy American provision in 7 CFR 210.21(d) for the purchase of food. This includes requiring domestic food products to be produced and processed in the United States with over 51% of the food component, by weight or volume, from domestic agricultural commodities.
- Products and services with a projected value below \$150,000 may be purchased using small purchase procedures.
- Products and services with a projected value below \$3,500 (micro-purchases) may be purchased without soliciting bids or obtaining quotes as long as the price is reasonable and purchases are equitably distributed among qualified suppliers.
- Involve small, minority, and women's business enterprises, when possible.
- Remember to check with your State agency as some States may have lower procurement thresholds, and the lowest threshold must be followed.





### **Conduct Initial Research**

SFAs could take the following steps to determine interest for a cooperative purchasing group:

- Determine the level of interest in starting and supporting a cooperative purchasing group by forming a leadership group of interested directors.
- Contact local directors first by phone and briefly discuss the possibility of developing a cooperative purchasing group.
- Invite potential members and outside advisers to a general meeting. Ask the directors if they will be willing to complete a survey to see if their interests warrant proceeding to the next step.

### **Conduct Member-User Survey**

Conduct a member-user survey to determine if there will be sufficient members to support the functionality of a cooperative purchasing group. The feedback from the survey serves as a guide for the lead committee in determining their next plan of action.

A formal survey is best for estimating potential group membership. Survey questions should ascertain the level of support in terms of products desired, possible business volume, and if the financial commitment is sufficient enough to organize and successfully operate the group. Potential members may be concerned about providing confidential information. Establish rapport and build trust with members by discussing the survey in a phone conversation, at local SNA chapter meetings, or at a neutral location.

### **(Activity): Survey of Interest in a Cooperative Purchasing Group Template**

Discuss the content of the **Survey of Interest in a Cooperative Purchasing Group Template**.



## Survey of Interest in a Cooperative Purchasing Group Template

**Instructions:** Modify this template to survey interest of potential cooperative purchasing group members. It is advisable to use a conservative estimate when completing the survey. This handout may be beneficial as SFAs are considering forming a cooperative purchasing group. This template is only a tool, and SFAs should modify the template to meet their needs.

1. This survey is for \_\_\_\_\_. (Identify the purchase scope of the group, such as all foods, frozen foods, fresh fruits and vegetables, canned goods, etc., and paper goods.)
2. What is your total enrollment? \_\_\_\_\_ What is your ADP for lunch? \_\_\_\_\_ What is your ADP for breakfast? \_\_\_\_\_ (include space for other Programs members may operate (SFSP, Afterschool Snack, FFVP))
3. Approximately what is your annual food budget?
4. How often do you make food purchases? (weekly, bi-weekly, monthly)
  - How many vendors do you purchase food from? \_\_\_\_\_
  - List all sources:
5. Is your food delivered to a central location? (YES or NO)  
If no, how many delivery sites do you have? \_\_\_\_\_
6. Do you know the benefits of participating in a cooperative purchasing group? (YES or NO)
7. Would you consider participating if it could save you time, potentially reduce costs, and increase food variety? (YES or NO)

## **Survey of Interest in a Cooperative Purchasing Group Template, continued**

8. Would a membership fee deter you from participating in a cooperative purchasing group? (YES or NO)
  
9. Would you like to learn more about the member-based purchasing group? (YES or NO) If yes, what day of the week is best for you to attend an afternoon meeting? \_\_\_\_\_
  
10. Do your food solicitations and specifications include domestic agricultural commodities to be produced and processed in the United States including over 51% domestic agricultural commodities, by weight or volume, for the food component? (YES or NO)

Thank you for your time in completing this survey. For further information, please contact (contact information for person spearheading survey).

### ***Seek Advisors***

Some cooperative purchasing groups decide to seek expertise from outside advisors. An outside advisor may be a representative from your State agency, representatives from a manufacturer's solicitation department, officers from cooperative purchasing groups in other States, and/or potential members' legal or purchasing departments. Before inviting any of the advisors who would travel to speak to your general meeting, ascertain if they will charge a fee for their time or require reimbursement for travel expenses.

### ***Analyze the Financial Needs of the Purchasing Group***

As with any new venture, carefully analyzing the strengths and weaknesses of the endeavor contributes to an objective and rational approach in the decision-making process.

Understanding, in advance, the costs to form and maintain a cooperative purchasing group will allow for effective communication of the economic value throughout its lifecycle.

To determine if forming a group will be sustainable, conduct a feasibility analysis, which helps to identify and to evaluate potential barriers or adverse conditions that may preclude a beneficial outcome.

During the review process, identify suitable markets, sources of supply, potential vendors, and their requirements. Calculate costs, such as start-up fees, member investment fees, attorney fees, expert advisor fees, printing and mailing costs, and administration costs. An important part of the analysis is to identify the volatility of business fluctuations in volume or operating costs. Examples of volatility include adverse weather affecting product sales, wage rates, operating efficiencies, and interest rates.

*A cooperative purchasing group's lowest possible operating costs occur when its members furnish it with the maximum amount of business that is manageable.*

### **Capitalization**

Capitalization is the amount and source of money needed to start and operate a business such as a cooperative purchasing group. Calculate costs, such as start-up fees, member investment fees, attorney fees, expert advisor fees, printing and mailing costs, and administration costs.

Capitalization is vital to ensure that the legal and financial aspects of the cooperative purchasing group are well founded. However, it should be noted that the services of any outside entity (i.e. third party or for profit) must be competitively procured following Program and government-wide regulations.

### **Start-Up**

Frequently, the administrative district will absorb some of the start-up costs or bill the group for the administrative costs after the collection of agreed-upon membership fees begins. Identify any legal and programmatic assistance available in your school district and consult with those individuals.

The individuals to consult could include officials at the State agency that administer the Child Nutrition Programs, the school district's lawyers and procurement officer, and/or school administrators. Then obtain a resolution from the appropriate authority within your district, such as the school board, to start the purchasing group. If you are considering your district as the administrative district, discuss with your school authorities the district's obligations.

### **Resources**

Identify and take full advantage of available resources. Possible sources to check are

- the State extension specialists working with cooperatives,
- the State's cooperative council,
- the National Society for Cooperative Accountants, and/or
- an established purchasing group in the area.

### ***Form a Lead Committee***

Network with local SFAs, and identify members to serve on a lead committee that is responsible for planning which products and brands to pursue in developing purchase agreements with suppliers.

The committee members are key stakeholders who will provide guidance during the development of the strategic plan and will support the vision and mission of the group.

Remember to delegate the responsibilities equally among the members, provide timelines to report progress on activities, and plan for regular communication meetings.

### ***Develop a Business Plan***

Economic need is fundamental to the formation and operation of any cooperative purchasing group.

In preparation for developing the detailed business plan, the lead committee should seek assistance from their State agency, legal authorities, and others who have actively participated in the business of group purchasing operations. Their help and assistance are crucial during the business plan analysis and development.

After determining if the projected initial investment is within the financial capabilities of its members, the new cooperative purchasing group should initially limit services to avoid unnecessary costs. Once up and running successfully, the additional services may be added.

### ***Conduct a Meeting with Potential Members***

The lead committee should hold a meeting with the final action being a vote to determine whether or not to continue with the establishment of a cooperative purchasing group. The leadership group should select a presiding officer who can conduct a business meeting. Sometimes an advisor can act as chair or help answer questions.

Encourage members to express procurement needs. Allow adequate time to review terminology, discuss the results of the member-user survey, and communicate

- the operations,
- advantages,
- disadvantages,
- possible risks,
- benefits, and
- limitations of developing a cooperative purchasing group.

### **Tips for a Successful Meeting Handout**

Identify the factors that could contribute to a successful meeting on whether or not to continue with the establishment of a cooperative purchasing group.

Review the following **Tips for a Successful Meeting Handout**.



## Tips for a Successful Meeting Handout

The following are tips in conducting a successful meeting.

- Send out meeting notices, logistical information, and reminders in a timely manner.
- Prepare an agenda, sign-in sheet, and written handouts.
- Be as prepared as possible by understanding all the issues to be discussed regarding the formation of purchasing groups and the interests of each party.
- Assign an individual to lead the meeting to ensure minimal agenda deviation.
- Begin and end the meeting on time.
- Ask someone to take copious notes.
- Introduce all parties in the room.
- Provide sample resources.
- Encourage prospective members to ask questions and allow plenty of time for discussion.
- Provide follow-up to outstanding issues in a timely manner.
- Establish day, time, and location for next meeting.



### *Develop an Agreement*

The next step is to develop an acceptable contractual agreement for and among the member SFAs. In this context, acceptable means it contains language that makes the contractual agreement mutually beneficial and competitive, though it may not be perfect for everyone.

In developing an acceptable agreement, the SFA should consider the following:

- Consider the needs of all potential member SFAs.
- Develop fair and accurate forecasted quantities and specifications for all products and services. This is essential to ensuring the success of all solicitations.
- Develop a mutually agreeable list of products to be purchased based on the menus of potential member SFAs. Ideally, this would be an exercise in merging existing product lists and comparing quality of items that do not overlap. Consolidating like products is essential to obtaining the best prices. Conduct taste tests to get consensus.
- Establish policies and procedures to govern the operations of the group within the constraints of all applicable laws and regulations of each potential member SFA.
- Maintain a clear and appropriate line of communication between member SFAs and the group, potential vendors, and manufacturers.
- Be familiar with the Federal Procurement Regulations.

### **Checklist for Cooperative Purchasing Group Agreement Handout**

Review the following **Checklist for Cooperative Purchasing Group Agreement Handout**. This handout may be useful if an SFA decides to participate in a purchasing group and decides to develop the group agreement.



## Checklist for a Cooperative Purchasing Group Agreement Handout

This handout is intended to provide tools to an SFA who is responsible for developing the cooperative purchasing group agreement.

**Instructions:** Review each provision below and mark the task when it is completed.

Task	Provision	Due By
	Reviewed the input from the initial member-user survey. This is essential to ensuring the success of all future solicitations.	
	Considered the needs of the potential member SFAs.	
	Developed fair and accurate forecasted quantities and specifications for all products and services.	
	Developed a mutually agreeable list of products to be purchased based on the menus of potential member SFAs. Ideally, this would be an exercise in merging existing product lists and comparing quality of items that do not overlap. Consolidating like products is essential to obtaining the best prices. Conduct taste tests to get consensus.	
	Included the conditions and limits (volume and number of SFAs) under which additional parties may be added to the group (if desired).	
	Established policies and procedures to govern the operations of the group within the constraints of all applicable laws and regulations of each potential member SFA.	
	Maintained a clear and appropriate line of communication between member SFAs and the group, potential vendors, and manufacturers.	



## Lesson 5: Members' Roles and Responsibilities

**Objective:** Review the roles and responsibilities for each group member.

### *Participation in a Cooperative Purchasing Group*

Each member of a cooperative purchasing group brings to the team knowledge of products and vendor reliability for the collective benefit of all. Remember, it is the ultimate responsibility of the SFA to ensure full and open competition regardless if it procures goods or services on its own or belongs to a purchasing group. It is the SFA's responsibility to monitor compliance of Federal, state, and local procurement requirements.

### *Member of a Cooperative Purchasing Group*

If you are a member of a cooperative purchasing group, you want to make the most of your investment. Be a member in good standing and contribute to the success of the group. SFAs are responsible for staying abreast of the group's activities. Let's take a moment and review some best practices SFAs should follow in order to make the most of the purchase group membership.

### **Maximize Your Cooperative Purchasing Group Membership Handout**

Review the following **Maximize Your Cooperative Purchasing Group Membership Handout**. This handout may be beneficial to help SFAs maximize the benefits of a cooperative purchasing group.





## Maximize Your Cooperative Purchasing Group Membership Handout

This handout suggests good practices that may be used to maximize the benefits of your cooperative purchasing group membership.

- Designate and train an individual who will serve as the liaison between the SFA and the purchasing group. Gain district support for the designated liaison to participate on committees, attend meetings, and be involved in other activities needed by the purchasing group.
- In a cooperative, develop a master product list with specifications and share it among member SFAs. Ideally members will agree on all products on the list.
- Forecast estimated usage with realistic quantities, and provide accurate quantity projections to ensure solicitation integrity.
- Attend regular meetings. Participate in activities such as combining product lists and student taste tests.
- In a cooperative, demonstrate the ability to plan menus using foods upon which the group has agreed. A central group menu cycle improves the success of operations and reduces planning time for member SFAs. Share menus and related forms.
- Develop quality standards that specify the description of domestic foods that will be purchased. It is important to become familiar with the quality standards that are in place for your SFA and to compare those with the quality standards that the purchasing group uses. Learn and understand what those quality standards mean.
- Establish a routine schedule to verify that the foods and items received meet quality standards, including domestic foods, and report all identified problems to the designated group officer. Monitoring contractor performance is required by Federal regulations.
- Conduct an ongoing analysis of velocity reports comparing the estimated quantity provided to the vendor to the actual quantity of product purchased. For example, conduct a quick, monthly analysis and then conduct a detailed analysis every three months.



### *Code of Conduct*

A written code of conduct prohibiting conflicts of interest must be maintained by each SFA and the cooperative purchasing group. Each member must comply with the code of conduct that is most restrictive, that is, either their employing district's code or the code of conduct for the purchasing group.

- The code of conduct must include setting thresholds for situations in which the financial interest is not substantial or the unsolicited item is of nominal value.
- The standards of conduct must prohibit conflicts of interest in the procurement process, prevent the soliciting/accepting of anything of monetary value, and provide for disciplinary actions to be applied for violations of these standards by officers, employees, or agents of the non-Federal entity.

### *Gifts*

All revenues received by the nonprofit food service account are to be used only for the operation or improvement of such food service. SFAs must neither solicit or accept anything of monetary value from contractors or parties to subcontracts. Examples of gifts of monetary value include:

- special event tickets,
- money,
- donations,
- scholarships,
- travel to conferences, or
- any other forms of special treatment in exchange for doing business with the vendor (including incentives that benefit students such as scholarships).

This applies to all members of the purchasing group as well as agents, officers and administrators of the cooperative purchasing group.

### **Record Retention**

Records must be kept for a minimum of three years after submission of the final Claim for Reimbursement for the fiscal year. In the case of an audit, the records shall be retained beyond the three-year period for as long as required for the resolution of the issues raised by the audit.

Records may include, but are not limited to

- membership application and agreement;
- solicitations published and contracts awarded by the group;
- all meeting agendas and notes;
- invoices for purchases and fees paid;
- documentation when exceptions to purchase non-domestic foods are approved due to the cost of domestic foods or when the quality or quantity of domestic foods is not available; and
- any other documents signed by you or your district authority pertaining to the cooperative purchasing group.

### **Develop Specifications**

As a member of a cooperative purchasing group, you may be asked to participate in writing the specifications for menu items. It is important to write clear and concise product description specifications. SFAs must specify quality standards for items on the product list that are agreeable to all concerned. Food specifications can be found at:

<https://www.ams.usda.gov/grades-standards>

### **(Activity): Considerations for Writing Solicitation Specifications**

#### **Considerations for Writing Solicitation Specifications Handout**

Identify considerations when writing specifications. Review the following **Considerations for Writing Specifications Handout**.

## Considerations for Writing Solicitation Specifications Handout

The purpose of this activity is to identify key considerations for writing specifications. This handout is not intended to be an all-inclusive list.

- Ensure the requirement for the purchase of domestic foods is included in the food specifications to ensure all members of a cooperative comply with the Buy American provision.
- Identify in the solicitation all pertinent information, such as quantity, size, the frequency and locations of deliveries, and storage needs.
- Include product specification
- Include distribution requirements in the solicitation.
- In a request for proposals, include the evaluation criteria in the solicitation such that the contract will be awarded to the lowest responsible and responsive bidder/offeror whose bid/offer is most advantageous to the Program with price as the primary factor.
- Comply with all applicable local, state, and Federal laws, regulations, and mandates.
- When cost-reimbursable contracts are to be awarded, the required contract provisions in 7 CFR 210.21(f) must be included. This includes the method for monitoring contractor performance to ensure all discounts, rebates, and credits are returned to the nonprofit food service account of every member.
- Evaluation criteria and their relative importance ***must*** be stated in the published solicitation document with price as the primary factor.
- The contract duration must also be in the solicitation.

*To ensure objective vendor performance and to eliminate unfair competitive advantage, a person that develops or drafts specifications shall be excluded from competing for such procurements. [2 CFR 200.319(a)]*



***Solicitations and Contracts***

Each SFA in the cooperative purchasing group should be knowledgeable of the basic requirements of solicitations and contracts.

**(Activity): Solicitations and Contracts****Solicitations and Contracts Handout**

Discuss your assigned requirement among the group.





## Solicitations and Contracts Handout

Each SFA in the cooperative purchasing group should be knowledgeable of the basic requirements of solicitations and contracts.

### **Requirement**

All solicitations and contracts for food that involve SFAs must include the Buy American provision in 7 CFR 210.21(d). The contract provisions in 7 CFR 210.21(f) must be included in cost-reimbursable contracts.

### **Requirement**

If an SFA later determines additional goods and services are needed but not included or available as part of the agreement, the SFA may conduct a separate procurement using the appropriate procurement method. All records detailing the history of the procurement must be maintained.

### **Requirement**

When competitive procurement methods are conducted by the SFA, or a group of SFAs in a cooperative, group purchasing price lists may be **one source** of prices the SFA(s) can use when procuring goods or services using small purchase procedures, sealed bids, or competitive proposals, as applicable.

### **Requirement**

Each SFA is responsible for monitoring contractor performance to ensure compliance with all contract provisions.

*Failure to competitively procure goods and services is a violation of Federal regulations and may result in delays, disputes, findings of noncompliance, and costs being disallowed.*

*For more information on procurement regulations, please refer to the ICN training document, **“Regulations for the Procurement of Foods Instructor’s Manual”**.*



## *Cooperative Purchasing Group Participation*

### **(Activity): Consensus Exercise**

#### **Consensus Exercise Worksheet**

Review the discussion topics, discuss the topic, listen to the team members' responses, and come to a **consensus** on the appropriate answers.



## Consensus Exercise Worksheet

**Instructions:** Review the discussion topics and as a group, provide the group's agreed upon responses.

### **Discussion Topic: Non-Domestic Products**

Your SFA belongs to a cooperative purchasing group. When visually inspecting their SFA's storage units, a staff-member reports that there are several non-domestic products on the shelf. What should the SFA do?

### **Discussion Topic: Vendor**

A potential vendor has offered to provide the cooperative purchasing group funds for some of the members to attend a national conference. The vendor has not indicated how the funding should be dispersed among the members. The members of the group determine they would provide small scholarships to 15 of their members. Members would need to apply for the scholarship, and the applications would be reviewed by members of the group. What actions should be taken or is this action appropriate? Justify your response.

### **Discussion Topic: Pizza**

The cooperative purchasing group is reviewing the current solicitation and notices there are 15 different types of pizza. In preparation for the next year's solicitation, what should be done?



### ***"Piggybacking"***

"Piggybacking" is the action of joining a contractual arrangement that has already been awarded in order to take advantage of the same terms and prices of that contract.

### ***Why "Piggyback"?***

SFAs that are not part of a cooperative purchasing group may obtain better prices on goods and services by "piggybacking" onto existing group contracts. A cooperative purchasing group will allow outside SFAs to take advantage of the prices and terms it has negotiated for itself.

### ***"Piggybacking" Considerations***

A cooperative purchasing group's contract must contain language allowing the piggybacking of SFAs, specifying the conditions under which other SFAs may participate, such as a limit on the number of SFAs to participate, or include dollar limits.

If there is no such language, adding outside SFAs may be considered a material change to the contract, and a new competitive procurement is required. These provisions should be thoroughly reviewed by and have approval of the member SFAs.

The vendor must also agree to allow piggybacking. The vendor always has the option to refuse to contract if a mutual agreement cannot be reached, and terms and conditions cannot be agreed upon.

### ***Advantages to "Piggybacking"***

Naturally, there are potential advantages and disadvantages with allowing additional parties to be added to existing contracts. The advantages to outside SFAs include:

- Ease of administration;
- Expands access to a wider variety of foods and other goods;
- Reduces administrative costs; and
- Usually results in cost savings.

### *Disadvantages to "Piggybacking"*

There are potential disadvantages to piggybacking which can negatively impact the purchasing power of the member SFAs in the following ways:

- Since the level of sales from outside SFAs is uncertain, cost savings may be less than expected. When setting prices, the vendor has to protect itself from possible fluctuations in demand.
- The outside SFAs may have different demands, such as more frequent deliveries, which were not anticipated by the vendor and could increase costs to all members.
- Since outside SFAs needs were not taken into account when establishing the contract, the group does not benefit from their increased volume purchases from the outset.

### *Material Change*

A material change is a change made to a contract after the contract has been awarded. If the terms and conditions of the contract are substantial enough that, had other parties known of these changes in advance, they may have bid differently and more competitively.

### *Material Change to a Contract*

A material change happens when an SFA agrees to or allows a winning respondent to make changes to contract terms (including the terms of a contract renewal) that are inconsistent with the underlying solicitation document.

SFAs must not circumvent Federal procurement standards to maximize full and open competition by denying all respondents the opportunity to compete under the same terms and conditions. In case of a material change, the SFA must re-bid the contract.



## **Conclusion**

We have covered a wide variety of topics. In addition, by completing the activities and networking with your peers, you have gained valuable information that will contribute to your effectiveness as a director/manager. Topics covered in this training included:

- Types of Cooperative Purchasing Groups
- Advantages of Cooperative Purchasing Groups
- Disadvantages of Cooperative Purchasing Groups
- Join a Cooperative Purchasing Group
- Form a Cooperative Purchasing Group
- Members' Roles and Responsibilities

## **(Activity): Take Home Messages**

Write on self-adhesive notes, one or more take home messages for each of the following topics.

- Types of Cooperative Purchasing Groups
- Advantages of Cooperative Purchasing Groups
- Disadvantages of Cooperative Purchasing Groups
- Join a Cooperative Purchasing Group
- Form a Cooperative Purchasing Group
- Members' Roles and Responsibilities

## **Thank You**

Look at all the take-home messages you can review and note in order to determine whether you want to participate in a cooperative purchasing group. This concludes today's training. Thank you for your active participation and attention in the training. If there are no more questions, we will proceed with the training post-assessment and evaluation.

## **(Activity): Post Assessment and Evaluation**

Complete the post-assessment and the evaluation form.



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## Appendix

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## Characteristics and Procurement Requirements of Purchasing Groups Worksheet Answer Key

**Instructions:** Review the scenarios. Identify the characteristics of purchasing groups and procurement requirements for each scenario. Respond to the corresponding questions in each of the scenarios.

### Possible answers:

- SFA-only/CNP State agency cooperative agreements
- Agents
- Third-party entities:
  - State procurement agency agreements
  - Inter-agency agreements
  - Group purchasing organizations

### Scenario: North Plum SFA

The North Plum SFA has joined with four other SFAs to purchase food and supplies for the Child Nutrition Programs within each of their respective SFAs. After forecasting their needs, they have found that this joint venture will increase their group purchasing power, thereby reducing overall costs to their programs. Under this agreement, there is a small fixed fee for each SFA to cover overhead or administrative costs.

**Question: What purchasing group most closely aligns with this scenario?**

**Answer:** SFA-only cooperative agreement

**Question: What are the purchasing responsibilities of the purchasing group you identified?**

**Answer:**

- Joining such a cooperative does not require competition;
- SFAs agree to competitively procure goods and services jointly in compliance with the Program and government-wide regulations in 7 CFR 210.210 and 2 CFR 200.318-.326, respectively;
- If product is not purchased by the cooperative or not available from procured source, SFA must conduct separate competitive procurement procedures.

## Characteristics and Procurement Requirements of Purchasing Groups Worksheet Answer Key, continued

### Scenario: The State Department of Property and Procurement

The State Department of Property and Procurement, the purchasing agency for the state, competitively procures contracts for paper supplies, cleaning supplies, and other goods. The Department allows SFAs, state prisons, libraries, private schools, and other institutions to purchase off these contracts without having to separately bid for these items.

### Question: What purchasing group most closely aligns with this scenario?

**Answer:** Third-party entity - State procurement agency agreement

### Question: What are the purchasing responsibilities of the purchasing group you identified?

#### Answer:

- Entering into an agreement with State procurement is not a competitive procurement process.
- State procurement agency procures for State facility needs using the State's procurement regulations.
- Allows SFAs to purchase from State's contracted sources.
- SFAs may consider the price for the State's contracted sources as **one source** when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids, or competitive proposals.
- SFAs must ensure that their procurements follow purchasing procedures consistent with 7 CFR 210.21 and 2 CFR 200.318-.326.



## Characteristics and Procurement Requirements of Purchasing Groups Worksheet Answer Key, continued

### Scenario: Three Agencies

Three agencies within a state, the State Departments of Corrections, Education and Human Services, have started a consortium to purchase food, paper supplies, cleaning supplies, and other goods for its institutions. The consortium competitively bids for the products and signs contracts with winning vendors. The vendors agree to provide the contracted goods and services at a specified cost over the length of the contract. This agreement allows CNP Program operators, state prisons, libraries, private schools, and other institutions to purchase off these contracts without having to separately bid for these items.

**Question: What purchasing group most closely aligns with this scenario?**

**Answer:** Third-party entity - Inter-agency agreement

**Question: What are the purchasing responsibilities of the purchasing group you identified?**

**Answer:**

- Entering into an inter-agency agreement is not a competitive procurement process.
- Members mutually develop and publish solicitations for common goods and services.
- Allows SFAs to purchase from the consortium's contracted sources.
- SFAs may consider the price for the consortium's contracted sources as **one source** when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids or competitive proposals.
- SFAs must ensure that their procurements follow purchasing procedures consistent with 7 CFR 210.21 and 2 CFR 200.318-.326.

## Characteristics and Procurement Requirements of Purchasing Groups Worksheet Answer Key, continued

### Scenario: The Northwest Cherry State Department of Education (NCSDE)

The Northwest Cherry State Department of Education (NCSDE), which administers the Child Nutrition Programs, oversees a statewide purchase program for food and supplies. NCSDE competitively solicits bids for various items and issues a bid list which includes authorized vendors and fixed prices for items. All CNP Program operators can order products from this bid list. This process saves time for the Program operators and results in the reduced cost of food and supplies due to volume purchasing.

### Question: What purchasing group most closely aligns with this scenario?

**Answer:** CNP State agency cooperative agreement

### Question: What are the purchasing responsibilities of the purchasing group you identified?

**Answer:**

- Joining such a cooperative does not require competition;
- SFAs agree to competitively procure goods and services jointly using the Program and government-wide regulations at 7 CFR 210.21 and 2 CFR 200.318-.326, respectively;
- If product is not purchased by cooperative or not available from procured source, SFA must conduct separate competitive procurement procedures.

## Characteristics and Procurement Requirements of Purchasing Groups Worksheet Answer Key, continued

### Scenario: New Peach SFA

After analyzing its resources, New Peach SFA determined that it didn't have the expertise or time to conduct a proper procurement for its food for the school year. It competitively procured the services of JJ's Procurement Company for the purchase of all necessary food and supplies. JJ's is contractually required to conduct all competitive procurement processes in accordance with Federal regulations while keeping the SFA's interests solely in mind.

**Question: What purchasing group most closely aligns with this scenario?**

**Answer:** Agent

**Question: What are the purchasing responsibilities of the purchasing group you identified?**

**Answer:**

- Agent must be selected through competitive procurement based on anticipated agent fee;
- Agent fees must be a fixed fee, not a percentage of cost;
- Agents must follow purchasing procedures consistent with 7 CFR 210.21 and 2 CFR 200.318-.326;
- Agent must have SFA's best interest in mind;
- Agent must not have any conflict of interest;
- SFAs must monitor contractor (agent's) performance.

## Characteristics and Procurement Requirements of Purchasing Groups Worksheet Answer Key, continued

### Scenario: South Apple SFA

After using the small purchase procedures, the South Apple SFA contracted with Big Savings Buyer's Club to take advantage of Big Savings' huge buying power. Big Savings provides its services to CNP and non-Program operators such as public and private schools, hospitals, and universities. Big Savings helps manage the issuance of bid packages/requests for proposals and the award of contracts. The SFA pays a minimal annual membership fee to Big Savings for access to its price list of products and services.

**Question: What purchasing group most closely aligns with this scenario?**

**Answer:** Third-party entity - Group Purchasing Organization

**Question: Which entity is responsible for conducting the procurement activities?**

**Answer:**

- GPO must be selected through competitive procurement using the applicable procurement procedures based on the membership fee;
- Typically includes a membership fee paid by members to cover administrative costs and gain access to price lists; and
- SFAs may consider the price for the GPO's contracted sources as **one source** when the SFA conducts a competitive procurement process using micro- or small purchase procedures, sealed bids or competitive proposals.

## Consensus Exercise Worksheet Answer Key

**Instructions:** Review the discussion topics and as a group, provide the group's agreed upon responses.

### **Discussion Topic: Non-Domestic Products**

Your SFA belongs to a cooperative purchasing group. When visually inspecting their SFA's storage units, a staff-member reports that there are several non-domestic products on the shelf. What should the SFA do?

### **ANSWER:**

The SFA should review the cooperative purchasing group's solicitation and determine if the non-domestic products have been competitively procured. The SFA should notify the administrator of the group and other SFAs that belong to the purchasing group in writing of the inconsistencies. The SFA should also request a copy of any documentation approving the non-domestic food.

### **Discussion Topic: Vendor**

A potential vendor has offered to provide the cooperative purchasing group funds for some of the members to attend a national conference. The vendor has not indicated how the funding should be dispersed among the members. The members of the group determine they would provide small scholarships to 15 of their members. Members would need to apply for the scholarship and the applications would be reviewed by members of the group. What actions should be taken or is this action appropriate? Justify your response.

## Consensus Exercise Worksheet Answer Key, continued

**ANSWER:**

The administrator of the cooperative purchasing group should provide a written response and decline the potential vendor's offer. This offer is considered a gift, prohibited by the written code of conduct for all SFAs, and may create a conflict of interest when future procurement procedures are conducted.

**Discussion Topic: Pizza**

The cooperative purchasing group is reviewing the current solicitation and notices there are 15 different types of pizza. In preparation for the next year's solicitation, what should be done?

**ANSWER:**

The members should come together and determine ways to reduce the number of pizza choices to achieve the most economical product(s) and price(s). The members should consider a way to screen the products and reduce the current variety of pizza choices.











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