# PROCUREMENT BACKGROUND

Procurement is the multistep process for acquiring the best possible goods and services at the lowest possible price. All purchases, whether funded wholly or in part with School Nutrition Program funds, must be conducted according to federal and state procurement requirements. State and federal laws and regulations require all procurements to be conducted in a manner that promotes full and open competition (7 CFR 210.21 and 2 CFR 200.319[a]).

While all PINCO Member Districts are required to have a written procurement plan, procedures, and a written code of conduct as Program Operators, PINCO has established the following procurement plan to addressing the procurement activities it takes on behalf of its Members under the PINCO J.P.A.. The plan identifies the procurement methods used for the various products and services procured, steps for staff to follow, and who is responsible for each procurement option and activity. Each district/entity is responsible for developing their own plan and procedures based on their facility operation.

# FOUR FUNDAMENTAL PRINCIPLES OF PROCUREMENT

When making procurement decisions, **the Partners in Nutrition Cooperative** (**PINCO)** will follow the subsequent four fundamental principles:

1. Buy American provision, which requires schools to purchase domestically grown and processed foods to the maximum extent practicable.
2. State and local regulations may be more restrictive than federal policies. If a state or local threshold is more restrictive, it always supersedes the federal threshold. Local governments and school district/entities may set even more restrictive thresholds.
3. Full and open competition means free of factors that inhibit competition. All potential suppliers are on a level playing field and have the opportunity to compete based on a known set of standards.
4. Responsible and responsive vendors. To be considered responsive, vendors must conform to all **PINCO** stated terms and conditions outlined in the solicitation. For example, if **PINCO** issues a solicitation for apples and the vendor responds with a bid for peaches, the vendor is not responsive. To be considered responsible, vendors must be capable of performing successfully under the terms and conditions of the contract. For example, if **PINCO** requires that responders provide evidence of past success in meeting delivery times and, upon calling the responder’s references, learns that the vendor has a poor track record regarding on-time deliveries, the vendor would not be considered responsible.

# FEDERAL, STATE AND LOCAL REGULATIONS AND PROCUREMENT POLICIES

Federal, state, and local regulations and policies provide the framework through which **PINCO** procures food, supplies, and services. Proper procurement practices are transparent to all and ensure fairness and integrity.

* 2 CFR Part 200— **http://www.ecfr.gov/cgi-bin/textidx?SID=c02171045f1dc3e1bdd3857 b7194ddf8&node=2:1.1.2.2.1&rgn=div5#2:1.1.2.2.1.6.49.15:**

• Sections 200.317–200.326—Procurement standards

• Section 200.324—State authority

• Section 200.318—Requires all CNP sponsors to establish procurement procedures

* 7 CFR Part 210 **— http://www.ecfr.gov/cgi-bin/text-idx?SID=6d66e43b40d0a023a4a37 fe456 2861a9&mc=true&node=pt7.4.210&rgn=div5**

• Section 210.16—Food service management companies

• Section 210.19—State agency requirements

• Section 210.21—Procurement standards NSLP

* 7 CFR Part 226— **http://www.ecfr.gov/cgi-bin/text-idx?SID=6d66e43b40d0a023a4a37 fe4562861a9&mc=true&node=pt7.4.226&rgn=div5:**

• Sections 226.21, 226.22, and 226.6 (j)— guidance on food service management companies and procurement standards and provisions Child And Adult Care Food Program

* 7 CFR Part 225— **http://www.ecfr.gov/cgi-bin/text-idx?SID=3b3974c2464d8f60d824bf 732e36336a&mc=true&node=pt7.4.225&rgn=div5:**

• Sections 225.17—Procurement standards Summer Food Service Program

**California Education Code**

• Sections 45103, 45103.1,and 45103.5—District/entity employment practices

**California Public Contract Code**

• Sections 20110-20118—includes regulations for contracts awarded by school district/entities subject to Part 21 (commencing with Section 35000) of Division 3 of Title 2 of the EC

# PINCO PROCUREMENT PROCESS

All procurement transactions must be conducted in a manner that provides full and open competition consistent with procurement standards. Full and open competition means that all suppliers are on a level playing field and thereby have the same opportunity to compete. Fairness and integrity in all aspects of the procurement process are critical to achieving full and open competition. Competition is essential to ensure low cost and quality goods and services for **PINCO**.

## RESTRICTIVE COMPETITION GUIDELINES

The following are examples of what is considered restrictive competition, which **PINCO** will avoid:

• Placing unreasonable requirements on vendors in order for them to qualify to do business (i.e., must have at least two drivers at all times when delivering the food),

• Having organizational conflicts of interest (i.e., vendor is son of school nutrition director),

• Having unnecessary bonding and experience requirements (i.e., vendor must be in business for a minimum of ten years), and

• Specifying only a brand name product instead of allowing a preapproved equal product to be offered (i.e., will only accept XYZ broccoli spears).

## BASIC PROCUREMENT PROCESS STEPS

**PINCO** shall continuously refer to the following basic steps in the procurement process:

• Planning—this step includes a needs assessment, forecasting, and budgeting. **PINCO** shall utilize these steps when making procurement plans and procedures for program needs. **PINCO** shall be able to answer the following questions:

✓ What goods or services are needed.

✓ Are these goods or services available for purchase?

✓ Will delivery be necessary?

✓ When and where are they needed?

✓ How much is needed?

* Determining threshold—what method of procurement is needed for the goods or services.
* Cost/Price Analysis- As a form of cost/price analysis, PINCO uses historical data (such as prior year invoices) to develop projections and budgets prior to solicitation. PINCO will conduct a pricing survey for goods and/or services to determine the value of the solicitation prior to posting.

• Drafting specifications—this documentation shall include all the details such as descriptions, and requirements for goods or services.

• Advertising a solicitation—once drafted, **PINCO** will provide this information to potential vendors (farmers, vendors, distributors, or other businesses) who might be able to fulfill **PINCO**’s needs as described. **PINCO** shall follow the requirements as indicated for formal or informal procurement options.

• Evaluating and awarding a contract— **PINCO** shall establish evaluating criteria and then award to the most responsive and responsible bidder(s) who is able to meet **PINCO**’s needs and provide the goods and services as described. PINCO’s current method of evaluation of award is the Co-Operative’s Best Value Scoring matrix.

• Managing the contract—once awarded, **PINCO** shall continue to manage and document the contract to ensure that everything is provided according to the specifications and contract terms.

## DUTIES AND RESPONSIBILITIES

Unless otherwise noted, the **PINCO President (or designee)** oversees the procurement process for **PINCO~~.~~** The **PINCO President (or designee)** may utilize **PINCO** staff throughout the procurement process as needed, and within employee job duties, however, the **PINCO President (or designee)** maintains the final responsibility and authority for the **PINCO** procurement process.

**PROCUREMENT OPTIONS CHART**

Refer to the procurement chart below for an overview of the different procurement options.

# INFORMAL PROCUREMENT OPTIONS

## **MICRO-PURCHASES**

The micro-purchase option is for purchases where the aggregate value in a single transaction is under $50,000. This enables **PINCO** to purchase supplies or services without soliciting competitive quotes, if the **PINCO** considers the price reasonable. **PINCO** may purchase products and services (similar or dissimilar purchased at once as a single, collective unit) whose aggregate cost does not exceed $50,000 in a single transaction. **The micro-purchase threshold is subject to adjustments due to inflation.** **PINCO** will comply with the **Micro-Purchases threshold in force at the time of the purchase.**

**PINCO** utilizes the **MICRO-PURCHASES** option when purchasing items such as **supplies and equipment** that fall below the purchase threshold. The **PINCO President (or designee)** utilizes various sources to insure gaining best pricing and quality. **PINCO** utilizes **Infinite Visions** as an online ordering option for some supplies, office supplies and equipment. **Infinite Visions** services educational institutions and provides access to quality products at discount pricing utilizing volume buying power.

The **PINCO President (or designee)** also utilizes a network of other School District/entity Food Service Department personnel to obtain vendor contact information that allows distribution of Micro-Purchases among qualified sources, as well as obtaining feedback regarding service and product quality for possible vendors. Where possible, and when all other factors are equal, **PINCO** will try to use local vendors.

The **PINCO President (or designee)** also utilizes the internet as a source to find the best possible pricing for the same or like objects available from other sources where such purchases adhere to ~~the~~ **PINCO Purchase Card Policies and Procedures.**

The **PINCO President (or designee)** may contact sources online (through online messaging), by telephone, by email or in person.

The determination that the price is reasonable and documentation for the purchases will be included in a procurement file.

Purchases must be made using the **PINCO** purchase order process unless otherwise authorized through alternative methods such as Purchase Card or Employee Reimbursement.

## **SMALL PURCHASES**

The small purchase option is for securing services, supplies, or property that may be used when the anticipated acquisition will fall below the small purchase threshold. State and local regulations often set lower small purchase thresholds that are more restrictive than the federal level. In applying the small purchase threshold, **PINCO** must adhere to the most restrictive, lowest limit set. Current small-purchase threshold amounts are:

Federal—$250,000 State- Follows Federal Local—Varies

The California small-purchase threshold, effective January 1, is adjusted annually and published in the Bid Threshold Adjustment letter, which is available on the CDE Correspondence Web page at **http://www.cde.ca.gov/fg/ac/co/**.

**PINCO** will use the **SMALL PURCHASES** option when anticipated acquisition will fall below the most restrictive small purchase threshold.

The **PINCO President (or designee)** shall obtain price or rate quotations from an adequate number of qualified sources. The **PINCO President (or designee)** may utilize a network of other School District/entity Food Service Department personnel to obtain vendor contact information to insure an adequate number of qualified sources, as well as to obtain feedback regarding service and product quality for possible vendors.

It is not necessary to publish a written solicitation when using the informal procurement method.

**PINCO** will have written specifications to solicit quotes.

Written Specifications will contain all pertinent information necessary to meet the needs of ~~the~~ **PINCO** This may include any of the following:

* Acceptable format for submitting Pricing Quotes (Mail, E-Mail, In Person etc.)
* Date and Time Pricing Quotes must be received
* Delivery day(s) and time(s) for product(s)
* Supply of Product Formulation Sheets, Nutritional Specification Sheets, CN Labels for Food Items
* Receipt left at delivery site for items such as Bread, Rolls etc..
* Quality and freshness of product and containers that house said products
* Equipment Specifications and delivery and set up options if needed
* Any other information, terms or conditions ~~the~~ **PINCO** deems necessary to meet Department needs

The **PINCO President (or designee)** will document to ensure that each vendor contacted receives identical information and that **PINCO** can verify who was contacted for quotes.

Identical Specifications to solicit pricing or rate quotes information will be sent to potential vendors in **written form** to insure conformity.

The Specifications to solicit pricing or rate quotes may be sent via email or postal mail or hand delivered.

Specifications to solicit pricing or rate quotes information will be kept in a file at the **Food Service Office** as well as vendor response and any reasoning for choosing a vendor if the price was not the lowest submitted quote. The information in this file will be used as a reference for any and all future solicitations for the same or like items that the listed vendors may be able to provide.

# FORMAL PROCUREMENT OPTIONS

Formal procurement options are used when the contract value is **at or above** the small purchase threshold. The formal procurement options are more rigorous and publicized more widely. **PINCO must post a public advertisement in a newspaper of general circulation when following the formal procurement option**. **The advertisement must run for two consecutive weeks, one week apart** (California PCC, section 20110–20118). **PINCO** may also post the bid on trade Web sites.

In addition, **PINCO** may post the advertisement to their Web site. **PINCO** may also contact other companies by phone or e-mail that provide the goods or services the agency is seeking to solicit bids. **PINCO** may also contact other School District/entity Food Service personnel to obtain a list of possible qualified solicitors. **PINCO may not enter into a contract with a party that provides information that assists PINCO’s development of a solicitation for a contract that said party plans on submitting a Formal Bid or Proposal.**

**PINCO** requires that all rebates, discounts, and other applicable credits be returned to **PINCO.**

## COMPETETIVE SEALED BIDDING

An Invitation for Bid (IFB) is a type of solicitation used when the primary consideration is cost and the expectation is that competitive bids will be received and an award will be made to the responsive and responsible respondent whose publicly opened bid is lowest in price, or based on scoring from a **Best Value Point System**. An IFB describes in detail the services or products required and award the contract to the lowest responsive, responsible bidder or based on scoring from a **Best Value Point System**.

A **Best Value Point System** may be used for Food Products. The **Best Value Point System** scoring must be detailed in the Invitation for Bid. A **Best Value Point System** may contain tiered scoring criteria that include categories such as: **Cost, Flavor & Quality, Past Performance and Reliability, and Reasonable Minimums and Delivery Days and Times.** A description of the Scoring System will be included in the IFB which will explain scoring criteria for each category.

IFBs are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price or based on scoring from a **Best Value Point System**.

1. The following conditions should be present:
2. A complete, adequate, and realistic specification or purchase description is available;
3. Two or more responsible bidders are willing and able to compete effectively and for the business; and
4. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price or based on scoring from the **PINCO** **Best Value Point System**.
5. The following requirements apply:
6. The IFBs will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
7. The IFBs, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
8. All bids will be publicly opened at the time and place prescribed in the IFB;
9. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder or based on scoring from the **PINCO Best Value Point System**. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of;
10. Parties that have been debarred or suspended cannot be awarded a contract;
11. Any or all bids may be rejected if there is a sound documented reason; and
12. Bid Protests may be filed in accordance with Bid Protest language contained in the IFB.

The **PINCO President (or designee)** shall prepare all Bid Documents and compile them into a Bid Packet.

The Bid shall specify the acceptable format for submitting the Bid as well as the Bid deadline.

The Bid shall also list the Date, Time and Location that bids will be opened. Bid opening is open to the public. The **PINCO President (or designee)** will open the submitted Bids and total the Bids and/or score them based on the **PINCO Best Value Point System**.

The **PINCO President (or designee)** will award the Bid to the responsive and responsible respondent whose publicly opened bid is lowest in price, or based on scoring from the **PINCO** **Best Value Point System**.

All Bid documents are kept on file in the Food Service Department office for a minimum of three years plus the current year.

## COMPETETIVE PROPOSALS

A Request for Proposal (RFP) is also a formal procurement option. The RFP describes in a general way what is needed and requests that vendors submit a proposal for servicing the needs of the district/entity. The RFPs require the prospective vendor to submit a technical proposal that explains how they will meet the objectives of the solicitation document and a cost element that identifies the costs to accomplish their proposal. The RFP is used when price, while still the major consideration is only one of the evaluation criteria used to determine the best products or services that meet the specifications. The RFP allows for negotiations and evaluation criteria to obtain the best value for the price.

RFPs are used when two or more bidders that are responsible, willing, and able to submit an offer. Either a fixed-price or cost-reimbursement type contract is awarded.

The following requirements apply:

* Requests for proposals are publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
* Proposals are solicited from an adequate number of qualified vendors;
* SFAs have a method for conducting technical evaluations of the proposals received and for selecting awardees; and
* Awards are made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered, but with the lowest cost/price as the primary factor.
* When developing an RFP, **PINCO** shall include:
* The anticipated terms and conditions of the contract
* A date, time, and place for proposal submission
* An explanation of what information and documents the respondent must include in their proposal
* A description of how technical and cost factors will be evaluated in making final determinations
* A statement whether the contract is fixed-price or cost-reimbursable
* A statement that the award will be made, on the basis of price and other factors, to the responsive and responsible firm or individual whose bid is most advantageous to the LEA
* A statement of how value-added services and pricing (rebates. discounts) would be applied in the vetting process.

The goal of both the competitive sealed bidding (IFB) and competitive proposals (RFP) methods is to obtain the best-valued product at the lowest price. **To be considered responsive, a vendor/bidder must submit a response to the IFB or RFP that conforms to all material terms and conditions of the solicitation.**

**MARKET BASKET ANALYSIS**

When soliciting for items and/or services from a third-party vendor(s), PINCO may elect to use a market Basket analysis to determine the most responsive, responsible bidder.

Market basket analysis allows a program operator to review bids using an established, representative sample of goods and use this subset of prices to award a contract as long as the published solicitation includes language that allows for this type of an evaluation. Using this analysis, PINCO identifies and assesses pricing on the aggregate value of 75% or more of the estimated value of the contract to be awarded. PINCO will address the Market Basket Analysis and the corresponding scoring matrix in all solicitations where the practice is followed. When using a market basket analysis, the program operator must obtain pricing for the remaining listed goods (25% or less) that were not included in the market basket analysis prior to the final award. The pricing of these miscellaneous goods must be reasonable.

The total value of all additional goods and quantities of listed goods that exceed estimated quantities may not exceed the limit specified in the solicitation and contract; PINCO establishes this threshold at 10% of the estimated value of the contract at the beginning of the contract year.

If the contract allows a renewal option and the renewal is approved as established in the original contract, then upon renewal, any goods added to the contract must be included in a contract amendment. PINCO shall request velocity report(s) from vendors twice per year to verify the value of the contract is being honored.

For each year of a renewed contract, a new basis for contract value, *including the actual expenditures of the previous year, plus the value of the additional items*, shall be established. Likewise, actual expenditures that fall below the initial estimated value of the contract could potentially result in a lower contract value in subsequent contract years.

**NONCOMPETETIVE PROPOSALS**

Noncompetitive proposal is a procurement method used when competition is deemed inadequate or impossible, or the public need is urgent or an emergency. **Negotiations must include both price and terms using the same procedures that would be followed for competitive proposals**.

Procurement by noncompetitive proposals may be used **only** when the award of a contract is infeasible under small purchase procedures, sealed solicitations, or competitive proposals and one of the following circumstances applies or when USDA and/or CDE implement flexibilities based on supply-chain or CDC guidance.

• The item is available only from a single source.

• The public urgency or emergency for the requirement will not permit a delay resulting from competitive solicitation.

• The state agency authorizes noncompetitive proposals in response to a written request from SFA.

• After solicitation of a number of sources, competition is determined inadequate

All noncompetitive proposal requests must be submitted by e-mail to [SFSCONTRACTS@cde.ca.gov](mailto:SFSCONTRACTS@cde.ca.gov).

Subject line must include:

• Request to award using noncompetitive proposals

Body of e-mail must include, at a minimum:

1. A history of the procurement, to include:
2. Prior solicitations released, and their result
3. Market research accomplished
4. An explanation of why the request is necessary based on the criteria set by 2 CFR 200.320(d). The explanation must not just state that “a sole source was found,” or “a public urgency exists,” but must detail why the criteria is met.
5. A plan to avoid future noncompetitive proposals for the same good or service, if avoidance is feasible.
6. Full contact information for the SFA’s procurement officer requesting the approval, and vendors contacted and/or solicited.

## COOPERATIVE PURCHASING GROUPS

Cooperative purchasing occurs when groups of people or entities join to accomplish all or part of the steps in the purchasing process. Cooperative purchasing is a system aimed at using group purchasing in an effort to increase buying power, reduce costs, and improve the quality of products and services available to members. The purpose of a cooperative purchasing group is to use the collective buying power and expertise of the group to obtain the highest quality products at the best price.

The PINCO Co-Op adheres to proper Procurement Processes. PINCO’s Procurement falls under the job duties of the PINCO President, who is employed by the PINCO Lead District.

For more information, refer to the ICN Procurement in the 21st Century located at [**http://www.nfsmi.org/ResourceOverview.aspx?ID=475**](http://www.nfsmi.org/ResourceOverview.aspx?ID=475)**.**

# GEOGRAPHIC PREFERENCES

**PINCO** will include language that includes Geographic Preference in appropriate solicitations for products. Geographic Preference will adhere to the National School Lunch Act (NSLA) guidelines, as listed in the paragraphs below. Geographic Preference can be a tool of assessment where appropriate, but cannot be so restrictive as to eliminate competitive proposals from multiple vendors or give preferential treatment to a specific vendor.

The NSLA allows SFAs receiving funds through the CNPs to apply a geographic preference when procuring unprocessed, locally grown, or locally raised agricultural products. The geographic preference rule does not apply to any products that have been cooked, heated, canned or that have any additives or fillers. It can be applied to a wide array of products that meet the definition of unprocessed or minimally processed, such as various forms of fruits, vegetables, meats, fish, poultry, dairy, eggs, and grains. (NSLA, 42 United States Code, Section 1758[j])

While this statute permits SFAs to apply a geographic preference to the maximum extent feasible and appropriate, it does not require them to purchase locally grown and locally raised agricultural products or to apply a geographic preference in their procurements of these products. The SFA responsible for the procurement has discretion to determine whether and how a geographic preference meets its needs (e.g., state, county region, etc.). New standards for food preservation techniques that are now acceptable for geographic preference include:

• Cooling, refrigerating, and freezing

• Peeling, slicing, dicing, cutting, chopping, shucking, and grinding

• Drying and dehydrating

• Washing

• High water pressure washing or cold pasteurizing

• Packaging (i.e., eggs in cartons), vacuum packing, and bagging

• Butchering livestock, fish, and poultry

• Pasteurizing milk

Note: Milk served in the SNPs must be pasteurized and meet state and local standards. Pasteurized milk is the only dairy product for which geographic preference may be applied.

The application of geographic preference does not eliminate the requirement for procurement to be conducted in a manner that allows full and open competition, consistent with the sponsor’s responsibility to be good stewards of federal funds. Geographic preference is meant to offer a defined advantage to products meeting a district/entity’s definition of local, but should not be seen as a guaranteed or sole requirement in the specification.

Refer to MB USDA-SNP-13-2009 Applying Geographic Preferences in Procurement located on CDE Web page at **http://www.cde.ca.gov/ls/nu/sn/mbusdasnp132009.asp.**

Guidance and information on Geographic Preference and examples of how to use it is located on the USDA Web page at [**http://www.fns.usda.gov/sites/default/files/F2S\_geo\_pref.pdf**](http://www.fns.usda.gov/sites/default/files/F2S_geo_pref.pdf)**.**

**BUY AMERICAN PROVISION**

PINCO participates in meal programs that require the use of nonprofit school food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A ‘domestic commodity or product’ is defined as one that is either produced in the U.S. or is processed in the U. S. substantially (51 percent or more by weight or volume) using agricultural commodities that are produced in the U. S. as provided in 7 CFR, sections 210.21(d) and 220.16(d). PINCO Vendors must submit certification statements for all processed agricultural products. The respondent must provide written documentation to the PINCO at the time of delivery for each processed agricultural product certifying that the food product was processed 100 percent domestically and that the percentage of domestic content in the food component of the processed food product is over 51 percent, by weight or volume.

OR

Request PINCO approval prior to delivering a nondomestic agricultural commodity or product. If the respondent cannot comply with #1 above, the respondent must notify the PINCO in writing 10 days prior to delivering a nondomestic agricultural commodity or product. This written notification must include the following:

a) Whether the request to deliver a nondomestic food is because the product is not produced or manufactured domestically in sufficient and reasonably available quantities of a satisfactory quality, or competitive bids reveal the costs of a domestic product are significantly higher than the nondomestic product.

b) The pricing of both domestic and nondomestic products and/or availability data to justify the use of one of the two allowable exceptions; PINCO’s cost threshold for the allowable exception in use of non-domestic products is 25%.

c) A list of alternative domestic substitutes for the PINCO to consider for delivery instead of the nondomestic agricultural product.

**TERMINATION CLAUSE**

PINCO furnishes the following information in its solicitations in the event a vendor fails to honor the terms and conditions under agreement:

Either party may cancel for cause with a 60-day notification if either party breaches a provision of this Contract (7 *CFR*, sections 210.16[d] and 250.12[f][9]). The non-breaching party shall give the other party notice of such cause. If the cause is not remedied within 10 days, the non-breaching party shall give a 60-day notice to the breaching party of their intent to terminate this Contract upon expiration of the 60-day period. This Contract may be terminated, in whole or in part, for convenience by the SFA with the consent of the FSMC, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated (2 *CFR*, Section 200.339[a][3]). The Contract may also be terminated, in whole or in part, by the FSMC upon written notification to the SFA, setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, in the case of a partial termination, if the SFA determines that the remaining portion of the Contract will not accomplish the purposes for which the Contract was made, the SFA may terminate the Contract in its entirety (2 *CFR*, Section 200.339[a][4]). The rights of termination referred to in this Contract are not intended to be exclusive and are in addition to any other rights or remedies available to either party at law or in equity.

**CODE OF CONDUCT**

In accordance with the general procurement standards in Title 2, Code of Federal Regulations (2 CFR), Section 200.318(c), the Partners In Nutrition Cooperative (PINCO) has developed written standards of conduct to ensure no violation of regulations and to limit potential personal and organizational conflicts of interest. The following written standards govern the actions of PINCO employees, Officers and Member Districts engaged in the selection, award and administration of contracts funded by federal awards. The aforementioned shall be bound by the following code and shall:

1. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications;
2. Diligently follow all lawful instructions while using professional judgment, reasonable care, and exercising only the authority granted;
3. Conduct all purchasing activities in accordance with the laws, while remaining alert to and advising PINCO Member Districts regarding the legal ramifications of the purchasing decisions;
4. Refrain from any private or professional activity that would create a conflict between personal interests and the interests of PINCO;
5. Identify and strive to eliminate participation of any individual in operational situations where a conflict of interest may be involved;
6. Never solicit or accept money, loans, credits, or prejudicial discounts, and avoid the acceptance of gifts, entertainment, favors, or services from present or potential suppliers which might influence or appear to influence purchasing decisions;
7. Promote positive supplier relationships through impartiality in all phases of the purchasing cycle;
8. Display the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the public being served;
9. Ensures, to the maximum extent possible, that domestically produced and processed (Buy American) foods are purchased?
10. Geographical preference may not be so restrictive as to limit the number of qualified firms that may compete for the contract.
11. Provide an environment where all business concerns, large or small, majority­ or minority-owned, are afforded an equal opportunity to compete for PINCO’s business; and
12. Enhance the proficiency and stature of the purchasing profession by adhering to the highest standards of ethical behavior for the good of the cooperative and its Member Districts.

Approved December 6, 2017

Revised December 28, 2022