

3016.60 Special procurement provisions

(a) Notwithstanding Sec. 3016.36(a) and 3016.37(a), States conducting procurements under grants or subgrants under the USDA entitlement programs specified in Sec. 3016.4(b) may elect to follow either the State laws, policies, and procedures as authorized by Sec. 3016.36(a) and 3016.37(a), or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with Sec. 3016.36(b) through (i). Regardless of the option selected, States shall ensure that paragraphs (b) and (c) of this section are followed

(b) When conducting a procurement under the USDA entitlement programs specified in Sec. 3016.4(b) of this part, a grantee or subgrantee may enter into a contract with a party that has provided specification information to the grantee or subgrantee for the grantee's or subgrantee's use in developing contract specifications for conducting such a procurement. In order to ensure objective contractor performance and eliminate unfair competitive advantage, however, a person that develops or drafts specifications, requirements,

statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by a grantee or subgrantee in conducting a procurement under the USDA entitlement programs specified in Sec. 3016.4(b) shall be excluded from competing for such procurements. Such persons are ineligible for contract awards resulting from such procurements regardless of the procurement method used.

However, prospective contractors may provide grantees or subgrantees with specification information related to a procurement and still compete for the procurement if the grantee or subgrantee, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement.

(c) Procurements under USDA entitlement programs specified in Sec. 3016.4(b) shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences except as provided for in Sec. 3016.36(c)(2).