



COLORADO DEPARTMENT OF EDUCATION

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MEMORANDUM

CN01-G-008

TO: Superintendents, Food Service Directors

FROM: Dan C. McMillan, Director, Nutrition/Transportation Unit - 303.866.6661

DATE: June 6, 2001

SUBJECT: Update to Federal Procurement Standards

The U. S. Department of Agriculture (USDA) has published a revision to the consolidated regulations that cover procurement activities for Child Nutrition Programs (7 CFR Part 3016). The following changes/clarifications should be noted, and apply to any procurements initiated July 1, 2001 and thereafter.

Procurement Standards Change Summary:

1. Districts are now allowed to utilize their own local procurement procedures, as long as they are not in conflict with, or less stringent than, those federal requirements stipulated in 3016.36 (b - i). These requirements are included as an attachment to this memorandum. It is your responsibility to compare your local procedures to the federal requirements, and make any necessary conforming changes to your procedures. At your option, you may default to the federal requirements.

The maximum "Small Purchase Threshold," that level at which you must use formal procurement procedures (formal sealed bids, advertising, etc.), has been increased from \$10,000 to \$100,000. Your district must use the federal threshold level, or the locally established threshold level, whichever is lower. Typically, the local level will be lower.

2. Section 3016.60(b) excludes any 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 USDA entitlement programs from competing for contract awards resulting from that procurement, regardless of the procurement method used.

Specifically, a program operator may not engage a contractor to actually write the bid or proposal terms, product specifications, procurement procedures, contract terms, etc., and then consider this same contractor for the resulting contract award.

Program operators must conduct their procurements under the USDA entitlement programs in a manner that avoids any appearances of, or actual, conflicts of interest. This provision (#2) applies to all procurements, regardless of the dollar amount.

3. Section 3016.60(c) prohibits the use of statutorily or administratively imposed in-state or local geographical preferences except when procuring certain architectural or engineering services.

Geographical preference in procurement entails the use of procedures that give bidders and offerors a competitive advantage based solely on their location within the territory of the procuring entity. For example, a State's procurement rules may require that an out-of-state bidder's bid be surcharged a prescribed percentage, or that a bid submitted by a firm located within the state be discounted a prescribed percentage, for price comparison purposes. Such practices are inherently anti-competitive.

It should be noted that this prohibition would include any local board policies or local procedures that favor procurement from local community businesses. These practices must be discontinued. This, of course, does not preclude these local businesses from responding to bid or price quote requests.

This provision (#3) applies to all procurements, regardless of the dollar amount.

If you have any questions, please contact our office.

Encl: 7 CFR Part 3016.36 (b-i) ; 3016.60 (b-c)