



HNS # 04-2024

Original Signed

MEMORANDUM

To: School Food Authorities Operating the National School Lunch Program (NSLP)

From: Melissa Conner, Senior Deputy Associate Superintendent
Arizona Department of Education, Health and Nutrition Services Division

Date: May 6, 2024

Subject: Supply Chain Assistance Funds – Supplemental Guidance for Contracted Food Service

The purpose of this memorandum is to provide clarification on the use of Supply Chain Assistance (SCA) funds when a School Food Authority (SFA) has procured school meal services through a Food Service Management Company (FSMC) or a Catering vendor, and that utilizes a fixed-price contract for these services. The clarification and guidance provided by Arizona Department of Education, Health and Nutrition Services (HNS) aligns with SCA funds policy and guidance provided by the United States Department of Agriculture (USDA) Food and Nutrition Services (FNS) for Child Nutrition Programs.

Allowable Usage of SCA Funds

SCA funds must be used exclusively to purchase domestic food products that are unprocessed or minimally processed for the National School Lunch Program (NSLP) and/or School Breakfast Program (SBP), including Seamless Summer Option. Examples of some allowable food products include fluid milk and other dairy foods such as cheese and yogurt; fruits and vegetables (including 100% juices); grain products such as pasta and rice; meats (whole, pieces, or food items such as ground meats); and meat alternates such as beans or legumes. Foods in various minimal processing states (e.g., whole, cut, pureed, etc.) and forms (e.g., fresh, frozen, canned, dried, etc.) are allowable. Funds may not be used for labor, supplies, or administrative expenses.

SCA funds may be accepted by SFAs that have a fixed-price contract for vended meal services or who use a FSMC, however, the terms outlined in the FSMC, or Caterer vended meals contract remain in effect. The SFA's procurement of vended meal services that results in a contract with a fixed-price per meal, permits the SFA to operate and provide payment against invoices based on the agreed-upon terms for the per meal price. SFAs who opt-in to receive SCA funds, may then elect to use the funds to make payments to their contracted vendor in conjunction with the performance of the contract. It is incumbent on the SFA to ensure that such payments include charges for minimally processed domestic foods at least equal to the amount of SCA funds used to pay the invoices. Further, the procurement conducted for a fixed-price contract would not permit the SFA to pay a vendor above the contracted amounts. Paying

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the contracted vendor above the per-meal rate is a violation of 2 CFR 200 Subpart D. SFAs cannot pay vendors or FSMCs any amount above the negotiated contract price.

SFAs are not required to provide SCA funds to their contracted vendor. SFAs retain the ability to purchase allowable food items outside of their vendor or food service management contract, as long as the contract permits such. As with all purchases utilizing federal funds, the SFA must ensure compliant procurement policies and procedures are utilized.

Below is an example of what is permitted and what would be a contract and procurement violation. In the month of April, records from the SFA provide evidence that 1,500 lunches were served under a contract with a vendor at an established lunch rate of \$4.95. The SFA is permitted to pay the month of April's invoice of \$7,245.00. (1,500 x \$4.95).

- A portion of this example invoice for April's 1,500 meals at \$7,245.00 *may* be paid by the SFA with the SFA's SCA funds, however, the SFA must obtain documentation from the contracted vendor that details the purchase of minimally processed domestic foods specifically used in meals provided for the current invoice period for the SFA.
 - An invoice showing 1,500 containers of 8 fluid ounces of fluid milk at \$0.25/each for a total of \$375.00 would support providing the contracted vendor with \$375.00 of SCA funds and this would leave a remaining balance of \$6,870.00 for the April invoice to be paid with non-SCA funds.
- For this example, a payment by the SFA to the contracted vendor in excess of \$7,245.00 is not allowed and is considered a procurement violation.

Documentation to Support Use of SCA Funds

It is expected that all documentation associated with SCA funding will be available upon request. At a minimum, documentation should consist of invoices for minimally processed domestic foods purchased in the performance of the contract and that align to menus for the SFA.

Price Adjustments and Amendments to Contracts

SFAs must review in their executed contracts, the terms regarding amendments. Based on ADE's prototype contracts, most SFA-FSMC and SFA-Caterer contracts specify that prices shall be firm for the term of the contract and that written requests for price adjustments must be made at least ninety calendar days in advance of any desired price increase.

7 CFR 210.19(a)(5) requires State agencies to annually review and approve each contract, and contract amendment (including all supporting documentation), between any school food authority and food service management company before the implementation of the contract by either party. Additionally, each year the contract is to be renewed, the State agency shall review the SFA-FSMC contract renewal prior to execution by either party.

All amendments must be documented, reviewed, and approved by the State agency prior to execution. ADE will review each contract amendment between an SFA and FSMC or catering vendor to ensure compliance with all provisions and standards set forth in all applicable regulations and ensure that amendments do not materially change the original solicitation. A material change is defined as a change that, had other bidders known of the change at the time they submitted their responses, would have

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caused them to bid differently. Additionally, the State agency must review and obtain USDA approval for all proposed contract modification changes when the scope of a contract, or the change, increases the contract amount by more than the Simplified Acquisition Threshold (Federal \$250,000).

If you have questions or need more technical assistance, please contact your HNS Specialist.

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Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at:

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<https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. mail:
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. fax:
(833) 256-1665 or (202) 690-7442; or
3. email: program.intake@usda.gov

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