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DEPARTMENT OF EDUCATION
KEVIN FANGMAN, ACTING DIRECTOR

DATE: July 23, 2010

TO: Superintendents
School Food Authority
School Food Service Directors/Managers
Business Managers

FROM: Jim Addy, Administrator, Division of School Support and Information
Patti Harding, Acting Chief, Bureau of Nutrition, Health and
Transportation Services

RE: Follow up to March 2/April 23 Memos on Procurement- National School
Lunch Program, School Breakfast and related Programs.

Immediate Attention Required

The United States Department of Agriculture (USDA) has determined that some of the procurement practices used in Iowa by some School Food Authorities (SFAs) and the Iowa Educators Consortium (IEC) regarding the School Nutrition Programs are not in full compliance with Federal, State and local regulations and serious questions have been raised. SFAs were instructed in the March 2 and April 23, 2010 memoranda to review the SFAs procurement process and make any changes deemed necessary to ensure full compliance with USDA Federal, State and local procurement laws and regulations. **Effective July 1, 2010, SFAs were to be in full compliance with all USDA federal, State and local procurement laws and regulations.**

The Bureau of Nutrition, Health and Transportation Services continues to work with USDA in this area and additional guidance and required action to be taken will be provided prior to the start of school. However, one area that must be adhered to immediately concerns purchasing food and supplies at food shows or through the SFA's regular process and what the SFA can and cannot purchase through the IEC's vendor and the process to follow.

- SFAs may only purchase (without additional formal or informal bid procedures) any product or service from the IEC's identified vendor that were identified in the 2007 market basket.** There are approximately 250 items in the market basket. The 2007 market basket is located in the Form Download section of the CNP 2000 system. The **SFA MUST** carefully review the 2007 market basket prior to purchasing any food items or supplies. It is recommend that the individual

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responsible for purchasing food items or supplies for the Child Nutrition Programs have a paper copy and refer to it often.

2. SFAs that want to purchase food items or supplies that were not included in the original 2007 “market basket” must proceed with a formal or informal bid process to ensure fair and open competition takes place. Items offered to a school that were not in the original 2007 market basket **would be items that were not procured following free and open competition policies that SFAs must follow**, and therefore could not be purchased using non-profit school food service funds.

In this situation, the SFA must follow the competitive procurement process and obtain bids from multiple vendors. For the SFA to consider buying from the IEC’s vendor, that vendor must submit pricing to the SFA following the same procedures as all other vendors. The SFA may not just accept the price offered through the IEC’s vendor. However, after following appropriate bid law, if the IEC’s vendor has the lowest responsible bid, the school may then contract with that vendor for the item. Note again, documentation of the formal or informal procurement processes must be kept on file for three years or until resolution of any audits or reviews.

In summary, the same USDA procurement rules for the School Nutrition Program apply to SFAs whether participating in a cooperative or buying everything as an individual SFA. Full compliance with all procurement requirements is required for any and all products to be purchased using the nonprofit school nutrition program fund. Refer to the March 2 and April 23 memorandums for detailed information on USDA regulations and the procurement process. **Failure to comply with USDA procurement rules will require any funds expended from the non-profit school nutrition program account to be returned to USDA and paid for using general funds or funds other than the school nutrition program account.**

Questions should be directed to Patti Harding, Acting Bureau Chief, Patti.Harding@iowa.gov, Mary Kay Madsen, Consultant, at MaryKay.madsen@iowa.gov, or your assigned Bureau Consultant.