State of Illinois Uniform Notice of Funding Opportunity (NOFO)
Summary Information

Awarding Agency Name	State Board Of Education
Agency Contact	Emily Durbin (edurbin@isbe.net)
Announcement Type	Initial
Type of Assistance Instrument	Grant
Funding Opportunity Number	27-4260
Funding Opportunity Title	NSLP Equipment Assistance Grant
CSFA Number	586-18-0871
CSFA Popular Name	National School Lunch Program - Equipment Assistance Grant; FRIS 4260(28), 4260(29); NSLP Equipment Assistance Grant
Anticipated Number of Awards	26
Estimated Total Program Funding	$643,262
Award Range	$1000 - $25000
Source of Funding	Federal
Cost Sharing or Matching Requirements	No
Indirect Costs Allowed	Yes
Restrictions on Indirect Costs	No
Posted Date	11/09/2026
Application Date Range	11/09/2026 - 12/24/2026 : 4 PM
Grant Application Link	Please select the entire address below and paste it into the browser... https://www.isbe.net/Pages/Request-for-Proposals.aspx
Technical Assistance Session	No

Summary Information

1	Awarding Agency Name:	Illinois State Board of Education
2	Agency Contact:	Emily Durbin, School Nutrition Programs edurbin@isbe.net 217-782-2491
3	Announcement Type:	☒ Initial announcement ☐ Modification of a previous announcement
4	Type of Assistance Instrument:	Competitive Subgrant
5	Funding Opportunity Number:	27-4260
6	Funding Opportunity Title:	Fiscal Year 2027 National School Lunch Program Equipment Assistance Grant
7	CSFA Number:	586-18-0871
8	CSFA Popular Name:	NSLP Equipment Assistance Grant
9	Assistance Listing (formerly CFDA Number):	10.579 Child Nutrition Discretionary Grants Limited Availability
10	Anticipated Number of Awards:	At least 26
11	Estimated Total Program Funding:	$643,262
12	Award Range	Minimum award amount: $1,000 Maximum award amount: $25,000
13	Source of Funding:	☒ Federal or Federal pass-through ☐ State ☐ Private / other funding Mark all that apply
14	Cost Sharing or Matching Requirement:	☐ Yes ☒ No
15	Indirect Costs Allowed Restrictions on Indirect Costs	☒ Yes ☐ No ☐ Yes ☒ No If yes, provide the citation governing the restriction:
16	Release Date:	November 9, 2026
17	Application Due Date:	December 24, 2026; 4 p.m.
18	Technical Assistance Session:	Session Offered: ☐ Yes ☒ No Session Mandatory: ☐ Yes ☒ No Specify date and time: Provide link to registration, if applicable:

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A. Program Description

The National School Lunch Program (NSLP) Equipment Assistance Grant (EAG) program provides state agencies with federal funding to administer competitive subgrants that eligible Local Education Agencies (LEAs), school food authorities (SFAs), and schools use to purchase equipment (valued at greater than $1,000) that is needed to serve healthier meals, improve food safety, and/or support the establishment, maintenance, or expansion of the School Breakfast Program (SBP) in their school nutrition program. Eligible entities may apply for up to $25,000.

Since 2010, the NSLP Equipment Assistance Grants have been used to modernize school kitchens, address equipment disparities in underserved areas, and promote strategies that foster healthy choices for students.

This FY 2027 funding opportunity is a competitive application process in which eligible SFAs may request up to $25,000 to use toward purchase/installation of an equipment item (with value of greater than $1,000) that is needed to serve healthier meals, improve food safety, and/or support the establishment, maintenance, or expansion of the School Breakfast Program.

I. Focus Areas

Equipment requested in the project proposal must support the National School Lunch Program and/or School Breakfast Program in one or more of the following focus areas:

- Improve the nutrition and quality of meals, including supporting the implementation of updated nutrition requirements for school meals
- Improve food safety
- Newly implement the School Breakfast Program
- Expand the School Breakfast Program
- Increase operational efficiency related to procurement, food storage, and/or distribution service
- Provide convenience and appeal to the student population

II. Subgrant Awards

All eligible proposals in response to this NOFO/RFP will be considered for a subaward; however, the number of projects selected to receive funding is subject to limitation by the overall amount of funding available for this opportunity. Individual awards are limited to a maximum of $25,000 per SFA toward the purchase of one approved equipment item.

Selection of applicants to receive a subaward will be determined using the eligibility and review criteria specified within this document. Applicants will be scored and ranked in order of overall score from highest to lowest.

a. Initial Award Phase:

After scoring is complete, ISBE will make subawards by allocating funds to applicants in order, beginning with the highest scoring applicant proposal and continuing with the next highest score in succession, until the maximum extent of available funding has been reached.

An SFA awarded a subgrant in the Initial Award phase must obligate its subaward funds for allowable expenses associated with the preapproved equipment purchase, during the primary grant period of performance (February 1, 2027, to August 31, 2027). Any amount the SFA does not

obligate and/or submit to ISBE with proper documentation for reimbursement during the required timeframe for Initial Awards is retained by ISBE and subject to reallocation.

b. Reallocation Award Phase:

If funds remain from the Initial Award phase, ISBE will conduct a Reallocation Award phase, in which remaining funds are used to make additional subgrants. In the event of reallocation, additional subgrants will be awarded by continuing down the original ranked list of applicants, beginning with the next in line where the Initial Award phase left off, until the maximum extent of unused remaining available funds has been reallocated.

SFAs that receive a subaward due to reallocation of funds must obligate funds for allowable expenses associated with the preapproved equipment purchase during the timeframe of January 1, 2028, to August 31, 2028 (secondary grant period of performance). Any amount of the subaward that the SFA does not obligate and/or submit to ISBE with proper documentation for reimbursement during the required timeframe for Reallocation Awards is retained by ISBE and returned to the federal awarding agency in accordance with federal requirements.

III. Procurement of Equipment

Regarding this funding opportunity, equipment is defined as tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of greater than $1,000 per unit.

Equipment must be competitively procured. SFAs are required to follow all federal, state, and local procurement laws when purchasing equipment (either wholly or in part) with these subgrant awards.

a. Federal Procurement Requirements

- 2 CFR Part 200 Subpart D – Procurement Standards
- National School Lunch Program regulation: 7 CFR 210.21 Procurement

b. State Procurement Requirements

- 105 ILCS 5/10-20.21: The Illinois School Code on Contracts
  - Public Act 102-1101/105 ILCS 5/10-20.21 (HB 4813 became PA 102-1101 upon passage, which in turn amended the Illinois School Code)

c. Local Procurement Requirements

School Food Authority/Sponsoring Organizations may set more restrictive purchasing thresholds per board/local policy and documented in written procurement procedures.

The SFA is required to complete the NSLP-EAG Procurement Worksheet to document compliance with federal, state, and local procurement requirements. The SFA must submit the Procurement Worksheet to ISBE during the grant period and prior to issuance of a purchase order or otherwise obligation of grant funds.

IV. Disbursement/Payment of Awarded Funds

Subgrant funds are disbursed to SFAs on a reimbursement basis, not to exceed the total amount of the subaward. Following purchase, the SFA must submit a copy of the vendor invoice/receipt and the NSLP Equipment Grant Claim Form (69-75) to the grant program contact at ISBE. Disbursements (payment of awarded funds) are processed via electronic funds transfer to the SFA.

B. Funding Information

I. Federal Award Information

This grant program is supported and funded by the United States Department of Agriculture, Food and Nutrition Service.

- Federal Assistance Listing: 10.579 Child Nutrition Discretionary Grants Limited Availability

II. State Program Identifiers:

- Illinois Catalog of State Financial Assistance: CSFA 586-18-0871
- State Agency Identification: FRIS Code 4260

III. Anticipated Period of Performance

The period of performance is the start and end date of the award.

- Initial Award: February 1, 2027 – August 31, 2027
- Reallocation Award: January 1, 2028 – August 31, 2028

IV. Allowable Costs

Grant funds may be used for reasonable and necessary costs associated with acquiring or renovating a preapproved equipment item (with a value greater than $1,000), including costs necessary for the successful installation and operation of the equipment. Costs must be incurred during the authorized grant period.

Where costs are incurred during the grant period, to purchase or renovate a preapproved equipment item (with a value greater than $1,000) for use in operation of the National School Lunch and/or School Breakfast Program, subgrantees must follow the rules outlined in 7 CFR 210.14(a), noting the construction of buildings is prohibited. All costs are subject to the cost principles within 2 CFR Part 200.

In addition, USDA memo SP 06-2025 provides guidance on reasonable costs associated with successfully installing and using equipment, which are allowable expenses of the NSLP Equipment Assistance Grant.

a. Acquisition Costs

The capitalized costs that are associated with acquiring the preapproved equipment, including costs to ready the equipment for its intended use, may include:

- Net invoice price of the equipment (list price, net of any discounts)
- Shipping, liftgate, and delivery costs
- Installation
- Disposal of old equipment
- Minor kitchen modifications necessary for equipment installation (e.g., moving electrical outlets, upgrading electrical voltage, small plumbing upgrades, improving ventilation to support equipment)

- Necessary accessories or auxiliary components (e.g., a compressor for a freezer, wire shelving for walk-in refrigeration unit, etc.)
- Ancillary charges such as taxes, freight, and protective in-transit insurance may be included if allowed under state and local accounting practices
- Add-on warranty/maintenance contract specific to the equipment unit

b. Cost to Renovate/Refurbish Existing Equipment

The capitalized cost of additions, improvements, modifications, replacements, or alterations to existing equipment that significantly extends its useful life and/or materially increases its value (not ordinary repairs or maintenance) may include:

- Labor/service charge
- Parts/materials
- Costs, similar in nature to those which are listed above as acquisition costs, that are necessary for renovation/refurbishment of existing equipment

V. Unallowable Costs

UNALLOWABLE costs include, but are not limited to:

- Remodeling of the food service area or cafeteria unrelated to the installation and operation of new equipment
- Facility renovation or construction costs (building improvements) unrelated to the installation and operation of new equipment
- Non-capitalized equipment (supplies and other items that cost less than the capitalization threshold for this grant, which means items with an individual unit cost of less than $1,000)
- Prior equipment purchases – funds may not be used to retroactively reimburse or pay for equipment expenditures that were incurred prior to the grant award
- Administrative expenses
- Set-asides for auditing services

C. Eligibility Information

An entity may not apply for a grant until the entity has registered and pre-qualified through the Grant Accountability and Transparency Act (GATA) Grantee Portal. Registration and pre-qualification are required annually.

During pre-qualification, verifications are performed including a check of federal SAM.gov Exclusion List and status on the Illinois Stop Payment List. The Grantee Portal alerts the entity alerts of "qualified" status or informs how to remediate a negative verification (e.g., missing UEI-Unique Entity Identifier assigned in sam.gov, not in good standing with the Secretary of State). Inclusion on the SAM.gov Exclusion List cannot be remediated.

I. Eligible Applicants

School Food Authorities (SFAs) participating in the National School Lunch Program in Illinois are eligible to apply. An SFA is the governing body that is responsible for one or more schools and has the legal authority to operate NSLP therein.

An SFA may submit only one application for this opportunity.

a. Application Ineligibility

An application will be deemed ineligible and will NOT be read if any of the following are applicable:

- The application is not signed by an authorized representative on page 3 of Attachment 1.
- The application is submitted prior to the applicant obtaining a Region County District Type (RCDT) code.
- The applicant does not complete Steps 1- 3 of the State of Illinois Grant Accountability and Transparency Act (GATA) prequalification process prior to application submission.
- The application is submitted after the deadline of 4 p.m. December 24, 2026.

II. Cost Sharing or Matching

Cost sharing/matching is not required.

III. Indirect Cost Rate

The federal Uniform Guidance at 2 CFR 200 requires that grantees be provided with the opportunity to seek indirect cost reimbursements based on negotiated indirect cost reimbursement rates. Rates are determined and applied as follows.

a. Local Education Agencies

- Local Education Agency (LEA) indirect cost rates are developed in accordance with a delegation of authority agreement between ISBE and the U.S. Department of Education (ED). The plan includes both a restricted and unrestricted rate for each individual LEA. Both the restricted and unrestricted LEA rates are published annually on the *ISBE Indirect Cost Rate Plan webpage*.

  LEAs can seek indirect cost reimbursement at the published unrestricted rate for any program other than those identified as restricted by ED.

- Newly organized LEAs, Regional Offices of Education, Intermediate Service Centers, area vocational centers, charter schools, university laboratory schools, and governmental entities formed by a joint agreement among LEAs utilize either the statewide average of LEA unrestricted or restricted indirect rates as appropriate, depending on program.
- LEAs that jointly administer federal program(s) utilize either the approved unrestricted or restricted indirect cost rates for the administrative district of the joint program as appropriate, depending on program.

b. Non-LEAs

- Programs eligible for an unrestricted indirect cost rate; not-for-profit entities; community-/faith-based organizations; and other non-LEA subgrantees utilize rates negotiated through the Governor's Office of Management and Budget centralized process wherein which they will have the option to:
  - Select the 15% de minimis rate.
  - Submit documentation supporting a rate determined via negotiation with their federal cognizant agency.
  - Negotiate a rate.

  Non-LEA, non-university grantees may initiate the unrestricted indirect cost rate negotiation process via the GATA Grantee Portal.
- Federal programs requiring the use of a restricted indirect cost rate, not-for-profit entities, community-/faith-based organizations, and other non-LEA subgrantees shall utilize the 8% default rate described at 34 CFR 76.564.
- Colleges and universities will be limited to a maximum indirect cost rate of 8% or other indirect cost rate calculated by their cognizant federal agency, whichever is less, for state grants administered by ISBE.

Costs associated with Fiscal Support Services (2520), Internal Support Services (2570), Staff Support Services (2640), Data Processing Services (2660), and Direction of Business Support Services (2510) charged to the Educational Fund are properly budgeted as indirect costs.

D. Application and Submission Information

I. Address to Request Application Package

100 North First Street, Springfield, IL 62777
Email: NutritionGrants@isbe.net

II. Content and Form of Application Submission

Each application must be submitted in the format outlined below to be considered complete. A complete application will include all required components (the numbered items below) and signatures when mentioned.

☐ **Attachment 1**: Uniform Application for State Grant Assistance
Include the name, address, telephone, and fax numbers of the entity; email, name, and telephone number of the contact person; Federal Employer Identification number; Unique Entity ID (UEI) number; SAM Commercial and Government Entity (CAGE) Code; and all other listed information. The Application page must be signed by the official authorized to submit proposals. First-time applicants without an RCDT code must call or email the agency contact to obtain an RCDT code before submitting an application.

☐ **Attachment 2**: Project Proposal/Equipment Request
Only one equipment request is allowed per entity.

III. Unique Entity Identifier (UEI) and registration in the System for Award Management (SAM)

Each applicant is required to:

- Be registered in SAM with a UEI assigned before submitting an application. To establish a SAM registration, go to SAM.gov.
- Continue to maintain an active SAM registration, always keeping information current during which the applicant has an active Federal, Federal pass-through or State award or an application or plan under consideration by a Federal or State awarding agency. It also must state that the State awarding agency may not make a Federal pass-through or State award to an applicant until the applicant has complied with all applicable SAM requirements and, if an applicant has not fully complied with the requirements by the time the State awarding agency is ready to make a Federal pass-through or State award, the State awarding agency may determine that the applicant is not qualified to receive a Federal pass-through or State award and use that determination as a basis for making a Federal pass-through or State award to another applicant.

IV. Submission Dates and Times

Applications must be received by ISBE **no later than 4 p.m. on December 24, 2026**. The digital time stamp on the email indicates the date and time the application is received by ISBE. Late applications are not accepted.

Application files are to be sent as an email attachment to NutritionGrants@isbe.net.

E. Application Review Information

I. Merit-Based Review and Selection Process for Competitive Grants

ISBE is required to design and execute a merit-based review and selection process for applications. This process is incorporated by reference in all applicable funding opportunities. Applicants are advised to refer to the ISBE Merit-Based Review Policy.

II. Scoring Criteria.

Overall scoring will consist of two parts, an evaluation score and a priority score.

a. Evaluation Score

The evaluation score is based on how well the applicant addresses the required application components.

The evaluation rubric lists the specific criteria against which proposals are evaluated and the number of points possible for each. Below each criterion, the attachment number indicates the portion of the proposal that evaluators will use to determine whether the criterion has been met. Evaluators will assign points for each criteria using the evaluation scale.

Evaluation Rubric – Criteria and Point Values

Evaluation Criteria	Points Available
1. The proposal addresses the need for the proposed project by describing the age and overall condition of the existing equipment that is being replaced or renovated/refurbished. If adding new equipment, the proposal describes the purpose of adding new equipment and explains why existing equipment does not meet that purpose.	5
2. The proposal describes any research, comparison, analysis, and/or consideration that was conducted to decide on equipment model, size, specifications, or type of equipment to purchase that would best meet program needs. Or, if renovating equipment, the proposal explains why it is more economical, efficient, or necessary to renovate versus replacing with new or different equipment.	5
3. The proposal explains how the project supports one or more focus areas listed in Section A of the Notice of Funding Opportunity.	5

Evaluation Rating	Description	Point Value
Not Provided	The element is missing or not addressed within the proposal.	0
Very Limited	The proposal is vague or unclear in addressing the criteria and lacks evidence to meet project outcomes.	1
Somewhat Limited	The proposal provides some relevant information but not enough evidence to meet project outcomes.	2

Moderate	The proposal provides moderate detail and conveys potential to meet project outcomes.	3
Strong	The proposal provides adequate detail and evidence to meet project outcomes.	4
Very Strong	The proposal provides excellent detail and a solid plan to meet project outcomes.	5

b. Priority Score

Applicants will be assigned a priority score based on priority factors. Priority factors include schools that have higher rates of enrolled students who are certified as eligible for free and reduced-price meals, schools that have not recently received a subaward in the five most recent funding opportunities for the NSLP Equipment Assistance Grant, and schools that participate in the federal School Breakfast Program (SBP).

The most recent finalized Free and Reduced-Priced Meal Eligibility Data shall be used to determine priority scores.

Priority Rubric – Criteria and Point Values

Priority Factor	Criteria and Point Value
1. Eligibility for Free and Reduced-Price Meals *Schools that have higher rates of enrolled students who are eligible for free or reduced-price meals will receive priority points in the amount corresponding to each school's free and reduced-price eligibility percentage. A location that conducts centralized operations for the benefit of any additional site(s) belonging to the same SFA will utilize a weighted average of the location and the additional site(s) eligibility percentage to award points.*	Less than 50%.....0 points 50% or more, but less than 60%.....2 points 60% or more, but less than 70%.....4 points 70% or more, but less than 80%.....6 points 80% or more, but less than 90%.....8 points 90% or more, up to or equal to 100%.. 10 points
2. Prior Grant Awards *Schools that have not recently been awarded an NSLP Equipment Assistance Grant will receive points. A list of previously awarded schools is on the ISBE NSLP Equipment Assistance Grant webpage.*	FY 2025 State Award.....0 points FY 2024 State Award.....2 points FY 2023_ARPA State Award .....4 points FY 2023 State Award.....6 points FY 2021 State Award.....8 points All Other Schools ..... 10 points
3. School Breakfast Program *Schools that participate in the federal School Breakfast Program will receive points.*	Non-Participating School.....0 points Participating School .....5 points

III. Review and Selection Process

All eligible proposals in response to this NOFO/RFP will be considered for a subaward, subject to the total amount of funding available for this opportunity.

Following the initial screening process, an evaluation committee will review and determine the merits of each application. Each application will be scored independently by at least three evaluators. The individual evaluation scores of each application will be averaged for an overall evaluation score. Priority points for each applicant will be determined in accordance with the criteria and point values as indicated within the priority rubric. The overall evaluation score and priority points assigned to each applicant will be added together for a total overall score.

After scoring is complete, subawards will be determined by allocating funds, first to the project with the highest total score, and then to the project with the next highest score in succession until all funds are allocated. Individual subawards are limited to a maximum of $25,000 per SFA.

In the event of a tie score, the project that serves a higher number of enrolled students will receive priority. Enrollment is determined using the most recent year finalized annual eligibility data at the time of scoring.

Following the notification of subawards, an applicant may request copies of reviewer scores and comments by sending an email to NutritionGrants@isbe.net.

IV. Anticipated Announcement and State Award Dates

- Anticipated Award Announcement Date: January 2027
- Anticipated Period of Performance (start and end date of the award):
  - Initial Award Phase ..... February 1, 2027 – August 31, 2027
  - Reallocation Award Phase ..... January 1, 2028 – August 31, 2028

F. Award Administration Information

I. State Award Notice.

The State is not obligated to make any award as a result of this Notice of Funding Opportunity. Unless an applicant receives a signed award document with terms and conditions, any contact from ISBE grants or program staff should not be considered as a notice of a grant award. No pre-award or pre-agreement costs incurred prior to the effective start date are allowed.

No entity may receive a subaward until the entity has provided ISBE with its Unique Entity Identifier (UEI) and completed an award agreement.

II. Administrative and National Policy Requirements.

Subrecipients chosen to receive an award under this funding opportunity must comply with the following regulations, principles, and assurances.

a. Government-Wide Regulations

- 2 CFR Part 25: Universal Identifier and System for Award Management
- 2 CFR Part 170: Reporting Sub-award and Executive Compensation Information
- 2 CFR Part 175: Award Term for Trafficking in Persons
- 2 CFR Part 180: OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-Procurement)
- 2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR 400: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR Part 415: General Program Administrative Regulations
- 2 CFR Part 416: General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments
- 2 CFR Part 417: Non-Procurement Debarment and Suspension
- 2 CFR Part 418: New Restrictions on Lobbying
- 2 CFR Part 421: Requirements for Drug-Free Workplace (Financial Assistance)
- 7 CFR Part 3: Debt Management
- 7 CFR Part 16: Equal Opportunity for Religious Organizations
- 41 U.S.C. Section 22: Interest of Member of Congress
- Privacy Act: The Cooperator/Grantee shall follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. 552a, and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.
- Freedom of Information Act (FOIA): Public access to Federal Financial Assistance records shall not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information regulation (5 U.S.C. 552).
- Duncan Hunter National Defense Authorization Act of Fiscal Year 2009, Public Law 110-417.
- Sections 738 and 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012 (Public Law 112-55).
- The Federal Funding Accountability and Transparency Act (FFATA), dated September 26, 2006.
- Illinois Grant Accountability and Transparency Act, 30 ILCS 708/1 et seq.
- Illinois Administrative Rules for GATA, 44 Ill. Admin. Code Part 7000

b. Cost Principles

- 2 CFR, Part 200: Subpart E, Cost Principles

c. Procurement Requirements

SFAs are required to follow all federal, state, and local procurement laws when using federal financial assistance to purchase goods and/or services. This subsection lists the federal regulations and state procurement law that apply to purchases made with funds awarded under this opportunity.

- Federal Procurement Standards (*Full text is included in the appendix to this document: Appendix A – Federal Procurement Standards*)
  - 2 CFR Part 200 Subpart D – Procurement Standards
  - National School Lunch Program regulation: 7 CFR 210.21 Procurement
- 105 ILCS 5/10-20.21: The Illinois School Code on Contracts
  - Public Act 102-1101/105 ILCS 5/10-20.21 (HB 4813 became PA 102-1101 upon passage, which in turn amended the Illinois School Code)
- Local Procurement Requirements: School Food Authority/Sponsoring Organizations may set more restrictive purchasing thresholds per board/local policy and documented in written procurement procedures.

d. Terms and Conditions for Federal Awards

- USDA General Terms and Conditions for Federal Awards, effective December 31, 2025*
- Food & Nutrition Administration Standard Terms and Conditions, July 10, 2026*

*These general terms and conditions are subject to the following reservation of rights (ROR) that ISBE submitted to the USDA upon acceptance of the NSLP Equipment Grant:

> The execution of agreements by Plaintiff States (and their component agencies), their political subdivisions, and public universities within such States and the acceptance of funding from USDA and its component agencies are subject to the preliminary injunction entered June 5, 2026 in Massachusetts, et al. v. USDA, et al, No 1-26-cv-11396, for such time that the injunction remains in effect, and should not be construed as a certification as to the Challenged Conditions or as a waiver of any rights by Plaintiff States (and their component agencies), their political subdivisions, and public universities within such States.

It is ISBE's understanding that any funding provided by ISBE under this grant is also subject to this ROR.

e. Assurance of Civil Rights Compliance

- *Title VI of the Civil Rights Act of 1964* (42 USC § 2000d at 7 CFR 15)
- *Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964* at 28 CFR 50.3 and *Department of Justice Regulation for the Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs under Title VI of the Civil Rights Act of 1964* (28 CFR 42.401)
- *Americans with Disabilities Act of 1990 (ADA)* (42 USC § 12101 et seq., Title II at 28 CFR 35) and *Americans with Disabilities Act Amendment Act of 2008* (ADAAA) (PL 110-325, 42 USC § 12101 et seq. at 28 CFR 35)
- *Title IX of the Education Amendments of 1972, as amended* (PL 92-318, 20 USC § 1681 et seq. at 7 CFR15a)
- *Section 504 of the Rehabilitation Act of 1973, as amended* (PL 93-112, 29 USC § 701 at 7 CFR 15b)
- *Section 508 of the Rehabilitation Act of 1973, as amended* (Section 508) [29 USC § 794(d)]
- *Age Discrimination Act of 1975* (PL 94-135, 42 USC § 6101 at 45 CFR 91 and 7 CFR 15c)
- *The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (PL 104–193) and Department of Justice (DOJ) Memorandum dated Jan. 28, 1999, entitled, "Policy Guidance Document -- Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs"* (28 CFR 42.101-42.412 and 28 CFR 50.3)
- *Civil Rights Restoration Act of 1987 (PL 100-259) clarifies the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975*
- *7 CFR Part 16, Equal Opportunity for Religious Organizations*

- *USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency* (79 FR No. 299, p. 70771-70784, Nov. 28, 2014)
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000).
- All provisions required by the implementing regulations of the Department of Agriculture (7 CFR Part 15 et seq.).
- Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA, and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement.
- The USDA non-discrimination statement that "In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs)." This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance. By accepting this assurance, the Grantee agrees to compile data, maintain records, and submit records and reports, as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities, and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the U.S. Department of Agriculture FNS shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Grantee, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA.

f. FNS Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: mailto:program.intake@usda.gov.

III. Reporting Requirements/Deliverables

a. Procurement Worksheet

The SFA must complete the NLSP-EAG Procurement Worksheet to document compliance with federal, state, and local procurement requirements. The SFA must submit the Procurement Worksheet to ISBE during the grant period and prior to issuance of a purchase order or otherwise obligation of grant funds.

b. Performance Progress Reports

Performance reporting is completed via the NSLP Equipment Grant Periodic Performance Report Form. This report must be submitted within 20 calendar days following the end of each quarter until the project is complete.

c. Expenditure Reports

Periodic expenditure reporting is completed at a minimum quarterly via the NSLP Equipment Grant Claim Form (69-75). This form is due 20 calendar days following the end of each quarter. The final report must be submitted within 60 days of the project end date.

Reporting forms are available on the ISBE NSLP Equipment Assistance Grant webpage.

G. State Awarding Agency Contact(s)

Grant Program Coordinator

Emily Durbin
School Nutrition Programs
Illinois State Board of Education, Nutrition Department

Email: edurbin@isbe.net
Phone: 217-782-2491

Nutrition Department

Department Phone: 217-782-2491
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Procurement Staff: NutritionProcurement@isbe.net

Grants Administration

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Phone: 217-785-8779

H. Summary of Attachments

Attachment 1: Uniform Application for State Grant Assistance

Attachment 2: Project Proposal/Equipment Request

Appendix A – Federal Procurement Standards

2 CFR 200 Subpart D - Procurement Standards

§ 200.317 Procurements by States and Indian Tribes.

When conducting procurement transactions under a Federal award, a State or Indian Tribe must follow the same policies and procedures it uses for procurements with non-Federal funds. If such policies and procedures do not exist, States and Indian Tribes must follow the procurement standards in §§ 200.318 through 200.327. In addition to its own policies and procedures, a State or Indian Tribe must also comply with the following procurement standards: §§ 200.321, 200.322, 200.323, and 200.327. All other recipients and subrecipients, including subrecipients of a State or Indian Tribe, must follow the procurement standards in §§ 200.318 through 200.327.

§ 200.318 General procurement standards.

(a) ***Documented procurement procedures.*** The recipient or subrecipient must maintain and use documented procedures for procurement transactions under a Federal award or subaward, including for acquisition of property or services. These documented procurement procedures must be consistent with State, local, and tribal laws and regulations and the standards identified in §§ 200.317 through 200.327.

(b) ***Oversight of contractors.*** Recipients and subrecipients must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. See also § 200.501(h).

(c) ***Conflicts of interest.***

(1) The recipient or subrecipient must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, agent, or board member with a real or apparent conflict of interest may participate in the selection, award, or administration of a contract supported by the Federal award. A conflict of interest includes when the employee, officer, agent, or board member, any member of their immediate family, their partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an entity considered for a contract. An employee, officer, agent, and board member of the recipient or subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors. However, the recipient or subrecipient may set standards for situations where the financial interest is not substantial or a gift is an unsolicited item of nominal value. The recipient's or subrecipient's standards of conduct must also provide for disciplinary actions to be applied for violations by its employees, officers, agents, or board members.

(2) If the recipient or subrecipient has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian Tribe, the recipient or subrecipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the recipient or subrecipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) ***Avoidance of unnecessary or duplicative items.*** The recipient's or subrecipient's procedures must avoid the acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. When appropriate, an analysis should be made between leasing and purchasing property or equipment to determine the most economical approach.

(e) ***Procurement arrangements using strategic sourcing.*** When appropriate for the procurement or use of common or shared goods and services, recipients and subrecipients are encouraged to enter into State and local intergovernmental agreements or inter-entity agreements for procurement transactions. These or similar procurement arrangements using strategic sourcing may foster greater economy and efficiency. Documented procurement actions of this type (using strategic sourcing, shared services, and other similar procurement arrangements) will meet the competition requirements of this part.

(f) ***Use of excess and surplus Federal property.*** The recipient or subrecipient is encouraged to use excess and surplus Federal property instead of purchasing new equipment and property when it is feasible and reduces project costs.

(g) ***Use of value engineering clauses.*** When practical, the recipient or subrecipient is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering means analyzing each contract item or task to ensure its essential function is provided at the overall lowest cost.

(h) ***Responsible contractors.*** The recipient or subrecipient must award contracts only to responsible contractors that possess the ability to perform successfully under the terms and conditions of a proposed contract. The recipient or subrecipient must consider contractor integrity, public policy compliance, proper classification of employees (see the Fair Labor Standards Act, 29 U.S.C. 201, chapter 8), past performance record, and financial and technical resources when conducting a procurement transaction. See also § 200.214.

(i) ***Procurement records.*** The recipient or subrecipient must maintain records sufficient to detail the history of each procurement transaction. These records must include the rationale for the procurement method, contract type selection, contractor selection or rejection, and the basis for the contract price.

(j) ***Time-and-materials type contracts.***

(1) The recipient or subrecipient may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a recipient or subrecipient is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Because this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the recipient or subrecipient awarding such a contract must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) ***Settlement of contractual and administrative issues.*** The recipient or subrecipient is responsible for the settlement of all contractual and administrative issues arising out of its procurement transactions. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the recipient or subrecipient of any contractual responsibilities under its contracts. The Federal agency will not substitute its judgment for that of the recipient or subrecipient unless the matter is primarily a Federal concern. The recipient or subrecipient must report violations of law to the Federal, State, or local authority with proper jurisdiction.

(l) ***Examples of labor and employment practices.***

(1) The procurement standards in this subpart do not prohibit recipients or subrecipients from:

(i) Using Project Labor Agreements (PLAs) or similar forms of pre-hire collective bargaining agreements;

(ii) Requiring construction contractors to use hiring preferences or goals for people residing in high-poverty areas, disadvantaged communities as defined by the Justice40 Initiative (see OMB Memorandum M-21-28), or high-unemployment census tracts within a region no smaller than the county where a federally funded construction project is located. The hiring preferences or goals should be consistent with the policies and procedures of the recipient or subrecipient, and must not prohibit interstate hiring;

(iii) Requiring a contractor to use hiring preferences or goals for individuals with barriers to employment (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(24)), including women and people from underserved communities as defined by Executive Order 14091;

(iv) Using agreements intended to ensure uninterrupted delivery of services; using agreements intended to ensure community benefits; or

(v) Offering employees of a predecessor contractor rights of first refusal under a new contract.

(2) Recipients and subrecipients may use the practices listed in paragraph (1) if consistent with the U.S. Constitution, applicable Federal statutes and regulations, the objectives and purposes of the applicable Federal financial assistance program, and other requirements of this part.

§ 200.319 Competition.

(a) All procurement transactions under the Federal award must be conducted in a manner that provides full and open competition and is consistent with the standards of this section and § 200.320.

(b) To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids must be excluded from competing on those procurements.

(c) Examples of situations that may restrict competition include, but are not limited to:

(1) Placing unreasonable requirements on firms for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(d) The recipient or subrecipient must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Are made in accordance with § 200.319(b);

(2) Incorporate a clear and accurate description of the technical requirements for the property, equipment, or service being procured. The description may include a statement of the qualitative nature of the property, equipment, or service to be procured. When necessary, the description must provide minimum essential characteristics and standards to which the property, equipment, or service must conform. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to clearly and accurately describe the technical requirements, a "brand name or equivalent" description of features may be used to provide procurement requirements. The specific features of the named brand must be clearly stated; and

(3) Identify any additional requirements which the offerors must fulfill and all other factors that will be used in evaluating bids or proposals.

(e) The recipient or subrecipient must ensure that all prequalified lists of persons, firms, or products used in procurement transactions are current and include enough qualified sources to ensure maximum open competition. When establishing or amending prequalified lists, the recipient or subrecipient must consider objective factors that evaluate price and cost to maximize competition. The recipient or subrecipient must not preclude potential bidders from qualifying during the solicitation period.

(f) To the extent consistent with established practices and legal requirements applicable to the recipient or subrecipient, this subpart does not prohibit recipients or subrecipients from developing written procedures for procurement transactions that incorporate a scoring mechanism that rewards bidders that commit to specific numbers and types of U.S. jobs, minimum compensation, benefits, on-the-job-training for employees making work products or providing services on a contract, and other worker protections. This subpart also does not prohibit recipients and subrecipients from making inquiries of bidders about these subjects and assessing the responses. Any scoring mechanism must be consistent with the U.S. Constitution, applicable Federal statutes and regulations, and the terms and conditions of the Federal award.

(g) Noncompetitive procurements can only be awarded in accordance with § 200.320(c).

§ 200.320 Procurement methods.

There are three types of procurement methods described in this section: informal procurement methods (for micro-purchases and simplified acquisitions); formal procurement methods (through sealed bids or proposals); and noncompetitive procurement methods. For any of these methods, the recipient or subrecipient must maintain and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319.

(a) ***Informal procurement methods for small purchases.*** These procurement methods expedite the completion of transactions, minimize administrative burdens, and reduce costs. Informal procurement methods may be used when the value of the procurement transaction under the Federal award does not exceed the simplified acquisition threshold as defined in § 200.1. Recipients and subrecipients may also establish a lower threshold. Informal procurement methods include:

(1) ***Micro-purchases*** —

(i) ***Distribution.*** The aggregate amount of the procurement transaction does not exceed the micro-purchase threshold defined in § 200.1. To the extent practicable, the recipient or subrecipient should distribute micro-purchases equitably among qualified suppliers.

(ii) ***Micro-purchase awards.*** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the recipient or subrecipient considers the price reasonable based on research, experience, purchase history, or other information; and maintains documents to support its conclusion. Purchase cards may be used as a method of payment for micro-purchases.

(iii) ***Micro-purchase thresholds.*** The recipient or subrecipient is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the recipient or subrecipient must be authorized or not prohibited under State, local, or tribal laws or regulations. The recipient or subrecipient may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) ***Recipient or subrecipient increase to the micro-purchase threshold up to $50,000.*** The recipient or subrecipient may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The recipient or subrecipient may self-certify a threshold up to $50,000 on an annual basis and must maintain documentation to be made available to the Federal agency or pass-through entity and auditors in accordance with § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

(A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

(C) For public institutions, a higher threshold is consistent with State law.

(v) ***Recipient or subrecipient increase to the micro-purchase threshold over $50,000.*** Micro-purchase thresholds higher than $50,000 must be approved by the cognizant agency for indirect costs. The recipient or subrecipient must submit a request that includes the requirements in paragraph (a)(1)(iv) of this section. The increased threshold is valid until any factor that was relied on in the establishment and rationale of the threshold changes.

(2) ***Simplified acquisitions*** —

(i) ***Simplified acquisition procedures.*** The aggregate dollar amount of the procurement transaction is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If simplified acquisition procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. Unless specified by the Federal agency, the recipient or subrecipient may exercise judgment in determining what number is adequate.

(ii) ***Simplified acquisition thresholds.*** The recipient or subrecipient is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures, which may be lower than, but must not exceed, the threshold established in the FAR.

(b) ***Formal procurement methods.*** Formal procurement methods are required when the value of the procurement transaction under a Federal award exceeds the simplified acquisition threshold of the recipient or subrecipient. Formal procurement methods are competitive and require public notice. The following formal methods of procurement are used for procurement transactions above the simplified acquisition threshold determined by the recipient or subrecipient in accordance with paragraph (a)(2)(ii) of this section:

(1) ***Sealed bids.*** This is a procurement method in which bids are publicly solicited through an invitation and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforms with all the material terms and conditions of the invitation and is the lowest in price. The sealed bids procurement method is preferred for procuring construction services.

(i) For sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders have been identified as willing and able to compete effectively for the business; and

(C) The procurement lends itself to a firm-fixed-price contract, and the selection of the successful bidder can be made principally based on price.

(ii) If sealed bids are used, the following requirements apply:

(A) Bids must be solicited from an adequate number of qualified sources, providing them with sufficient response time prior to the date set for opening the bids. Unless specified by the Federal agency, the recipient or subrecipient may exercise judgment in determining what number is adequate. For local governments, the invitation for bids must be publicly advertised.

(B) The invitation for bids must define the items or services with specific information, including any required specifications, for the bidder to properly respond;

(C) All bids will be opened at the time and place prescribed in the invitation for bids. For local governments, the bids must be opened publicly.

(D) A firm-fixed-price contract is awarded in writing to the lowest responsive bid and responsible bidder. When specified in the invitation for bids, factors such as discounts, transportation cost, and life-cycle costs must be considered in determining which bid is the lowest. Payment discounts must only be used to determine the low bid when the recipient or subrecipient determines they are a valid factor based on prior experience.

(E) The recipient or subrecipient must document and provide a justification for all bids it rejects.

(2) ***Proposals.*** This is a procurement method used when conditions are not appropriate for using sealed bids. This procurement method may result in either a fixed-price or cost-reimbursement contract. They are awarded in accordance with the following requirements:

(i) Requests for proposals require public notice, and all evaluation factors and their relative importance must be identified. Proposals must be solicited from multiple qualified entities. To the maximum extent practicable, any proposals submitted in response to the public notice must be considered.

(ii) The recipient or subrecipient must have written procedures for conducting technical evaluations and making selections.

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the recipient or subrecipient considering price and other factors; and

(iv) The recipient or subrecipient may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby the offeror's qualifications are evaluated, and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where the price is not used as a selection factor, can only be used to procure architectural/engineering (A/E) professional services. The method may not be used to purchase other services provided by A/E firms that are a potential source to perform the proposed effort.

(c) ***Noncompetitive procurement.*** There are specific circumstances in which the recipient or subrecipient may use a noncompetitive procurement method. The noncompetitive procurement method may only be used if one of the following circumstances applies:

(1) The aggregate amount of the procurement transaction does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The procurement transaction can only be fulfilled by a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from providing public notice of a competitive solicitation;

(4) The recipient or subrecipient requests in writing to use a noncompetitive procurement method, and the Federal agency or pass-through entity provides written approval; or

(5) After soliciting several sources, competition is determined inadequate.

§ 200.321 Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms.

(a) When possible, the recipient or subrecipient should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) are considered as set forth below.

(b) Such consideration means:

(1) These business types are included on solicitation lists;

(2) These business types are solicited whenever they are deemed eligible as potential sources;

(3) Dividing procurement transactions into separate procurements to permit maximum participation by these business types;

(4) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;

(5) Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring a contractor under a Federal award to apply this section to subcontracts.

§ 200.322 Domestic preferences for procurements.

(a) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, contracts, and purchase orders under Federal awards.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(c) Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.

§ 200.323 Procurement of recovered materials.

(a) A recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(b) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

§ 200.324 Contract cost and price.

(a) The recipient or subrecipient must perform a cost or price analysis for every procurement transaction, including contract modifications, in excess of the simplified acquisition threshold. The method and degree of analysis conducted depend on the facts surrounding the particular procurement transaction. For example, the recipient or subrecipient should consider potential workforce impacts in their analysis if the procurement transaction will displace public sector employees. However, as a starting point, the recipient or subrecipient must make independent estimates before receiving bids or proposals.

(b) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that the costs incurred or cost estimates included in negotiated prices would be allowable for the recipient or subrecipient under subpart E of this part. The recipient or subrecipient may reference its own cost principles as long as they comply with subpart E of this part.

(c) The recipient or subrecipient must not use the "cost plus a percentage of cost" and "percentage of construction costs" methods of contracting.

§ 200.325 Federal agency or pass-through entity review.

(a) The Federal agency or pass-through entity may review the technical specifications of proposed procurements under the Federal award if the Federal agency or pass-through entity believes the review is needed to ensure that the item or service specified is the one being proposed for acquisition. The recipient or subrecipient must submit the technical specifications of proposed procurements when requested by the Federal agency or pass-through entity. This review should take place prior to the time the specifications are incorporated into a solicitation document. When the recipient or subrecipient desires to accomplish the review after a solicitation has been developed, the Federal agency or pass-through entity may still review the specifications. In those cases, the review should be limited to the technical aspects of the proposed purchase.

(b) When requested, the recipient or subrecipient must provide procurement documents (such as requests for proposals, invitations for bids, or independent cost estimates) to the Federal agency or pass-through entity for pre-procurement review. The Federal agency or pass-through entity may conduct a pre-procurement review when:

(1) The recipient's or subrecipient's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition, or only one bid is expected to be received in response to a solicitation;

(3) The procurement is expected to exceed the simplified acquisition threshold and specifies a “brand name” product;

(4) The procurement is expected to exceed the simplified acquisition threshold, and a sealed bid procurement is to be awarded to an entity other than the apparent low bidder; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(c) The recipient or subrecipient is exempt from the pre-procurement review in paragraph (b) of this section if the Federal agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The recipient or subrecipient may request that the Federal agency or pass-through entity review its procurement system to determine whether it meets these standards for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding and third-party contracts are awarded regularly.

(2) The recipient or subrecipient may self-certify its procurement system. However, self-certification does not limit the Federal agency's or pass-through entity's right to review the system. Under a self-certification procedure, the Federal agency or pass-through entity may rely on written assurances from the recipient or subrecipient that it is complying with the standards of this part. The recipient or subrecipient must cite specific policies, procedures, regulations, or standards as complying with these requirements and have its system available for review.

§ 200.326 Bonding requirements.

The Federal agency or pass-through entity may accept the recipient's or subrecipient's bonding policy and requirements for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold. Before doing so, the Federal agency or pass-through entity must determine that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute any required contractual documents within the specified timeframe.

(b) A performance bond on the contractor's part for 100 percent of the contract price. A performance bond is a bond executed in connection with a contract to secure the fulfillment of all the contractor's requirements under a contract.

(c) A payment bond on the contractor's part for 100 percent of the contract price. A payment bond is a bond executed in connection with a contract to assure payment as required by the law of all persons supplying labor and material in the execution of the work provided for under a contract.

§ 200.327 Contract provisions.

The recipient's or subrecipient's contracts must contain the applicable provisions described in Appendix II of this part.

7 CFR 210.21

§ 210.21 Procurement.

CROSS REFERENCE

Link to an amendment published at 91 FR 57248, Sept. 9, 2026.

(a) ***General.*** State agencies and school food authorities shall comply with the requirements of this part and 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415, as applicable, which implement the applicable requirements, concerning the procurement of all goods and services with nonprofit school food service account funds.

(b) ***Contractual responsibilities.*** The standards contained in this part and 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415, as applicable, do not relieve the State agency or school food authority of any contractual responsibilities under its contracts. The State agency or school food authority is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to source evaluation, protests, disputes, claims, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the local, State, or Federal authority that has proper jurisdiction.

(c) ***Procedures.*** The State agency may elect to follow either the State laws, policies and procedures as authorized by 2 CFR 200.317, or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with 2 CFR 200.318 through 2 CFR 200.326. Regardless of the option selected, States must ensure that all contracts include any clauses required by Federal statutes and executive orders and that the requirements 2 CFR 200.236 and Appendix II, Contract Provisions for Non-Federal Entity Contracts Under Federal Award are followed. A school food authority may use its own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with nonprofit school food service account funds adhere to the standards set forth in this part and in 2 CFR part 200, subpart D, as applicable. School food authority procedures must include a written code of standards of conduct meeting the minimum standards of 2 CFR 200.318, as applicable.

(1) ***Pre-issuance review requirement.*** The State agency may impose a pre-issuance review requirement on a school food authority's proposed procurement. The school food authority must make available, upon request by the State agency, its procurement documents, including but not limited to solicitation documents, specifications, evaluation criteria, procurement procedures, proposed contracts and contract terms. School food authorities shall comply with State agency requests for changes to procurement procedures and solicitation and contract documents to ensure that, to the State agency's satisfaction, such procedures and documents reflect applicable procurement and contract requirements and the requirements of this part.

(2) ***Prototype solicitation documents and contracts.*** The school food authority must obtain the State agency's prior written approval for any change made to prototype solicitation or contract documents before issuing the revised solicitation documents or execution of the revised contract.

(3) ***Prohibited expenditures.*** No expenditure may be made from the nonprofit school food service account for any cost resulting from a procurement failing to meet the requirements of this part.

(d) ***Buy American*** —

(1) ***Definitions.*** For the purpose of this paragraph (d):

(i) ***Domestic commodity or product*** means:

(A) An agricultural commodity that is produced in the United States; and

(B) A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

(ii) ***Substantially using agriculture commodities that are produced in the United States*** means over 51 percent of a food product must consist of agricultural commodities that were grown domestically.

(2) ***In general.*** Subject to paragraph (d)(4) of this section, a school food authority must purchase, to the maximum extent practicable, domestic commodities or products.

(3) ***Required language.*** School food authorities must include language requiring the purchase of foods that meet the Buy American requirements in paragraph (d)(1) of this section in all procurement procedures, solicitations, and contracts.

(4) ***Limitations.*** Paragraphs (d)(2) and (3) of this section apply only to:

(i) A school food authority located in the contiguous United States; and

(ii) A purchase of domestic commodity or product for the school lunch program under this part.

(5) ***Exceptions.*** The purchase of foods not meeting the definition in paragraph (d)(1) of this section is only permissible when the following criteria are met:

(i) The school food authority determines that one of the following limited exceptions is met:

(A) The product is listed in the Federal Acquisitions Regulations (FAR) at 48 CFR 25.104 and/or is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; or

(B) Competitive bids reveal the cost of a United States product is significantly higher than the non-domestic product.

(ii) Non-domestic food purchases (those that do not meet the definition of domestic commodity or product, as defined in paragraph (d)(1) of this section) must not exceed the following caps by the established deadlines:

(A) By July 1, 2025, non-domestic food purchases must not exceed 10 percent of total annual commercial food costs that a school food authority purchases per school year.

(B) By July 1, 2028, non-domestic food purchases must not exceed 8 percent of total annual commercial food costs that a school food authority purchases per school year.

(C) By July 1, 2031, non-domestic food purchases must not exceed 5 percent of total annual commercial food costs that a school food authority purchases per school year.

(iii) School food authorities must maintain documentation, except when the item purchased is found on the FAR at 48 CFR 25.104 when using an exception under paragraph (d)(5)(i) of this section.

(iv) School food authorities must maintain documentation, to demonstrate that when using an exception under paragraph (d)(5)(i) of this section their non-domestic food purchases do not exceed the annual threshold specified in paragraph (d)(5)(ii) of this section.

(6) ***Harvested fish.*** To meet the definition of a domestic commodity or product, harvested fish must meet the following requirements:

(i) Farmed fish must be harvested within the United States or any territory or possession of the United States; and

(ii) Wild caught fish must be harvested within the Exclusive Economic Zone of the United States or by a United States flagged vessel.

(7) ***Applicability to Hawaii.*** Paragraph (d)(2) of this section applies to school food authorities in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch program under this part.

(8) ***Temporary accommodation.*** For school food authorities that demonstrate they cannot meet the threshold, State agencies may provide an accommodation for temporary relief from the requirement as the State agency works with the school food authority to increase domestic purchases.

(e) ***Restrictions on the sale of milk.*** A school food authority participating in the Program, or a person approved by a school participating in the Program, must not directly or indirectly restrict the sale or marketing of fluid milk (as described in § 210.10(d)(4) of this chapter) at any time or in any place on school premises or at any school-sponsored event.

(f) ***Cost reimbursable contracts*** —

(1) ***Required provisions.*** The school food authority must include the following provisions in all cost reimbursable contracts, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts:

(i) Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;

(ii)

(A) The contractor must separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or

(B) The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;

(iii) The contractor's determination of its allowable costs must be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;

(iv) The contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the State agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;

(v) The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and

(vi) The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department.

(2) ***Prohibited expenditures.*** No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost reimbursable contract that fails to include the requirements of this section, nor may any expenditure be made from the nonprofit school food service account that permits or results in the contractor receiving payments in excess of the contractor's actual, net allowable costs.

(g) ***Geographic preference.***

(1) A school food authority participating in the Program, as well as State agencies making purchases on behalf of such school food authorities, may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products, including the use of "locally grown", "locally raised", or "locally caught" as procurement specifications or selection criteria for unprocessed or minimally processed food items. When utilizing the geographic preference to procure such products, the school food authority making the purchase or the State agency making purchases on behalf of such school food authorities have the discretion to determine the local area to which the geographic preference option will be applied, so long as there are an appropriate number of qualified firms able to compete;

(2) For the purpose of applying the optional geographic procurement preference in paragraph (g)(1) of this section, "unprocessed locally grown or locally raised agricultural products" means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

(h) ***Procurement training.***

(1) State directors of school nutrition programs, State directors of distributing agencies, and school nutrition program directors, management, and staff tasked with National School Lunch Program procurement responsibilities must complete annual training on Federal procurement standards annually.

(2) Procurement training may count towards the professional standards training standards at § 210.30(g) of this part and § 235.11(h) of this chapter.

(3) State agencies and school food authorities must retain records to document compliance with the requirement in this section.

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