Reply to
Attn. of: SP 99-03
CACFP-559
SFSP-353

Subject: State Agency (SA) Procurements with the National
Food Service Management Institute (NFSMI)

To: STATE AGENCY DIRECTORS - (Child Nutrition Programs)
Colorado ED, Colorado DPHE,
Colorado HS, Iowa, Kansas,
Missouri ED, Missouri DH,
Montana OPI, Montana DPHSS,
Nebraska ED, Nebraska SS,
North Dakota, South Dakota,
Utah, Wyoming ED and
Wyoming DHSS

It has come to our attention there may be some misunderstanding
regarding procurement requirements under the Child Nutrition
Programs (CNP), specifically with regard to the use of
noncompetitive procurement practices to secure services from the
NFSMI. We would like to clarify policy in this area to ensure
correct and consistent application of grant requirements.

A State must administer entitlement grants under the CNP, in
accordance with the general rules found at 7 CFR Part 3015.
Examples of these grant programs include the National School
Lunch Program, the Child and Adult Care Food Program, and State
Administrative Expenses. Part 3015 requires that grantees and
subgrantees provide for maximum open and free competition in
procurements under USDA entitlement programs. Section 3015.182
requires “all procurement transactions, regardless of whether by
sealed bids or by negotiation and without regard to dollar value
shall be conducted in a manner that provides maximum open and
free competition.”

Non-entitlement grant programs, such as the Nutrition Education
and Training Program and the Team Nutrition grants are
administered in accordance with the general rules found at 7 CFR
Part 3016. While Section 3016.36(a) authorizes a State to use
its own procurement rules in lieu of those stated in Section
3016.36(b) through (i), State procurement policies also
generally require competitive procurements and justification of
sole source purchases.
STATE AGENCY DIRECTORS

The NFSMI is authorized by Section 21(e)(2)(C) of the National School Lunch Act to receive funding to implement dietary or nutrition initiatives through non-competitive Federal assistance awards from USDA. This authority in no way confers on the NFSMI a special status that would enable a State to obtain goods or services from the NFSMI by any method inconsistent with applicable Federal and State procurement rules.

In summary, a State’s use of NFSMI’s services under an entitlement program constitutes a procurement action under which competition is required by Part 3015. A noncompetitive negotiation is allowable, only with documented justification that meets the criteria in Part 3015. Procurements using funds covered by Part 3016 must be made in accordance with the contracting State’s procurement rules.

If you have any questions, please contact our office at (303) 844-0355.

ANN C. DEGROOT
Regional Director
Child Nutrition Programs