



United States  
Department of  
Agriculture

Food and  
Nutrition  
Service

3101 Park  
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Alexandria, VA  
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**DATE:** March 6, 2014

**MEMO CODE:** SP 25-2014; FD 133-2014

**SUBJECT:** School Food Authorities (SFAs) Purchasing Produce from U.S. Department of Defense (DoD) Vendors Using Section 4 and 11 or Fresh Fruit and Vegetable Program (FFVP) Funds

**TO:** Regional Directors  
Supplemental Nutrition and Safety Programs  
Special Nutrition Programs  
Food Distribution Programs  
All Regions

State Directors  
Special Nutrition Programs  
Food Distribution Programs  
All States

This memorandum clarifies how SFAs may use funds provided under Sections 4 and 11 or 19 of the National School Lunch Act (NSLA), 42 U.S.C. 1751, to purchase fresh fruits and vegetables from DoD Fresh Fruit and Vegetable Program (DoD Fresh) vendors.

As a background, State Distributing Agencies (SDAs) may permit SFAs to allocate some or all of their USDA Foods planned assistance level, funded under Section 6 of the NSLA, to be used by USDA to purchase produce through DoD Fresh. Some SFAs use funds from their nonprofit food service account (i.e., Section 4 and 11 funds), or funds provided through the FFVP (i.e., Section 19 funds) to purchase additional products directly from DoD Fresh vendors. SFAs should be aware that all direct purchases using Section 4 and 11 or 19 funds, including those procured informally, are subject to the federal procurement regulations at 7 CFR 3016.36.

Accordingly, SFAs may not contract with individual vendors noncompetitively to purchase products using Section 4 and 11 or FFVP funds, even if the same vendors already provide the SFA with product through DoD Fresh using Section 6 funds. Rather, SFAs must meet the competition requirements in 7 CFR 3016.36(c). These regulations require SFAs to conduct either an informal or formal procurement, depending on whether the estimated value of the purchase is above or below the most restrictive applicable small purchase threshold (Federal, State, or local). In conducting the procurement, it is permissible for SFAs to include vendors that provide services through DoD Fresh when soliciting bids. After evaluating all bids, if the SFA determines that the DoD Fresh vendor's bid is the winning submission, the SFA must directly contract with the vendor, as they would with any other commercial procurement. It is not permissible for SFAs to place orders through DoD's FFAVORS system for any purchases, either formally or informally, to be paid for with Section 4 and 11 or FFVP funds. SFAs that are currently

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using FFAVORS for purchases paid for with Section 4 and 11 or FFVP funds will no longer be able to do so beginning in School Year 2014-2015.

State agencies must distribute this memorandum to SFAs upon receipt. SFAs should direct any questions regarding the information contained in this memorandum to the appropriate State agency. State agencies should direct questions to their respective FNS Regional office.



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Child Nutrition Programs



Laura Castro  
Director  
Food Distribution Division