LOCAL PROCUREMENT POLICY AND GUIDANCE

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Procurement Q&A

1. What are the available procurement methods in the school meals programs?

When using nonprofit food service account funds, School Food Authorities (SFAs) must follow their own State and local rules except where those rules are inconsistent (less restrictive) with the federal requirements.

In those cases, the SFA must substitute and follow the more restrictive federal requirements at 7 CFR 3016 and 3019.

When procuring goods and service for the school meal programs, an SFA must determine whether they will use an informal or formal method of procurement. It is important for SFAs to understand and then identify which method best meets the needs of their food service operation.

The procurement methods are designed to provide free and open competition and ensure that Federal funds—when used to purchase products or services—result in the best and most responsive product at the lowest possible price.

- What is the informal procurement method?

The informal procurement method is formally known as the small purchase or simplified acquisition threshold. The small purchase method is a relatively simple and informal procurement method that is appropriate for a procurement of goods and services costing not more than $100,000 (the current Federal small purchase threshold), or a lesser amount specified by State law or local requirements.

Though procurements conducted using the small purchase threshold follow a less rigorous process than the formal methods of sealed bidding or competitive negotiation, competition is still required. SFAs must always adhere to procurement regulations when purchasing any amount of goods or services using nonprofit school food service account funds. While relatively simple and less formal than the formal methods of procurement, the informal method of procurement still requires that the SFA compete for goods or services using an appropriate solicitation document and competitive process. The SFA must develop a written solicitation to identify the number, quality, and type of goods or services needed and use the solicitation to solicit goods or services from each potential offeror. Unlike the formal procurement methods which require public advertisement, when using an informal method an SFA may directly contact potential competitive sources. The decision whether to formally advertise or simply contact three or more potentially qualified sources is left up to the SFA.

SFAs must check with their administering State agency and local officials to determine the small purchase procedures that must be followed in their respective state or district. State and local regulations may set the simplified acquisition threshold at a lower, more restrictive level than the federal threshold (for example, $50,000 State threshold instead of the Federal threshold of $100,000). State and local agencies are encouraged to assess their current small purchase regulations and evaluate if their threshold best fits their needs.
• What are the formal procurement methods?

If the value of an SFA’s procurement meets or exceeds the applicable federal, state, or local threshold for small purchases, the SFA must use the formal, more rigorous method of procurement. The two formal procurement methods available are Competitive Sealed Bidding, commonly referred to as sealed bidding, and Competitive Proposals, formerly called competitive negotiation.

The first formal method of procurement is:

**Competitive Sealed Bids, i.e. an invitation for bid (IFB).** The competitive sealed bids is a method of procurement in which sealed bids are publicly solicited (i.e. through an invitation for bid) resulting in the award of a firm-fixed price contract, fixed price contract with economic price adjustment or fixed price contract with prospective price redetermination, to the responsible bidder whose bid is responsive to the invitation for bid IFB, conforms with all the material terms and conditions of the invitation for bids, and is lowest in price. In this case, the IFB must be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them with sufficient time to respond prior to the date set for opening the bids.

Competitive sealed bidding is used when:

- Complete specifications or descriptions of the product or service are available or could easily be developed by the SFA;
- The responsive bids will differ along no dimension other than price; and
- There are more than one qualified source is thought to be willing and able to compete for the award.

The second formal method of procurement is:

**Competitive Proposals, i.e. a request for proposal (RFP).** The competitive proposal is a method of procurement whereby a technical proposal is solicited that explains how the prospective contractor will meet the objectives of the solicitation and a cost element that identifies the costs to accomplish the technical proposal. While price alone is not the sole basis for award, price remains the primary consideration when awarding a contract under the competitive proposal method.

Competitive negotiation is used when the SFA lacks specificity and is requesting goods and services that are not “one size fits all.” Another indicator that an SFA should use the competitive negotiation method of procurement is when expectations can be identified, but more than one method can be used to achieve the SFA’s desired outcome. In the case of an RFP, criteria allows for the measurement of factors that differ along other dimensions than just price. The use of competitive negotiation requires that sufficient skill and expertise be available to allow for proper evaluation of the proposals and to conduct negotiations with top offerors.

For additional information on each of these procurement methods in your state, please contact your State Agency.

2. Do these rules and regulations prohibit an SFA from purchasing locally?

No, but in properly following the regulations, an SFA must ensure that they do not restrict competition. Some examples of unallowable practices that restrict competition include:

**Unreasonable requirements** – placing unreasonable or overly restrictive requirements on suppliers in order for them to qualify to do business, e.g., requiring unnecessary experience or bonding requirements.
Noncompetitive practices – encouraging noncompetitive practices, e.g., collusion between vendors or farmers. Failing to adequately advertise and solicit prices could encourage potential suppliers to manipulate their bid prices.

Conflicts of interest – allowing conflicts of interest to occur. Conflicts of interest are present when a less than arms-length transaction takes place. This can occur when the individual(s) responsible for determining bid/proposal responsiveness can be overruled by other individuals within the organization, e.g. Board members, or if the individual responsible for determining responsiveness (or any member of his/her family) has any personal or financial interest in any of the offering firms.

Using a respondent’s bid specifications – using bid specifications or contract terms written by a potential contractor. A person that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by an SFA in conducting a procurement under the USDA entitlement programs shall be excluded from competing for such procurements.

Insufficient time – not allowing bidders/offerors sufficient submission time when soliciting the invitation for bid or request for proposal.

Geographic preferences – using in-state or local geographic preferences that are not in keeping with the new regulations established by the Farm Bill of 2008.

3. What does the 2008 Farm Bill mean for me?

When purchasing locally, it is important to understand the regulations of the recently enacted Food, Conservation, and Energy Act of 2008 (P.L. 110-246), also known as the Farm Bill, which applies to procurements in the Child Nutrition Programs. Section 4302 of the Farm Bill amended section 9(j) of the Richard B. Russell National School Lunch Act (NSLA) to require the Secretary of Agriculture to encourage institutions operating the Child Nutrition Programs to purchase unprocessed locally grown and locally raised agricultural products.

This means that institutions receiving funds through the Child Nutrition Programs may now apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. This applies to operators of all of the Child Nutrition Programs, including the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, Special Milk Program, Child and Adult Care Food Program, and Summer Food Service Program, as well as to purchases of fresh produce for these programs by the Department of Defense.

It is important to remember that when a school food authority (SFA) chooses to purchase from local producers, they must still observe all the regulations that apply when purchasing food for the school meal programs using nonprofit school food service account funds. These procurement regulations are in place to ensure that Federal funds, when used to purchase products or services, result in the best and most responsive product at the lowest possible price. For a list of the memos outlining the rules for applying a geographic preference when purchasing locally grown unprocessed agricultural products, please visit the Policy page: http://www.fns.usda.gov/cnd/F2S/f2spolicy.htm

Q&A #9 further explains how a geographic preference can be applied.

4. What types of products do the Farm Bill’s geographic preference regulations pertain to?

Geographic preference may only be applied to the procurement of unprocessed agricultural products which are locally grown and locally raised.

The Managers of the Farm Bill legislation used the term “unprocessed” to “preclude the use of geographic preference for agricultural products that have significant value added components.” However,
allowable items under geographic preference include de minimis handling and preparation such as might be necessary to present an agricultural product to a school food authority in a useable form, such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk, and putting eggs in a carton.”

Accordingly, FNS has recently updated our initial guidance to expand the definition of unprocessed agricultural products—or agricultural products that retain their inherent character. A school may now use a geographic preference for unprocessed agricultural products that have been chopped, cut, sliced, diced or shucked.

For purposes of applying a geographic procurement preference in the Child Nutrition Programs, “unprocessed agricultural products” means only those agricultural products that retain their inherent character. The effects of the following handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different inherent character:

Cooling, refrigerating, freezing; size adjustment through size reduction made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; drying/dehydration; washing; the application of high water pressure or “cold pasteurization”; packaging (such as placing eggs in cartons) and vacuum packing and bagging (such as placing vegetables in bags); butchering livestock, fish and poultry; and the pasteurization of milk.

Please visit our main policy page for more information.

5. Does the Farm Bill require schools to purchase local, unprocessed products?

No. While the statute permits institutions to apply a geographic preference to the maximum extent practicable and appropriate, it does not require institutions to purchase locally grown and locally raised agricultural products, or to apply a geographic preference in their procurements of these products. Moreover, States cannot mandate through law or policy that institutions apply a geographic preference when conducting these procurements; the NSLA grants this authority directly to the institutions.

The institution responsible for the procurement has the discretion to determine whether and how a geographic preference meets its needs.

6. According to the new Farm Bill regulations, institutions receiving funds through the Child Nutrition Programs may apply a geographic preference when procuring unprocessed locally grown or raised agricultural products. How is “local” defined? For example, could a school only accept bids/offers for unprocessed agricultural products from local farmers within a 50 mile radius?

Due to the geographic diversity in each state, the institution responsible for the procurement has the discretion to define the area for any geographic preference (e.g., State, county, region, etc.). However, it is important to keep in mind that local preference should not be defined in a way that unnecessarily limits competition.

7. The Farm Bill legislation states that de minimis handling and preparation might be necessary to present an agricultural product to a school food authority in a useable form, such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk, and putting eggs in a carton. Does produce that has been chopped or cut fall into the category of “minimal handling and preparation necessary to present in a useable form?”

Unprocessed agricultural products that have been chopped, cut, sliced, diced or shucked do meet the parameters of unprocessed as used in the Farm Bill. Therefore, SFAs and other service institutions may use a geographic preference when procuring those agricultural products. See memorandum SP-01-2010 for more information.

8. Can an SFA purchase food directly from a farmer?
Yes, as long as the SFA observes all the regulations that apply when purchasing food using nonprofit school food service account funds. This can be found at 7 CFR 210.21, 7 CFR 220.16, and 7 CFR 3016.36.

Procurement regulations are in place to ensure that Federal funds, when used to purchase products or services, result in the best and most responsive product at the lowest possible price. The most important principle of procurement is that it must always be conducted in a manner that provides maximum free and open competition. Free and open competition means that all suppliers are “on a level playing field” with the same opportunity to compete. Procurement procedures must not restrict or eliminate competition. While a geographic preference may be used to encourage the purchase of locally grown and locally raised products by enabling an institution to grant an advantage to local growers, this provision does not eliminate the requirement for procurements to be conducted in a manner that allows for free and open competition, consistent with the purchasing institution’s responsibility to be responsible stewards of federal funds. Please see question #10 for examples of how this procurement may work.

9. According to the new Farm Bill regulations, institutions receiving funds through the Child Nutrition Programs may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. Does this mean competition does not need to occur and schools can simply pick a farmer to provide them with fresh, unprocessed vegetables?

No. The most important principle to a good procurement is that it is competitive and allows for free and open competition. When using a geographic preference to procure locally unprocessed agricultural products, competition still must occur. However, the way in which a geographic preference is applied depends on whether the procurement method is informal or formal.

If using the informal method, i.e. when procuring items which fall under the small purchase threshold, an institution must still develop a written specification document outlining the products they are seeking. The institution should get price quotes from at least three sources/farmers when procuring unprocessed locally grown or locally raised agricultural products, so that competitors have an opportunity to compete for the bid. Competition is maintained by comparing the price quotes from the sources to the SFA’s developed specification, to determine which bidder is the most responsive and responsible.

If the procurement exceeds the small purchase threshold, a formal procurement method must be used. This involves the sealed bidding process (i.e. IFB) or the competitive negotiation process (i.e. RFP). This would entail public notification of the solicitation developed by the SFA. In the scoring criteria contained in the solicitation, the SFA can incorporate the use of geographic preference points into the criteria. This indicates to bidders that—upon the SFA’s scoring of their solicitation for locally unprocessed agricultural products—preference points may be granted to the local sources/farmers who respond to the solicitation and are able to provide the requested unprocessed agricultural products.

10. Can SFAs split up large purchases into smaller amounts and thereby fall under the small purchase threshold?

No, SFAs cannot intentionally split purchases in order to fall below the federal small purchase threshold in an effort to avoid more rigorous procurement practices. However, there may be some instances in which a segment of the marketplace supports the need to separate products from the overall food procurement. For example, milk and bread are commonly procured separately because there are fundamental differences between them and other food products, such as shorter shelf-life, different pricing mechanisms, durability, and, in some cases, having a clearly defined local market due to their distinctive characteristics. Similarly, an SFA may find that fresh produce may be considered a separate market given that it shares similar characteristics as bread and milk.

The following are two examples that may help an SFA to purchase local produce:

- If a state’s small purchase threshold is $100,000 and an SFA will be purchasing $150,000 worth of items for the salad bar, they cannot split the purchase into two purchases of $75,000 each to
fall below the state’s threshold. However, an SFA’s purchase of produce may constitute a separate market due to its shelf life and pricing structure, and therefore the SFA may be able to separate out the procurement of the fresh produce which may, under the small purchase threshold, allow them to contact three local vendors rather than conducting a formal procurement. Please keep in mind that every produce purchase does not necessarily constitute a separate market, thereby justifying a separate procurement for the local produce. For example, a school regularly purchases apples as part of their larger food procurement from a distributor. The apples purchased for the program may not necessarily constitute a separate market, as they have a longer shelf life than other produce and may easily be provided fresh from a distributor at a reasonable cost. Each SFA must carefully assess their own particular purchasing mechanisms and methods, and determine what is reasonable in the situation.

- If an SFA is participating in a curriculum related activity such as a “Harvest Week” where it is necessary to procure specific food items, it may make sense for the SFA to conduct a separate procurement for those specific products. If this procurement does in fact fall below the small purchase threshold, the SFA will be able to procure through the informal procurement method which may facilitate their purchasing process.

EXERPTED FROM USDA 08-2010
GEOMETRIC PREFERENCE FOR THE PROCUREMENT OF UNPROCESSED AGRICULTURAL PRODUCTS IN THE CHILD NUTRITION PROGRAMS

The purpose of this memorandum is to update the definition of what is considered “unprocessed” for the purposes of applying the optional geographic preference for procurement in the Child Nutrition Programs.

Section 4302 of Public Law 110-246, the Food, Conservation, and Energy Act of 2008, amended section 9(j) of the Richard B. Russell National School Lunch Act (NSLA) to allow institutions receiving funds through the Child Nutrition Programs to apply an optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products. This provision applies to operators of all of the Child Nutrition Programs, including the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, Special Milk Program, Child and Adult Care Food Program and Summer Food Service Program, as well as to purchases made for these programs by the Department of Defense Fresh Program. The law also applies to State Agencies making purchases on behalf of local agencies under any of the aforementioned Child Nutrition Programs.

This statutory provision was implemented by policy memorandum SP 30-2008, Applying Geographic Preferences in Procurements for the Child Nutrition Programs (July 9, 2008), as well as SP 08-2009 Procurement Questions (January 9, 2009) and SP 28-2009 Procurement Questions (July 22, 2009). These initial FNS guidance documents specified that the geographic procurement preference option may only be applied to the procurement of unprocessed agricultural products which are locally grown and locally raised and that have not been cooked, seasoned, frozen, canned, or combined with any other products, or have not been chopped, cut, diced or sliced. After observing the impact of the Agency interpretation of the term “unprocessed” during the past year, we determined that our initial guidance was unnecessarily restrictive and had the potential to prevent participating Child Nutrition Program operators from receiving locally grown or raised products in a usable form. Accordingly, we recently updated our initial guidance to add that unprocessed agricultural products that have been chopped, cut, sliced, diced or shucked do meet the meaning of the term “unprocessed” as intended by the statute.

At this time, we are further amending the previous guidelines regarding what is to be considered to be “unprocessed locally grown or locally raised agricultural products” when applying the geographic procurement preference option. In our view, for purposes of applying a geographic procurement preference in the Child Nutrition Programs, “unprocessed agricultural products” means only those agricultural products that retain their inherent character. The effects of the following handling and preservation techniques shall not be considered as changing an agricultural
product into a product of a different inherent character: cooling, refrigerating, freezing; size adjustment through size reduction made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; drying/dehydration; washing; the application of high water pressure or “cold pasteurization”; packaging (such as placing eggs in cartons) and vacuum packing and bagging (such as placing vegetables in bags); butchering livestock, fish and poultry; and the pasteurization of milk.

**EXCERPTED FROM USDA SP 02-2010**

**LOCAL PURCHASING**

**Q:** According to the new Farm Bill regulations, institutions receiving funds through the Child Nutrition Programs may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. Does this mean competition does not need to occur and schools can simply pick a farmer to provide them with fresh, unprocessed vegetables?

**A:** No. The most important principle to a good procurement is that it is competitive and allows for free and open competition. An institution must still get quotes from several farmers when procuring unprocessed locally grown or locally raised agricultural products, so that competitors have an opportunity to compete for the bid. The way in which a geographic preference is applied could depend on whether the procurement method is informal or formal. If informal, i.e. falling below the small purchase threshold, a school food authority (SFA) may simply want to approach approximately 3-4 local producers and obtain price quotes. Competition is ensured by developing a solicitation that contains criteria which all the respondents will be subject to. If the procurement exceeds the small purchase threshold, a formal procurement method must be used which would involve the sealed bidding process (i.e. IFB) or the competitive negotiation process (i.e. RFP). This would entail public notification of the solicitation; however, when procuring locally unprocessed agricultural products the notification may be focused on the locale in which the school is situated as a criteria of the solicitation. In a situation where the solicitation for locally unprocessed agricultural products is in fact open to offerors beyond the local area, a way in which to apply a geographic preference is to grant preference points to the local farmers who respond to the solicitation.

**Q:** The Joint Explanatory Statement accompanying the new Farm Bill legislation states that de minimis handling and preparation might be necessary to present an agricultural product to a school food authority in a usable form, such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk, and putting eggs in a carton. Additionally, consistent with FNS guidance, geographic preference may only be applied to the procurement of unprocessed agricultural products which are locally grown and locally raised, and that have not been cooked, seasoned, frozen, canned, or combined with any other products. Does produce that has been chopped or cut fall into the category of “minimal handling and preparation necessary to present in a usable form?”

**A:** Unprocessed agricultural products that have been chopped, cut, sliced, diced or shucked do meet the parameters of unprocessed as used in the Farm Bill. Therefore, SFAs and other service institutions may use a geographic preference when procuring those agricultural products. See SP-01-2010 for more information.

**Q:** Is processing meat into a hamburger patty allowed under this rule?

**A:** No. Grinding meat into a hamburger is considered “processing” and therefore geographic preference may not be applied to this product. Livestock and poultry can only be butchered in order to still be considered “unprocessed”.

**Q:** According to the new Farm Bill regulations, institutions receiving funds through the Child Nutrition Programs may apply a geographic preference when procuring unprocessed locally grown or raised agricultural products. How is “local” defined? For example, could a school only accept bids/offers for unprocessed agricultural products from local farmers within a 50 mile radius?

**A:** Due to the geographic diversity in each state, the institution responsible for the procurement has the discretion to define the area for any geographic preference (e.g., State, county, region, etc.). However, it is important to keep in mind that local preference should not be defined in a way that unnecessarily limits competition.

**FROM USDA SP 32-2009**

**SCHOOL GARDENS Q & A**
1. Q: Can the school food service use funds from the nonprofit school food service account to purchase seeds for a school garden?
A: Yes, with the understanding that the garden is used within the context of the program, i.e. selling the food or providing food in the classroom as part of an educational lesson.

2. Q: Can the school food service use funds from the nonprofit school food service account to purchase items for the school garden such as fertilizer, watering cans, rakes, etc.?
A: Yes, as long as the items are used for the purpose of starting and maintaining the garden.

3. Q: Can a school sell food grown in their school garden that was funded using the nonprofit school food service account?
A: Yes, as long as the revenue from the sale of the food accrues back to the nonprofit school food service account. Schools can serve the produce as part of a reimbursable meal or sell it a la carte, to parents, to PTA members, at a roadside stand, etc.

4. Q: Are there health/safety issues involved with school gardens?
A: Yes. SFAs need to familiarize themselves with the Federal, State, and local requirements regarding health and sanitation issues.

5. Q: Can the school food service purchase produce from another school organization that is maintaining and managing the garden, such as Future Farmers of America (FFA)?
A: Yes, the school food service may purchase produce from a garden run by a school organization such as FFA, which is an agricultural education program for students.

6. Q: Can funds received through the Fresh Fruits and Vegetables Program (FFVP) be used to purchase seeds/tools/equipment for a school garden?
A: No. FFVP funds may not be used for the purchase of any materials for school gardens.

7. Q: What if there is excess produce from the garden left over at the end of the school year?
A: The school should first see if the excess food can be used to benefit another program such as the SFSP. If that is not possible, they could try selling the food (as always, the profit must accrue back to the nonprofit school food service account) or donate it in accordance with State and local health/safety regulations.

FROM USDA 20-2006
Q & A RELEVANT TO BUY AMERICA PROVISION

1. Q: What are the requirements of the Richard B. Russell National School Lunch Act’s (NSLA) Buy American provision that school food authorities (SFAs) must follow when purchasing food and food products for use in the Child Nutrition Programs?
A: Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a new provision, Section 12(n) of the NSLA (42 USC 1760(n)), requiring SFAs to purchase domestically grown and processed foods, to the maximum extent practicable. Purchases made in accordance with the Buy American provision must still follow the applicable procurement rules calling for free and open competition.

2. Q: How would a SFA determine it’s a “domestic commodity or product”?
B 12(n) of the NSLA defines “domestic commodity or product” as one that is produced and processed in the United States substantially using agricultural commodities that are produced in the United States. One of the reports accompanying the legislation noted that “substantially” means that over 51% of the final processed product consists of agricultural commodities that were grown domestically.

3. Q: Are there any exceptions to the requirements of the Buy American provision?
A: Yes. While rare, two situations which may warrant a waiver to permit purchases of foreign food products include: 1) the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; and 2) competitive bids reveal the costs of a U.S. product is significantly higher than the foreign product.

4. Q: Does the “Buy American” provision apply to entities that purchase on behalf of an SFA, such as a purchasing cooperative or a food service management company?
A: Yes. Any entity that purchases food or food products on behalf of the SFA must follow the same “Buy American” provisions that the SFA is required to follow.

5. Q: Does the “Buy American” provision apply only to purchases made using Federal funds under the Child Nutrition Programs?
A: No. SFAs must ensure that all procurements using funds from the nonprofit school food service account comply with the Buy American provision. Pursuant to Child Nutrition Program regulations, all Federal funds, all money received from children as payment for program meals, all proceeds from the sale of competitive foods, and all other income generated by the school food service must inure to the food service account. As a consequence, the entire nonprofit school food service account becomes subject to Federal procurement standards.

6. Q: What can an SFA do to comply with the requirements of the Buy American provision?
A: There are a number of ways SFAs can comply with the provision. SFAs should be including a Buy American clause in all product specifications, bid solicitations, requests for proposals (RFPS), purchase orders, and other procurement documents issued. Additionally, SFAs are required by 7 CFR 3016.36(b) (2) to monitor contractor performance to ensure compliance with all contractual requirements, including the Buy American provision. SFAs can also ask their suppliers to provide certification as to the origin of the product which is discussed in more detail in question #9.

7. Q: How should an SFA determine the country of origin for an end product?
A: For manufactured end products, there is a two-part test to define end product: (1) the article must be manufactured in the United States; and (2) the cost of domestic components must exceed 50 percent of the cost of all the components. It is not enough to assume that a product with a well recognized American brand name or product supplied by a domestic foodservice distributor complies with the Buy American provision. SFAs should inquire further with their suppliers to determine the country of origin for an end product because some products sold in school meals may carry the name brand of domestic company but the product itself may derive from another country. SFAs should also examine product packaging as the Nutrition Labeling and Education Act of 1990 mandates that the country of origin for both domestic and imported food products be identified on the product labels.

8. Q: Should SFAs rely on the distributors’ reliance on information from American suppliers about the amount of domestic content in the parts, components, and other elements they buy and use for their final products?
A: According to the Federal Trade Commission, if given in good faith, entities can rely on information from foodservice distributors about the domestic content in the parts, components, and other elements contained in the product. However, rather than assume that the input is 100 percent U.S.-made, SFAs would be wise to ask the supplier, i.e., manufacturer or distributor, for specific information about the percentage of U.S. content. SFAs can include in their bidding process a requirement for certification along the lines of: "We require that suppliers certify the percentage of U.S. content in products supplied to us. If you are unable or unwilling to make such certification, we will not purchase from you." Appearing under this statement could be the sentence, "We certify that our ___ have at least ___% U.S. content," with space for the supplier to fill in the name of the product and its percentage of U.S. content.

9. Q: Doesn’t this place some of the burden on the manufacturers and distributors of food and food products in the Child Nutrition Programs?
A: Yes. The ability to certify, as required by the terms of the contract with the SFA, will require that manufacturers and processors look back far enough in the manufacturing process to be reasonably sure that any significant foreign content has been identified.
Resources
USDA Memos  http://www.fns.usda.gov/cnd/governance/policy.htm
First Choice
Choice Plus
Fruit and Vegetables Galore.
Your Consultant

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