



Reply to
Attn of: SP-06-32

August 31, 2006

Subject: Buy American Reminder

To: STATE AGENCY DIRECTORS – Colorado ED, Iowa, Kansas, Missouri ED,
(Special Nutrition Programs) Montana OPI, Nebraska ED, North Dakota,
South Dakota, Utah and Wyoming ED

Since the issuance of memo SP 06-20, Procurement Questions Relevant to the Buy American Provision, we continue to receive questions about the provision. This guidance serves as a general reminder to State Agencies (SA) about the importance of complying with the Buy American provisions that are found in the regulations of the National School Lunch Program (NSLP) at 7 CFR 210.21(d) and the School Breakfast Program (SBP) at 7 CFR 220.16(d).

One issue in particular that we would like to address is the applicability of the provision to all foods purchased by School Food Authorities (SFAs) with funds from the nonprofit food service account. We have been informed about a food product that was displayed at the recent School Nutrition Association (SNA) 2006 conference that was non-compliant with the Buy American provisions. This food item, which was produced and exhibited by a major food company at the conference, was clearly marked as containing a main ingredient from China and prepared in Thailand.

Although the food item was not displayed at the SNA conference as a component of any of the menu planning options in the NSLP or the SBP, we are concerned that conference attendees could have mistakenly concluded that such products are acceptable for a la carte sales. As discussed in the memo SP 06-20 (see Q&A 5), SFAs must ensure that all procurements using funds from the nonprofit school food service account comply with the Buy American provisions. This includes foods that are sold to students as a la carte food items.

As with all other program requirements, SAs have an obligation to ensure that SFAs are complying with the Buy American provisions, to the maximum extent practicable. The memo SP 06-20 guidance describes actions that SFAs can take to comply with the Buy American requirements, such as:

- Including a Buy American clause in all procurement documents (product specifications, bid solicitations, requests for proposals, purchase orders, etc.);
- Monitoring contractor performance;
- Requiring suppliers to certify the origin of the product;
- Examining product packaging for identification of the country of origin; and
- Asking the supplier for specific information about the percentage of U.S. content in the food product.

We appreciate your assistance in reminding SFAs about the importance of complying with the Buy American provisions.

If you have any questions, please contact our office at (303) 844-0354.

A handwritten signature in black ink that reads "Darlene Sanchez". The signature is written in a cursive style. To the right of the signature, there is a vertical red line.

DARLENE SANCHEZ
Regional Director
Special Nutrition Programs