POLICY ALERT

Date: July 18, 2006
Reference: # CACFP ADC 2006-16
To: Child and Adult Care Food Program-Adult Day Care (CACFP-ADC) Contractors
Subject: Federal Procurement Regulations
Effective Date: Immediately

Purpose

This Policy Alert:
• Supplements Section 7000, Procurement, of the CACFP-ADC Handbook
• Replaces Notice CACFP ADC 2005-02, Contract Procurement
• Accompanies Notice CACFP ADC 2005-09, Procurement Procedure Questions and Answers

ADC contractors are prohibited from awarding contracts to any entity that develops or drafts procurement documents.

Implementation

Immediately

Procedure

ADC contractors cannot allow any entity bidding for a contract award to develop:
• Specifications
• Requirements
• Statements of work
• Invitations for bids
• Requests for proposals
• Contract terms and conditions
• Other procurement documents

ADC contractors must draft their own specifications and procurement documents. Any ADC contractor that copies a list of features or evaluation and ranking criteria drafted by a potential vendor and then permits that potential vendor to submit a bid has violated both Federal and State procurement regulations.

It is understood that ADC contractors have broad discretion in gathering information for use in connection with procurements, any information from potential bidders must be appropriately modified to develop tailored specifications; otherwise these bidders must be excluded from competing for such procurements. This is to ensure objective contractor performance and eliminate unfair competitive advantage.

Exception: If the ADC contractor chooses to use a vendor’s information or assistance in developing procurement documents and the vendor is allowed to compete for the award, then the ADC contractor must not use any CACFP funds for the resulting award.

continued

This Policy Remains in Effect Until Further Notice
Procedure continued

**Protests**
Any action which diminishes open and free competition undermines the integrity of the procurement process and may subject the contractor to bid protests. Therefore, ADC contractors must have protest procedures in place to handle and resolve disputes relating to their procurements, and must disclose information regarding a protest to the Special Nutrition Programs.

**Adverse Action**
If Special Nutrition Programs determines that you have not complied with procurement requirements, you will be required to take corrective action. If corrective action is not taken the ADC contractor may be placed in the serious deficiency process. Please refer to Policy Alert CACFP ADC 2003-05, *Serious Deficiency Process for Participating Contractors*, for detailed information regarding the serious deficiency process.

**Authority**
United States Department of Agriculture (USDA) correspondence 2006-SNP-06.

**Contact**
If you have any questions please contact your Area Program Office.