POLICY ALERT

Date: July 18, 2006 Reference: # FD 2006-2
To: Food Distribution Program (FDP) Contractors
Subject: Federal Procurement Regulations
Effective Date: Immediately

Purpose
This Policy Alert supplements Chapter 10, Processing, subheading Procurement Standard, of the FDP Handbook. FDP contractors are prohibited from awarding contracts to any entity that develops or drafts procurement documents.

Implementation
Immediately

Procedure
FDP 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

FDP contractors must draft their own specifications and procurement documents. Any FDP 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 FDP 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 FDP 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 FDP contractor must not use any FDP funds for the resulting award.

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, FDP 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.

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### 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, this may result in adverse action up to and including termination of your FDP contract.

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### Authority

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

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### Contact

If you have any questions please contact your Contract Manager.