

School Nutrition News From MDE

October 12, 2018



The information in this document helps support Goal 4, Strategy 4.1, of [MDE's Top 10 in 10 Initiative](#)ⁱ by helping to ensure students receive important nutritional resources to help them learn and grow.

School Nutrition Association of Michigan (SNAM) Annual Conference

The SNAM Annual Conference will be held October 25-28, 2018, at the Lansing Center and Radisson Hotel in Lansing. For more information, visit [SNAM Annual Conference](#). Please consider attending as this is a great way to get up-to-date information on program regulations, best practices, and products available.

School Nutrition Program Reviews

Reviews of School Nutrition Programs (SNP) include an Administrative Review (AR), a Resource Management (RM) Review and a Procurement Review. The AR covers everything EXCEPT the financial piece of the program and is reviewed by the SNP team. The Fiscal and Administrative Services (FAST) team handles the financial portion in the RM and Procurement Reviews. Each of these reviews has an off-site tool or questionnaire. The questionnaires are sent separately. The RM Review questionnaire is sent at the beginning of the school year and the AR questionnaire is sent 4-6 weeks prior to the scheduled on-site portion of that review. Procurement Review information will be sent at a later date. For a list of School Food Authorities (SFAs) to be reviewed this year, visit [SY 2018-2019 SFA Reviews](#).ⁱⁱ ARs will be scheduled from the end of October to June. If you have questions about RM or Procurement Reviews, contact MDE-Fiscal@michigan.gov and for questions on the AR, contact MDE-SchoolNutrition@michigan.gov.

Food Distribution Disaster Guide – Midwest Region

Our United States Department of Agriculture (USDA) Midwest Regional Office has updated our regional Food Distribution Disaster Guide (for a copy, contact Linda Bushong at 517-241-5374). This document provides general information about food distribution roles during disasters, along with Midwest Regional office and Midwest State contacts. All programs that use USDA Foods, including school meals and household programs, are included in response plans as part of "provision of nutrition assistance" expectations of Food Distribution Programs. All involved parties are encouraged to become familiar with the Food Distribution Programs information found in *Section V (A) Concept of Operation*, and the roles of other programs and agencies as described. Please print and keep a copy for reference to ensure the information is

available when needed, especially considering that electronic versions may not always be accessible during an emergency situation.

October Monthly Training Topic

Attached is the October monthly training topic: Buy American Provision in the Nonprofit School Food Service Account. We hope you find this information helpful.

Verification of Eligibility for School Meals

For information on verification of eligibility for school meals, visit [Food Service Administrative Memo No. 5](#).ⁱⁱⁱ

Reminder – Upcoming Events

Tuesday at 2 Webinar

One Tuesday each month, we will host a webinar at 2:00 p.m. that will last approximately 30 to 45 minutes. Each webinar is designed to provide quick updates on the “latest and greatest” information on a designated topic for that month with the opportunity for participants to ask questions. Our next Tuesday at 2 Webinar:

- **Date:** October 16, 2018
- **Topic:** Verification

To join this webinar, pre-registration is required. The link for the webinar will be provided with your registration confirmation from Eventbrite. Please take advantage of this opportunity and join us in getting your Verification questions answered!

You can join this webinar from a desktop or laptop computer with speakers. Phones are not necessary to hear the audio for this webinar. Mobile devices can also be used, but some aspects of the webinar (i.e., polling questions) may not be visible on your screen. We will be using Skype for Business. If you are not familiar with this technology, you may want to join the webinar before 2:00 pm to check your video and audio settings.

School Nutrition Programs
Office of Health and Nutrition Services
Michigan Department of Education
517-241-5374
www.michigan.gov/schoolnutrition

Our collective efforts can help make Michigan a Top 10 education state in 10 years! Here are the goals and strategies: <http://mi.gov/top10in10/>



ⁱ <https://www.michigan.gov/mde/0,4615,7-140-80635---,00.html>

ⁱⁱ https://www.michigan.gov/documents/mde/Review_List_-_TO_BE_UPLOADED_ON_WEBSITE_18-19_634822_7.pdf

ⁱⁱⁱ https://www.michigan.gov/documents/mde/Admin_Memo_No._5_635665_7.pdf

**Michigan Department of Education
Office of Health and Nutrition Services
Fiscal and Administrative Services**

The Monthly Training Topic for October is the Buy American Provision in the Nonprofit School Food Service Account (NSFSA). We hope you find this information helpful.

Buy American Summary and Guidance

The Buy American provision was added to the National School Lunch Section 104(d) of the William F Goodling Child Nutrition Reauthorization Act Provision, Section 12(n), requiring schools participating in the Federal school meal programs must purchase domestic products or commodities with NSFSA funds. Products must be domestically produced and processed.

This guidance serves to reinforce the importance of the Buy American provision to promote healthier meals for children, strengthen our economy, and foster stronger relations with our agricultural industry.

The Buy American Provision Requirements

School Food Authorities (SFAs) must purchase, to the maximum extent practicable, domestic commodities or products. The Buy American provision is one of the procurement requirements SFAs must comply with when purchasing commercial food products served in the school meals programs.

“Domestic commodity or product” is defined as an agricultural commodity that is produced in the U.S. and a food product that is processed in the U.S. substantially using agricultural commodities produced in the U.S.

“Substantially” means over 51% from American products. Therefore, over 51% of the final processed product (by weight or volume) must consist of agricultural commodities that were grown domestically. U.S. territories Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are considered domestic.

So, for products procured by SFAs for use in the Child Nutrition Programs using NSFSA funds, the product’s reimbursable meal food component (meats/meat alternates, grains, vegetables, fruits, fluid milk) is considered the agricultural commodity (see 7 CFR 210.2 for full definition). Any product processed by a winning vendor during procurement must meet the Buy American requirement.

Implementing the Buy American Provision

For all procurement transactions for food when funds are used from the NSFSA, whether directly or on the SFAs behalf, procurement transactions must comply with the provision. Some examples of entities of purchasing on behalf of SFAs include; food service management companies, group purchasing organizations, or cooperatives of schools purchasing shared goods and services, or through an inter-entity agreement.

The Buy American Provision and domestic requirements should be documented in procurement procedures, solicitations, bid specifications, and contracts.

USDA Foods Comply with Buy American Requirements

SFAs are encouraged to maximize the use of USDA Foods, which comply with the Buy American requirements. USDA foods are 100% domestic. However, processed end products that contain USDA Foods need to meet the 51% domestic requirement by weight or volume.

Limited exceptions to the Buy American Provision

There are limited exceptions to the Buy American provision in circumstances when use of domestic foods is truly not practicable. These exceptions as determined by the SFA are:

- The product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; or
- Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.

It should be noted that United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) has not defined a dollar amount or percentage triggering an exception requiring consideration of alternatives.

Before utilizing an exception, alternatives should be considered. SFA's should ask:

- Are there other domestic sources for this product?
- Is there a domestic product that could be easily substituted if the non-domestic product is less expensive (e.g. substitute domestic pears for non-domestic apples)?
- Am I soliciting bids for this product at the best time of year? If I contracted earlier or later in the season, would prices and/or availability change?
- Am I using third-party verification, such as through USDA AMS, to determine the cost and availability of domestic and non-domestic foods?

If an SFA is using one of the above exceptions, there is no requirement to request a waiver from Michigan Department of Education's (MDE) Office of Health and Nutrition Services (OHNS) or FNS. SFAs must, however, keep documentation justifying their use of exception(s). Please fill out the MDE Buy American Justification Form in such cases.

Compliance and Monitoring

SFA's should include the Buy American Provision requirements in its documented procurement procedures, solicitations and contract language. SFA's must retain records documenting any exceptions. To ensure compliance SFAs should:

- Include in their procurement process a requirement for certifying the domestic percentage.
- Monitor solicitation and contract language for contractor compliance.
- Ask the Supplier for specific information about the percentage of U.S. content in any processed end-product.
- Review product and delivery invoices or receipts to ensure the domestic food that was solicited and awarded is the food that is received.
- Conduct a periodic review of storage facilities, freezers, refrigerators, dry storage, and warehouses to ensure the products received comply with the Buy American provision.

Monitoring of the Buy American Provision by State Agencies

State Agencies are required to conduct procurement reviews to ensure SFA compliance. MDE will be monitoring as part of the Procurement Review and on-site during the Administrative Review. As part of the Procurement Review MDE will:

- Determine if the SFA is purchasing the domestic commodities as defined in 7 CFR 210.21
- Check that solicitations and contracts contain the Buy American language

- Review a sample of supplier invoices and receipts to determine whether the awarded contractor is supplying domestic foods

If the SFA is found to be non-compliant, MDE must issue a finding and require corrective action which may include:

- Requiring contract amendments, or a new solicitation if it is a material change
- Attending a procurement training
- Fiscal action for repeat or egregious findings

During an on-site Administrative Review, MDE will check labels on a variety of food products in the SFA's storage. If non-domestic foods are identified, MDE will request documentation justifying the exception. If such is not provided, MDE must issue a finding and require corrective action, which may include:

- Requiring review of food deliveries
- Monitoring to ensure the correct domestic food components contracted for are delivered
- Prior to accepting foods, ensuring that an alternative domestic food component, or an exception, has been approved for delivery
- Fiscal action for repeat or egregious findings

Questions regarding the Buy American Provision may be directed to the Office of Health and Nutrition Services, Fiscal and Administrative Services, Fiscal Monitoring Unit, by email to MDE-Fiscal@michigan.gov or by calling the Fiscal main office line at 517-241-5348.

Resources

[Buy American Provision](https://www.fns.usda.gov/school-meals/compliance-enforcement-buy-american)

<https://www.fns.usda.gov/school-meals/compliance-enforcement-buy-american>

[Buy American Justification Form](https://www.michigan.gov/documents/mde/Buy_American_Justification_Form_577657_7.pdf)

https://www.michigan.gov/documents/mde/Buy_American_Justification_Form_577657_7.pdf