

MEMORANDUM No. 28

TO: Kentucky School Architects

FROM: Greg Dunbar, Manager
District Facilities Branch

DATE: August 19, 2013

RE: **Food Service Funds Expenditures**

Utilizing Food Service Funds to purchase kitchen equipment for new construction and renovation projects and in some cases to renovate kitchen spaces has been common practice. As a result of review by KDE of “The Healthy, Hunger-Free Kids Act of 2010 (the Act), Public Law 111-296 and Child Nutrition Reauthorization 2010: Indirect Cost Guidance” http://www.fns.usda.gov/cnd/Governance/Policy-Memos/2011/SP41-2011_os.pdf which govern these funds, outlined below are the methods required to access and to spend these monies in school construction.

We have included the following attachments for your use;

- **USDA Procurement Plan Checklist for Use with Federal Funds**
- **USDA letter July 9, 2004 concerning vender’s providing information versus writing Bid Specifications and dictating Contract Terms**
- **Portion of Office of Management and Budget –Circular A-87**
- **Portion of Office of Chief Financial Officer, USDA – 7 CFR 3016**

Food Service funds are Federal Funds and must be administered as such. These funds must be clearly noted on the BG-1 as a “cash” fund source under “Other” and noted as “Food Service Cash” and cannot simply be lumped into the funding mix. Federal Funds are subject to bidding requirements that do not necessarily apply to other parts of the project that utilize state or local funding;

- **Renovating a School Kitchen**
 - 2 CFR Part 225, Appendix B, section 25, *Maintenance, operations and repairs*, identifies costs of normal repairs and alterations as allowable so long as they: (1) keep property in an efficient operating condition; (2) do not add to the permanent value of the property or appreciably prolong its intended life; and (3) are not otherwise included in rental costs or other charges for space. Based on these principles, Food and Nutrition Services (FNS) has allowed limited renovations **within the inside perimeter** of a kitchen/cafeteria space with the required prior state agency (SA) approval.
 - For example, renovating a kitchen by cutting away a portion of the wall to allow room for a walk-in refrigerator and related electrical wiring would be an allowable expense if the renovation is necessary to accommodate increased participation of students in the Special Milk Program (SMPs). However, it would not be an allowable expense if renovation of the kitchen was purely an aesthetic matter.
 - Finally, the school food authority (SFA) cannot charge normal maintenance costs directly to the nonprofit school food service account if such costs are included in the school district’s indirect cost pool.
- **Building a School Kitchen**
 - Special Milk Programs (SMPs) regulations in 7 CFR Parts 210.14 and 220.7(e)(1) require that revenues received by the nonprofit school food service are to be used only for the operation or improvement of such food service, except that, such revenue shall not be used to purchase land or buildings, or to construct buildings, unless otherwise approved by Food and Nutrition Services (FNS). Historically, Food and Nutrition Services (FNS) has not approved the cost of building purchases because program funds are made available to help support the costs of nutritional benefits for children in school settings and not to construct school related facilities. The goal is to ensure that a school food authority (SFA) maintains the necessary funding to operate the program as required by the Special Milk Program (SMPs) authorizing legislation and regulations, and that the nonprofit school food

service account is not used to cover major expenses that should be borne by the school district's general funds (i.e., capital infrastructure costs).

- The costs of building a kitchen are analogous to the costs of constructing school buildings, which historically have been borne by the school district with general or capital improvement funds. Similarly, such capital infrastructure costs should be borne by the school district just as the school building and its contents should be.

- **Equipment Purchases**

- If food service equipment is to be purchased and/or installed with Food Service Cash, this equipment must be bid separately from the bidding of the rest of the project using wage rates as outlined under provisions of the Davis-Bacon Act and bidding provisions outlined in **the Office of Management and Budget Circular A-87 and in 7 CFR 3016** for the expenditure of these monies.
 - This can be undertaken by bidding Food Service Equipment as an “Alternate” and clearly outlining in the contract documents the terms under which this equipment is to be bid.
 - Cost contracts and cooperative purchase agreements can only be used if they were procured using the Federal Guidelines noted herein.
 - **Please note that State and Local Equipment Cost Contracts are NOT valid unless they have been procured through the federal provisions noted above and these bid must be undertaken for EACH project.**

If you have any questions or comments, please do not hesitate to call me or Tim Lucas at 502-564-4326 or send an email to Greg.Dunbar@education.ky.gov or Tim.Lucas@education.ky.gov.