



Georgia Department of Early Care and Learning

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Nathan Deal
Governor

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Commissioner

MEMORANDUM

To: All Institutions Participating in the Child and Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP)

From: Falita S. Flowers, Nutrition Services Director (*Original Signed*)

Date: October 1, 2015

Subject: Written Codes of Conduct and Performance of Employees Engaged in Award and Administration of Contracts

Definitions: *Award* means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by the Federal Government to an eligible recipient.

Contract means a procurement contract under an award or sub-award, and a procurement subcontract under a recipient's or sub-recipient's contract.

Recipient means an organization receiving financial assistance directly from Federal awarding agencies to carry out a project or program.

Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Legal Authority: USDA Food and Nutrition Service Memorandum, CACFP 03-2015, SFSP 02-2015, 2 C.F.R. §200

This memorandum provides guidance to Child and Adult Care Food Program (CACFP) institutions and Summer Food Service Program (SFSP) sponsors regarding the expectation and enforcement of ethical conduct by their employees engaged in procurement of Program goods and services. Additionally, this memorandum directs CACFP institutions and SFSP sponsors to the Super Circular 2 C.F.R. §200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl, as the legal authority regarding ethical standards of conduct in procurement practices. This guidance supersedes the

memorandum, *“Written Codes of Conduct and Performance of Employees Engaged in Award and Administration of Contracts,”* December 19, 2014.

2 CFR §200.318(c)(1) and (2) requires entities receiving Federal funds to develop and implement a written code of conduct designed to govern the performance of employees engaged in procurement. Specifically, CACFP institutions and SFSP sponsors must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the institution or sponsor may neither solicit nor accept gratuities, favors, or anything of monetary value (e.i., gifts, travel packages, or other incentives) from contractors or parties to subcontracts. However, institutions and sponsors may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the institution or sponsor.

Additionally, if the CACFP institution or SFSP sponsor has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the institution and/or sponsor must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the institutions or sponsor is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

Bright from the Start: Georgia Department of Early Care and Learning’s (DECAL) oversight and monitoring of procurement activities (whether for Program administration and/or purchasing food for meal service) includes a review of the written code of conduct as well as an investigation of reported real or apparent conflicts of interest by employees involved in procurement. It is DECAL’s goal is to ensure the performance of individuals and organizations engaged in the selection, award, and contract administration meets Federal requirements. When reviewing a written code of conduct, DECAL will determine compliance with Federal, State and local regulations. In the absence of a written code of conduct, or when it is determined that a violation of the code has occurred, DECAL will issue a finding for noncompliance with 2 CFR §200 and require corrective action, as applicable. Remedies for failure to comply with these regulations are outlined in 2 CFR §200.

For questions concerning this memorandum, please contact Sonja Adams, Policy Administrator at (404) 651-8193.