

Across the Desk

ND Legislative Update

Wednesday, May 28, 2025

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Agenda for Today

1. HB 1132
2. HB 1013 – State 225
3. HB 1013 – Electronic Apps required by July 1, 2026
4. USDA Memos
5. PLE Tool
6. Excess Funds
7. Buy American
8. Next Year School Reviews
9. Training Opportunities

HB 1132: Whole & 2% Milk delivered through Bulk Milk Dispensers

Legislative Language from HB 1132:

The bill states that, **notwithstanding existing state and federal regulations**, a public school district or a **not-for-profit, nonpublic school approved by the Superintendent of Public Instruction** may establish a policy allowing the service of **whole, 2%, and flavored pasteurized milk** through a bulk milk dispenser.

Two Issues:

1. Bulk Milk Dispensers – No Problem
2. Whole and 2% Milk – Not allowed in SBP/NSLP

HB 1013 – State 225

- **Same requirements as State 200**
- **All Free/Reduced Price and State 225 Resources are available on the website:**
 - CNFD - SNP - Free & Reduced Price Information
 - Almost all resources have an update so download everything

SECTION 12. STUDENT MEALS - GRANTS - DISTRIBUTION. The grants - program grants line item in subdivision 1 of section 1 of this Act includes \$6,000,000 from the general fund for the purpose of providing grants to school districts to defray the expenses of providing meals, free of charge, for all students enrolled in public or nonpublic school at or below two hundred twenty-five percent of the federal poverty guideline, for the biennium beginning July 1, 2025, and ending June 30, 2027. The superintendent of public instruction shall develop guidelines and reporting requirements for the grants.

HB 1013 – Electronic App Requirement

SECTION 22. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows: **Electronic collection of free or reduced-price meal eligibility information - Requirements.**

1. Each school district shall annually provide an electronic form to all parents or guardians of enrolled students to collect household income information necessary to determine eligibility for free or reduced-price meals under the National School Lunch Program and other relevant federal and state assistance programs.
2. The electronic form must be made available to all parents or guardians at the beginning of the eligibility period or the beginning of each school year and must be designed to facilitate ease of completion and submission.
3. A school district shall offer a paper form upon request of a parent or guardian who prefers a non-electronic submission method.

SECTION 24. EFFECTIVE DATE. Section 22 of this Act becomes effective **July 1, 2026**

Options:

1. Use PrimeroEdge for Free
2. Infinite Campus will be onboard 2026
3. Many other Software companies to choose from

Catch Up on USDA Memos

SP 1 through 10 - 2025 are detailed in the SNP Newsletters

SP 11 – 2025 Using Federal Funds to Purchase Local Foods

- Reminder: Buy American

SP 12 – 2025 Paid Lunch Equity: Guidance for SY 2025-2026

- Setting student meal prices

SP 13 – 2025 Full-Year Continuing Appropriations and Extensions Act, 2025: Effect on Child Nutrition Programs

Using Federal Funds to Purchase Local Foods

USDA memo, SP 11 - 2025 reiterates:

- Encourages CNP operators to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable and appropriate.**
- Use full and open competition**
 - including local foods**
 - any allowable procurement method may be used**
 - conduct market research to establish method**
 - desired product(s), price points, quantities, distribution**

- **Procedures**
 - **Microbiology**
 - **Microbiology**
 - **Microbiology**
 - **Microbiology**
 - **Small**
 - **Small**
 - **Form**
 - **Form**



- **Contact Lori Mittelstadt,**
If interested in joining:
- **info@purchasingconnection.org**

Reach Your NDESC Team at
866-337-2005 | info@purchasingconnection.org

Using Federal Funds to Purchase Local Foods

- **Using the Geographic Preference Option**
 - Write the local requirement into the specification
 - Or
 - Give a scoring advantage to local products in the evaluation

USDA also notes:

- **ALL USDA Foods are 100% American-grown and produced.**
- **DOD Fresh program often highlights fresh, locally produced**

Using Federal Funds to Purchase Local Foods

BUY American requirement must be a part of all procurement

Reminder: There will now (as of July 1, 2025) be a cap on Non-domestic Purchases

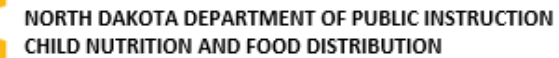
- **7 CFR 210.21(d)(5)**
and
- **7 CFR 220.16(d)(5)**

Beginning	Nondomestic food purchases cap
SY 2025-2026	10%
SY 2028-2029	8%
SY 2031- 2032	5%

Using Federal Funds to Purchase Local Foods

-Buy American Purchase Threshold Documentation needed:

1. Justification sheet for nondomestic Items not on the FAR 25.104 list
 - template in Administrative Records, pg 145.
2. All food invoices for NSLP, SBP, ASP
 - FFVG and USDA Foods processed are not included
3. Foods from the Justification list AND FAR 25.104 list are added up
4. The percentage of nondomestic food compared to total food is calculated



If you purchase food that is not grown or produced in the U.S. and not on the Exception list below, please fill out this sheet.

Section 104 (d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public La 105-336) added a provision, section 12(n) to the NSLA (42 USC 170 (n)), **requiring school food authorizes to purchase, to the maximum**

FAR 25.1

Bananas, Beef Extract, Brazil Nuts, Cashews, Coconut, Coffee, Grapefruit, Olive Oil, Green Olives, Canned Mandarin Oranges, Canned Pineapple, Spices and herbs, Water chestnut, Yeast.

Buy American Documentation Worksheet:

List any additional foods not on the list above that the school purchases non-domestically and the reason why they cannot be procured domestically:

[illegible]

25.104 Nd

(a) The follow

Acetylene, bla:

Agar, bulk.

Anise.

Antimony, as

Asbestos, am

Bamboo shoe

Bananas.

Bauxite.

Beef, corned,

Beef extract.

Bephenium h

Bismuth.

Books, trade,

Brazil nuts, ui

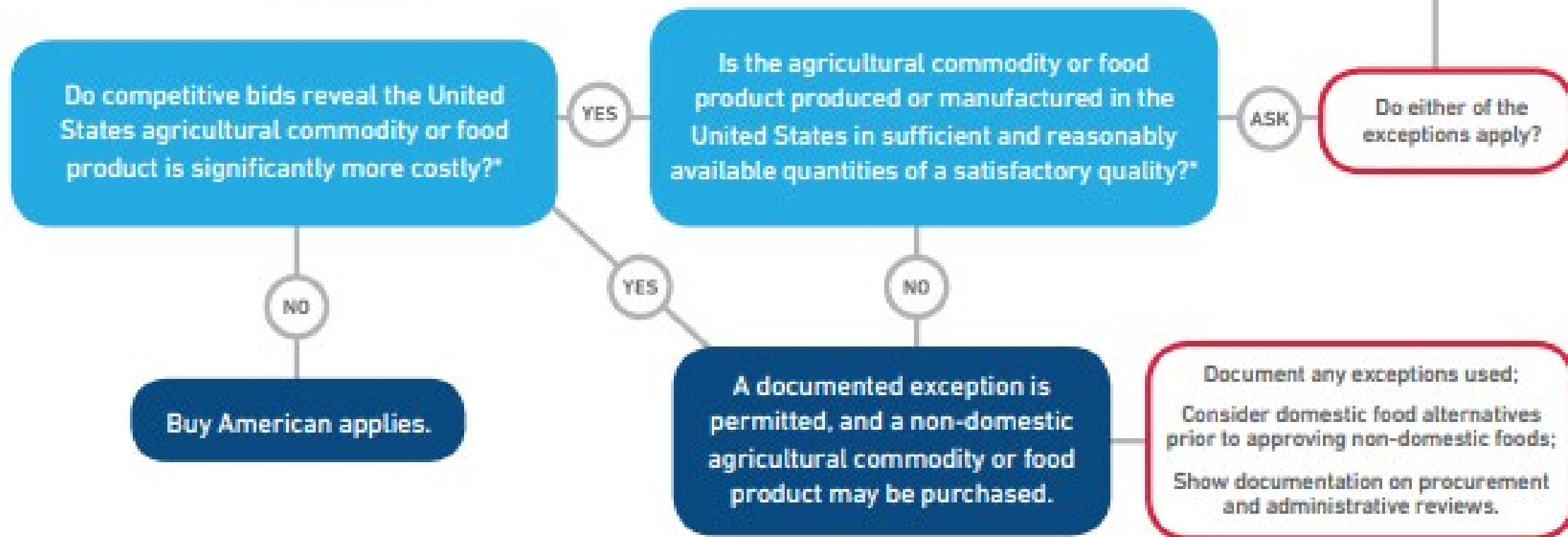
Cadmium, ore

Calcium cyanide

Capers,

BUY AMERICAN

7 CFR 210.21(D) AND MEMO SP 38-2017



*As determined by the SFA.

SFAs can obtain information on Buy American at: <https://www.fns.usda.gov/school-meals/compliance-enforcement-buy-american> or by contacting their State agency.



Documentation for Buy American Exceptions

- 1. Anything on the FAR 25.104 list, no documentation needed**
- 2. Any non domestic product not on the FAR 25.104 list, needs a “Justification” sheet (why was it purchased)**
- 3. A spreadsheet that is tracking ALL non domestic food purchases**
 - a) Track all non domestic purchases both FAR 25.104 and ‘Justified’ Exceptions
 - i. A tracking tool is available.
 - ii. Leave out all FFVG and USDA Foods
 - b) Non domestic purchases must be 10% of total food cost OR less

Buy American Tracking Sheet

Buy American Exceptions Summary

Total Non-domestic Costs

\$ 2,037.19

This will be automatically calculated.

Total Annual Commercial Food Costs

\$ 100,000.00

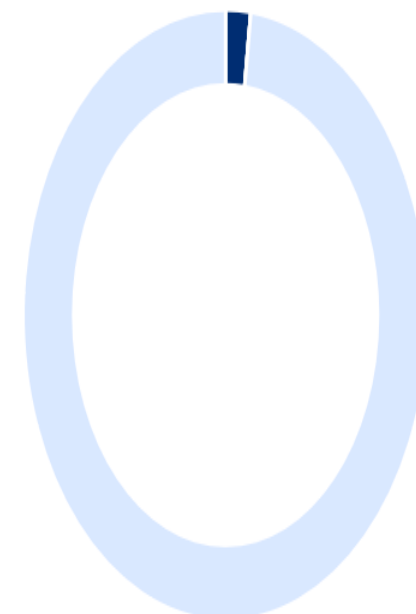
Please enter the SFA's total annual commercial food costs here.

**Percentage of Commercial Food Costs
from Non-domestic Foods**

2%

This field will highlight green, yellow, or red depending on the percentage calculated.

**TOTAL NON-DOMESTIC COSTS AS A
PERCENTAGE OF TOTAL FOOD BUDGET**



■ Total Non-domestic Costs ■ Total Annual Commercial Food Costs

SFA Accommodation Plan, SY 25-26

If the 10% Nondomestic purchase threshold is exceeded:

1. Documentation is required:

-How much will the school be over the 10% cap

-The reason(s) the 10% cap will be exceeded

2. A plan to reduce non-domestic purchases must be written

3. An accommodation is available

a. USDA Memo SP 09 – 2025

“Buy American Accommodation”

How to Prepare for Buy American requirements

- 1. Ensure all solicitations, bids, and contracts include the Buy American provision**
 - a. Require 'country of origin' on invoices**
 - b. Develop procedures for contact when a non-domestic product will be substituted.**
- 2. Maximize your USDA Foods entitlement.**
- 3. Plan menus to utilize domestic products.**

How to Prepare for Buy American requirements

- 4. Before using an exception, consider a domestic alternative**
- 5. Provide staff training on the Buy American provision**
 - a) Delegate receiving procedures to trained staff
- 6. Review storage areas to ensure products received are what was awarded and comply with the Buy American provision.**

Paid Lunch Equity: Guidance for SY 25-26

USDA memo SP 12-2025

Paid Lunch Equity: a requirement that ensures that schools are charging enough for paid meals so the school is not using funding meant for free/reduced price meals to cover the cost of all meal production.

- Exemption from the requirement to use the Paid Lunch Equity (PLE) Tool
- Exemption is based on the zero or positive balance of the school food service account on **June 30, 2024**
- Renewal will document the school's use of the exemption

Paid Lunch Equity Tool

USDA Memo SP 12-2025

- Schools with a negative ending balance must use the PLE tool to determine next year's student meal pricing.
- Target pricing for a student lunch in 2025-2026: \$4.01
- School must raise price at least \$.10

Pricing Factors

- [Food Price Outlook | Economic Research Service](#)
 - + 3% for all food through 2025
- Staff payroll should already be negotiated
- Buy American requirement may cause some price increase

Full-Year Continuing Appropriations and Extensions Act, 2025 Effect on Child Nutrition Programs

USDA Memo SP 13- 2025

1. Crediting of Vegetables at Breakfast

- Must offer vegetables from at least 2 different veg subgroups if substituting for fruit more than once per week.

2. Program funds may not be used to buy chicken or seafood from China.

3. Compliance with Paid Lunch Equity (PLE) requirements

- if a negative balance in the nonprofit school food service account as of June 30, 2024

End of the Year Notes

1. Ending Balance in 05 Account

- Cannot have a balance that is more than 6 months of operating expense
- NDDPI-CNFD uses the Reserve Report required for all Public Schools
- Working on a similar report for Private sponsors

2. Reimbursement Rates for SY 25-26

- Congress/USDA announces rates on ~ July 10th.

3. Adult meal pricing depends on Reimbursement Rates

- If the School Board must set pricing earlier, add flexibility to the motion to increase/decrease if reimbursement rates warrant.

End of the Year Notes

Setting Adult Meal Pricing

	Pricing School	Non-Pricing School	Last Year
Student Paid meal Price	\$ (SY25-26 School price)	\$ 0	
Reimbursement Rate (add Severe Need or Especially Needed rate if applicable)	\$ (Paid Reimbursement)	\$ (Free Reimbursement)	
Performance reimbursement rate at lunch	\$	\$	\$.09 (Lunch only)
Per Meal value of Commodities (no commodities earned for breakfast)	\$ (\$0 for breakfast)	\$ (\$0 for breakfast)	\$.45 (Lunch only)
Total	\$	\$	
Adult Meal Price must be set at or higher than the Total (Tip: round up to the nearest \$.05)	\$	\$	

End of the Year Notes

4. School Nutrition Programs Renewal

- Breakfast, Lunch and After school Snack
- Opens around July 1
- June SNP newsletter will have detailed instructions
- Must be done by October 1st

5. Fresh Fruit and Vegetable Grant Program application

- Due on Monday, June 2nd

NSLP Administrative Reviews, SY25-26

Belcourt Schools	Lewis & Clark	Shiloh
Dakota Boys Ranch	Mandaree	South Prairie
Divide County	Mohall (MLS)	St. Ann's School in Belcourt
Drayton	Munich	St John's in Wahpeton
Dunseith	NE Human Services - Ruth Meiers	St Josephs in Devils Lake
Elgin/New Leipzig	New Salem	St Michael's in Grand Forks
Fort Yates Public	Pride Manchester House	Standing Rock
Glenburn	Richland County #44	Surrey
Grand Forks Juvenile Det	Roosevelt at Carson	Warwick
Holy Family	Sawyer	Westhope
Home the Range	Scranton	Whiteshield
Kulm	Selfridge	Wing

Upcoming Training/Events

- **Serv Safe – in person**
 - June 3rd at the Capitol Building in Bismarck
 - OR Complete online at will: www.theicn.org
- **New Kitchen Manager/Food Service director**
 - June 4th- 5th at the Capitol Building in Bismarck
- **NDDPI-CNFD Back to School Workshops**
July 29th – Fargo July 31st– Minot Aug 4th – Bismarck
- **Team UP Procurement Workshop with Urban Food Alliance**
Wednesday, October 15th at the Capitol Building in Bismarck
- **NDSNA –**
 - October 16-17th in Bismarck at the Bismarck Event Center (formerly Ramkota)
Website: Northdakotasna.com



Registration
in the last
newsletter
or on the
website

Next Year! Monthly Across the Desk

Across the Desk

Office Hours in August and September –

Approving Applications (State 200 → State 225, etc.,)

Medicaid Direct Certification

Any other new regulations that arise

Contact us:
Call: 701-328-2294
Email: dpicnfd@nd.gov



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1.Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410;

2.Fax: (202) 690-7442; or

3.Email: program.intake@usda.gov.

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