

BRIAN SANDOVAL
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STATE OF NEVADA

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November 9, 2017

Dr. M. Neil Terhune
Superintendent
Esmerelda County School District
233 Ramsey, P.O. Box 560
Goldfield, Nevada 89013

Dear Dr. Terhune:

The Nevada Department of Agriculture, Food and Nutrition Division conducted an Administrative Review of the Esmerelda County School District from October 24, 2017 through October 25, 2017. The Administrative Review team consisted of Bobbie Davidson, Program Officer, and Stephanie Disuanco, Program Officer. The purpose of the Administrative Review is to ensure compliance with federal regulations and to provide technical assistance for program improvement. Our team greatly enjoyed working with all food service staff members. Thank you for accommodating our staff during the review and for providing all the needed documentation in a timely fashion. Staff was very helpful in providing documentation and answering questions throughout the review process.

We conducted an exit conference on October 25, 2017 to discuss the major findings of the review. Lora Penson, Food Service Manager was in attendance. Administrative Reviews are required to be conducted on a three-year review cycle. Esmerelda County School District received an onsite review of its School Breakfast Program (SBP). The findings of the review are detailed below by the three main sections of the Administrative Review, Performance Standard I, Performance Standard II and Other Areas. The new procurement review is being coupled with the administrative review and the findings of the procurement review are also included in this letter.

Performance Standard I – Meal Access and Reimbursement

The School Breakfast Program (SBP) have counting and claiming systems that are federally mandated for all School Food Authorities (SFAs) that are participating in these programs. All free, reduced price, and paid meals claimed for reimbursement must be served only to children eligible for free, reduced- price, or paid meals. The certification and benefits issuance process is the SFA's certification of a student's eligibility for free or reduced-price meals and serves as the link to the SFA's meal counting and claiming system. Validation of this system during the Administrative Review ensures that eligible children receive meals to which they are entitled and that claims for reimbursement are valid.

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The applications for free and reduced-price meals for Esmerelda County School District were reviewed. The following errors were noted;

- One application's income frequencies were not annualized in a correct manner to determine proper income eligibility.
- One application was approved based on income but it had all the information for the assistance program applications as well

Technical assistance was provided onsite to the site staff who process applications. They were directed to only annualize income on applications when there were at least two different income streams with two different income frequencies. Site staff was directed that applications are processed at face value and that categorical eligibility trumps income eligibility.

Corrective Action Required: Annualizing income on applications is a repeat finding from the onsite review that was conducted on January 6, 2015. Please create a business process that outlines the proper ways to process income applications, including what is necessary for the application to be considered complete and the process for handling incomes on income applications. All staff that process applications should sign off that they have read this document and the individual responsible for overseeing the application certification process should be noted by name or title in the process as well. Submit a copy of the signed business process to NDA for review.

Performance Standard II- Meal Pattern and Nutritional Quality

The National School Lunch meal pattern is the foundation of federal school nutrition programs, and sponsors of the program must ensure that they are offering reimbursable meals for breakfast according to regulations (7 CFR 210.10 and 220.80). Schools operating SBP must prepare, offer, and serve meals to students that meet the meal pattern requirements for the appropriate age/grade groups on all reimbursable meal service lines.

The meal pattern standards have specific requirements for minimum amounts of fruit, vegetables, meat/meat alternates, and grains that must be offered daily and weekly. In addition, there are standards for vegetable sub-groups which must be offered each week. The meal pattern also requires that all creditable grain items be whole grain rich. The meal pattern limits calories (minimum and maximum levels), restricts sodium levels, limits saturated fat, and eliminates trans fats.

The breakfast meal service was observed. Esmerelda County School District is operating offer vs. serve, but this was not observed onsite. The following was observed onsite during the meal services;

- Two of the three classrooms observed placed all items on the student's desk and only gave the option of the milk and the fruit and/or vegetable offered. When these teachers were asked what was the procedure if the child did not want what was placed on their desk, they responded they always take those items and that the students save them later for snack.

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- When asked what the student would have to take to have a reimbursable meal, all three teachers answered students must take three items. Neither teacher mentioned the necessity of taking a fruit or vegetable.

Corrective Action Required: This is a repeat finding from the Administrative Review that was conducted on January 6, 2015. Create a business process that outlines to staff what a reimbursable meal is for students under offer vs. serve.

For breakfast;

- The student must be offered at least four food items from three components (fruits, grains, and milk).
- The student must choose at least 3 food items
- One of the chosen food items must be half a cup of fruit/vegetable equivalent

Have all staff that serve meals to students and count reimbursable meals, sign off noting that they have read this business process. Additionally, include by name or title the individual that is responsible for ensuring that corrective actions are being complied with throughout the year. Submit a copy of the signed business process to NDA for review.

Production Records

Per 7 CFR 210.10 schools must follow a food based menu planning approach and produce enough food to offer each child the quantities specified in the meal pattern and must also keep production and menu records for the meals they produce/serve. Production and menu records must be maintained in accordance with Food and Nutrition Service (FNS) guidance. The menu production records must be filled out completely and daily for all NSLP programs. Upon review of the menu production records September 5, 2017 through September 28, 2017 and October 25th, 2017 for breakfast meals, the following information is missing:

- Amount needed/pulled column. For example, please list the bulk amount needed to produce all of the estimated servings.
- On all production records, the milk section heading listed 1% chocolate milk was being used, even though the 0% Chocolate milk was listed below and was witnessed being served.

Corrective Action Required: Please provide one weeks' worth of completed menu production records for breakfast including an amount needed/pulled column and corrected milk section heading.

Procurement Review: Esmerelda County School District

The procurement of goods and services is a significant responsibility of a school food authority (SFA). Obtaining the most economical purchase should be considered in all purchases when using the nonprofit food service account. The Nevada Department of Agriculture (NDA) is required to ensure that SFAs comply with the applicable regulations through audits, administrative reviews, technical assistance, training, guidance materials, and by other means. (7 CFR 210.19(a)(3)). Federal, state and local laws and regulations specify the

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methods SFAs must ensure that all competitive procurements must be in accordance with 2 CFR Part 200.318-.326 and all other applicable government-wide and FNS regulations and guidance.

- Properly procure goods and services
- Award contracts only to responsible contractors
- Not restrict competition
- Follow procurement standards in program regulations (7 CFR 210.21 & 2 CFR 200.318-.326)
- Prohibit conflicts of interest
- Use required procurement methods
- Take affirmative steps to use small, minority, women's business and labor surplus enterprises, when possible
- Oversee contractors to ensure all contract provisions are fulfilled for the duration of the contract
- Buy American Provision

With regards to a procurement plan for Child Nutrition program at Esmerelda County School District, a procurement plan and interlocal agreement with Nye County School District was in place at the time of the review. Per USDA guidance, the procurement plan must outline the specific procedures per 2CFR Part 200 for program operators. Specifically, the plan must follow types of procurement available: micro purchase, small purchase, and formal procurement methods. A sample chart is attached with may be used as a guide. In addition to the purchasing thresholds, the plan must prohibit the acquisition of unnecessary or duplicative items per 2CFR 218(d). It must not be duly restrictive as to limit competition; it must also take steps to assure that small, minority and women's business are used when possible.

Per 2CFR Part 200.3189(c)(1) the non-Federal entity must maintain written standard of conduct covering conflicts of interest and to govern 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. The code of conduct must also provide for disciplinary action for violations by officers, employees or agents (2CFR 200.318 (c)1). A written code of conduct for Esmerelda County School district was submitted during the procurement review.

The procurement plan, interlocal agreement, and code of conduct submitted during the procurement review satisfy the requirements mentioned above. No further action is needed.

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Based on the returned worksheet and paid meal vendor list from the district staff, it was determined that the district was using the following procurement method in its operation:

- Micro Purchase Method

As part of the **Micro Purchase**, the Nevada Department of Agriculture reviewed two vendors (2016/17 school year) for purchases below the micro-purchase threshold (\$0-\$3,500): Sysco and Costco. The reviewer examined receipts/invoices and purchase orders to determine:

- If the transactions were below \$3,500
- If the prices for products were purchased reasonable
- If the SFA equitably distributed purchases among qualified sources

The method was in compliance in all three areas with the regulations on Federal purchasing for all Sysco purchases for the 2016/2017 school year.

Per the Administrative Review manual, "Costs that are not reasonable and necessary for program purposes or that do not otherwise satisfy Federal cost principles and program regulations are unallowable." Additionally, the revenues from the sale of nonprogram foods must generate at least the same proportion of revenues as expenses as noted in 7 CFR 210.14(f). Nonprogram foods are those foods and beverages sold in participating schools other than reimbursable meals and meal supplements that are purchased using funds from the nonprofit school food services account. Nonprogram foods includes meals served to adults and a la carte items, as well as, items purchased with nonprofit school food service account funds for vending machines, fundraisers, school stores and catered and vended meals. In general, the funds from the non-profit school food service account may only be used to directly improve the program for program participants and cannot be used for non-program eligible individuals such as adults. The following purchases from Costco in the 2016/2017 school year were deemed unallowable to charge to the nonprofit school food services account;

Sunchips	\$11.99
Nabisco Variety pack	\$10.99
(2) Petite Cinnamon roll	\$13.98
Total=	\$36.96

These purchases were coded as snacks provided to adults for a Wellness Policy training.

Corrective Action required: Submit supporting documentation of the transfer of \$36.96 back into the non-profit school food service account.

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Summary

None of the above-mentioned items currently require a change in your performance based \$0.06 reimbursement. However, please note that if repeat violations are found on subsequent reviews in any program area the additional \$0.06 reimbursement may be turned off until the program is brought into compliance with federal regulations. **All corrective actions must be completed and submitted by December 9, 2017.** If corrective action is not completed, or if the need is identified to ensure all corrective items are in place we may schedule a follow up review. Program funds may be withheld until corrective action is complete if not submitted by the required due date. Please see the attached document, NSLP-SBP-SMP Appeals sponsor handout for direction on how to appeal the denial of all or a part of the claim for reimbursement or withholding funds. If you have any questions about the required corrective action, please contact Bobbie Davidson at (775) 353-3781 as soon as possible.

Best regards,

Bobbie Davidson
Program Officer
Phone: (775)-353-3781 Email: bdavidson@agri.nv.gov