



United States
Department of
Agriculture

Date: 02-22-2010

Food and Nutrition
Service

Re: SFP 10-017

Mid-Atlantic Region

300 Corporate Blvd
Robbinsville, NJ
08691-1598

Subject: Updated Prior Approval Guidance

To: All WIC State Agencies

There are different approval requirements for various items of cost incurred by WIC State agencies. States have indicated that clearer guidance on approval requirements is necessary, particularly in regard to non-computer equipment, computer equipment, and other capital expenditures. The purpose of this memo is to clarify the existing guidance for these items, as well as breast pumps, since they may also require prior approval from FNS. This policy supersedes the prior approval guidance provided in SFP 02-096.

Non-Computer Equipment

WIC State agencies may charge the full acquisition cost of non-computer equipment costing less than \$25,000 per unit, including medical equipment, without obtaining prior FNS approval, and may allow local agencies under their oversight to do likewise. FNS Regional Offices retain the discretion to apply a lower dollar threshold to an individual State agency and to the local agencies under its oversight, provided certain requirements apply and the State agency receives written notice. At this time, we require expenditures over \$25,000 to be submitted to the Regional Office for prior approval. The requests for prior approval must include:

- A description of need/explanation of purchase.
- Copies of at least three price quotations, bids, or proposals, as appropriate.
- Cost allocation plan (if applicable).

State agencies required to make procurements by *non-competitive* proposals, such as a State approved/mandatory sole source list, are required to submit their proposed procurement to FNS for prior approval with justification as to why the item is only available from a single source, along with a description of need, a price quote, and a cost allocation plan (if applicable).

Capital Expenditures

Expenditures to acquire capital assets, such as buildings, land and improvements to buildings or land that materially increase their value or useful life costing more than \$5,000 require prior approval from FNS. Prior approval is also required for repairs or renovations to real property that cost more than \$5,000. FNS advises that the *sealed bid* method, also known as formal advertising, be used for procuring construction if the conditions permit. State agencies should submit attachments A and/or B, whichever is appropriate, when submitting their requests for prior approval.

Computer Equipment

FNS authorizes WIC State agencies to make Advanced Planning Document (APD) acquisitions with a total project cost of up to \$99,999 without prior FNS approval. The following table from FNS Handbook 901, which was revised in 2007, provides ADP requirements/thresholds:

Acquisition Cost	Documents Required from State Agency
Not Applicable	• A PAPD is required regardless of dollar threshold
<\$5,000	• No Federal review needed
\$5,000 to \$99,999	• Written notification to the RO within 60 days of the expenditure or the contract execution
>\$100,000 Non-Competitive Acquisition	• Sole source justification submitted to FNS prior to acquisition
\$100,000 to \$499,000	• Specific documentation required for FNS prior approval Description of needs Explanation of purchase(s) Budget (with funding sources, if more than one) Cost allocation proposal ¹ Procurement documents (e.g., RFPs and contracts)
≥\$500,000	• State agency must submit an APD

Source: FNS Handbook 901. Figure 4-1. WIC IS and EBT Approval Thresholds, September 7, 2007
http://origin.www.fns.usda.gov/apd/Handbook_901_2007/HB901_2007.htm

¹ If any systems acquisition is to be used for non-WIC functions, a cost allocation proposal must be submitted.

Breast Pumps

Because advance purchases or rentals of pumps may represent a significant expenditure of food funds late in the funding and budget cycle, States must request and receive prior approval from FNS to purchase or rent pumps with year-end unspent food funds. For purchases or rentals of breast pumps with year-end unspent food funds, prior approval requests must include:

- An estimate of the number of breastfeeding women who will participate in the State's WIC Program the following fiscal year.
- An estimate of the percentage of its projected breastfeeding women participants the State expects to provide a breast pump in the following fiscal year.
- The number, type, and cost of breast pumps purchased with current year NSA funds.
- The number of breast pumps in current inventory that the State expects to have on hand for use in the following fiscal year.
- The number (rounded to the nearest case lot), type and cost of breast pumps to be purchased or rented with year-end unspent current fiscal year food funds.

Prior approval must also be requested if a State plans to request that expenditures for breast pump purchases or rentals be moved from the NSA to food fund category at the end of the fiscal year.

Bona Fide Needs Rule

Volume I of the Principles of Federal Appropriations Law indicates the following:

The bona fide needs rule indicates that a fiscal year appropriation may be obligated only to meet a legitimate, or bona fide, need arising in, or in some cases arising prior to but continuing to exist in, the fiscal year for which the appropriation was made. **Where an obligation is made toward the end of a fiscal year and it is clear from the facts and circumstances that the need relates to the following fiscal year, the bona fide needs rule has been violated.** We do not mean to suggest that an agency may purchase only those supplies that it will actually use during the fiscal year. Agencies normally maintain inventories of common use items. The bona fide needs rule does not prevent maintaining a legitimate inventory at reasonable and historical levels, the "need" being to maintain the inventory level so as to avoid disruption of operations. The problem arises when the inventory crosses the line from reasonable to excessive.

References

State agencies may use the following references in regard to non-computer equipment, computer equipment, other capital expenditures, and breast pumps:

SFP 93-126: WIC Program-Allowable Costs-Real Property: Provides State agencies with specific guidance for submitting requests to purchase, renovate, or repair real property with WIC Program funds. It includes definitions, policy, and worksheets.

SFP 98-041: Non-Computer Equipment Purchases Less Than \$25,000: Provides guidance to State agencies on prior approval requirements for non-computer equipment purchases as well as capital assets such as buildings, land, and improvements to buildings or land.

SFP 99-145: Breast Pumps as a Food Cost: Provides guidance concerning the use of food funds to purchase or rent breast pumps for WIC participants.

SFP 00-013: Clarification of SFP 99-145: Breast Pumps as a Food Cost: Provides clarification on previous guidance provided on the use of food funds to purchase or rent breast pumps.

SFP 07-043: WIC Advance Planning Document (APD) Policy Changes: Provides prior approval requirements for WIC automation projects and acquisitions. This memo updates the approval thresholds set forth in SFP 97-099.

FNS Handbook 901: Advance Planning Document Handbook: Provides requirements and guidance for State agencies in the automation process of delivering benefits.

GAO-04-261SP: Principles of Federal Appropriations Law: Third Edition, Volume I

7 CFR 3016.3: Provides definitions, including the following for real property and equipment:

- **Real Property:** Land and whatever is erected on or affixed to the land (i.e. buildings) including land improvements.
- **Equipment:** Tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

7 CFR 3016.31: Provides guidance regarding real property.

7 CFR 3016.32: Provides guidance regarding equipment.

7 CFR 3016.36: Provides requirements for procuring property and services.

If you have any questions, please contact Kirk Groomes at (609) 259-5174.



DIANA LIMBACHER
Regional Director
Supplemental Food Programs

Attachments