



STATE OF ALABAMA  
DEPARTMENT OF EDUCATION



Eric G. Mackey, Ed.D.  
State Superintendent of Education

September 19, 2022

**MEMORANDUM**

**TO:** Selected County and City Superintendents  
Private School Administrators  
Residential Child Care Institution Administrators

**FROM:** Eric G. Mackey   
State Superintendent of Education

**RE:** Emergency Procurement Approval for Milk Disruption in Alabama Schools

On September 16, 2022, the Department of Examiners of Public Accounts for the state of Alabama approved the request of the State Superintendent to allow Lamar County and the attached list of National School Lunch Program sponsors to utilize the Child Nutrition Program emergency procurement exemption authorized under Act 2022-264, now appearing as Section 16-13B-2.1, *Code of Alabama*, 1975.

The approved School Food Authorities (SFAs) responded to a request for information by the Alabama State Department of Education (ALSDE) Child Nutrition Program stating they will be impacted by the closing of Borden Dairy that provides 8 oz. cartons of milk for the school breakfast, lunch, and after-school snack programs. This approval allows SFAs up to sixty days to purchase milk through the emergency procedures while completing the competitive bid process to enter into a contractual agreement with a new milk supplier.

Consistent with procurement regulations at 2 CFR 200.318(i), SFAs should retain information, data, and documents, which qualify specific conditions and emergency circumstances resulted in the decision to use the emergency non-competitive procurement method and the procurement process, itself. Failure to plan for transition to competitive procurement cannot be the basis for continued use of non-competitive procurement based on exigency or emergency circumstances.

The SFAs should maintain documentation in their procurement files. Documentation must include an explanation of the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

The following items are examples that would support the documentation requirements:

- Documentation showing the distributor, processor, or other supplier canceled food or supply contracts, deliveries, or orders.
- Documentation showing the distributor, processor, or other supplier is no longer able to provide food as ordered or failed to consistently deliver goods.

In addition, SFAs should retain documentation providing information on the food and supplies (e.g., delivery, processing, other) being procured, including the estimated quantity and dollar value of the emergency procurement; and how the emergency procurement was handled, i.e., obtained through negotiation, phone, email, etc.

**Note:** Documentation does not need to be specially created for this purpose; materials created as part of the purchase will suffice if they contain the necessary information. Separate documentation is required for each non-competitive procurement process for one or more items, not just a single item, undertaken by an SFA as a result of a COVID-19 supply chain disruption.

EGM/JA/EH

Attachment

cc: Selected Child Nutrition Program Directors

Alabama  
State Board  
of Education

Governor Kay Ivey  
President

Jackie Zeigler  
District I

Tracie West  
District II  
President Pro Tem

Stephanie Bell  
District III

Yvette M. Richardson, Ed.D.  
District IV

Tonya S. Chestnut, Ed.D.  
District V

Cynthia McCarty, Ph.D.  
District VI

Belinda McRae  
District VII

Wayne Reynolds, Ed.D.  
District VIII  
Vice President

Eric G. Mackey, Ed.D.  
Secretary and  
Executive Officer

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**Rachel Laurie Riddle**  
**Chief Examiner**

September 16, 2022

Eric G. Mackey  
Alabama State Superintendent of Education  
P.O. Box 302101  
Montgomery, AL 36130

RE: Emergency Procurement Request for Milk Disruption in Alabama Schools

Dr. Mackey:

In response to your initial request, the Department of Examiners of Public Accounts issued an approval on August 19, 2022, for certain school food authorities to utilize the Child Nutrition Program emergency procurement exemption authorized under Act 2022-264, now appearing as Section 16-13B-2.1, *Code of Alabama*, 1975, as a result of an unanticipated event causing supply chain disruptions, namely the closing of Borden Dairy milk carton processing plants.

Subsequently, I have received an additional request for Lamar County Board of Education and the attached list of 68 National School Lunch Program sponsors to utilize the above referenced emergency procurement exemption. Pursuant to the authority delegated to the Department of Examiners of Public Accounts by Act 2022-264, I am granting your request only for Lamar County Board of Education and the attached list of school food authorities. As stated in Act 2022-264, this approval is limited to sixty days during which time a contractual agreement for such purchases shall be entered into in compliance with the competitive bid law. If the Department can be of any further assistance, please let us know.

Sincerely,

Rachel Laurie Riddle  
CHIEF EXAMINER

RLR/lbm  
Attachment

School Food Authority (SFA) Name	Enrollment for your district?	What is the name of your current milk vendor?	Will this milk disruption impact your SFA?
Fort Rucker Dependent School	632	Borden Dairy	Yes
Maxwell Elementary/ Middle	380	US Foods	No
AltaPointe Health Systems, Inc.	115	Borden's Dairy new contract mo	No
Lowndes	1150	Borden	Yes
Jasper City Schools	2,730	Borden Dairy	Yes
Leeds City Schools	2100	Bordens	Yes
Fayette County School District	2171	Borden	Yes
Athens City Schools	4862	Purity	No
Jefferson County Schools	35474	Borden's	Yes
Huntsville City Schools	23304	Purity Dairy	No
City of Chickasaw Board of Education	1100	Borden Dairy	Yes
Hale County Board of Education	2321	Borden	Yes
Tasha Hayes	7500	Borden	Yes
Demopolis City School	2013	Borden Dairy	Yes
Lamar County	2320	Borden	Yes
Beacon House/CCFOY	Walker County	Wal mart	No
Haleyville City Schools	1750	Borden's	Yes
Opelika city schools	5037	Borden	Yes
King's Home, Inc.	55	Local area grocery stores. We are	No
Clay	1800	New Dairy/Borden	Yes
Breakthrough Charter School	285	Borden	Yes
Homeswood City Schools	4400	Borden	Yes
Fort Payne City	3,400	Borden	No
Madison City Schools - Cameron Clark	12500	Purity	No
Piedmont city	1100	New Dairy	No
Cullman Board of Education	9670	Borden	Yes
Holy family Cristo Rey	155	Wood Frutcher	No
Marshall County	5902	Borden	No
Talladega County Board of Education	7500	Borden	Yes
Talladega County Board of Education	7500	Borden	Yes
Resurrection Catholic School	90	US FOODS	No
Muscle Shoals City Schools	2500	Purity	No
Monroe county schools	2700	Borden	Yes
Elmore County	11,300	Borden	Yes
Pike County Board of Education	2115	Bordens	Yes
Bullock County Schools	1450	Borden Dairy	Yes
Trussville City Schools	5000	Borden	Yes
Attalla City Schools	1545	Borden	Yes
Pelham City Schools	3433	Bordens	Yes
Conacuh County	1200	Borden's	Yes
Roanoke City School	1510	Borden Dairy Co	Yes
Perry County Board of Education	1000	Borden Dairy	Yes
Perry County Board of Education	1000	Borden dairy	Yes
Gadsden City Schools	5,000	Borden	Yes
Tuscaloosa Child Care Association	Approximately 350	WoodFruitcher-	No
Alabaster City Schools	6400	Bordens	Yes
Alabaster City Schools	6400	Borden	Yes
LEAD Academy	709	Borden	Yes
Fairfield City	1500	Borden	Yes
Selma City Schools	2274	Borden	Yes
Morgan County Board of Education	7300	Purity	No
Chilton County	7849	New Dairy/Borden	Yes
Guntersville City Schools	1850	Purity	No
Coosa Valley Youth Services	92	Borden	Yes
Vantrelse Davis	3600	Borden	No
Anita Suttle	1800	Borden's	Yes
Most Pure Heart of Mary - AZA	65	Borden Dairy Company	Yes
Choctaw County School District	1088	Borden Dairy	Yes
Choctaw County School District	1088	Borden Dairy	Yes
Florence City Schools	4600	Purity	No
Houston County Schools	6795	Bedsole Milk	Yes
Winston County Schools	2300	Borden	Yes
Geneva City Schools	1250	Borden	Yes
Lawrence County Schools	4660	Purity Dairies	No
Linden City Board of Education	490	Borden Dairy	Yes
Washington County School System	2420	New Dairy	No
Greene County	885	Borden's Milk	Yes
Marengo County Schools	548	Borden Dairies	Yes