



Commonwealth of Pennsylvania
Milk Marketing Board
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BULLETIN

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**WHOLESALE SALES TO THE UNITED STATES
DEPARTMENT OF AGRICULTURE
MINIMUM PRICE ENFORCEMENT POLICY**

As described in Board Bulletin 1592 Board-established minimum prices generally apply to United States Department of Agriculture (USDA) contracts and will be enforced unless exempt due to a specific Board enforcement policy. USDA acknowledges in master solicitations and in individual bid solicitations that Board-established minimum prices apply to awards (“The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract. This may include applicable milk minimum pricing, state marketing orders, and related local laws.”) Despite this acknowledgement, under some circumstances USDA will not abide by Pennsylvania law regarding minimum wholesale milk prices.

The USDA milk purchases are made to provide milk to food banks. To ensure that food banks continue to receive USDA purchases, and to facilitate consistent performance and enforcement of contracts with USDA in light of USDA’s refusal to comply with the Pennsylvania Milk Marketing Law, Board Staff has adopted the following enforcement policy for USDA milk purchases.

1. Bids must be submitted in compliance with minimum prices applicable to the month in which the bid offer is due. Bids below the applicable minimum price will be referred for potential prosecution.
2. If a contract is awarded pursuant to an illegal bid, as noted in number 1 above, Board Staff will refer the illegal bid for potential prosecution. Board Staff will also refer for potential prosecution any sales made at below-minimum prices based on contracts awarded pursuant to illegal bids. In addition to referring such sales for potential prosecution, Board Staff may also take other action to enforce compliance with the Milk Marketing Law, including seeking injunctive relief.
3. Contracts awarded pursuant to legal bids may be performed at the bid price plus the applicable economic price adjustment. If the bid price plus applicable economic price

adjustment results in a price below the applicable minimum price for any month, Board Staff will not refer those transactions for potential prosecution.

Board Staff will continue to monitor USDA solicitations and awards. This enforcement policy is subject to change based on changing circumstances. Absent exigent circumstances Board Staff will provide reasonable notice if it intends to change this policy.

This enforcement policy applies to sales to USDA. As noted in Board Bulletin 1592 other sales to the federal government where title to the product is transferred in Pennsylvania are subject to Board-established minimum prices. Sales to the federal government where title to the product is transferred on federal government-owned property or on land ceded by Pennsylvania to the federal government are not subject to Board-established minimum prices.

Questions should be directed to the Board office at (717) 787-4194.

PENNSYLVANIA MILK MARKETING BOARD

Carol A. Hardbarger

Carol A. Hardbarger, PhD, Secretary

IF YOU REQUIRE THIS INFORMATION IN AN ALTERNATE FORMAT, CALL (717) 787-4194 OR 800-654-5984 (PA RELAY SERVICE FOR TDD USERS).