United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive
Alexandria, VA 22302-1500

June 7, 2005

SUBJECT: Applicability of Office of Management and Budget (OMB) Cost Circulars to Fixed Price Contracts

TO: Regional Directors
Child Nutrition Programs

Recently, we received an inquiry on behalf of a food service management company (FSMC). The inquiry asked whether the OMB cost principles were relevant to the food acquisition costs borne by a FSMC charging a school food authority (SFA) a fixed price per meal for the reimbursable meals and contractually agreed upon meal equivalents served under the contract.

Pursuant to §210.19(a)(2), the SFA must ensure that all expenditures from its nonprofit school food service account meet the requirements for an allowable cost. To be allowable, the cost must meet OMB cost circular requirements. That said, in a properly procured fixed price contract, the SFA's responsibility for determining allowable contract costs generally does not require applying the OMB cost principles to the contractor's costs underlying the fixed price meal charge. A SFA still has responsibilities under a fixed price per meal FSMC contract to determine that the costs are allowable nonprofit food service account expenditures, but these responsibilities are directed toward ensuring contract terms and program requirements have been met. For example, the SFA must determine that the invoice from the FSMC is mathematically correct, i.e., number of meals and meal equivalents billed equals the number of meals and meal equivalents served in the school nutrition programs, the meals met meal pattern and other contractual requirements and the meals are billed at the contractual fixed price per meal. SFAs cannot use a fixed price meal contract to pay for otherwise unallowable costs, for example, the cost of lunches that do not meet meal pattern requirements.

Please contact Terry Hallberg if you need additional information.

Original Signed

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