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July 11, 2001

BY MESSENGER

Mr. Ron Vogel
Associate Administrator
Food and Nutrition Service
U.S. Department of Agriculture
Suite 628
3101 Park Center Drive
Alexandria, VA 22302

Re: Potential Procurement Violations

Dear Ron:

As you know, school districts are generally required to follow federal procurement regulations when purchasing products or services with funds from the school food service account. It has come to our attention that serious violations of these regulations may be occurring in the procurement of computer software that is used in school meal programs.

Enclosed are copies of four procurement documents that were issued by school districts for the procurement of computer software. These documents are virtually identical, and it is very likely that they were drafted for the school districts by a potential bidder. We suspect that this practice is widespread in the procurement of software.

Schools are appropriately granted broad discretion in gathering information for use in connection with procurements. The Department's regulations, however, clearly prohibit awarding contracts to any entity that "develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents. . . ." 7 C.F.R. § 3016.60(b). Accordingly, we are asking the Department to investigate this issue.

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This type of inherently anti-competitive conduct threatens the integrity of the school meal programs, and will ultimately increase the cost of administering the programs on the state and local level. Thank you very much for your prompt attention to this issue. I will give you a call, or we can discuss in Nashville.

Sincerely,



Marshall L. Matz

MLM:lac
Enclosures

cc: Mr. Stan Garnett
Mr. Terry Hallberg