



United States
Department of
Agriculture

July 9, 2004

Food and
Nutrition
Service

SUBJECT: Reaffirming FNS' Position on Rebates, Discounts, and Other
Applicable Credits in Cost Reimbursable Contracts

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Center Drive
Alexandria, VA
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TO: Regional Directors
Child Nutrition Programs

We have been contacted by a representative of a food service management company (FSMC) who expressed concern that some State agencies (SAs) may not be aware of FNS' position on rebates, discounts, and other applicable credits in school food authority (SFA)-FSMC cost reimbursable contracts. Our position remains unchanged from our answer to Question 5, in our memorandum, "Applicability of Federal Requirements to School Food Service Procurements", dated May 20, 2003. Since our position applies to all cost reimbursable contracts, not just SFA-FSMC cost reimbursable contracts, we are requesting that you provide FNS' position to all of your Child Nutrition Program SAs.

In the May 20, 2003 memorandum Question 5 asked: "Does applying Parts 3016 and 3019 to SFA procurements change FNS' position on the crediting of discounts and rebates in cost reimbursable contracts?"

Our answer was and remains: "No. FNS' position on this subject remains unchanged. FNS strongly encourages, but does not require, that all cost reimbursable contracts include provisions to ensure SFAs are only charged net, allowable costs. The Office of Management and Budget and the Department's Office of the General Counsel have made clear that SAs and SFAs can impose compliance with net cost requirements through contractual terms."

If you have any questions, please contact Terry Hallberg, Branch Chief, Program Analysis and Monitoring Branch, at 703-305-2590.

A handwritten signature in dark ink, appearing to read "Stanley C. Garnett".

STANLEY C. GARNETT
Director
Child Nutrition Division