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United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

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STATE DEPARTMENT  
OF EDUCATION

The Honorable Virginia M. Barry  
State Commissioner of Education  
New Hampshire Department of Education  
101 Pleasant Street  
Concord, New Hampshire 03301

Dear Dr. Barry:

The purpose of this letter is to reaffirm the importance of safeguarding Federal funding in the Federal child nutrition programs by ensuring that school food authorities (SFAs) are the beneficiary of any discounts, rebates or applicable credits resulting from procurements made on their behalf by third parties (e.g., distributors, food service management companies, etc.) through cost reimbursable contracts.

On November 30, 2007, the final procurement rule, titled "Procurement Requirements for the National School Lunch, School Breakfast and Special Milk Programs," revised the regulations governing procedures related to the procurement of food and services in the Federal child nutrition programs. In all cost reimbursable contracts: 1) SFAs may use nonprofit school food service account funds to pay only for allowable costs (i.e., costs net of all discounts, rebates and other applicable credits); and 2) expenditures may not be made from the nonprofit school food service account for any costs resulting from a cost reimbursable contract that fails to adhere to the final procurement rule. This regulation is intended to ensure that SFAs receive the full benefit of any discounts, rebates, or applicable credits arising from purchases made on their behalf. As such, it helps ensure that limited school meals program resources are used as efficiently as possible.

In addition, if the cost reimbursable contract is with a food service management company, State agencies (SAs) are required to review the SFA's procurement procedures and cost reimbursable contracts prior to the issuance of a solicitation or contract execution and ensure that these cost reimbursable contracts contain the required provisions to accomplish the important task of tracking discounts, rebates and applicable credits. The rule also requires contractors to provide sufficient information to permit the SFA to identify allowable and unallowable costs and the amounts of all such discounts, rebates and applicable credits on invoices and bills presented for payment to the SFA. It is critically important not only that contracts include the required provisions as described above, but that the contract provisions are monitored and enforced.

The proper implementation of the final procurement rule affords SAs, SFAs and the children who are provided nutritious meals through the Federal child nutrition programs the opportunity to collectively benefit as it helps ensure that the limited Federal funds for these programs are

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maximized to the fullest extent possible. Otherwise, the financial integrity of the Federal child nutrition programs for children is greatly undermined.

I greatly appreciate and applaud the efforts of State partners for your work in administering the Federal child nutrition programs, and thank you in advance for your support in ensuring that the child nutrition programs in your State implement and monitor these important provisions.

Sincerely,



Kevin W. Concannon  
Under Secretary  
Food, Nutrition, and Consumer Services