



State of Arizona  
Department of Education

**HNS# 25-13**  
**USDA: SP-35-2013**

**MEMORANDUM**

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**TO:** National School Lunch Program (NSLP) Sponsors

**FROM:** Mary Szafranski, Deputy Associate Superintendent  
Arizona Department of Education, Health and Nutrition Services  
*Original Signed*  
Ellen Pimental, Director  
Arizona Department of Education, School Food Programs

**DATE:** May 10, 2013

**SUBJECT:** Oversight and Monitoring of School Food Authority Contracts with Food Service Management Companies

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The purpose of this memorandum is to emphasize the importance of the Arizona Department of Education (ADE) and school food authority (SFA) oversight and monitoring of contracts with food service management companies (FSMC) and to provide guidance for these activities.

The United States Department of Agriculture Office of the Inspector General (OIG) recently conducted an audit entitled, "National School Lunch Program-Food Service Management Company Contracts," at the request of the U.S. Senate Committee on Homeland Security and the Governmental Affairs Subcommittee on Contracting Oversight. Specifically, the audit assessed the effectiveness of Federal and State oversight and monitoring of SFA contracts with FSMCs and whether SFAs are receiving the full benefits of purchase discounts and rebates, and the value of USDA Foods. In short, the audit found that Federal funds may be at risk due to difficulty experienced by SFAs in enforcing contractual terms and regulatory requirements.

ADE is responsible for ensuring that SFAs with FSMC contracts structure and manage such contracts, as required by Federal law. As underscored by the recent audit findings, it is critical to make certain that these contracts include the provision, required by 7 CFR Part 210.21(f)(1)(i), that all purchase discounts and rebates be returned to the SFAs' nonprofit school food service account and the appropriate records are maintained to ensure compliance.



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Monitoring and oversight of SFA contracts throughout the school year are also essential to ensure SFAs receive the full value of purchase discounts and rebates and are in compliance with Federal law. Failure to undertake necessary oversight and monitoring measures puts Federal funds at risk for both affected SFAs and ADE. SFAs potentially would not receive the full value of purchase discounts and rebates and the Food and Nutrition Service (FNS) branch of the United States Department of Agriculture could withhold funds from ADE for failing to enforce these requirements.

ADE will continue to evaluate the extent to which issues related to FSMC cost-reimbursable contracts and credit for USDA Foods are present among our SFAs and take appropriate action to remedy those issues. Furthermore, FNS has established the following plan to address the recommendations in the OIG audit and assist State agencies:

- Collaborate with State partners to develop appropriate guidance and tools for States to assess SFA-FSMC compliance with all National School Lunch Program requirements.
- Add a new module to its existing web-based procurement training tool to incorporate procedures, examples, and best practices that will assist State agencies and SFAs in providing better oversight of FSMC contracts. We expect this module to be available by the 4th quarter of fiscal year 2013.
- Work with relevant State agencies to take appropriate action in the cases identified in the audit.

As part of its continuing efforts to ensure effective oversight, FNS is contacting the Arizona Attorney General's Office to encourage them to collaborate with ADE concerning these issues when appropriate. In addition, FNS will soon begin a process of consultation with key program partners and stakeholders to identify challenges and opportunities for oversight improvement.

Attached to this letter, we have provided a brief list of best practices for FSMC contract management. This information provides a training and technical support framework for State agency and SFA oversight of FSMC contracts.

ADE will continue to work with SFAs to support effective FSMC contract oversight and monitoring and keep you informed of FNS program developments. We greatly appreciate your support with our efforts to ensure that Federal funds provided to serve nutritious meals to children are fully available for this purpose.

If you have additional questions or concerns regarding this memorandum, please contact Aaron Thompson, ADE Contracts Management Officer, at (602) 364-1965 or email him at [Aaron.Thompson@azed.gov](mailto:Aaron.Thompson@azed.gov).



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# BEST PRACTICES

## Introduction

### *A RESOURCE FOR SCHOOL FOOD AUTHORITIES*

***Monitoring Cost  
Reimbursable  
Contracts for  
Rebates, Discounts,  
and Applicable  
Credits***

Federal regulations require School Food Authorities (SFAs) that have cost reimbursable contracts with Food Service Management Companies (FSMCs) receive the full value of any discounts, rebates and applicable credits (credits) that accrue as a result of purchases made by FSMCs for the SFA.

These regulations for cost reimbursable contracts are in place to make the identification of credits more transparent to SFAs and to maximize Federal funds for the service of healthy and nutritious meals to students through the School Meal Programs. These best practices are intended to assist SFAs with meeting this requirement.

## Executing the Contract

An important first step in complying with these requirements is to ensure that your contracts include all necessary provisions. **Cost reimbursable contracts** must include the following provisions [7 CFR Part 210.21 (f)(1)(i),(iv),(v),(vi)]:

- ✚ The mandatory return of all credits to the SFA's nonprofit food service account.
- ✚ The frequency and the method FSMCs will use for reporting credits on invoices and billing statements (e.g., monthly, quarterly, annually).
- ✚ All credits must be clearly identified on billing statements and invoices submitted by FSMCs to the SFA.
- ✚ All records of credits must be maintained by FSMCs, and made available to SFAs and State agencies upon request.
- ✚ The reporting of credits by FSMCs is required no less frequently than annually; however, State agencies may approve more frequent reporting. FNS encourages monthly reporting to facilitate SFA monitoring of the credits.

### Helpful Tip

**SFAs must obtain documentation from the FSMC to allow for the identification of allowable and unallowable costs, and reconciliation of all rebates, discounts and applicable credits.**



## Monitoring the Contract

The SFA's responsibilities do not end when the contract is signed. Monitoring the contract throughout the year is essential to ensure the SFA receives the full value of credits and is in compliance with Federal regulations. Monitoring activities may include the following best practices:

- ✚ Begin the process of monitoring the contract immediately by identifying the person or persons within the SFA who will be responsible for oversight.
- ✚ Designate the position that will monitor the credits (e.g., school food service director, school business or procurement official or other SFA-designated employee).
- ✚ Examine the invoices and other documentation provided by the FSMC as agreed to in the contract. Remember, it is important to maintain this documentation as support for credits and for review by the State agency.
- ✚ Determine the percentage of credits reported in relation to the value of food purchased early in the contract year as a benchmark for future comparison.
- ✚ Calculate the average credit-purchase proportion received (see example on the left). The industry average is between 10 to 15 percent.
- ✚ Examine products to ensure that to the maximum extent practicable, domestic commodities are purchased. Visit storage facilities (freezers, refrigerators, and dry storage) to observe the origin of purchased food printed on food labels and case units.

### Helpful Tip

#### Credit-Purchase Proportion equals

Value of Credit Reported  
divided by  
Value of Purchased Food

$$CPP = VCR \div VPF$$

### Additional Resources

Policy Memorandum  
SP-23-2013

USDA State Agency Guidance to  
Procurement Web-Based  
training:

<http://nfsmi.org/Templates/TemplateDefault.aspx?qs=cEIEPTIzOA>

Contact your State agency for  
additional assistance and  
support.

## Questioning Discrepancies

If you notice potential discrepancies during monitoring activities, follow up with the FSMC to resolve the issues. If necessary, request additional documentation from the FSMC to substantiate these discrepancies. Potential discrepancies to consider may include:

- ✚ Frequency of reporting that does not agree with contract provision.
- ✚ Labels identifying countries other than the U.S. may serve as a red flag that the FSMC is not complying with contractual provisions regarding "Buy American", possibly resulting in lower credits.
- ✚ Credit-purchase proportions that fall below the average credit-purchase proportion established early in the year.