



**United States
Department of
Agriculture**

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
22302-1500

DATE: July 7, 2008

MEMO CODE: SP 29-2008

SUBJECT: Cooperation with Federal Communications Commission's (FCC)
E-Rate Audits

TO: Special Nutrition Programs
All Regions

State Agencies
Child Nutrition Programs
All States

We have been asked to address the appropriateness of providing information to contractors auditing school districts' receipt of funds under the FCC's E-Rate fund. The FCC, through the Universal Service Administrative Company (USAC), administers the E-Rate program. USAC provides discounts to schools to obtain affordable telecommunication and Internet access; the discount rates are based on the percentage of children who are approved for free and reduced price school meals. USAC has contracted with private firms to conduct audits of the discount rates given to schools. Specifically, auditors have asked for a list of students eligible for free or reduced price meals under the National School Lunch Program (NSLP) who enrolled in the selected schools along with the applications for those students.

Based on information shared with us by the FCC's Office of the Inspector General, we have now determined that release of information to their auditors **is permitted** under section 9(b)(6) of the Richard B. Russell National School Lunch Act (NSLA). That section allows release of certain student eligibility information to Federal education programs. We have worked with the FCC to ensure that their audit protocols comply with the requirements of the NSLA.

As long as the audit protocols below are followed, local educational agencies (LEAs) may share individual children's information with authorized FCC auditors. The applicable protocols are to:

- compare aggregate enrollment data with aggregate free and reduced price eligibility data;
- for a small sample of eligible students, request their applications (which could include direct certification records);
- confirm that an application or other documentation exists for each selected student; and
- prohibit auditors from retaining personal student information

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

Cooperation with Federal Communications Commission's (FCC) E-Rate Audits
Page Two

Auditors cannot verify the accuracy of the LEA's determinations and cannot contact the household. Further, because these auditors are bound by our disclosure requirements, they cannot share or otherwise release individual information. FCC has instructed their auditors that the LEA may redact all information from the application that does not directly show that a student has an approved application or other documentation on file. For example, if the student is identified by his/her student number, the LEA could redact the student's name, address, etc. as long as the student number and approved eligibility status were visible.

We ask that State agencies immediately convey this information to local agencies and ask them to contact your office if there are any questions or concerns.

Original Signed

CYNTHIA LONG
Director
Child Nutrition Division