United States Department of Agriculture

Food and Nutrition Service

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SUBJECT: Fresh Fruit and Vegetable Program Fees in FSMC Contracts

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

This memo is written in response to a number of concerns brought to our attention by State agencies (SA) regarding school food authorities (SFA) in contracts with food service management companies (FSMC) that allow the FSMC to charge a fixed fee to the Fresh Fruit and Vegetable Program (FFVP).

As stated in the current FFVP Handbook, FFVP costs that may be charged to the FFVP grant are broken into two categories: administrative and operational. Operational costs are the primary costs of running the FFVP, including such costs as:

- purchase of fruits and vegetables, including the cost of pre-cut produce and delivery charges;
- non-food items or supplies that are used in serving and cleaning; and
- salaries and fringe benefits for employees engaged in preparing and distributing fresh fruits and vegetables, and in maintaining a sanitary environment.

Administrative costs, which currently cannot exceed 10% of the overall grant, are used principally to support planning and managing the program. It is important to note that most of a school's FFVP funds must be spent on purchasing fresh fruits and vegetables. This means that all non-food costs must be carefully reviewed and deemed reasonable, given the extent of program operations. Costs reported by the SFA for reimbursement from the grant must be allowable, actual costs, and fully documented. Labor costs, which must be minimal in either the "operating or administrative" category, must be reported by the SFA in a manner that clearly identifies the actual time allocated to the FFVP. Please refer to the FFVP Handbook and policy memoranda for more information on allowable costs and how to claim them.

Therefore, prior to executing a FFVP contract with a FSMC, the SFA must carefully assess all contractual provisions allowing the FSMC to charge costs other than actual costs of fresh fruits and vegetables. The purpose is to ensure adherence to the cost limitations placed on the FFVP (i.e., the requirement that administration costs not exceed 10% of the overall grant). It is recommended that the SFA assess each bid or proposal received from FSMCs

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in order to determine the allowability of the fixed fee component charged to the FFVP (or any other fees charged to the FFVP not related to the actual cost of the fresh fruits or vegetables). This type of careful review will help ensure that the resulting contract executed by a SFA adheres to FFVP requirements. Moreover, a SFA must ensure contracts with FSMCs require the FSMC to provide full documentation of allowable costs. This documentation must clearly outline the allocation of costs charged to the FFVP (i.e., amounts charged for labor, administrative fees, and actual costs of fresh fruits and vegetables, etc.). The SFA should then use this information provided by the FSMC as a basis for its reimbursement claim under the FFVP. If the FSMC is unable or unwilling to provide this information, the SFA has two choices: it must consider either running the FFVP separately from its existing FSMC contract; or, relinquishing its grant funding. Please note that if provisions are to be added to an existing FSMC contract, the amendment must be evaluated to determine if the change is material, or not.

In addition to our concerns about the information and documentation that a SFA must obtain from the FSMC in order to claim reimbursement from the State under the FFVP, we recommend SFAs that choose to have a FSMC run any aspect of the FFVP follow the guidance below. Thus, the SFA should:

- Provide assurance that the FSMC is completely apprised of all FFVP policies and rules to guarantee the program is operated in compliance with FNS standards;
- Regularly monitor FSMC operations to ensure compliance with relevant FFVP requirements and all provisions of the contract;
- Be able to identify in the solicitation document both the SFA's and FSMC's roles and responsibilities in the FFVP service;
- Include a provision in the request for proposal that requires FSMCs to submit a FFVP cycle menu based on FNS guidance (see next bullet) which could then be used in the scoring process to compare one FSMC's fixed fee to another;
- Although serving size is not required in the FFVP, SFAs may consider including "portion sizes" by referencing the *Fruits and Vegetables Galore Guidance*, the meal pattern, or the food buying guide. Incorporating additional guidelines helps ensure the SFA is taking its required active role in operating the FFVP and helps in creating a more level playing field for potential vendors; and,
- Include a provision in the solicitation that requires all FSMCs to document and track FFVP expenses separately and make this documentation easily accessible for the SFA to review.

If you have any questions regarding the contents of this memo, please contact your Regional Office.

Original Signed

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