

Ted Strickland, Governor Deborah S. Delisle, Superintendent of Public Instruction

POLICY STATEMENT

Economic Price Adjustments in Vendor Contracts

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Audience: All School Food Authorities

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INTRODUCTION

Today's unpredictable economy has made it important to consider accounting for the fluctuating costs of goods and services that are beyond the control of either the School Food Authority (SFA) or the vendor. As a result, SFAs need to contemplate not only the need for including an economic price adjustment clause (sometimes referred to as an escalator) in their contracts, but also to carefully enforce the terms of the clause and demand price reductions when appropriate.

STATEMENT OF POLICY

A. OVERVIEW OF ECONOMIC PRICE ADJUSTMENTS

- 1. A contract with an economic price adjustment is appropriate when:
 - a. Contract performance will or may cover an extended period of time;
 - b. There is serious doubt concerning the stability of market conditions during the period of the contract;
 - c. Adjustment standards or indices agreed to are based on contingencies outside the contractor's control; and
 - d. Contingencies, such as increases in labor costs, that would otherwise be included in the contract price can be identified and covered separately in the contract.

B. CONSIDERATIONS FOR USE OF ECONOMIC PRICE ADJUSTMENTS IN CONTRACTS

- 1. The economic price adjustments, which allow an SFA to adjust costs in the contract, must be tied to an appropriate standard or cost index.
- 2. Relating the price adjustments in a contract to an index allows the SFA to ensure that increases under the contract are not without basis.
 - a. For example, if fuel prices are increasing drastically, then an appropriate index—such as the Consumer Price Index—will reflect this change.
- 3. The terms of the economic price adjustment, including the appropriate standards or indices to which it will be tied, must be expressly identified in the original solicitation and contract documents.

- 4. Additionally, as under any circumstances, the contract must be awarded to the lowest-priced, responsible, and responsive bidder.
- 5. The SFA needs to decide whether they would like to include economic price adjustments in their contract
 - a. The vendor may not make this decision for the SFA.

C. CAUTIONS REGARDING ECONOMIC PRICE ADJUSTMENTS IN CONTRACTS

- 1. SFA must monitor the market for price adjustment opportunities.
- 2. Be advised that SFAs are likely to be notified by a contractor when costs go up, but not necessarily notified when costs go down.
- 3. The Economic Price Adjustment clause is intended not only to give vendors an option to increase their price for the SFA but also for the SFA to demand price reductions when appropriate.
- 4. SFAs need to be meticulous in contract management, particularly when the contract contains an economic price adjustment clause.

Please keep this memo on file for reference. A copy of the memo is available for downloading from the Ohio Department of Education (ODE) website at: http://www.education.ohio.gov/. If you have any questions regarding this memo, please contact your ODE School Meal Programs Regional Consultant at 1-800-808-6325. The School Meal Programs are administered by the Ohio Department of Education, Office for Safety, Health, and Nutrition. The Office is located at 25 S. Front St, Mail Stop 303, Columbus, OH 43215.

Prepared By: Brigette Hires Approved By: Cecelia Torok