



## STATE DEPARTMENT OF EDUCATION

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### **STATE GUIDANCE**

**To:** Child Nutrition Programs  
**From:** Colleen Fillmore, Ph.D., R.D., L.D. Child Nutrition Programs Director  
**Date:** January 23, 2009  
**Subject:** Economic Price Adjustment in Vendor Contracts  
**Policy Memo SP-10-2009**

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.

A contract with an economic price adjustment is appropriate when:

- Contract performance will or may cover an extended period of time;
- There is serious doubt concerning the stability of market conditions during the period of the contract;
- Adjustment standards or indices agreed to are based on contingencies outside the contractor's control; and
- 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.

The economic price adjustments, which allow an SFA to adjust costs in the contract, must be tied to an appropriate standard or cost index. Relating the price adjustments in a contract to an index allows the SFA to ensure that increases under the contract are not without basis. For example, if fuel prices are increasing drastically, then an appropriate index—such as the Consumer Price Index—will reflect this change.

As always, 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. Additionally, as under any circumstances, the contract must be awarded to the lowest-priced, responsible, and responsive bidder.

However, it is important to note that the SFA needs to decide whether they would like to include these in their contract; it is not the vendor's decision. Along the same lines, it is important to recognize that the SFA will most likely be advised by the contractor when costs go up, but they will

not necessarily notify the SFA when costs go down. Keep in mind that 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.

Please remember that SFAs need to be meticulous in contract management, particularly when the contract contains an economic price adjustment clause. Please contact the State Office with any questions on this issue at 208-332-6820