

- SP 94-C-5 11/1993
- Construction of School Lunch Facilities

Section 210.14(a) of the regulations prohibits the use of nonprofit school food service revenues “to construct buildings.” This prohibition is based on the USDA’s authority to approve or disapprove use of program funds for capital expenditures under B,19(3)c of Office of Management and Budget Circular A-87.

The rationale for this prohibition was stated in the preamble to the rule when it was first published in interim on July 20, 1982. Entitled “Revision of School Food Service Accountability Requirements,” the preamble says, in part: “... The Department... recognizes the increasing need for financial flexibility at the local level as well as the need for adequate facilities in order to provide quality food service. Therefore, this... rule will allow nonprofit school food service revenue to be used for altering or improving school food service facilities. However, since the USDA believes that the nonprofit school food service is not intended to provide school real estate facilities the ... rule will prohibit the expenditure of nonprofit school food service revenues for the purchase or construction of buildings” (underlining added).

To date, USDA has interpreted “construction of buildings” to mean any construction which requires the alteration of existing roof or wall dimensions. This interpretation has allowed Local Education Authorities (with State agency approval) to improve existing facilities with the use of school food service funds. However, it has not provided any relief for LEAs needing to expand existing space but lacking in tax base or other resources necessary to fund such projects. In order to provide the degree of financial flexibility necessary to make program improvements in these LEAs, our interpretation of the term “construction of buildings” is being revised to allow the expansion of existing facilities but not the construction of new buildings.

USDA Regional Office will approve, on a case-by-case basis, the use of school food service funds to expand existing food service facilities. However, before granting any such approval the LEA must provide us with sufficient information to establish that: (1) the project is needed to improve school food service operations; (2) in the case of multi-purpose facility, school food service funds are used only to fund up to a proportionate share of the project based on anticipated use; and (3) the use of school food service funds for the project will not adversely impact upon ongoing food service operation.