

# Contracting with a Food Service Management Company (FSMC)

This institution is an equal opportunity provider.

2026



The topic of today's training is Contracting with a Food Service Management Company.

Abbreviations used in this presentation:

CFR: Code of Federal Regulations

CNP: Child Nutrition Programs

FSMC: Food Service Management Company

IFB: Invitation for Bid

LDOE: Louisiana Department of Education

NSLP: National School Lunch Program

RFQ: Request for Quotes

SFA: School Food Authority

SFSP: Summer Food Service Program



Vended



FSMC

## What's the Difference?

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Let's start out by understanding the difference between a vended meal contract and a Food Service Management Contract.

A Vended Meal Contract includes the procurement of cooked food. The vendor drops off the prepared food, either in bulk, or unitized meals. The SFA staff at the site handles the meal service operation, which involves serving of food to students, handling the Point of Service, cleanup, etc. The vendor provides no program management services to the SFA. The contract is solely for cooked food products with or without milk.

A Food Service Management Company Contract includes the procurement of food and services. While each contract could be different, typically the Food Service Management Company would cook and serve the food, handle the Point of Service, cleanup, etc. The services provided by the FSMC are up to the SFA.

All SFAs/Sponsors can procure cooked food as long as procurement regulations are followed. This would be considered a vended meal contract.

However, only Louisiana Charter Schools are allowed to contract with a private "for profit" Food Service Management Company for full student meal services.

# Vended Meal IFB / RFQ / Contract

SFAs are required to use the Vended Meal State Prototype.



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SFAs are now required to use the State Prototype Vended Meal IFB / RFQ / Contract template. The use of the prototype vended meal template assures the contract meets USDA guidelines.

The SFA has to obtain State agency approval prior to a vended meal contract execution.

Even though State agency approval is required prior to contract execution, it is still ultimately the SFAs responsibility to ensure the contract complies with local, state and federal guidelines and regulations.

Therefore it is the SFAs responsibility to ensure the School District's legal department reviews all IFBs, RFQs, and contracting information prior to advertisement.

# FSMC RFP/Contract



SFAs must use the FSMC State Prototype Contract. Use of the State FSMC RFP/Contract is a requirement in the state of Louisiana.



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SFAs must use the State agency Prototype FSMC RFP/Contract. All USDA guidelines are addressed and met in the standard RFP/Contract. Ultimately, it is the responsibility of the School District to ensure all legal requirements are met in the contract.

All FSMC RFP/Contracts require State agency approval prior to the contract being considered executed. State agency contract approval does not transfer responsibility for ensuring contract accuracy and completeness from the SFA. It is still the SFA's responsibility to ensure the RFP/Contract meets the needs of the School District.

# Sponsor Responsibilities



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It is time to discuss the non-delegable responsibilities of the sponsor. It is important to mention the following slides represent the responsibilities of the SFA. Regardless of whether the contract is for vended meals or full FSMC food service operations, the SFA is still responsible.

No consultant or FSMC can take accountability for errors, exemptions, or over-claims that result from non-delegable sponsor responsibilities. The Administrative Review, Procurement Review, or Audit Review Findings will be issued solely to the SFA to resolve.

# Non-Delegable SFA Responsibilities

- The SFA shall be legally responsible for the management and oversight of the food service program.
- The SFA cannot delegate Procurement Standards to the FSMC. This includes Buy American Exception tracking, ensuring Buy American verbiage is included in both informal and formal procurement documents. This also includes the use of State Contracts for procurement purposes. State contracts can only be one source in procuring products.
- The SFA cannot delegate On-Site Monitoring, Financial Responsibility, Advisory Board duties, Health Permit and Inspections, Food Pricing, Signature Authority, Monthly Claims for Reimbursement, Free and Reduced Price Meal Process, USDA Donated Foods, and any a la carte service.



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The role of a Food Service Management Company is to purchase, cook, and prepare meals for the approved sites. The FSMC also assists with meal counts at the point of service and other required duties that go along with tracking and proving food preparation. This includes menus, production records, and any other measure used to prepare the food.

- The SFA is ultimately responsible for the management and oversight of the Food Service Program.
- The SFA cannot delegate responsibilities to the FSMC that should be handled by the SFA. As mentioned previously, Administrative Review, Procurement Review, and Audit Review findings will not be issued to the FSMC or any contracted Consultant. They will be issued to the SFA for resolution and/or repayment of over-claims.
- Further non-delegable responsibilities include:
  - Procurement requirements. The SFA cannot make the FSMC responsible for procurement procedures that must be followed. Although the FSMC makes purchases, it is up to the SFA to ensure those purchases comply with State and Federal Regulations.
  - This includes the Buy American Exception Tracking that must be completed to ensure that non-domestic food purchases do not exceed ten percent of the annual commercial food costs per school year.
  - SFAs must ensure that Buy American verbiage is in all procurement plans, procedures, solicitations, and contracts, regardless of the procurement being formal or informal.
  - SFAs must ensure that the FSMC is using State Contract purchasing correctly, if applicable. The State Contract pricing can only be used as one source when procuring.
  - The SFA cannot delegate On-site monitoring to the FSMC. The SFA is responsible for conducting regular contract compliance reviews for at least one site and monitoring meal counting and claiming procedures for all campuses each semester.
  - The SFA cannot delegate Financial Responsibility. The SFA has to retain control of all financial responsibilities as required by 7 CFR 210.19(a)(1).
  - The SFA cannot delegate Advisory board duties, health permit and inspections, food pricing, signatory authority, monthly claims for reimbursement, free and reduced price meal process, USDA donated foods, or any a la carte services.

# Sponsor Responsibilities

- Must utilize the prototype FSMC RFP/Contract
- A new prototype FSMC RFP/Contract is issued each year.



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The SFA is responsible for ensuring that the procurement of a Food Service Management Company follows all USDA regulations as well as state regulations. Regardless of the dollar value, Food Service Management Company contracts must be competitively bid using the prototype provided by LDOE's Division of Nutrition Support. All SFAs must use the prototype for the year that is designated in the prototype.

For SFAs renewing contracts, the Agreement Amendment prototype must be utilized.

## FSMC RFP/Contract

- The prototype **must** be used with no alterations, additions, or deletions
- Start several months before the effective date
- Contracts are for up to 1 year with the option to renew the contract for 4 years
- All contracts end on June 30th of each year



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The prototype Request For Proposal provided by LDOE **must** be utilized to procure food and services with an FSMC. The prototype must be used with no alterations, additions, or deletions.

The RFP and contract approval process should begin several months before the effective date of the contract. The effective date of all contracts is recommended to be July 1 or the beginning of the school year.

Contracts are written for up to 1 year with the option to renew the contract for an additional 4 years (7 CFR 210.16).

All contracts must end on June 30<sup>th</sup> of each year.

# Sponsor Responsibilities

- Complete the procurement process for the FSMC.
- Oversee implementation of the contract.
- Monitor the performance of the FSMC.
- Conduct on-site reviews of counting and claiming.



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The sponsor is also responsible for:

- Completing the FSMC procurement process for the initial contract and annual renewals.
- Overseeing the implementation of the contract to assure that contract terms are met and meet local, state and federal procurement requirements.
- Monitor the performance of the FSMC at least twice each school year.
- For multi-site sponsors, conduct on-site reviews of meal counting and claiming procedures at all sites by February 1<sup>st</sup> of each year and developing corrective action plans as needed.

# Sponsor Responsibilities

- Implement Food Service Advisory Committee
- Appoint and Train Collection Officials
- F/R Application Process



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The Sponsor must implement a Food Service Advisory Committee composed of parents, teachers, FSMC, and students to assist with menu planning and ensure that the FSMC follows through with menu changes, etc. There have been a number of findings on Administrative Reviews due to the SFA not having Advisory Committee meetings on a regular basis, not including parents, teachers, or students, not having documented minutes of the meetings, and not implementing recommendations from the Advisory Committee.

The Authorized Representative must appoint and train Determining Official(s) and the Hearing Official. Assistance is available from the State agency if needed.

The Sponsor must distribute Applications for CNP Benefits and related information to parents and guardians. The Sponsor must collect applications submitted for CNP benefits.

# Sponsor Responsibilities

- Process F/R applications
- Determine eligibility
- Notify households of the student's application status
- Administer the Direct Certification Process



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The Determining Officials of the organization are responsible for processing F/R applications, including approval, denial and follow-up with households to obtain complete information.

The Determining Officials enter data into the computer and maintain control of the computer system that automatically determines eligibility.

The Sponsor is responsible for administering the Direct Certification process and for notifying parents and guardians of the student's application status.

All documentation must be kept on file for review by the State agency, USDA, or Audit Officials.

# Sponsor Responsibilities

- Administer the Verification Process
- Complete and submit monthly claim
- Maintain a separate Food Service Fund



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The Sponsor must administer all aspects of the meal eligibility verification process, complete and submit the monthly claim, and maintain a separate Food Service Fund to which reimbursement and other food service revenues are posted and expenses are paid. A consultant or Food Service Management Company cannot submit claims for the SFA. **The State agency strongly discourages the SFA from giving out username and password to others to submit forms on the SFA's behalf.** SFAs must remember they are 100% responsible for anything submitted in the sponsor's name or submitted by someone that has been given access to the SFA's online system.

We have had instances where the SFA is depending on a consultant to submit the claim and the consultant does not submit the claim timely. The SFA suffers the loss of the reimbursement, not the consultant.

# Food Service Management Company Procurement – Regulations



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Our next topic is FSMC procurement regulations, guidance, and best practices. SFAs are encouraged to consult the following to assist with FSMC procurement compliance. This is the fun stuff

# Regulations Governing Procurement

2 CFR 200

7 CFR 210,  
215, 220, 225,  
250

USDA  
Guidance and  
Instructions

State/Local  
Regulations



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Sponsors must comply with all regulations concerning procurement. That includes,

- 2 CFR Part 200- .318-327 these are your overarching procurement regulations, allowability of cost are housed in the 400s, such as reasonableness, and allowability, and classification of cost
- USDA Program regulations such as NSLP, SMP, Breakfast program, summer food service program regulations as well as USDA foods regulations such as crediting in FSMC contracts (7 CFR Part 210, Part 215, Part 220, Part 225, Part 250), as well as other USDA guidance, and instructions.
- The sponsor must also follow all State and local laws, regulations, and policies that are not in conflict with Federal requirements. If a State or Municipal regulation conflicts with Federal Requirements, the SFA must follow the applicable federal CNP regulation.

Please consult the State agency, if unsure whether state and local requirements conflict with federal requirements.



United States  
Department of  
Agriculture  
Food and  
Nutrition  
Service

Contracting with Food Service  
Management Companies:

Guidance for School Food Authorities

# Contracting with Food Service Management Companies

## Guidance for School Food Authorities

[https://fns-prod.azureedge.us/sites/default/files/cn/SP40\\_CACFP12\\_SFSP14-2016a2.pdf](https://fns-prod.azureedge.us/sites/default/files/cn/SP40_CACFP12_SFSP14-2016a2.pdf)

The contents of this guidance document do not have the force and  
effect of law and are not meant to bind the public in any way. This  
document is intended only to provide clarity to the public regarding  
existing requirements under the law or agency policies.



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USDA has a publication entitled “Contracting with Food Service Management Companies Guidance for School Food Authorities” which is a helpful guide that covers the responsibilities and considerations when using a FSMC. It also addresses the monitoring and oversight responsibilities that come along with having an FSMC. The publication is hyperlinked in this slide.

[https://fns-prod.azureedge.us/sites/default/files/cn/SP40\\_CACFP12\\_SFSP14-2016a2.pdf](https://fns-prod.azureedge.us/sites/default/files/cn/SP40_CACFP12_SFSP14-2016a2.pdf)

Food and  
Nutrition  
Service  
Brasfield  
Metric Center  
1200  
Pennsylvania  
Place  
Arlington  
VA 22204  
DATE: April 21, 2023  
MEMO CODE: SP 13-2023  
SUBJECT: Best Practices for Contracting with Food Service Management Companies  
TO: Regional Directors  
Special Nutrition Programs  
All Regions  
State Directors  
Child Nutrition Programs  
All States

Issuing Agency/Office:	FNS Child Nutrition Programs
Title of Document:	Best Practices for Contracting with Food Service Management Companies
Document ID#:	
Z-RIN:	
Date of issuance:	April 21, 2023
Replaces:	No
Summary:	This memorandum provides information regarding procurement procedures for the School Breakfast Program and the National School Lunch Program. 2) This memorandum relates to Program-specific procurement regulations at 7 CFR 210.16, 210.19(c)(3), 210.22, 210.23, 210.24, 210.25, and Federal procurement regulations at 2 CFR 200.318-327. This memorandum is intended to assist State agencies and school food authorities implementing the School Breakfast Program and the National School Lunch Program.

The Food and Nutrition Service (FNS) recognizes that as a result of the COVID-19 pandemic, State agencies (SAAs) and school food authorities (SFAs) have encountered various challenges related to procurement when administering and operating the school meal programs. Some of these challenges include supply chain disruptions, increased costs of food, and COVID-19 contracts, and increased food and supply prices. SFAs and SFAs have worked tirelessly to overcome these challenges and have demonstrated an abundance of flexibility in identifying solutions in order to continue providing healthy and nutritious meals and snacks to students nationwide.

As part of the pandemic response, FNS provided additional financial and technical assistance to help states and operators meet these challenges. FNS continues to evaluate SAAs' and schools' needs in order to provide information and tools to help navigate the many challenges of procuring food and supplies supporting the school meal programs. This memorandum provides additional information and resources for SAAs and SFAs to consider when entering into and executing contracts with Food Service Management Companies.

## Best Practices for Contracting with Food Service Management Companies

<https://fns-prod.azureedge.us/sites/default/files/resource-files/fsmc-best-practices-042123.pdf>



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The USDA publication SP 13-2023 entitled “Best Practices for Contracting with Food Service Management Companies” also provides guidance for Contracting.

The memo gives some contract considerations before going out to bid, as a district you need to determine what aspects of the school meal program need to be managed. labor considerations, such as do I outsource all of the employees or just some of them. Utilizing the SA RFP template, LDOE makes it easy for SFA's because there is a prototype that you use which ensures all regulatory language is included contract. Managing a FSMC, a school district must still manage a FSMC to ensure they are operating within guidelines, monitoring the contract, ensuring you receive your credits for USDA foods, etc. The publication is hyperlinked in this slide.

<https://fns-prod.azureedge.us/sites/default/files/resource-files/fsmc-best-practices-042123.pdf>



## Procurement Process for FSMC Services

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Now we will discuss Procurement Processes for Food Service Management Company Services.

## Procurement Process for FSMC Services



- Download the RFP Prototype
- Prepare the RFP and exhibits
- Instructions for completion are on the CNP website



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To begin the process, download the appropriate year's RFP prototype from the Child Nutrition Program website. There is a detailed instruction guide on the CNP website to assist you in completing the RFP.

If the SFA is only looking to procure vended meals, there are now prototypes for vended meal Requests for Quotes and Invitation for Bids on the CNP website.

# Procurement Process for FSMC Services - Fixed Fee Contract

- The FSMC Contract is a fixed fee contract (Meals x Rate)
- The FSMC can charge only the number of meals served at the rate submitted in their proposal
- The FSMC cannot charge any fees other than the meal cost as quoted by the proposer
- The FSMC may not charge late fees, charge for meals delivered, supplies, etc.



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The FSMC contract is strictly a fixed fee contract. The FSMC can only charge the number of meals served at the rate submitted in the proposal. No other fees may be charged to the sponsor for ANY REASON! The price doesn't fluctuate throughout the year, the prices in the FSMC proposal are the prices set for the year.

There can be no late fees, charges for meals delivered, supply costs, additional employees needed that are to be charged in addition to the fixed fee. It is the FSMCs responsibility to add all cost within the fixed meal price that they quoted in their proposal.

Any additional fees charged to a sponsor are unallowable and may not be paid for with Child Nutrition funds.

# Procurement Process for FSMC Services

Develop the 21-day cycle menu

The 21-day menu in the proposal must be used for the first 21 days

FSMCs are no longer allowed to create their own 21 day cycle menu in the state of Louisiana.

- If the SFA is unable to create their own 21-day cycle menu, the SFA may utilize the appropriate State agency prototype menu from the CNP Website.



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Developing the 21-day cycle menu. **The FSMCs are no longer allowed to create their own 21 day cycle menus in the State of Louisiana.** This change is necessary to ensure that all proposers are submitting proposals on equal footing. The variation in menus makes evaluating proposals more difficult for SFAs/Sponsors. Also, menu variations make competition unnecessarily difficult for smaller FSMCs/Vendors to submit competitive proposals. Creating more competition in the FSMC/Vendor market is the driving force for restricting 21-day cycle menu creation to SFAs/Sponsors only.

Remember the 21-day menu in the proposal must be used for the first 21 days.

If the SFA/Sponsor is unable to create their own 21-day cycle menu, do not be concerned or discouraged by the new change. The State agency has thought about ways to empower and assist you in confident FSMC Procurement. The SFA/Sponsor can use the State agency prototype menu, if the SFA/Sponsor does not have the ability to create its own.

Ultimately, the SFA/Sponsor is responsible for making sure the menu meets the minimum requirements before awarding the contract.

## Procurement Process for FSMC – Menu Certification

- Each FSMC must provide the SFA/Sponsor with:
- A menu and menu certification documents utilizing a dated one week menu that includes portion sizes from the 21-day cycle menu included in the proposal.
- The menu and menu certification documents must include all age/grade groups served. The menu must be developed in accordance with the provisions of 7 CFR Part 210.10.
- The menu certification documents must contain all required information needed for approval by the Stage Agency. Meals may not be served under this contract until the contract is approved by the State agency.



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Each FSMC must provide the SFA/Sponsor with a menu and menu certification documents utilizing a dated one week menu that includes portion sizes from the 21-day cycle menu included in the proposal. The menu and menu certification documents must include all age/grade groups served. The menu must be developed in accordance with the provisions of 7 CFR Part 210.10. The menu certification documents must contain all required information needed for approval by the Stage Agency. Meals may not be served under this contract until the contract is approved by the State agency.

# Procurement Process for FSMC Services - Optional Requirements

- Number of Entree choices to be offered at Breakfast
- Number of Entree choices to be offered at Lunch
- Requiring two varieties of fruit at Breakfast
- Requiring two varieties of fruit at Lunch (9-12 grade group)



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The State agency has added some optional requirements that an SFA can choose. The RFP can dictate the number of entrée choices at breakfast and lunch and the SFA can also choose to have two varieties of fruit to comprise the fruit component at breakfast and lunch for grades 9-12.

Very often, State agency representatives have seen where only 1 fruit is offered. The student can take two fruits but the students are not aware. The FSMC must provide signage to indicate that students can take 2 fruits or both fruits.

# Procurement Process for FSMC Services - Electronic Bidding Requirements

The SFA must provide all FSMCs the option to submit their bid through a uniform and secure electronic interactive system per R.S. 38:2212.1(B)(4)(a)



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FSMCs/Vendors shall be provided the option to receive RFP documents and submit proposals through a uniform and secure electronic interactive system.

Evidence of the interactive system being proposed for use by the SFA/Sponsor must be submitted with the Step 1 documents for State agency review and approval.

FSMCs/Vendors shall follow the standards for the receipt of electronic bids adopted by the Office of the Governor, Division of Administration, and the Office of Information Technology, and shall make the appropriate provisions necessary for the acceptance of electronic proposals for all purchases requiring competitive bidding. Any special condition or requirement for the submission shall be specified in the advertisements.

The SFA/Sponsor shall provide documentation of the use of a uniform, secure electronic interactive system with the Step 2 documents.

Email, web links, or submission through the School District website are not a replacement for this requirement.

# Procurement Process for FSMC Services - Advertisements

- Newspaper advertisement require to be published two times in the newspaper in the locality at least 15 days before the bid opening.
- In addition to the newspaper advertisement, a public entity may also publish an advertisement by electronic media available to the general public per LA R.S. 38:2212.1(B)(1).
- The first publication of the advertisement shall not occur on a Saturday, Sunday or a legal holiday. Plans and specifications shall be available to bidder the day of the first advertisement and shall be available until 24 hours before the bid opening per LA R.S. 38:2212(B)(2).



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The newspaper advertisements are critical to a successful RFP. Louisiana law requires two separate advertisements in the newspaper, on two separate days, prior to the proposal opening date.

It is okay to publish the RFP documents on the School District's website. However, this does not replace the newspaper advertisement requirement.

Failure to adhere to the Louisiana Revised Statute regarding newspaper advertising will result in the SFA having to rebid the RFP.

Just a reminder, SFAs must include the USDA Nondiscrimination Statement in newspaper advertisements. The short version, "this institution is an equal opportunity provider" will suffice for newspaper advertisements.

## BUY AMERICAN PROVISION CERTIFICATION FORM FOR FOOD PURCHASES

SFA/Sponsor Name [Enter SFA/Sponsor Name Here](#)

The Buy American Provision [7 CFR Part 210.21\(d\)](#) requires School Food Authorities to purchase, to the maximum extent practical, domestically grown and processed foods. "Domestic" is defined as a product that is grown in the United States, or with processed food items, the product must be processed in the United States of food that is produced and grown domestically in the United States. Any product processed by a responsive vendor must contain over 51% of the food component, by weight or volume, from U.S. origin. The Buy American Provision 7 CFR Part 210.21(d)(5) also requires SFA-Sponsors to track total food product purchases to ensure non-domestic food purchases do not exceed the established total annual commercial food cost caps (SY25-26 – 10%; SY28-29 – 8%; SY31-32 – 5%).

The vendor must include all component items proposed by the company that do not meet the definition of "domestic". This document must be included as a part of the quote. This document is provided in Microsoft Word format so the vendor may add additional food items.

VENDORS MUST CERTIFY EITHER: (CHECK NUMBER 1 OR 2)	
<input type="checkbox"/>	1. I certify that all food products proposed by my company are 100% produced in the U.S., or processed in the U.S. with the final processed product including over 51% of food that was grown in the U.S.
<input type="checkbox"/>	2. I certify that all food products proposed by my company are 100% produced in the U.S., or processed in the U.S. with the final processed product including over 51% of food that was grown in the U.S. with the EXCEPTION of the following items listed below.
NAME OF FOOD ITEM	COMPLETE BELOW AND CHECK THE APPROPRIATE REASON THE NON-DOMESTIC PRODUCT IS PROPOSED FOR EACH ITEM.
Click or tap here to enter text.	<p>This product includes <input type="checkbox"/> % U.S. Content. The product is grown in <input type="checkbox"/></p> <p><input type="checkbox"/> The product is listed in the FAR at 48 CFR 25.104 and/or is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality.</p> <p>OR</p> <p><input type="checkbox"/> The cost of the U.S. product is significantly higher than the non-domestic product. List prices and unit pack size below for item to be considered.</p> <p><input type="checkbox"/> \$ <input type="checkbox"/> Price of Domestic or U.S. Grown Product Per Unit</p> <p><input type="checkbox"/> \$ <input type="checkbox"/> Price of Price of Non-Domestic Product Per Unit</p>

## Procurement Process for FSMC Services – Buy American Certification Form

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Each FSMC must include the Buy American Certification Form with the proposal solicitation documents. Each vendor must include the completed Buy American Certification Form along with their proposal. Any proposal that does not include the form should be considered non-responsive. The only deviation to this requirement would be if all the vendor's exceptions are listed on the FAR. As listed in 7 CFR 210.21(d)(5)(iii), if all the exceptions are listed on the FAR, SFAs are only required to track the items and not keep documentation of the exceptions.

However, if even one of the vendor's exceptions is due to the cost of the US product being significantly higher than the non-domestic product, the Buy American Certification form is required for the vendor to be considered responsive.

If the SFA awarding the contract notes that one FSMC submitting a proposal has no non-domestic food items listed and another has 25, the SFA should question why?

If one company is able to purchase the domestic product, other companies should be able to as well. Remember that FSMCs can change the menu to avoid the use of non-domestic products.

Each FSMC must comply with new Buy American requirements as of July 1, 2025.



## Procurement Process for FSMC Services – Buy American Certification Form

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The Buy American requirements cannot be transferred from the SFA to the FSMC. Although the FSMC will be procuring some, if not all, of the food used in the SFA's food service.

The Buy American provision found in 7 CFR Part 210.21(d) requires SFAs to purchase domestic commodity products. These products must be produced and processed in the US using agricultural commodities that are produced in the US. In other words, SFAs are required to purchase, to the maximum extent possible, domestic commodities or products.

According to 7 CFR 210.21(d)(3) – SFAs must include language requiring the purchase of foods that meet the Buy American requirements in all procurement procedures, solicitations, and contracts that apply to a SFA located in the contiguous United States and is purchasing domestic commodities or products for the NSLP.

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. To be considered for the alternative or exception, the request must be submitted in writing to a designated official, a minimum of 14 days in advance of delivery.

- The request must include the:
  - Price of the domestic food alternative substitute
  - Availability of domestic alternative substitute and quantity
  - Reason for exception: limited/lack of availability or price (price must be included)
  - Prices must include: Price of the domestic food product; and Price of the non-domestic product that meets the required specification of the domestic product

## Procurement Process for FSMC Services – Buy American Certification Form

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There are exceptions to the Buy American Certification Form. However, all exceptions are required to be tracked to ensure they do not exceed ten percent of the total annual commercial food costs for food products, per year. Tracking the non-domestic food costs cannot be a task delegated to the Consultant or the FSMC. The SFA is completely responsible for this task.

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. To be considered for the alternative or exception, the request must be submitted in writing to a designated official, a minimum of 14 days in advance of delivery. The request must include the:

1. Price of the domestic food alternative substitute
2. Availability of domestic alternative substitute and quantity
3. Reason for exception: limited/lack of availability or price (price must be included)
4. Prices must include:
  - a. Price of the domestic food product; and
  - b. Price of the non-domestic product that meets the required specification of the domestic product.

#### Limited Exceptions to the Buy American Requirement - [7 CFR 210.21\(d\)\(5\)](#)

- The product is listed on the Federal Acquisitions Regulations Non-available articles list found at [48 CFR 25.104](#) and/or is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; or
- Competitive bids reveal the costs of a U.S. product is significantly higher than the non-domestic product.
- Non-domestic food purchases (those that do not meet the definition of domestic commodity or product, as defined above) – by July 1, 2025, non-domestic food purchases must not exceed ten (10) percent of total annual commercial food costs that a SFA purchases per school year. [7 CFR 210.21\(d\)\(5\)\(ii\)\(A\)](#).
- SFAs must maintain documentation, except when the item purchased is found on the FAR Non-available Articles List, when using the Buy American Exception.
- SFAs must maintain documentation, to demonstrate that when using a Buy American Exception, their non-domestic food purchases do not exceed the annual threshold specified in #3 listed above. See the available USDA [Exceptions Tracking Standard Form](#) for use complying with the ten percent total annual commercial food cost purchases.

## Procurement Process for FSMC Services – Buy American Certification Form

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#### Limited Exceptions to the Buy American Requirement - [7 CFR 210.21\(d\)\(5\)](#)

1. The product is listed on the Federal Acquisitions Regulations Non-available articles list found at [48 CFR 25.104](#) and/or is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; or
2. Competitive bids reveal the costs of a U.S. product is significantly higher than the non-domestic product.
3. Beginning July 1, 2025, Non-domestic food purchases (those that do not meet the definition of domestic commodity or product, as defined above) must not exceed ten (10) percent of total annual commercial food costs that a SFA purchases per school year. [7 CFR 210.21\(d\)\(5\)\(ii\)\(A\)](#).
4. SFAs must maintain documentation, except when the item purchased is found on the FAR Non-available Articles List, when using the Buy American Exception. However, the SFA must note that the item was located on the Non-available Articles List.
5. SFAs must maintain documentation, to demonstrate that when using a Buy American Exception, their non-domestic food purchases do not exceed the annual threshold specified in #3 listed above. See the available USDA [Exceptions Tracking Standard Form](#) for use complying with the ten percent total annual commercial food cost purchases.
  - (a) If the SFA is unable to comply with the Buy American Exceptions tracking during SY2025-26, the SFA should complete the Buy American Accommodation Request form. The form can be found on the CNP website.

#### Harvested Fish under Buy American Requirement – [7 CFR 210.21\(d\)\(6\)](#)

1. To meet the definition of a domestic commodity or product, harvested fish must meet the following requirements:
  - a. Farmed fish must be harvested within the U.S. or any territory or possession of the US, and
  - b. Wild caught fish must be harvested within the Exclusive Economic Zone of the US or by a US flagged vessel.

## Buy American Provision Changes

- SFAs should be mindful of Buy American requirements when conducting formal procurement.
- Buy American Provision Certification Forms are required when conducting both formal and informal procurement. (See the Buy American factsheet.)
- SFAs should address Buy American provision requirements in their procurement plan. The SFA should also create procedures for tracking nondomestic purchases to ensure compliance with the final rule.
- SFAs that cannot meet the enacted SY2025-26 nondomestic purchase cap of 10% can receive a temporary accommodation from the State agency.



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There have been changes to Buy American Provisions that SFAs should also address in their respective procurement plans. The Buy American Provisions Related to the Final Rule – CNP Meal Patterns Consistent with the 2020-25 Dietary Guidelines for Americans (DGAs) has implemented a cap on non-domestic food purchases annually. (<https://fns-prod.azureedge.us/sites/default/files/resource-files/SP23-2024os.pdf>)

7 CFR 210.21(d)(5)(ii) states:

- SY2025-26 through SY2027-28, the nondomestic food purchasing cap is 10 percent.
- SY2028-29 through SY2030-31, the nondomestic food purchasing cap will be 8 percent.
- SY2031-32 on, the nondomestic food purchasing cap will be 5 percent.

- The hyperlink for the Buy American Factsheet is listed on the slide. ([https://fns-prod.azureedge.us/sites/default/files/resource-files/FactSheet\\_BuyAmerican.pdf](https://fns-prod.azureedge.us/sites/default/files/resource-files/FactSheet_BuyAmerican.pdf))
- All nondomestic food purchases must be tracked throughout the year to ensure that purchases do not exceed the food purchasing cap.
  - Purchases can be tracked on the Buy American Exceptions Tracking Standard Form Template. (<https://www.fns.usda.gov/sites/default/files/resource-files/SP23-2024a.xlsx>)
  - SFAs can request an accommodation if they are unable to meet the Buy American Provision requirements to cap nondomestic food purchases to 10 percent. The form is located on the CNP website and should be submitted to the CNP general email address. See 7 CFR 210.21(d)(8).
    - If you cannot meet the cap requirements and have not yet requested an accommodation, go to the CNP website and submit the accommodation request form for SY2025-26.

## Procurement Process for FSMC Services – Buy American Certification Form

**DALLAS : PEACHES Offerings : VERY LIGHT.**

**PEACHES Package: 25 lb cartons loose Variety: VARIOUS YELLOW FLESH VARIETIES**

Date	Low-High Price	Mostly Low-High Price	Origin	Origin District	Item Size
04/24/2020	25.00 - 26.00		CHILE		60s

**PEACHES Package: cartons 1 layer tray pack Variety: VARIOUS YELLOW FLESH VARIETIES**

Date	Low-High Price	Mostly Low-High Price	Origin	Origin District	Item Size
04/24/2020	25.00 - 26.00		CHILE		30s

**<https://www.ams.usda.gov/market-news>**

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The SFA Director must also sign the Buy American Certification Form after researching all items the vendor is proposing to use that are non-domestic and determining that the product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of satisfactory quality or that the cost of the U.S. product is significantly higher than the non-domestic product and is approving the use of the non-domestic product. One way of researching is to use the Agricultural Marketing Service website. The website provides guidance to the SFA in determining if domestic products are available. The downside of using this website is that the information being provided includes only the information available for today.

In the snapshot on this slide, we are looking to see if peaches are available domestically. As of today, peaches are available in the Dallas Terminal Market only from Chile. No domestic peaches are available.

Many fresh items are seasonally available in the U.S. You can require the vendor use a non-domestic product only if it is out of season in the USA.

## Procurement Process for FSMC Services - Attachment B and D of the FSMC Proposal

- Both are required documents
- A proposal without the completed attachments will be considered non-responsive
- Sponsors use these documents to assist in evaluating proposals



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FSMCs are required to complete Attachments B and D in the FSMC Proposal.

Our sponsors have requested to have both salary and benefit information for the FSMC's employees to assist in evaluating the proposals they receive. If one FSMC is providing 5 employees and another is providing 6 employees, the sponsor may evaluate the one with 6 higher.

Many sponsors want to see that the FSMC employees are receiving a living wage and that the company is offering benefits as well as what type of benefits. A company with better salaries and benefits may be scored higher because these are factors that affect employee retention and affects the stability of the operation.

The information can be provided by position/job title. The employee's name is not required.

## REVISED: Procurement Process for FSMC Services – Bid Bond Requirements

- Contract value >\$350,000 and participating in SFSP requires a bid bond. See [7 CFR 225.15\(m\)](#). For all other programs, bid bond requests are optional. See [L.R.S. 38:2218](#).
- Bid Bonds must be 5% of the value of the entire contract
- The bond must be from surety companies listed in the current Department of the Treasury Circular 570.  
(<https://www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html>)
- If applicable, bid bonds must be provided to the State agency with the Step 2 documentation.



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The Division of Nutrition Support is revising its bid and performance bond requirements to more closely align with the Louisiana Revised Statutes [38:2216](#) and [38:2218](#) and USDA Memo [SP 35-2016](#). The revisions will be reflected in the SY2026-27 templates.

FSMCs who submit a proposal over \$350,000, when the SFA is participating in the Summer Food Service Program, are required to submit a bid bond in an amount of 5 percent of the value of the contract for which the proposal is made, and as specified in the RFP. [See 7 CFR 225.15\(m\)](#). For all other programs, SFAs have the option to require bid bonds for contracts exceeding the small purchase threshold of \$350,000.

When bonds are required, FSMCs are prohibited from posing any alternative forms of bid bonds (See [7 CFR 225.15\(m\)\(7\)](#) and L.R.S. 38:2218). Cash, certified checks, letters of credit, and escrow accounts, are not acceptable substitutes for bid bonds.

The bond must be from one of the surety companies listed in the most recent issue of the United States Department of Treasury (TRE) Circular 570. See the hyperlink on the slide for reference.

Bid bonds, if applicable, must be provided to the State agency with the Step 2 documentation.

## NEW: Optional Procurement Process for NSLP FSMC Services - Performance Bond

- If the FSMC Contract exceeds \$350,000, the SFA has the option to require a FSMC to obtain a performance bond in the amount of 10% of the total value of the contract (includes all programs).
- If the FSMC enters into more than one contract with a sponsor and the aggregate total exceeds \$350,000, the SFA has the option to require a FSMC to also obtain a performance bond.
- A performance bond must be from surety companies listed in the current Department of the Treasury Circular 570.
- **\*\*Performance bonds are still required for FSMCs in SFSP\*\***



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The process of requiring bid bonds for NSLP FSMC contracts is now optional. The State agency will make changes to the RFP to allow SFA's to select a performance bond option for their FSMC contract. When a FSMC and a sponsor enter into one or more contracts exceeding \$350,000, the sponsor may require the chosen FSMC to obtain a performance bond in an amount of 10% of the total value of the contract for which the proposal is made. The total value of the contract includes all programs the SFA plans to operate.

If the FSMC enters into more than one contract with any one sponsor, and the aggregate total of the contracts exceeds \$350,000, the SFA may have the FSMC obtain a performance bond covering all contracts. Food service management companies shall obtain performance bonds only from surety companies listed in the current Department of the Treasury Circular 570.

No sponsor shall allow food service management companies to post any "alternative" forms of performance bonds, including but not limited to cash, certified checks, letters of credit, or escrow accounts.

If required by the SFA, the Performance Bond must be provided to the State agency as a part of the Step 3 process. The performance bond from the FSMC will be reviewed by the SA to ensure the amount of the performance bond does not exceed 10% of the value of the entire contract.

Bonding requirements for FSMC's in Summer Food Service Programs remain as outlined in 7 CFR 225.15

## Procurement Process for FSMC Services - Certificate of Insurance

The chosen FSMC must provide a Certificate of Insurance that indicates compliance with the RFP requirements.

Insurance is required for the following:

1. Comprehensive General Liability = \$1,000,000 per occurrence, \$2,000,000 aggregate
2. Automobile Liability = \$1,000,000 per occurrence
3. Worker's Compensation = \$1,000,000
4. Excess Umbrella Liability = \$1,000,000



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The chosen FSMC must provide a Certificate of Insurance that indicates compliance with the RFP requirements.

It is up to the SFA to review the Certificate of Insurance to ensure the FSMC has sent an insurance certificate listing the below coverages in the amounts specified in the RFP. One of the most common delays with Step 3 approval is a COI with missing information. SFAs need to be vigilant in ensuring the submitted COIs have the correct SFA Name and not a site name. Also, be sure the COIs list the SFA as an additional insured for all required coverages.

Failure to review the Certificate of Insurance, prior to sending the certificate to the State agency will result in delay of State agency Approval.

Insurance is required for the following:

1. Comprehensive General Liability
2. Automobile Liability
3. Worker's Compensation
4. Excess Umbrella Liability

The coverages on the slide are recommended minimum insurance limits. The SFA may choose to require higher insurance amounts, but cannot go below the established minimums.

## Certificate of Insurance (conti...)

The sponsor must be named as an additional insured party on all policies.

The FSMC must also provide a waiver of subrogation in favor of the Sponsor (Reference L.R.S. 38:2195).

The certificate of insurance requires that the Sponsor be notified of cancellation of Insurance policies 30 days before cancellation is to take effect.

SFAs should review the Office of Risk Management and Office of State Procurement guidance for further information.

<https://www.doa.la.gov/media/luqfise1/contract-manual-12-2019.pdf>

<https://www.doa.la.gov/media/cdqbaw2h/insurance-and-indemnification.pdf>



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The certificate of insurance must name the sponsor as an additional insured party on all policies.

The FSMC must provide a waiver of subrogation in favor of the sponsor. A Waiver of Subrogation is an endorsement that prohibits an insurance carrier from recovering the money they paid on a claim from a negligent third party. The sponsor requires this endorsement from their FSMC to avoid being held liable for claims that occur on their jobsite. Please ensure the waiver of subrogation is listed on the certificate prior to submission. Failure to include the waiver of subrogation will result in processing delays.

The insurance contract requires that the sponsor be notified of the cancellation of Insurance policies at least 30 days before the cancellation of insurance. The Certificate of Insurance is submitted to the State agency with the Step 3 documents.

The State agency will not approve the contract without receiving an accurate copy of this document.

There are tools for SFA use. The Office of State Procurement has trainings regarding Insurance Language in Contracts and Indemnification Agreements and documentation that will assist SFAs with understanding Certificates of Insurance. See the hyperlinks on the slide and please utilize these tools.

## Procurement Process for FSMC Services – Protests from a Food Service Management Company

1. The name, address, and telephone number of the protestor
2. The signature of the protestor or an authorized representative of the protestor
3. Identification of the purchasing agency and the solicitation or contract number
4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents
5. The form of relief requested
6. The protest must be filed within 10 days of receiving the award notice



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The RFP contains language to provide an FSMC with instructions on how a protest is to be conducted.

The SFA shall indicate the person the protest is to be sent to, along with their title and mailing address. The protest must be filed within 10 days after receiving the award notice. The protest must include the name, address, and telephone number of the protestor; the signature of the protestor or authorized representative, identification of the purchasing agency and the solicitation or contract number, a detailed statement of the legal and factual grounds of the protest. Copies of relevant documents must also be included. And finally, the FSMC representative must provide the form of relief requested.

## Protests from a Food Service Management Company (conti...)

The SFA must:

- Provide a written response to the protest within 30 days from receipt of the protest.
- Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith shall not be affected by the fact that a protest or appeal has been filed.
- Notify the State agency of the protest or appeal



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The SFA must:

Provide a written response to the protest within 30 days from receipt of the protest.

Pending the results of the protest or appeal, the contract that has been awarded shall not be affected by the protest or appeal. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith shall not be affected by the fact that a protest or appeal has been filed.

The SFA shall in all instances disclose information regarding protests to the State agency.

# Procurement Process for FSMC Services -

## Attachment AA: Award Criteria

PROPOSAL AWARD CRITERIA		
Vendor Name:	SFA is to complete the total possible points. Cost must be the primary factor.	
Evaluation Criteria	Possible Points	
Cost proposed by Vendor		
Years of Experience (Maximum 10 points for 10 years or above)		
Financial Conditions/Stability, Business Practices-the FSMC must provide their most recently approved financial audit		
Service Capability Plan		
Promotion of the Child Nutrition Program		
Professional Development for Staff		
Lost Accounts		
Experience of Regional/District Manager, Account Manager, and Registered Dietitian in working with Child Nutrition Programs	Optional Award Criteria	
Local Procurement	Optional Award Criteria	
Total (Must equal 100 points)		

A copy of this form showing the weight of each evaluation criteria must be included with the Step 1 documentation provided to the State Agency. This document must be included with your proposal and provided to prospective Food Service Management Companies.



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The State agency has added several evaluation factors including Professional Development for Staff, Lost Accounts, Experience of the Regional or District Manager, Unit Manager, and Dietitian, and Local Procurement.

Experience of the Regional/District Manager, Unit Manager and Registered Dietitian, and Local Procurement are both optional criteria.

If the SFA makes the decision not to use the optional criteria, enter 0 on the form, under Possible Points.

The SFA must complete this form with the weight of each evaluation criteria, remembering that cost must be the primary factor.

It is Attachment AA of the FSMC proposal. The total possible points must equal 100.

This document is to be provided to the State agency with the Step 1 documents. The form approved by the State agency should be the form included in the RFP.

No changes should be made to the Award Criteria after State agency approval, unless the SFA/Sponsor notifies the State agency and resubmits the Award Criteria form for additional approval.

# Procurement Process for FSMC Services - Attachment BB: FSMC Proposal Summary

## ATTACHMENT BB: FOOD SERVICE MANAGEMENT COMPANY'S PROPOSAL SUMMARY

### Food Service Management Company's Proposal Summary

Each FSMC is to complete the sections below. This attachment becomes a part of the Food Service Management Contract if your company is awarded the contract.

Vendor Name:

Click or tap here to enter text.

#### Evaluation Criteria

##### Meal Price

Lunch Price (Includes NSLP/SFSP/CACFP Supper)	Breakfast Price (Includes SBP/SFSP)	Snack Price (Includes NSLP/SFSP/CACFP Snack)
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

##### Years of Experience

How many years has your company operated food service in Child Nutrition Programs. Do not include non-CNP experience.

Click or tap here to enter text.

##### Financial Conditions/Stability, Business Practices

Summarize the Financial Conditions/Stability of your company. Include the most recent Independent Audit as an attachment to your proposal. The FSMC will be considered non-responsive without the most recent Independent Audit Report included.



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The State agency has also added attachment BB entitled Food Service Management Company's Proposal Summary. This form summarizes the proposal submitted by the Food Service Management Company. The FSMC completes the meal prices and years of experience and then writes a summary of their proposal in each area in a condensed form.

- The FSMC should include a summary under the following headings:
  - Financial Conditions/Stability, Business Practices
  - Service Capability Plan
  - Promotion of the Child Nutrition Program
  - Professional Development for Staff
  - Experience of Regional/District Manager, Unit Manager, and Company Registered Dietitian
  - Local Procurement

This summary form, along with the proposal itself, is used by the SFA to evaluate each Food Service Management Company.

# Procurement Process for FSMC Services - Attachment CC: FSMC's Summary of Accounts

## ATTACHMENT CC: FOOD SERVICE MANAGEMENT COMPANY'S SUMMARY OF ACCOUNTS

<b>Summary of Accounts</b>			
FSMC Vendor is to list all accounts in Louisiana held from July 1, 2016 through June 30, 2021. Provide the Contract Start Date and Contract End Date. If the contract has not ended, enter N/A. If the contract was ended by the SFA before the 5-year contract renewal period, the FSMC must provide the reason for the contract loss.			
SFA-Include SFA name, address, contact person, and telephone number.	Contract Start Date	Contract End Date	Reason for Contract Termination prior to the end of the 5-year contract period if applicable
Click or tap here to enter text.	Click or tap to enter a date.	Click or tap to enter a date.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap to enter a date.	Click or tap to enter a date.	Click or tap here to enter text.



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Another evaluation criteria that has been added is “Lost Accounts”. Each FSMC submitting a proposal must complete this attachment. On Attachment CC, the FSMC lists all CNP accounts in Louisiana. The SFA name, address, contact person with telephone number is included along with the contract start date and contract end date. The FSMC must include a reason for the contract termination of any contracts less than 5 years. Failure to do so will render the FSMC’s proposal as non-responsive.

The contracting SFA may communicate with other SFAs that have contracted with the FSMC concerning the lost accounts and use the information to evaluate the proposals. If other SFAs are contacted, all communication with those SFAs must be submitted to the State agency for review with Step 2 documents.

# Procurement Process for FSMC Services

The documents listed are required to be submitted during the Step 1 Process



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The next three slides discuss the Step 1 process. The State agency has implemented a hard submission deadline for Step 1 Certification documents. All Step 1 documents must be received by March 31<sup>st</sup> of the current school year for the upcoming school year. Please be mindful when setting proposal opening dates, as there is a hard deadline for Step 2 submissions as well.

# Procurement Process for FSMC Services

- **Complete the Step 1 document and submit to State agency along with the proposed RFP**
- **All contract documents must be signed by an authorized representative**
- **Include the proposal opening time and date**
- **Include the completed Award Criteria form.**



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The Step 1 document can be found in the “FSMC – Instructions for completing the RFP”. The SFA completes and submits the original, signed Step 1 and proposed RFP to LDOE.

Failure to submit the proposed RFP for prior approval for advertising may result in rebidding.

Remember that all RFP/Contract documents must be signed by an employee of the organization that has been authorized to enter into contracts on behalf of the SFA. This should be the person listed on the online application as the Superintendent or Authorized Representative.

Include the proposal opening time and date and include the Proposal Award Criteria form that includes the scoring weights of each evaluation criteria.

## Procurement Process for FSMC Services

- Receipt of approval by State agency
- Publicly advertise and solicit known vendors
- Instruct FSMCs to submit the Solicitation documents in one file (or binder), and all promotional proposal materials in a separate file (or binder).
- Open proposals
- Provide copy on a USB for the State agency



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After receipt of the completed, signed Step 1 documents, the sponsor will receive written approval by LDOE to begin the contract process.

The SFA must solicit proposals from an adequate number of known, qualified suppliers (at least 4-5 qualified suppliers). In the solicitation, the SFAs should stress the importance of the FSMCs submitting the solicitation documents separate from the proposal promotional documentation. The solicitation packet needs to be filled out by the FSMC as is, in a separate file or binder. The extra promotional documentation must be submitted separately. FSMCs should be considered non-responsive if the RFP documentation is not completed as sent out for solicitation.

The proposed procurement must be publicly advertised two separate days in a regional news source. The first advertisement must be at least 21 days before the proposal opening date.

The RFP is not to be advertised before State agency approval has been given. In instances where the SFA advertises only once, or advertises prior to State agency approval, the RFP must be rebid.

All proposals received by the SFA must be opened at the date and time stated in the RFP. RFPs are not to be opened publicly. However, all committee members must be present when RFPs are opened.

## Request for Proposal Opening

- Based on guidance received from USDA, as of SY 24-25 RFP openings are not required to be public.
- The State agency is no longer required to attend RFP openings.
- Only committee members should be present for RFP openings.



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Based on guidance received from USDA, as of SY 24-25 RFP openings are not required to be public. The State agency is no longer required to attend RFP openings.

Only committee members should be present for RFP openings.

These changes do not apply to the Invitation for Bid (IFB) process.

Once the proposals are opened by the committee, it is time to award the FSMC Contract.

Appoint an  
Evaluation Team

Award to the most  
responsible and  
responsive bidder

Price is always  
the primary factor

## Awarding the FSMC Contract

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When awarding the FSMC Contract, the SFA should appoint an evaluation team of at least 3 employees, preferably employees that are familiar with the Child Nutrition Program. The contract must be awarded to the most responsible and responsive bidder with the lowest price.

## Program Integrity

Transparency in the FSMC award process

Must be able to withstand public scrutiny

Others would come to the same conclusion

**FSMCs cannot be part of the evaluating & awarding process**



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There must be transparency in the FSMC award process. The process and documents must be able to withstand public scrutiny. SFAs must be able to justify the award of a FSMC contract in sufficient detail that others would come to the same conclusion.

## FSMC Score Card–Justification for Scoring Cost

- **Lowest Price – Maximum Points**
- **Formula For Other Vendors**  
$$\text{Lowest price} / \text{Their price} = \text{Vendors Points}$$
*(Do not round)*
- **Fixed Price Contract – No other fees**



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### Justification for Scoring:

The score for cost utilizes a formula for scoring the cost from each prospective contractor. The FSMC with the lowest cost receives the maximum number of points. To calculate the points for the other FSMCs, Divide the lowest price by their price and multiply by the maximum number of points. Do not round.

This contract is a fixed price contract. The Food Service Management Company may not charge the SFA any other fees than meal X rate.

No administrative, delivery, late fees, or other fees are allowable. The Food Service Management Company must propose a price based solely on meal x rate.

The SFA must not sign any other contracts or agreements with the Food Service Management Company.

If the SFA is using the State agency prototype RFP as a FSMC contract, the FSMC or vendor may only charge the SFA for meals served, not delivered. This is stated in the State agency prototype contract.

## FSMC Score Card–Justification for Scoring Years of Experience

- Based on number of years in business
- The maximum points for years of experience is 10.



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The score for years of experience is based on the number of years the company has been in business. The maximum points for years of experience is 10. If an FSMC has been in business for 25 years, they can only receive a maximum of 10 points.

## FSMC Score Card–Justification for Scoring Financial Conditions /Stability/Business Practices

- Independent Audit
- Proposal
- Proposal Summary



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**The score for Financial Conditions/Stability-** The committee should review each FSMC's most recent Independent Audit to determine the score for Financial Conditions/Stability. Documentation must be provided to justify the scoring of each FSMC.

If adequate justification is not provided, the State agency will not approve the contract.

If the FSMC does not submit the Independent Audit, the FSMC can be deemed as non-responsive.

Financial statement alone will not be sufficient for the purposes of scoring. The Independent Audit must accompany all proposals, and the SFA should stress the importance of this requirement to vendors when sending out the RFP.

## FSMC Score Card—Justification for Scoring Service Capability Plan

What factors go into determining a Service Capability Plan score?



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We will now turn our attention to the Service Capability Plan criteria. There are several factors that contribute to the Service Capability Plan scoring.

Let's review, in detail what factors the SFAs may use to arrive at scoring and justification for scoring for this criterion.

# Service Capability Plan (cont.)

## Do they have a proven track record of high quality service?

- Feedback from other SFAs
- Student Surveys
- Advisory Committee reports
- Participation Reports
- USDA-Commodities
- Administrative Reviews
- Health Inspections



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The scoring for the service capability plan must be based on how the FSMC demonstrates their ability to provide the services requested in the Proposal as well as verifiable proof that the FSMC has provided high quality service to other SFAs.

The scoring committee must do some homework to accurately evaluate this area. Contact other SFAs that utilize the FSMC (all correspondence should be submitted to the State agency with Step 2 documents).

You can also request that the FSMC send in copies of student surveys and Advisory Committee reports, participation reports, documentation of proper usage of USDA-commodities in the food program, and/or the results of Administrative Reviews.

Were there any findings on the review that are attributed to the FSMC? Find out from other SFAs whether the FSMC was able to increase student participation. Increased participation means the students like the food and service.

If the FSMC was unable to increase student participation, or participation decreases, there may be issues with the FSMC's ability to provide the required service. Information like decreased participation should be documented under the justification column to justify the score given to each FSMC in this category.

# Service Capability Plan - Student Surveys

**Student surveys are  
invaluable when  
evaluating the service  
of a FSMC!**

Sample Survey – consider surveying students in a classroom or parents during an open house. Use technology as a tool to collect and analyze data.

1. Do you bring lunch from home?  
 Yes  
 No
2. Do you eat lunch from the school cafeteria?  
 Yes  
 No
3. When you eat lunch from the school cafeteria, do you throw any food away?  
 Yes – If yes, what do you throw away? \_\_\_\_\_  
 No

4. Why do you throw the food away?  
 Do not have enough time to eat  
 Do not like foods  
 am full  
 am not sure

5. Are there any new foods you would like for lunch in the school cafeteria?

3. My favorite school lunches are: \_\_\_\_\_

4. My least favorite school lunch is: \_\_\_\_\_

5. Please list your favorite fruits: \_\_\_\_\_

6. Please list your favorite vegetables: \_\_\_\_\_

7. List any ideas you have for how we can improve school lunch or better serve you!

Sincerely,  
The Food Service Staff



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Ask other SFAs to review a summary of the student surveys they have conducted. We know that not every student enjoys the same foods, but the SFA can get an overall sense of how satisfied the students are with the food they are being served by reviewing the surveys.

Again, ensure that all communication with other SFAs is completed in written form, as this information needs to be submitted to the State agency. Also, ensure that no PII is at risk when exchanging information for the purpose of scoring in the Service Capability category.

## Service Capability Plan – Advisory Committee Meeting Reports



What is the advisory committee recommending to improve the food service?



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Each SFA that has a Food Service Management Company must have an advisory committee.

What recommendations are the Advisory Committee making to other SFAs and the FSMC?

These reports should be readily available from other SFAs. The documented advisory committee meeting recommendations and action by the SFA and FSMC are requirements of the Child Nutrition Program.

If the SFA uses information from the Advisory Committee Meeting Reports to increase or decrease scoring, information related to this must be included in the justification column.

## Service Capability Plan – Review of Participation Reports

	Lunch	Breakfast
November 2021	49.39%	35.70%
November 2020	41.94%	22.12%
Percent Increase	7.45%	13.58%



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This table represents the November 2020 and November 2021 claims for one of the charter schools in Louisiana. The students expressed their dissatisfaction with the meals the FSMC was providing last year.

As a result, the school went out to bid and chose another FSMC that they hoped would increase student satisfaction, or as I like to call it, customer satisfaction, and increase meal participation.

The new FSMC increased participation. In comparing the November claims for 2020 and 2021, the lunch participation increased by 7.45% and breakfast participation increased by 13.58%.

How has the participation increased or decreased with each of the FSMCs that have submitted a proposal to your RFP? Reach out to other SFAs currently utilizing the FSMCs services.

**Ensure that all of your communication is in writing because the SFA must submit this communication to the State agency.**

SFAs want to see an increase in participation during their contract with other School Food Authorities. SFAs definitely do not want to see a decrease in participation. Decreased participation is a sure sign that students do not like the meals they are being served.

If decreased participation is a factor in the Service Capability score, please include this information when writing the justification for the score.

## Service Capability Plan - Commodities

- Does the FSMC's proposal encourage the use of commodities?
- The purchase of commercial products when USDA-Donated Foods are available would render the commercial purchase of these items as unreasonable and unnecessary and contributes to a higher cost for student meals.
- The FSMC shall accept and use USDA-donated foods in as large of quantities as may be efficiently utilized in the SFA's nonprofit food service, subject to approval of the SFA.



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Does the FSMC proposal encourage the use of commodities?

Many FSMCs do not like to deal with commodities because there is a lot of paperwork involved. Some SFAs do not like using them for the same reason. If you, as the SFA, are not receiving commodities, you are leaving money on the table and doing a disservice to your students.

Commodities decrease the cost of the food served to students so it also decreases the price the students have to pay. The FSMC may be charging the SFA \$3.30 for each meal but the commodity credits may amount to 20 to 30 cents per meal. That amount is deducted from the bill from the FSMC and it can be a sizeable amount. It is fiscally irresponsible for an SFA not to take advantage of commodities.

The statements on this slide are a part of the prototype FSMC contract.

The first statement is: SFAs are expected to apply for and utilize commodities. The purchase of commercial products when USDA-Donated Foods are available would render the commercial purchase of these items as unreasonable and unnecessary and contributes to a higher cost for student meals.

The second statement is: the FSMC shall accept and use USDA-donated foods in as large of quantities as may be efficiently utilized in the SFA's nonprofit food service, subject to approval of the SFA.

A proposal from a Food Service Management Company that places any restrictions on the use of commodities must be considered a non-responsive proposal and must not receive an award.

#### LAC TITLE 51 PART XXIII

CRITICAL ITEMS: These items MUST BE CORRECTED IMMEDIATELY (see compliance schedule below). Repeat violations may lead to enforcement actions or permit suspensions.		
Category	Code Reference	Description of Violations
FOOD CONTACT EQUIPMENT: UTENSILS, CONSTRUCTION AND SANITIZATION	2001	28 - 2501 - Food contact surfaces and utensils are not clean to sight and touch. *** ice machine *** [COS]
NON-CRITICAL ITEMS: These items should be corrected by the next regular inspection or according to the compliance schedule (see below) established by this office.		
Category	Code Reference	Description of Violations
FOOD PROTECTION	1901	41 - 1901 2 - Ice dispensing utensils were not stored in a glass protected location.
UTENSILS EQUIPMENT: SINGLE SERVICE	2101	87 - 2101 1 - Non-food contact equipment is not maintained in good repair *** Linen equipment and linens in dry storage ***
UTENSILS EQUIPMENT: SINGLE SERVICE	2113	89 - 2113 - Non-food contact surfaces are not constructed of a corrosion-resistant, non-absorbent, smooth material. *** round tables ***
UTENSILS EQUIPMENT: SINGLE SERVICE	2501	93 - 2501 2 - Non-food contact surfaces of equipment have an accumulation of dust, dirt, food residue and other debris. *** inside drawers and in warming cabinet ***
UTENSILS EQUIPMENT: SINGLE SERVICE	2503	74 - 2503 1 - Non-food contact surfaces are not cleaned at a frequency necessary to preclude accumulation of food residues. *** Table under line *** [COS]
UTENSILS EQUIPMENT: SINGLE SERVICE	2519	84 - 2519 2 - In use food utensils are not stored on a clean dry surface *** knives *** [COS]
TOILETS/HAND WASH FACILITIES	3109	94 - 3109 8 - The hand wash laundry and or soap and paper towel dispensers are not clean. *** Back in middle of kitchen ***
STRUCTURAL DESIGN/MAINTENANCE: PLUMBING	3305	107 - 3305 1 - Openings are not protected against the entry of rodents or insects. *** holes in exterior walls and in windows and at window in dry storage ***
STRUCTURAL DESIGN/MAINTENANCE: PLUMBING	3701	105 - 3701 1 - Floors are not clean *** may soak area, behind equipment, and base boards discolored ***
STRUCTURAL DESIGN/MAINTENANCE: PLUMBING	3701	105 - 3701 1 - Floors are not smooth and easily cleanable *** near ice machine ***
STRUCTURAL DESIGN/MAINTENANCE: PLUMBING	3703	106 - 3703 4 - Wall ceiling or attached equipment are not in good repair *** Bottom of wall attachment is coming off wall ***
PERMIT/PLANS: FOOD SAFETY CERTIFICATES	501	114 - 501 1 - A valid permit to operate was not obtained prior to opening of the food establishment

<https://la.healthinspections.us/>



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The SFA committee members should research how each FSMC scores on health inspections in the schools they operate. You can access this information by using the link on this slide or by searching Eat Safe Louisiana Inspections.

Your SFA should ensure that the Food Service Management Company keeps their kitchens clean and follows all the Safety and Sanitation regulations required by LDH. The manager must have passed a Servsafe or other equivalent course and be certified.

As stated earlier, continuous failure to meet health inspection requirements, as represented by LDH findings during school inspections or food service management company facility inspections such as in a central kitchen, is grounds for termination of the contract and exclusion from consideration in future RFPs.

The inspection example on this slide indicates that the FSMC is not keeping a clean, sanitary kitchen. Many of the violations are related to areas of the kitchen that are not clean. Some of the violations are due to poor maintenance on the part of the school itself. The last violation indicates that the FSMC began operations before obtaining a Permit to Operate.

The SFA must not allow food to be prepared without having a valid Permit to Operate in the name of the Food Service Management company. Child Nutrition Program regulations do not allow any meals to be claimed in any Child Nutrition Program without a valid permit to operate.

If this information is used to score the FSMC, documentation of this fact must be provided in the justification column.

# FSMC Score Card–Justification for Scoring

## Promotion of the Child Nutrition Program

- Nutrition Education
- Promotions
- Culinary Activities and Exhibitions
- Promotion of locally grown agricultural activities
- Wellness Activities
- Advisory Committee and student feedback



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The SFA will rate the FSMC based on the FSMC's plan for promoting the program.

Promotion of the program is a key element to running a Child Nutrition Program. Just like a restaurant, your program has to be promoted. There are so many unique, educational, and fun things that a Food Service Management Company can do that will promote the program and hopefully increase both participation and satisfaction. Many FSMCs are providing educational signage in the cafeteria. Some are installing closed circuit TV with nutritional messages and upcoming menus. There are also some that are advertising menus on Facebook and other Social Media Platforms. Some are conducting nutrition activities such as Promotions of the Month, Culinary Exhibitions, and participation in Farm to School activities.

Find out how each FSMC plans to participate in wellness activities. How does the FSMC plan to participate and respond to the advisory committee's feedback concerning food service? These are all important things to look at when evaluating proposals. Great promotional ideas help grow the food service program.

All involved achieve success. The students have high quality food and want to eat the meals. When the students want to eat the meals, they encourage other students to participate in the program through recommendations. More importantly, eating healthy, nutritious foods allow students to focus in class and improve student grades. We also have to be mindful that for some students, food insecurity is a reality. Healthy, nutritious school meals are the only meals that many students receive. We want those meals to be enjoyable to our students as well as nourishing.

When students want to eat the meals, the FSMC and the SFA make more money to keep the program going and improve meal quality and experience for the students eating the meals.

# Promotion of the Child Nutrition Program - Requirements of the Wellness Program

## Specific components of the wellness policy:

- Nutrition Education
- Nutrition Promotion
- Public Involvement
- Nutrition Guidelines
- Physical Activity
- Other school-based activities that promote student wellness



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This slide identifies the 6 required components of a wellness policy. Each school must have an active wellness program. The FSMC can have a direct impact on the first two components - Nutrition Education and Nutrition Promotion.

The FSMC can promote healthy eating and provide nutrition education with signage, creative menus, posters, bulletin boards and social media. They can participate in Farm to School activities, school gardens, and offer taste testings to students. They can agree to place fruits and vegetables where they are easy to access. They can share nutrition, calorie, and sodium content information with students and families. The SFA and FSMC should continually evaluate new ways to market and promote the school meals program.

As an SFA, it's important to find out how responsive each FSMC team has been to other SFAs in participating in their wellness program.

Evaluate what type of support and participation that each FSMC provides. If you think about it, the Food Service Management Company is one of the main players in complying with your Wellness Policy.

## **FSMC Score Card–Justification for Scoring Professional Development for Staff**

What is the FSMC's plan  
for providing required  
training to comply with  
State and Federal  
regulations?



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Professional Development for Staff is also one of the evaluation criteria. What is each FSMCs plan for providing the required Professional Development training for their staff and maintaining the documentation?

## Professional Development for Staff (cont.)



Plan for providing ongoing professional development of staff

Food Safety and HACCP training should be done frequently

The FSMC must have internal controls in place to ensure employees receive the required training



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Does the FSMC have internal controls in place to ensure employees receive the required training?

Several SFAs have received findings on an Administrative Review because the FSMC did not provide the required number of hours of training or did not maintain proper documentation of the training.

SFAs need to monitor the sanitation in the kitchens of their schools as well as any off-site kitchens. SFAs should require the FSMC to provide a copy of all health inspections.

The SFA must maintain all health inspections for the sites they operate and maintain on file for the State agency and/or USDA to review. They must also maintain copies of the health inspections of off-site kitchens where food is being prepared.

## Professional Development for Staff (cont.)

- Employee Name
- Employee School
- Training Title
- Topic and Objectives
- Training Source
- Dates of Training
- Total Training Hours



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USDA regulation requires that Professional Development records list the employee's name, employee school, training title, topic/objectives, training source, dates, and total training hours. The records must be maintained.

These records may be kept electronically in a local database, in paper files, or through a tracking tool such as the [USDA Professional Standards Training Tracker Tool](#) or the [Louisiana Fit Kids Professional Standards Portal](#).

If this information is not captured for each employee, during each training, the SFA would receive a finding on their Administrative Review.

## Professional Development for Staff (cont.)

Job Category	Annual Training Requirements*
Directors	12 hours
Managers	10 hours
All Other Staff (working 20 hours or more per week)	6 hours
Part-Time Staff (working less than 20 hours per week)	4 hours
Mid-year hires in all categories (January 1, or later)	One-half of training requirement for each job category
Temporary and acting employees, substitutes, and volunteers	Any annual training requirements are at the discretion of the State agency and may be required within 30 days of start date

\*Annual training requirements apply to the 12 months between July 1 and June 30.



USDA regulations concerning required professional standards applies to all school nutrition employees, whether the SFA operates the school nutrition program or contracts with a food service management company. Compliance with the required professional standards is included as a part of the Administrative Review.

The number of annual training hours required each year varies by job category as you can see from the chart on this slide. Training must be job-specific and intended to help employees perform their duties well.

Remember that the FSMC staff are required to have the same number of training hours as the SFA staff.

## FSMC Score Card—Justification for Scoring Summary of Accounts

- Based on the number of accounts FSMC lost before 5 year renewal expired.
- Reason for contract termination must be provided.



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The score for the Summary of Accounts criterion is based on the number of accounts the FSMC lost before the 5 year renewal period expired.

The FSMC must provide the reason for the contract termination prior to the end of the 5-year renewal period in the Summary of Accounts form in the RFP. If the FSMC fails to provide the reason for termination, the proposal will be deemed non-responsive.

The SFA may reach out to any of the SFAs the FSMC has lost accounts with for further information about the termination to utilize for scoring. Please be sure all communication with other SFAs is completed in written form, as this information needs to be submitted to the State agency.

If the SFA gives one FSMC a score for lost accounts, all FSMCs with the same amount of lost accounts must receive the same score, unless extensive justification is listed for the scoring difference.

## FSMC Score Card–Justification for Scoring Optional Evaluation Criteria

- Experience of Regional/District Manager, Account Manager, and Registered Dietitian working with Child Nutrition Programs
- Local Procurement



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Now we will look at optional evaluation criteria. SFAs have the option to add the evaluation criteria of experience in child nutrition programs and local procurement.

Some of the information provided in these categories may help assist committee members in determining which FSMC may be a better fit for their organization when FSMCs are closely matched.

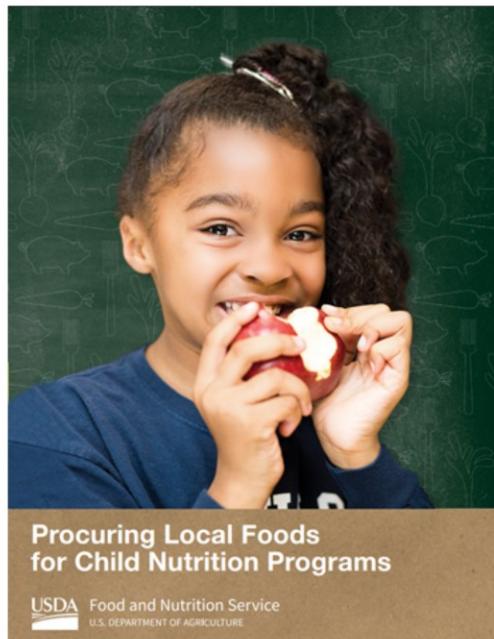
# Experience of Regional/District Manager, Account Manager, and Registered Dietitian working with Child Nutrition Programs



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The SFA may want to evaluate the experience of the Regional or District Manager, Account Manager and Registered Dietitian working with Child Nutrition Programs. This evaluation factor is optional but it is important. The Food Service Management Company is only as good as the people working closely with the SFA.

What kind of experience do they have in working with Child Nutrition Programs? Working in hotels, colleges, or hospitals is much different than Child Nutrition.



## Procuring Local Foods for Child Nutrition Programs

USDA Food and Nutrition Service  
U.S. DEPARTMENT OF AGRICULTURE

# Local Procurement

## Geographic Preference

<https://www.fns.usda.gov/f2s/procuring-local-foods>



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Local Procurement is also an optional evaluation factor. An increasing number of child nutrition program operators want to source local foods and provide complementary educational activities that emphasize food, agriculture, and nutrition while supporting the local economy and farmers. Including local procurement and advertising to students through education or other activities can enhance the program and encourage students to eat your meals.

- Federal regulations have recently expanded the definition of what is considered local procurement, and how it can be procured.
- Now sponsors may apply geographic preference to solicitations when procuring unprocessed locally grown or locally raised agricultural products, including the use of the terms “locally grown”, “locally raised”, or “locally caught” as procurement specifications. Sponsors can also use the phrases as selection criteria for unprocessed or minimally processed food items. 7 CFR 210.21(g)
- It is up to the sponsor to determine the local area to which the geographic preference shall apply. Sponsors who receive local food grants through USDA, LA Department of Agriculture, or other means, shall review the grant requirements to determine geographic preference parameters. It is up to the sponsor and the sponsor’s legal department to ensure compliance with all grant procurement procedures.



## Geographic Preference

### Local Procurement

<https://www.fns.usda.gov/f2s/procuring-local-foods>



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Some of the benefits of sourcing locally are:

- Supporting the local community
- Lower school meal program costs
- Increased meal participation
- Reduced food waste

Some great resources for helping you navigate the procurement of local foods are available on the Farm to School website's resources page.

The website is [www.fns.usda.gov/f2s/farm-to-school](https://www.fns.usda.gov/f2s/farm-to-school)

We suggest keeping a printout or saving a copy to your desktop of the Procuring Local Foods for Child Nutrition Programs guide.

This guide helps navigate the procurement rules correctly. It includes menu planning basics, fundamental principles of procurement, several potential sources of local products, and a variety of ways to procure the products.

# Evaluating FSMC Proposals

Determining which FSMC is the best fit for the SFA and the justification behind the committee's decision making.



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Evaluating the FSMCs' proposals is a difficult task. Committee members have to look at many factors. Some are objective, like cost. Others are subjective, like service capability and Child Nutrition Program Promotion. The previous slides broke down how to justify scores for each criterion. The SFA is encouraged to review those slides when scoring proposals.

It is up to each member to review the proposal and decide how to score each FSMC. Each member must communicate their own reasoning, or justification, behind each score. Score cards should not be copied and pasted with the same information for each member. Copying and pasting justification defeats the purpose of assembling a committee. Each member has the responsibility to review the proposal and make up their own minds on scoring. Even though the scores may be the same, the committee should not have identical justifications for all proposal criteria.

## Evaluating FSMC Proposals - Ask Yourself The Following Question

**If anyone else were to review the FSMC proposal and score card, would they come to the same conclusion?**



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You must provide adequate justification to award the contract to a Food Service Management Company. The State agency has to be able to review the same information as the committee members and arrive at the same conclusion. Detailed justification for awarding to one FSMC over another is very important in giving the State agency a full picture of the many factors that helped committee members arrive at certain scores.

As you can see through the information provided in this training, choosing the right FSMC for your SFA requires some work. Again, as a committee, you must be able to answer yes to this question. If anyone else were to review the FSMC Proposal, proposal summary and score card, would they come to the same conclusion? If not, you have not provided adequate justification and the State agency will return the scoring forms to the SFA. This could postpone the award of the contract and could possibly lead to rebidding the contract.

## NAME OF VENDOR

NAME OF SFA  
FSMC PROPOSAL SCORE CARD (COMPLETE ONE FOR EACH VENDOR)

## FORM A

Criteria	Possible Points	Points Received by Vendor	Justification for Scoring
Cost (FSMC with the lowest price receives the maximum points. The other vendors receive points equal to the lowest price divided by their meal price x maximum points. Do not round).			
Years of Experience in working with Child Nutrition Programs 10+ years=10 points 9 years=9 points 8 years=8 points 7 years=7 points 6 years=6 points 5 years=5 points 4 years=4 points 3 years=3 points 2 years=2 points 1 year=1 point			
Financial Conditions/Stability/Business Practices – <b>FSMC MUST INCLUDE MOST RECENT INDEPENDENT AUDIT REPORT TO RECEIVE A SCORE IN THIS CATEGORY. CURRENT FINANCIAL STATEMENTS WILL NOT SUFFICE FOR SCORING PURPOSES.</b>			
Service Capability Plan (The committee should review items such as Student Surveys, Advisory Committee Reports, Participation Reports, Administrative Reviews, and Health Inspections to help determine the score for this category.)			

Each SFA committee member will complete a separate Form A Score Card. The State agency should receive one Form A Score Card per committee member. Each committee member must sign their own Form A Score card.

There should be at least 3 members on the committee. Therefore, the State agency should receive at least 3 Form A Score Cards. It is vital to repeat the importance of individual justification when scoring.

The State agency will return score cards where justification for scoring is copied and pasted among committee members. Scoring proposals as a committee requires each member to think independently when scoring and justifying those scores.

**FSMC Scoring Summary****FORM B**

Transfer the scores from each bidder to this summary form. This form must be typewritten except for signatures.

Name of FSMC 1	Name of FSMC 2	Name of FSMC 3	Name of FSMC 4	Name of FSMC 5	Criteria
					Cost (FSMC with the lowest price receives the maximum points. The other vendors receive points equal to the lowest price divided by their meal price x maximum points. Do not round).
					Years of Experience in working with <b>Child Nutrition Programs</b>
					10+ years=10 points 9 years=9 points 8 years=8 points 7 years=7 points 6 years=6 points 5 years=5 points 4 years=4 points 3 years=3 points 2 years=2 points 1 year=1 point
					Financial Conditions/Stability, Business Practices – <b>MUST INCLUDE MOST RECENT INDEPENDENT AUDIT</b> .
					Service Capability Plan
					Promotion of the Child Nutrition Program (FSMCs should be very specific as to their plans for promoting the Child Nutrition Programs. The SFA will rate the FSMC based on the specific plan proposed).
					Professional Development for Staff
					Lost Accounts
					Experience of the Regional and/or District Manager, Unit Manager, and company Registered Dietitian (Optional Evaluation Criteria). Enter NA if <u>this scoring criteria</u> will not be used.
					Local Procurement (Optional Evaluation Criteria). Enter NA if <u>this scoring criteria</u> will not be used.
					<b>Total Points</b>

Print Name of Head of Committee

Signature of Head of Committee

Employee Title

Date



The Form B Score Card is the FSMC Scoring Summary. The average total points each FSMC received in each category should be listed and totaled on this form.

To arrive at the average total points received, the RFP committee head is to add up all the points awarded each FSMC by each committee member. Then, divide the total by the number of committee members.

For instance, under Service Capability, if Committee Member A gave FSMC One 10 points, Committee Member B gave FSMC One 7 points, and Committee Member C gave FSMC One 10 points, the total points awarded to FSMC One would be 27. The Head Committee Member would then take 27 and divide that number by the three, due to the number of committee members.

Therefore, the average total points received for FSMC One, under Service Capability would be 9 points. This is the number of points the committee head would enter into the Service Capability column for FSMC One.

The contract is awarded to the FSMC with the highest total score.

This form must be signed by the head of the RFP committee.

# Consolidated Proposal Summary Form

**FORM C**

**DATE:**

Click or tap to enter a date.

**SFA NAME:**

Click or tap here to enter text.

**COMPLETED BY:**

Click or tap here to enter text.

FSMC	Fixed Price Per Lunch Meal Equivalent	Total Estimated Amount of Bid	* <u>Average</u> Total Points Received



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Form C is the Consolidated Proposal Summary Form. The SFA is to provide the Fixed Price per Lunch Meal Equivalent, the total estimated amount of the bid, and the average total points (from Form B) received by each vendor.

The Head of the committee should only enter the **total points** received from Form B into the Average Total Points Received column of Form C.

## Standards of Conduct and Certification Statement

- All employees participating in the FSMC contract process must sign the Standards of Conduct and Certification Statement.
- The SFA must maintain the forms on file for the duration of the contract, or at least 3 years plus the current year (whichever is longer).



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All employees participating in the procurement/FSMC contract process must sign the Standards of Conduct and Certification Statement.

The SFA must maintain the forms on file for the duration of the contract.

# Required Documents To Be Submitted

The documents listed are required to be submitted during the Step 2 Process



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Now, we will begin to discuss documentation required to receive Step 2 approval. The State agency has implemented a hard submission deadline for Step 2 Certification document submission. Keep that in mind when scheduling your proposal opening date.

All Step 2 documents must be submitted to the State agency by May 30<sup>th</sup> of the current school year for the upcoming school year. Be sure to give yourselves enough time to open and evaluate proposals before the submission deadline.

For SFAs renewing contracts, the hard submission deadline for Agreement Amendments is April 30<sup>th</sup> of the current school year for the upcoming school year.

# Required Documents to be Submitted

- Signed Step 2 documents
- Score Card A
- Score Card B
- Consolidated Summary Form C



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Documents to be submitted include the:

- Signed Step 2 documents
- Completed Score Card A
- Completed Score Card B
- Consolidated Summary Form C

## Required Documents To Be Submitted

- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (USDA)
- Certification Regarding Lobbying
- Disclosure of Lobbying Activities Form
- Execute the Independent Price Determination Certificate



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Ensure the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (USDA) has been signed before awarding the contract.

Also make sure the SFA has received the signed Certification Regarding Lobbying and the Disclosure of Lobbying Activities Form.

Execute the Independent Price Determination Certificate.

Maintain these documents on file.

# Required Documents To Be Submitted

- Copies of all correspondence with FSMCs concerning RFP
- Signed copy of the contract, before execution (signed Proposal Summary and Agreement)
- All proposals received by the SFA
- Documentation concerning lost accounts



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The SFA also submits copies of all correspondence with FSMCs concerning the RFP.

A Signed copy of the contract, before execution must be submitted. The SFA can sign the contract document but must not provide to the FSMC until final approval of the contract is received from the State agency.

Each FSMC proposal received by the SFA must be provided to the State agency.

Provide the State agency with all documents received by other SFAs concerning lost accounts. The SFA must have documentation for all lost accounts for each FSMC.

The State agency must be provided with an electronic copy of the completed proposal and all required attachments from each FSMC that submitted a proposal.

## Required Documents To Be Submitted

- The Buy American Certification Form
- Copy of advertisements (at least 2) that include the dates advertised.
- Bid Bond from each FSMC, if participating in SFSP and the contract value for the SFSP Program exceeds \$250,000.
- Documentation that the SFA posted the bid solicitation to a uniform and secure electronic interactive system.



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The SFA also needs to submit the Buy American Certification Form, signed by both the SFA and the FSMC Authorized Representatives. The SFA should only sign the Buy American Certification Form of the vendor awarded the contract.

A copy of the advertisements of the solicitation. The SFA must submit two separate advertisements on at least two separate dates.

A Bid Bond is required from each FSMC must be submitted if participating in SFSP and contract value for the SFSP program exceeds \$250,000.

Documentation that the SFA posted the bid solicitation to a uniform and secure electronic interactive system

# Menu Certification



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Menu Certification - Remember that each proposer must submit a one week menu and USDA menu certification workbook for all grade groups served.

The menu certification must be submitted to the State agency with the Step 2 documentation. The menu certification may be included in the FSMC's proposal. The SFA must review the menu certifications for accuracy.



## Step 3 Documentation

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After the State agency has informed the sponsor that the Step 2 documents are approved, the sponsor can inform the winning FSMC of their “intent” to award the contract to the FSMC.

At that time, the FSMC must provide the sponsor with the Certificate of Insurance and, if applicable, a Performance Bond. The FSMC has 10 days to submit the Certificate of Insurance, and if applicable, the performance bond to the SFA for submission to the State Agency. Ensure the FSMC knows about the 10 day submission requirement when notifying them of the award.

## State Agency Approval



- Written Approval must be received before the final award
- No meals can be claimed before the date of approval



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The Sponsor may not award the bid until written approval is received by the State agency. The SFA may not claim meals for reimbursement served by a company until the contract is approved. This is a USDA regulation and must be followed.

# Managing the Contract

## Legal Responsibility

The SFA is legally responsible for the conduct of the food service program and must supervise the food service operations to ensure compliance with the rules and regulations of the State agency and USDA regarding each of the Child Nutrition Programs.



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The SFA is legally responsible for the conduct of the food service program and must supervise the food service operations in such a manner as will ensure compliance with the rules and regulations of the State agency and USDA regarding each of the Child Nutrition Programs covered by the contract.

The SFA is responsible for ensuring that all corrections have been made if problems were noted during a sponsor review, the LDOE Administrative Review, or program audit.

Too often, the SFA turns the management of the food service operation to a Food Service Management Company and/or a consultant. The SFA must remember that they are 100% responsible for the food service program and the responsibility cannot be delegated to an FSMC or consultant.

## Managing the Contract 21-Day Cycle Menu

- Menu must be followed
- Changes require written approval
- Obtain updated nutrient analysis
- Maintain on file



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The 21-day cycle menu (included in the RFP) must be adhered to for the first 21 days of meal service. After that, changes may be made only with written approval of the sponsor.

The written request by the FSMC to change the menu must be accompanied by an updated nutrient analysis. The SFA must receive the updated analysis before approving menu changes. The analysis must show that the menu is in compliance with USDA regulations. The SFA is to maintain all menu change approvals and analyses on file.

# Managing the Contract

## Meeting Menu Requirements

- Ensure menu requirements are met
- Ensure only reimbursable meals are claimed
- Food Quality Standards match contract
- Food Production Records are complete and accurate



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The SFA is responsible for ensuring that all menu requirements are met and only reimbursable meals are served and claimed.

The SFA is responsible for certifying that the claim is correct. They must also make certain that the food production records are completed each day for all reimbursable meals.

The completed food production records must provide all information that is contained in the LDOE prototype food production record regardless of whether they are completed by hand or are computer-generated.

## Meeting Detailed Specifications

- All meals must meet the detailed specifications for the grade groups being served.
- No payment is to be made to the FSMC for meals that do not meet the minimum requirements. This includes:
  1. Component requirements
  2. Quantity requirements
  3. Vegetable subgroup requirements
  4. Nutrient specifications for the age/grade group served.



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All meals must meet the detailed specifications for the grade groups being served. No payment is to be made to the FSMC for meals that do not meet the minimum component requirements, quantity requirements, vegetable subgroup requirements, and nutrient specifications for the age/grade group served. The sponsor should be monitoring the menu used by the FSMC to ensure they are meeting the required specifications.

There have been many findings during Administrative Reviews where the FSMC is not meeting the minimum requirements, particularly quantity requirements and Vegetable subgroup requirements.

The FSMC must provide an updated nutrient analysis to the SFA when menu changes are made to ensure that nutrient specifications are being met.



## Managing the Contract

## Documentation of Cost and Revenues

- Food Cost for reimbursable meals
- Food cost for non-program foods
- Revenue from non-program foods
- Revenue from program foods
- Total Revenue



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The FSMC must provide the SFA with documentation of food costs and revenues on a monthly basis and must include:

- Food cost for reimbursable meals
- Food cost for non-program foods
- Revenue from non-program foods
- Revenue from Program Foods
- Total revenue

This information is needed by the SFA to complete the Non-Program Revenue Tool.



## Managing the Contract

### On-Site Monitoring

- Periodic, on-site visits
- On-site review of the counting the claiming system at each school
- The counting and claiming review must take place before February 1st of the school year
- Corrective Action required within 45 days of the review
- Follow-up review required with Corrective Action



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The sponsor must monitor the food service program through periodic on-site visits including at least one on-site review of the lunch counting and claiming system at each school administered by the SFA. These visits must be documented and kept on file for administrative reviews.

The on-site counting and claiming review must take place prior to February 1<sup>st</sup> of each school year. If the review discloses problems with the school's meal counting and claiming procedures, the SFA must ensure that the school implements corrective action, and within 45 days of the review, conducts a follow-up on-site review to determine that the corrective action resolved the problem.

The SFA should complete the FSMC monitoring form twice a year. Keep in mind, completed On-site Monitoring forms are required to be submitted with the Agreement Amendment when renewing FSMC contracts.

# Managing the Contract

## Compensation of Employees



If an employee's time is distributed among different cost objectives, the SFA must have a process for documenting the distribution of that employee's time cost objectives.



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In compliance with 2 CFR 200.420-475, **Compensation of employees for the time devoted and identified to school food service**, the SFA must have documentation of how an employee's time working with the Child Nutrition program is calculated.

For example, the Director of Operations has many functions. Only a small part of their day is spent working in the Child Nutrition Program, especially if they employ a FSMC and consultant.

This documentation needs to be available, in accordance with your agreement to operate the USDA Programs at all times for audit or reviews.

All procurements using funds from the SFS account must comply with the Buy American Provision.

Funds in the SFS account include:

- Federal Funds
- Payments for Meals
- Sales of Competitive Foods
- Other



## Managing the Contract



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The only time the SFA should see non-domestic agricultural products being purchased by the FSMC is when a domestic product is not available or when the price of the domestic product is substantially higher than the non-domestic product.

Many domestic canned and frozen fruits and vegetables are available with the exception of some tropical varieties like bananas, pineapple, mandarin oranges, etc. Some domestically grown fresh fruits and vegetables are available seasonally.

It is the SFAs responsibility to know what agricultural products are available from the US before approving exceptions. Please refer to the Buy American Certification form.

If assistance is needed, please contact the State agency.

- Monitor bills for Unallowable Costs
- Monitor bills to ensure required credits are included (e.g. commodity credits, farm to school credits, etc.)
- Invoices reflect only Meals X Contract Rate
- Active and Accountable Advisory Committee
- Monitor Professional Development for SFA and FSMC Staff

## Additional Requirements



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The SFA is also responsible for making sure all bills are monitored prior to payment to assure that the FSMC has not double-billed or included costs that are not allowed by the contract.

The SFA should review bills to ensure all commodity credits or any other credits are included on the invoice, so that the SFA is not overcharged.

Invoices must reflect ONLY the Number of Meals X the Contract Rate. Second Meals, Adults and visitors are also charged at the contract rate.

The SFA is responsible for ensuring that the advisory committee of parents, students, and teachers has met periodically to assist in menu planning and meetings are documented.

The FSMC Director should be included in the advisory committee meetings and be responsive to the concerns of the committee.

As stated before, the SFA is responsible for ensuring that all SFA and FSMC staff have received the required number of Professional Development hours.

Remember, the FSMC will not receive the finding and the consultant will not receive the finding.

The SFA will be the one receiving the finding on Administrative Reviews if requirements are not met.

## Immediate Termination of the FSMC Contract

- Failure to maintain required standards of sanitation
- Failure to maintain proper insurance coverage
- Failure to provide required information in the specified timeframe
- Failure to maintain quality of service



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Termination language was added to the RFP to cover a severe breach of contract that would warrant immediate termination of the contract by the SFA upon written notification to the FSMC (See Terms and Termination, Section XVIII.A of the RFP - p.32).

The severe breach of contract would include failure to maintain and enforce required standards of sanitation, failure to maintain proper insurance coverage as outlined by the contract, failure to provide required information/statements in the required time frame outlined by the contract, or failure to maintain quality of service at a level of satisfactory to the SFA/Sponsor. The SFA/Sponsor may terminate the contract immediately with written notice to the FSMC.

Please be aware that failure to meet health inspections, as represented by LDH findings during school/site inspections or other food facilities under the FSMC or vendor is not only grounds for termination of the contract but may exclude the FSMC or vendor from consideration in future RFPs or contracts.

# Transition Guide

For SFAs wanting to go from FSMC to Self-Operating



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For any SFA who wants to transition from using an FSMC to Self-Operating, the following slides will discuss how to make that change.

## Transitioning - Purchased Food and Commodities

- The FSMC owns all food and possibly some equipment. The FSMC will take it with them when they leave the SFA campus. Commodities and equipment procured with non-profit and/or equipment grant funds are the only exception.
  - \*Take inventory of all items before AND after the FSMC exits the district
- The SFA should retain primary use of all usernames and passwords for USDA-commodities
  - \*Check to see if any foods are being processed
  - \*Review commodities forecasted for the upcoming year



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With the exception of commodities, the FSMC owns all the food it purchases for meal preparation. If the FSMC purchased equipment, the FSMC may also own some equipment located on SFA sites. All equipment the SFA procured with non-profit funds and/or equipment grant funds must stay with at the SFA sites and cannot be removed by the FSMC upon exit from sites. The SFA should take inventory of all items before and after contracting with a FSMC.

The SFA should retain primary use of all usernames and passwords for USDA commodities. The SFA should check USDA accounts to verify if foods are being processed and review commodities forecasted for the upcoming school year.

## Procurement

The SFA will need to procure food, milk, and other Child Nutrition supplies using proper procurement procedures.

\*The SFA should review its current menus and determine what items are needed to procure.

\*Specifications should be started as soon as possible to give to vendors as a guideline when submitting bids.



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The SFA will have the responsibility to procure food, milk, and other CNP supplies using the proper procurement procedures.

- Any SFA transitioning from FSMC to Self-Op needs to consider attending the Micro-Purchase and Small Purchase Procurement Training as well as the Formal Procurement Training for guidance.

The SFA should review its menus to determine what items need to be procured.

- Create specifications as soon as possible. Specifications should not include any brand names that would stop smaller vendors from competing for the contracts.

## Menu Planning

- The SFA is still responsible for creating a 21 day cycle menu to ensure compliance with meal requirements for all Child Nutrition Programs being offered.
  - The 21 day cycle menu is a great place to begin.
  - The State Prototype 21 day cycle menu is also available
  - Unlike with FSMC use of the cycle menu, the SFA can change the menu at its discretion.



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The SFA is still responsible for creating a 21 day cycle menu to comply with all meal pattern requirements for every Child Nutrition Program offered.

- The 21 day cycle menu is a great place for the SFA to begin discovering procurement needs.
- The State Prototype 21-day cycle menu is available to any SFA who wishes to use it and is available on the CNP website.
- Unlike when contracting with a FSMC, the 21-day cycle menu can be changed at any time because the SFA is in control of food preparation. The menu can be adjusted to comply with requirements in the case where some food items are not available.
- The SFA must retain documentation to verify compliance with meal pattern requirements.

## Meal Counting and Claiming: Point of Service (POS)

- Meal Counting and Claiming is a very important part of the Point of Service.
- SFA Child Nutrition Staff are responsible for ensuring an accurate count of all eligible students are served a reimbursable meal, whether the meal is free, reduced, or full priced.
- Once the student reaches the end of the serving line, CNP Staff must determine if the components on their plate meet the required meal pattern.
- The meal count is a daily task and overt identification is not allowed.
- The SFA must have a POS System in place to show only one reimbursable meal was received per child served.
  - This may be done through:
    - Computer Software System
    - Student Rosters



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Meal Counting and Claiming at the point of service is extremely important and we wanted to spend some time focusing on its importance.

The Point of Service meal count should be at the end of the serving line. Where the service line ends is the point where staff can accurately determine if eligible students received a meal pattern appropriate reimbursable meal. CNP Staff must also determine the type of reimbursable meal given (whether the meal falls under free, reduced price, or full price).

To be clear, the identification of a student's meal eligibility status should never be done openly where any other students know the meal eligibility status of another student.

No child should be made to feel ashamed of the type of reimbursable meal they receive. Reimbursable meals that give the appearance of higher quality meals to full price students than to free lunch students is prohibited.

The SFA must have a POS System in place to keep track of reimbursable meals. This system should be able to determine that only one reimbursable meal per child was served.

- As long as the SFA maintains proper documentation to successfully track and verify meal counts and claims, either computerized or paper based is acceptable.

## Meal Counting and Claiming: Unallowable Point of Service (POS)

- The following cannot be used to establish the meal count at the Point of Service:
  - Meal count performed by the teachers before the meal is served
  - Use of a classroom generated lists
  - Attendance Records
  - Unsupervised, signed student rosters
  - The number of trays
  - Tally Sheets
  - Using the count of food items served before and after meal service.



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The Point of Service meal count cannot be performed by teachers, using a list of absences to verify meals served.

No classroom generated list is acceptable for meal counting at the Point of Service.

Student signed, unsupervised rosters, the number of trays, or tally sheets are also unacceptable forms for counting reimbursable meals.

Counting food items before and after meal service as a way to determine meal counts is another unacceptable POS.

SFAs that are completely CEP must still keep an accurate POS count. No counting trays or using attendance logs for CEP.

## Meal Counting and Claiming

**The SFA *cannot* force students to take a tray to assist with increasing meal count numbers.**

**THIS INCLUDES CEP SITES!**



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SFAs cannot force students to take a tray to help improve the SFA's meal counts. Students have a choice on whether they eat in the school cafeteria or not. This applies to full-priced, reduced price, free status students and full CEP sites.

No student should be belittled, insulted, or made to feel guilty to increase meal counts.

## Meal Service

- SFA shall keep Food Production Records for all CNP meal services.
- Nutritional Fact labels and ingredient lists are required for completion of nutrient analyses.
- CN labels and/or Product Formulation Statement(s) are required to be maintained (if applicable).



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The items listed are required to verify all meals served were reimbursable and comply with current meal pattern requirements.

- Food Production Records - should be kept daily for all meal services.
- Nutritional Fact labels and any Ingredients list - should be kept for use in the Nutrient Analysis.
- CN Labels and/or Product Formulation Statements - are both required to be maintained.
  - If a product has a CN Label, a Product Formulation Statement is not needed. If a product does not have a CN Label, a Product Formulation Statement is needed.

All of the documentation helps paint the picture of a healthy, meal pattern compliant meal service.

# Child Nutrition Employees

Before and during the transition, the current food service employees are usually employed through the FSMC.

- When do you solicit employees to work for the SFA run food service program?
- How many employees do you need to successfully run a Self-Operating food service program? It is recommended that SFAs use the Meals Per Labor Hour (MPLH) formula to determine staffing needs.
  - FSMC usually staff 1 person per 100 children
    - If heating and serving, the upfront food costs are higher but require less staff.
    - If scratch cooking, the upfront food costs are cheaper but more staff is required.
- What do you do to ensure employee retention once self-operating?



Transitioning can be a scary experience. Especially for SFAs who have only operated through FSMCs. If your SFA wants to go from FSMC to Self-Operation, it may be intimidating, but you can absolutely do this! With some careful thinking and planning, your SFA can be very successful with Self-Operation.

- Think about staffing when transitioning. All employees are employed through the FSMC before the transition and during some part of the transition. Prepare your SFA for the change.
- Ask yourselves these very important questions.
  - When in the transition period should the SFA begin to solicit job openings to ensure enough employees to successfully run the program?
    - As soon as the decision is made to transition from FSMC to Self-Operation, the SFA should advertise the needed positions.
  - How many employees are needed?
    - Usually it is recommended that SFAs utilize Meals Per Labor Hour to determine staffing needs.
      - The formula to calculate meals per labor hour (MPLH) is to divide the number of meals or meal equivalents by the number of paid labor hours
      - Using FSMC employment trends, the FSMCs usually staff 1 person for every 100 children
        - Of course, heating and serving is less complex, so fewer staff are needed. However, the upfront food costs are higher.
        - Cooking from scratch creates a lower upfront food cost, but more staff is needed.
        - The SFA should employ enough staff to successfully run the food service program.
    - What does the SFA need to do to ensure employee retention?
      - There are ways to ensure employee retention when self-operating the food service program.
        - Ensure competitive wages for employees.
        - Ensure continuing education opportunities for employees to keep learning.
          - Some of those training opportunities are available through State agency led trainings that offer CE Credits.
      - Whatever the SFA decides to offer as an employee retention strategy should be carefully thought out and sustainable for the SFA. Talk to other SFAs currently running Self-Op Cafeterias and discuss what works and does not work for them.

# Additional Information

New Louisiana Revised Statutes



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- Now, we will discuss some changes to the Louisiana Revised Statutes affecting child nutrition programs.

BY SENATORS MCMATH, BOUDREAU, CLOUD, CONNICK, DUPLESSIS, EDMONDS, FESI, HENRY, HENSGENS, KLEINPETER, LAMBERT, MIGUEZ, MIZELL, MYERS, REESE, SELDERS, STINE AND TALBOT AND REPRESENTATIVES ADAMS, AMEDEE, BAMBURG, BAYHAM, BEAULIEU, BERAUT, BILLINGS, BUTLER, CARRIER, CARVER, CHENEVERT, COATES, COX, CREWS, DEVILLIER, DICKERSON, DOMANGUE, ECHOLS, EDMONSTON, EGAN, EMERSON, FIRMENT, FISHER, GALLE, HILFERTY, HORTON, ILLG, JACKSON, MIKE JOHNSON, KERNER, MCMAHEN, MCMAKIN, MELERINE, MENA, OWEN, ROMERO, SCHAMERHORN, SCHLEGEL, SPELL, STAGNI, THOMPSON, VENTRELLA, VILLIO, WILDER AND WYBLE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

**AN ACT**

To amend and reenact R.S. 37:1270(A)(8) and to enact R.S. 17:197.2, R.S. 37:920(G), and

Part I-B of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:661 and 662, relative to nutrition; to provide for serving certain foods in schools; to provide for continuing education for certain healthcare providers; to provide for disclosure of certain ingredients by manufacturers; to provide for disclosure of seed oil use by food establishments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:197.2 is hereby enacted to read as follows:

**§197.2. Prohibited ingredients; local production preference**

**A.(1) No public school governing authority shall serve any food or beverage containing a prohibited ingredient to students in schools under its jurisdiction.**

**(2) No nonpublic school that receives state funds shall serve any food or beverage containing a prohibited ingredient to students.**

**Act No. 463 was passed during the 2025 Legislative Session.**

**It enacts L.R.S. 17:197.2 regarding prohibited ingredients in school food service.**



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Before we close, we would like to bring some new rules, regulations, and statutes to your attention.

- During the 2025 Regular Legislative Session, Senate Bill No. 14 was passed and became Act No. 463. Why is this important? It is important because food or food products are at the center of school food service procurement.
- Let's look at the changes a little further.

# Prohibited Ingredients in School Food Service

- Act Number 463 enacts Louisiana Revised Statute 17:197.2 which states:
  - A.
    - (1) No public school governing authority shall serve any food or beverage containing a prohibited ingredient to students in schools under its jurisdiction.
    - (2) No nonpublic school that receives state funds shall serve any food or beverage containing a prohibited ingredient to students in schools under its jurisdiction.
    - (3) The provisions of this Subsection shall apply to breakfasts and lunches served to a student on a school campus during regular school hours and to any food or beverages served by the school to a student during aftercare.
    - (4) The provisions of this Section shall not apply to any food or beverage sold in concession stands or vending machines.

<https://legis.la.gov/legis/ViewDocument.aspx?d=1426851>



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- Section 1 of Act number 463 applies to all LEAs. (Public, private, and charter schools.)
- L.R.S. 17:197.2 applies to breakfast, lunch, afterschool snacks, and supper served to students during school hours and during aftercare.
- The Act states that no public or nonpublic school shall serve any food or beverage containing a prohibited ingredient to students in schools under its jurisdiction.
- The hyperlink to view Act number 463 is at the bottom of the slide. Section 1 of Act Number 463 will take effect school year 2028-2029.

# Disclosure of Harmful Ingredients

- Act Number 463 enacts Louisiana Revised Statutes 40:661 and 662 which state:
  - 40:661.A – Names the artificial colors, additives, or banned chemicals.
  - B.
    - (1) – The product label shall include a QR code, with a statement adjacent to the code that informs the consumer that additional ingredient information can be accessed by scanning the code.
    - B.(2) – The QR code shall link to a web page that is under the control of the manufacturer.
    - B.(3) – The web page shall state: “NOTICE: This product contains “insert ingredient here”. For more information about this ingredient, including FDA approvals, click HERE.”
    - B.(4) – The disclaimer shall link to the U.S. FDA’s web page regarding food chemical safety.
  - C.
    - (1) The provisions of this section shall only apply to food or beverages intended for human consumption.

<https://legis.la.gov/legis/ViewDocument.aspx?d=1426851>



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- Section 3 of Act Number 463 relates to the disclosure of harmful ingredients and the way those ingredients must be labeled. This portion of the Act will become effective January 1, 2028. CNP Directors are advised to review product labels of applicable foods to ensure compliance with this requirement.
- All harmful ingredients should have product labels with QR codes, as mentioned in the statute. CNP Directors are advised to familiarize themselves with the difference between the allowable and unallowable harmful ingredients in the school food service program.

# Noncompetitive Procurement

- 2 CFR 200.320(c) states that there are specific circumstances in which noncompetitive procurement may be utilized.
  - (1) The aggregate amount of a transaction does not exceed the micro-purchase threshold.
  - (2) Procurement can only be fulfilled by a single source (Sole Source Procurement).
  - (3) Public exigency or emergency does not lend itself to competitive solicitation.
  - (4) The sponsor requests noncompetitive procurement in writing and receives written State agency approval.
  - (5) After soliciting several sources, competition is determined inadequate.

Complete the Noncompetitive Procurement Request Form, and receive State agency approval prior to any noncompetitive procurement, except micro-purchases.



## 2 CFR 200.320(c)

- (1) states that micro-purchases are a form of noncompetitive procurement.
- (2) refers to Sole Source Procurement. Software updates, renewals, or maintenance fall under the sole source umbrella. The original software company is usually the only vendor who can update/maintain or renew the software.
- (3) refers to emergency situations. If the SFA has an emergency, call the State agency to let them know that a noncompetitive procurement approval must be requested and State agency staff will inform you of next steps. Even though the situation may be emergent, the Noncompetitive Procurement Request Form still needs to be completed and submitted.
- (4) refers to the SFA wanting to work with a specific vendor and forego competitive procurement. State agency approval is required every time. The Noncompetitive Procurement Request Form must be submitted with sufficient justification. Be aware, requests will not be approved if the SFA's only justification is that they do not want to go through the competitive procurement process. The justification has to be overwhelming for this type of procurement request to be approved.
- (5) refers to a situation where you have requested quotes and no vendor met all the specifications required in the solicitation. For instance, you requested quotes. You received the required three quotes. However, no vendor was able to meet the required delivery schedule. In this case, you have solicited several sources and the competition was inadequate, as no vendor was fully responsive. The SFA would submit a noncompetitive procurement request form to procure necessary items.
- Please be sure that you understand the noncompetitive procurement policies. The Noncompetitive Procurement Request Form can be found on the CNP website. Look under "Memos," and then "Procurement." Follow the instructions listed in the form and submit the form and all required documentation to the [childnutritionprograms@la.gov](mailto:childnutritionprograms@la.gov) general email address.

## Hard Submission Deadlines

- Step 1 documents must be submitted to the state agency by March 31<sup>st</sup> of the current school year for the upcoming school year.
- Step 2 documents must be submitted to the state agency by May 31<sup>st</sup> of the current school year for the upcoming school year.
- Step 3 documents must be submitted within 10 calendar days of the SFA notifying the FSMC of the award.
- Amendment Agreements must be submitted to the state agency by April 30<sup>th</sup> of the current school year for the upcoming school year.



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- Just a reminder. There are now hard submission deadlines all SFAs must follow.
- Step 1 documents must be submitted to the State Agency by March 31<sup>st</sup> of the current school year for the upcoming school year. SFAs should plan accordingly to ensure submissions are added to board agendas in time to meet the Step 1 deadline, if board approval is required prior to soliciting RFPs for food service management.
- Step 2 documents must be submitted to the State Agency by May 31<sup>st</sup> of the current school year for the upcoming school year. SFAs should keep this in mind when planning proposal openings. Further, keep in mind the amount of time it takes the committee to properly evaluate proposals. Considering all of these factors will allow the SFA to work out an accurate and realistic timeline to meet the new deadlines.
- Step 3 documents must be submitted within 10 days of award notification. As soon as the SFA receives Step 2 approval and notifies the FSMC of the award, the FSMC has ten calendar days to submit the Certificate of Insurance and the Performance Bond. Performance bonds are only required if the procurement exceeds \$350,000.
- All Agreement Amendments must be submitted to the State Agency by April 30<sup>th</sup> of the current school year for the upcoming school year.

## Questions?

Email [childnutritionprograms@la.gov](mailto:childnutritionprograms@la.gov)  
or call 225.342.9661

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Please contact LDOE's Division of Nutrition Support if you have questions. You can call or email your questions using the information provided on this slide.

Thank you for your participation in the Contracting with a Food Service Management Company Training!