
CHILD AND ADULT CARE FOOD PROGRAM

PROCUREMENT PROCEDURES

This guidance has been prepared primarily for private, non-profit and proprietary child or adult day care centers, and sponsors of family day care homes, since public schools and institutions are subject to State and local procurement codes and must abide by them. It is intended to summarize the procurement requirements in Sections 7 CFR 226.21 and 7 CFR 226.22 of the Child and Adult Care Food Program (CACFP) regulations, FNS Instruction 796-2, Rev. 4, "Financial Management - Child Care Food Program" and 2 CFR 200 Uniform Guidance.

This document addresses procurement related to Food Service Management Company (FSMC) contracts, purchases of food and nonfood supplies and other services or equipment directly related to the CACFP. Procurement regulations apply to purchases of goods or services made in whole or part with CACFP funds, since they are Federal funds. Institutions that contract for meals from a School Food Authority (SFA) are exempt from these procurement procedures to the extent that contracts with SFA's may be procured non-competitively.

Section 7 CFR 226.2 of the CACFP regulations defines a FSMC as "an organization other than a public or private nonprofit school, with which an institution may contract for preparing and, unless otherwise provided for, delivering meals, with or without milk for use in the Program."

CACFP procurement generally involves three distinct types of situations.

1. A "supplier" provides a specific food or nonfood product, or a service, e.g., maintenance.
2. A "vendor" prepares complete meals, with or without milk, off-site and delivers those meals to the feeding site.
3. A "management company" prepares and serves complete meals on site at the feeding location. A supplier is not included in the definition of FSMC but is subject to CACFP procurement provisions. Both a vendor and a management company are included in the definition of FSMC and are subject to CACFP procurement provisions.

As with all other Federal funds, the primary objective of these procedures is to ensure maximum open and free competition. Although the program regulations do not specifically limit the term of CACFP procurement contracts, contract shall be for a period of one year, with annual renewal up to two years by mutual written agreement between the sponsor and the FSMC. Each contract extension must receive prior approval by DDOE.

The Invitation for Bid and contract provided by this office must be utilized for all CACFP FSMC (i.e., vendors and management companies) contracts. No changes may be made to the standard contract without prior approval from this office.

METHODS OF PROCUREMENT

Micro-Purchase Aggregate amount for single transaction is equal to or less than \$3,500

Small Purchase For purchases between \$3,501 and \$24,999

- Price quotations must be obtained from at least three qualified sources.
- Documentation of price quotations must be maintained by Sponsor.

Formal Bid For purchases over \$25,000

- Invitation for Bid (IFB) or
- Request for Proposal (RFP)

Micro-Purchase – Procurement by micro-purchase is the acquisition of supplies or services, of which the aggregate dollar amount is equal to or less than \$3,500. To the extent practicable the institution must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if the institution considers the price to be reasonable.

Small Purchase Procedures - If you're utilizing this procedure, you must:

- Obtain an adequate number (three) of written price quotations from qualified suppliers;
- Maintain a written record of the quotations obtained;
- Notify the Department of Education (DOE) before granting a contract if a FSMC is not awarded to the lowest bidder. Please call this office immediately and then confirm it in writing; and
- Save all documentation.

Formal Bid - Contracts or purchases of an item or items normally purchased together costing in the aggregate of \$25,000 or more must use the competitive sealed bids (formal advertising).

When utilizing an IFB you must in writing:

- Establish a time and place for bid opening consistent with the need for the product and allowing enough lead time for delivery of the meals;
- Prepare an adequate item description and indicate if you plan to consider discounts, transportation costs, life cycle costs, etc., in determining the lowest price;
- Advertise the bid at least 14 days prior to the bid opening in a local newspaper;
- Provide all interested parties with copies of the IFB;
- Open all bids publicly at the time and place stated in the IFB; and
- Award a firm fixed-price contract by written notice to the responsible bidder whose bid, conforming to the IFB, is lowest.

Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

If a FSMC contract is not awarded to the lowest bidder, you must obtain prior approval from DOE before granting the contract. This can be accomplished by calling this office and later confirming it in writing.

PRIOR DOE APPROVAL IS REQUIRED BEFORE AWARDING A CONTRACT IF:

- FSMC contract is for \$100,000 or over;
- Sponsor opts to award contract to any FSMC other than the lowest bid; or
- Only one bid is submitted for consideration.

For more detailed information and definitions on these costs, please refer to FNS Instruction 796-2, Rev. 4 or 2 CFR 200 Uniform Guidance.

CIVIL RIGHTS COMPLIANCE

You should take the following affirmative steps to assure that small and minority businesses are utilized when possible:

- Include qualified small and minority businesses on solicitation lists;
- When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation;
- Where feasible, establish delivery schedules which will encourage participation by small and minority businesses;
- Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce as required;
- If any subcontracts are to be allowed, require the prime contractor to take the above affirmative steps; and
- Take similar appropriate affirmative action in support of women's business enterprises.