Reply to
Attn. of:  SFSP-404

Subject:  Summer Food Service Program (SFSP) Procurement Questions and Answers (Q & As)

To:  State Agency Directors - Colorado ED, Iowa, Kansas, Missouri DH,
(Child Nutrition Programs  Montana OPI, Nebraska, North Dakota,
                                South Dakota, and Utah

Please find attached SFSP procurement information in the form of Q & As that we have developed to assist you as needed. These Q & As were developed based on questions we have had during Management Evaluations and from State Agencies.

If you have any questions, please contact us at (303) 844-0359.


STELLA NASH
Acting Regional Director
Child Nutrition Programs

Attachment
Summer Food Service Program (SFSP)
Procurement
Questions & Answers

The Regulations at 7 CFR Part 225 address Food Service Management Companies (FSMC) in the Summer Food Service Program. The definition of a FSMC is any commercial enterprise or nonprofit organization with which a sponsor may contract for preparing unitized meals, with or without milk, for use in the Program, or for managing a sponsor’s food service operations in accordance with the limitations set forth in Part 225.15. FSMCs may be: (a) public agencies or entities, (b) private, nonprofit organizations, or (c) private, for-profit companies.

All SFSP sponsors may choose to contract with a FSMC or with a school to obtain their meals. Generally, sponsors may not contract with a school using a FSMC. The same would hold true for hospitals using a FSMC; therefore, sponsors generally may not contract with a hospital using a FSMC. Refer to the SFSP 2000 Administrative Guidance for Sponsors, page 22. The SFSP 2000 Administrative Guidance also contains a section devoted to FSMCs; it is Part III—FSMCs on page 83.

If complete meals, with or without milk, are purchased from any source, the source is considered the same as a FSMC, and FSMC requirements must be followed.

The following Questions and Answers address concerns that we have noted during Management Evaluations and those questions we have received from State Agencies.

1. Question: Where can I find information on the procurement standards for the SFSP?

Answer: 1) Parts 225.6(h), 225.15(g), and 225.17 of the SFSP Regulations [Note: Part 225.17 refers to 7 CFR Part 3015, Subpart S]

2) 7 CFR Part 3015, Subpart S
   [Note: 7 CFR Part 3015 refers to Attachment O of OMB Circulars A-102 & A-110]

3) OMB Circular A-102, Attachment O (1981)

4) OMB Circular A-110, Attachment O (1976)

5) SFSP, 2000 Administrative Guidance for Sponsors
2. **Question:** When is it required that formal bidding take place?

**Answer:** It is always required that maximum open and free competition exist no matter the dollar amount of the contract. When the dollar amount of the contract is less than $10,000, the sponsor can use simplified procedures such as seeking written quotations from several companies that can provide the services needed and compare their prices. When the dollar amount of the contract exceeds $10,000, formal bidding procedures must be followed. The formal bidding procedures can be found in the resources listed in question #1.

3. **Question:** What verbiage must be included in FSMC contracts?

**Answer:** Part 225.6(h) of the SFSP Regulations provides information and verbiage for contracts with FSMCs. OMB Circular A-102 and A-110, Attachment O, provides information on the required verbiage of contracts of any kind.

4. **Question:** May a FSMC contract contain provisions that permit four 1-year extensions as is allowed in the Child and Adult Care Food Program and National School Lunch Program (NSLP)?

**Answer:** No. There is no provision to allow extensions to FSMC contracts in the SFSP. The contracts are to be for a specific period of time only—the dates the SFSP is in operation.

5. **Question:** May a contract with a FSMC allow for the sponsor to pay for anything other than meals (i.e., administrative functions)?

**Answer:** No. Administrative costs are unallowable. Sponsors may not pay administrative fees to FSMCs and claim them as SFSP administrative costs.

6. **Question:** May the FSMC conduct administrative activities as they do in the NSLP? In other words, can the FSMC manage portions of the food service?

**Answer:** No.

7. **Question:** May a school district who has a contract with a FSMC during the academic year amend its contract to add the SFSP?

**Answer:** The proper procedure would be for the school district to include the SFSP with the NSLP in its Request for Proposal to ensure open and free
competition exists to all bidding on the entire meal service which would include SFSP and NSLP.

8. **Question:** If a sponsor wants to purchase food items, but not a complete meal, from a restaurant, must the same guidelines be followed as those for FSMCs?

**Answer:** No. If the sponsor is purchasing only food items from the restaurant, it is not a FSMC. However, remember that open and free competition must exist and the procurement guidelines stated in question #1 and #2 above must be followed.

9. **Question:** May a sponsor purchase components of meals from a restaurant or another type of vendor and unitize the meal themselves? (The sponsor is only purchasing two food items from the restaurant/vendor.)

**Answer:** Yes. If the sponsor purchases meal components from various sources, the sponsor would then unitize the meal.

10. **Question:** A sponsor wants to purchase meal components from a restaurant/vendor – hamburgers (meat & bread only) and french fries. What kind of records does the sponsor need to maintain to document the meal contribution of each food item provided and what kind of information needs to be provided to the restaurant/vendor?

**Answer:** The sponsor needs to provide the restaurant/vendor with a copy of the meal pattern requirements so that the restaurant/vendor understands the amounts of food needed for each child. The sponsor needs to obtain from the restaurant/vendor a statement which shows the content of the food being prepared. This statement must provide information as to the contribution to the meal pattern. For example, a statement for a hamburger might state that it provides 2 oz. meat/meat alternate and 2 oz. bread/bread alternate, and 1/8 cup vegetable. The milk and fruit is not difficult to document. The fruit contribution, depending on its size, can be found in the Food Buying Guide and milk is easily measured at the time it is being served.

11. **Question:** If a restaurant/vendor serves either as a FSMC or vendor and a sponsor is purchasing meals and/or components for a site from a restaurant/vendor capable of providing various food items, what kind of production records are required for either situation (FSMC or vendor)?

**Answer:** The sponsor needs to provide the restaurant/vendor with a copy of the meal pattern requirements. The sponsor must be able to document that the meals
meet the meal pattern requirements. The vendor agreement or contract must contain language which indicates that production records will be kept by the vendor to document meals meet the meal pattern requirements.

If the vendor is part of a restaurant chain, production records may not be necessary since the vendor may be able to provide a Product Fact Sheet which states the contribution to the meat/meat alternate, bread/bread alternate, etc. However, if the vendor is a small restaurant that does not have the resources to produce an accurate Product Fact Sheet, it may be necessary for the restaurant to make its recipes available for analysis. Language should be included in the contract/agreement with the restaurant/vendor that the meals must meet the meal pattern requirements.

If Product Fact Sheets are to be used for food items prepared for the SFSP sponsor, the Product Fact Sheet should contain the name of the company; the name of the product; cooked portion size; the contribution toward the meal pattern requirements; a signature of a company official; and the date of the signature.

The sponsor will want to protect itself if it is found that the meals purchased from a vendor are not provided per the contract specifications. Meaning if the contract or Product Fact Sheet says each hamburger will contain 2 ounces of meat and a review or audit reveals that only 1 1/2 ounces of meat was provided, the sponsor should be able to go back and collect any overclaims from the vendor that have been assessed by the state agency.

Any contracts/agreements with restaurants/vendors providing menu items in this manner must contain information stating that their facilities may be reviewed by either state agency staff or Federal reviewers.

12. **Question:** Will reviewers conducting Sponsor Reviews/State Reviews/Federal Reviews/Audits be looking at production records of restaurants/vendors and chain fast-food establishments?

**Answer:** Reviewers should and will be looking for documentation that the meal pattern requirement is met. That means the sponsor will be held responsible for ensuring the documentation is adequate to determine if the meals served have met the meal pattern requirement. If a Product Fact Sheet is available and there are no further questions, that may be all that is necessary. If a Product Fact Sheet is not available, the reviewer would look for other methods of determining if the meal pattern has been met. The reviewer might possibly visit the food establishment that vended the meals and ask to look at its records or the reviewer may ask the sponsor to obtain any necessary documentation as needed. If the food establishment does not allow the reviewer or sponsor to determine if the meals met the meal pattern requirement and were therefore reimbursable, an overclaim would be established for which the sponsor would be responsible to pay.
13. **Question:** What other documentation or records are required other than production records or Product Fact Sheets when menu items are provided from a restaurant/vendor?

**Answer:** Food/delivery receipts provide documentation that a certain number of food items/components are received from the restaurant/vendor. If a sponsor has a Product Fact Sheet on file from a particular restaurant/vendor which states the contribution of the food item purchased to the meal pattern, the food receipt would show the number of servings provided of that particular food item.