

This allows sponsors to give a defined scoring advantage, such as bonus points or a price reduction, to bidders that meet their definition of local for unprocessed agricultural products or use local as a specification in the sponsor's solicitation. Using the geographic preference option enables a sponsor to award its contract to a bidder that meets its specifications, even if it did not necessarily provide the lowest bid. Sponsors can find more information about geographic preference or targeting local with specifications in the *Procuring Local Foods for Child Nutrition Programs Guide*, <https://www.fns.usda.gov/f2s/procuring-local-foods>.

## Food Service Management Company Contracts

7 CFR 225.6(k) and 225.17(e)

A State agency may require each FSMC, operating within the State, to register based on State procedures. A State agency may further require the FSMC to certify that the information submitted on its application for registration is true and correct and that the FSMC is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

The solicitation must outline the need and scope of required products and services. If this includes purchasing or menu planning, for example, then the FSMC must provide menus. The FSMC must demonstrate a full understanding of the meal pattern, meal service, sanitation, and site requirements. Additionally, the FSMC must demonstrate an understanding of procurement standards related to geographic preference, including all contract provisions, regulations, and information about the sponsor's intended Program, such as meals to be served, meal pattern requirements, and meal quality standards. This information helps the sponsor evaluate FSMC proposals and ensure the most responsive, responsible, and cost-effective option is selected.

SFSP 13-2014, *Procurement Thresholds in the Summer Food Service Program*, January 10, 2014, <https://www.fns.usda.gov/sfsp/procurement-thresholds>, provides additional guidance on a number of procurement requirements.

# Formal Competitive Bid Waivers

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## 7 CFR 225.15(m)(4)

Sponsors that are schools or SFAs and have an exclusive contract with an FSMC for year-round service and sponsors whose total contracts with FSMCs will not exceed the SAT or any applicable State or local thresholds are not required to comply with competitive sealed bid procedures. In addition to any applicable State or local bid procedure laws, all other sponsors that contract with an FSMC must comply with competitive sealed bid procedures, as outlined below.

The State agency is responsible for ensuring that contracting and bidding procedures meet FNS requirements. The State agency must also provide technical assistance to sponsors to help them meet these requirements.

# Competitive Sealed Bid Procedures

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## 7 CFR 225.15(m)(4)(i)-(xii)

Formal competitive sealed bid procedures include the following steps:

- Preparing the IFB.
- Publicly announcing the IFB not less than 14 days before bids are opened. Announcements must include the time and place of the bid opening.
- Notifying the State agency of the time and place at least 14 days before the bid opening.
- Publicly opening all bids.
- Submitting the bid to State agency prior to accepting it.
- Submitting to the State agency copies of all contracts, a certificate of independent price determination, and copies of all bids received, as well as the sponsor's reason for selecting the chosen FSMC. In some cases, these documents must be submitted to the State agency before issuing a contract award.

Careful preparation is the most important step in the competitive bid process. Sponsors must supply the IFB to all companies responding to the public announcement.

# Food Service Management Company Bid Bond and Bonding Requirements

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2 CFR 200.325(b), 200.326, and 7 CFR 225.15(m)(6)-(7)

If FSMCs submit a bid over the SAT, they must submit a bid bond or guarantee in an amount not less than 5 percent and no more than 10 percent of the value of the contract for which the bid is made, as determined by the sponsor and specified in the IFB. FSMCs are prohibited from posting any alternative forms of bid bonds.

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 TRE Circular 570. Sponsors may download a free copy from <https://www.fiscal.treasury.gov/surety-bonds/circular-570.html>. A printed copy of Circular 570 is available from the Government Publishing Office for a small fee by calling (202) 512-1800. For additional information and assistance regarding Federal sureties, sponsors may contact the U.S. Department of the Treasury, Bureau of the Fiscal Service, Surety Bond Branch, 200 Third Street, Room 1010, Parkersburg, WV 26106, Telephone (304) 480-6635.

## Food Service Management Company Performance Bond

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2 CFR 200.325(b), 200.326, and 7 CFR 225.15(m)(6)-(7)

When an FSMC and a sponsor enter into one or more contracts totaling over the SAT, the company must obtain a performance bond from a surety company listed in the current United States TRE Circular 570. The amount of the bond must be no less than 10 percent or no more than 25 percent of the value of the contract, as determined by the State agency and specified in the IFB.

FSMCs are prohibited from posting any alternative forms of performance bonds. Cash, certified checks, letters of credit, and escrow accounts are not acceptable substitutes for performance bonds. The FSMC must furnish a copy of the bond to the sponsor within 10 days of the contract's award.

# Food Service Management Company Bid Specifications

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7 CFR 225.6(k), 225.15(m)(4) and 225.17(e)

It is important that the FSMC respond to the IFB accurately and completely. FSMCs that attempt to modify any provision of the IFB, or otherwise fail to comply with all IFB requirements, will be considered “non-responsive” and ineligible for contract award.

A State agency may require each FSMC, operating within the State, to register based on State procedures. A State agency may further require the FSMC to certify that the information submitted on its application for registration is true and correct and that the FSMC is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

The solicitation must outline the need and scope of required products and services. If this includes purchasing or menu planning, for example, the FSMC must provide menus. The FSMC must demonstrate a full understanding of the meal pattern, meal service, sanitation, and site requirements.

Additionally, the FSMC must demonstrate an understanding of procurement standards related to geographic preference. Including all contract provisions, regulations, and information about the sponsor's intended Program, such as meals to be served, meal pattern requirements, and meal quality standards helps the sponsor evaluate FSMC proposals and ensure the most responsive, responsible, and cost-effective option is selected.

# Information for Bid Requirements

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The sponsor must include detailed information in the IFB so that bidders will know the exact terms of the bid, including:

- A cycle menu approved by the State agency;
- Food specifications and meal quality standards;
- A statement requiring compliance with SFSP regulations;
- Nonfood items essential for conducting the meal service;
- Special meal requirements to meet ethnic or religious needs or dietary modifications for children with special physical or medical needs, if these are necessary to meet the needs of the children to be served; and
- The location of the sponsor's sites and the estimated range of meals required.

The IFB must not include:

- A specified minimum price;
- Provision for loans or any other monetary benefit, term, or condition to be made to sponsors by FSMCs; or
- Nonfood items that are not essential to the conduct of the meal service.

For sponsors operating non-congregate sites, the IFB may address specialized requirements. Here are examples:

- Sponsors should provide accurate information regarding the Program, such as site locations, meal service type, meal service times, and the number of meals being served.
- FMSCs must prepare to pack, store, and transport up to 10 days of unitized meals per child. This type of meal service may require different or specialized boxes and containers that are sufficiently durable for transport to the meal service site, and subsequent transport to the child's residence.
- Packaging should be easy to lift and carry. Each meal, with all its meal components, should be clearly labeled. Meals must be prepared and packaged so that they can be stored for 10 days or more without loss of quality or freshness.

- FMSCs should ensure that staffing, food preparation and storage facilities, delivery vehicles, delivery routes, and delivery scheduling can accommodate the needs of sponsors offering multi-meal issuance.
- Sponsors should detail any requirement that FMSCs separate cold and shelf stable foods and labeling any foods that require refrigeration or freezing.
- For meals intended for home delivery, insulated containers and cold packs may be advisable to protect food integrity in the event that a parent or a guardian is not home at the time of delivery.

## Site Information

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7 CFR 225.6(h)(2)(iii)

The sponsor must include a list of proposed site names, addresses, delivery locations, times of meal service, and days of operation. With this information, a bidder can estimate the cost of delivery and the feasibility of meeting the sponsor's requirements. The sponsor should specify in the IFB that single deliveries for multiple meals, such as breakfast and lunch, are allowed only at those sites that are equipped with adequate storage and refrigeration facilities.

## Cycle Menu

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7 CFR 225.6(h)(2)(vi) and 225.15 (m)(4)(v) and (vii)

The sponsor also must attach a cycle menu that lists the types and amounts of food in each meal. Program regulations specify minimum meal pattern requirements, but sponsors may improve upon these minimums to increase the variety and appeal of menus. Sponsors may request approval from the State agency for variations from the meal requirements only when necessary to meet ethnic, religious, economic, or nutritional needs.

## Meal Requirements

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7 CFR 225.7(c), 225.15(m)(4)(vi) and 225.16(i)