



United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
22302-1500

DATE: January 10, 2014

MEMO CODE: SFSP 13- 2014

SUBJECT: Procurement Thresholds in the Summer Food Service Program

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

In an effort to simplify procurement requirements for Summer Food Service Program (SFSP) sponsors, this memorandum links existing procurement and contract thresholds referenced in the Program regulations to the Federal small purchase threshold currently set at \$150,000 (also known as the simplified acquisition threshold).

Pursuant to Department of Agriculture regulations at 7 CFR Part 3016.36(d), the Federal small purchase threshold, currently set at \$150,000, must be used for all Child Nutrition Program procurements, including SFSP [SFSP 01-2013, *Federal Small Purchase Threshold Adjustment*, October 2, 2012; 7 CFR 225.17]. State and local agencies may set a lower small purchase threshold and thereby impose more restrictive procurement procedures as authorized by 7 CFR 3016.36(a), 3016.37(a), and 3016.60(a).

In addition to the Federal Small Purchase threshold, SFSP regulations have a number of additional procurement requirements that will now be linked to the Federal small purchase threshold through this memorandum. Please see below for an outline of these additional procurement requirements:

Standard Contract Threshold

The standard contract threshold, which sets a Food Service Management Company (FSMC) contract award amount that triggers the required use of the State agency-developed standard contract, was previously linked to the Federal small purchase threshold [SFSP 07-2013, *Summer Food Service Program Standard Contract Threshold*, January 24, 2013]. Sponsors must apply this threshold to the aggregate value of FSMC contracts which include projected costs from multiple Child Nutrition Programs.

Additional Bid Procedures

All sponsors, excluding schools, school food authorities (SFAs) participating in the National School Lunch Program (NSLP) and those which purchase meals from SFAs, are required to conduct competitive procurements to obtain meals. Currently, Program

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

regulations outline additional procedures required for sponsors whose total contracts with FSMCs exceed \$10,000, or any applicable State or local thresholds [7 CFR 225.15(m)(4)].

This memorandum removes the existing \$10,000 threshold referenced at 7 CFR §225.15(m)(4) and links it to the Federal small purchase threshold currently set at \$150,000.

Bid Bond

A bid bond, which serves to protect the sponsor, is issued as part of a bidding process as surety to the sponsor that the FSMC will execute the contract as awarded. The bid bond is subject to full or partial forfeiture if the awarded contractor fails to execute the contract or provide the required performance bonds. Program regulations currently require FSMCs that submit a bid over \$100,000 to submit a bid [7 CFR 225.15(m)(5)].

This memorandum removes the existing \$100,000 threshold referenced at 7 CFR §225.15(m)(5) and links it to the Federal small purchase threshold currently set at \$150,000.

Performance Bonds

A performance bond, which serves to protect the sponsor, is a surety bond issued by an insurance company or a bank to guarantee satisfactory completion of a contract. Currently, Program regulations require FSMC and sponsors entered into one or more contracts totaling over \$100,000 to obtain a performance bond [7 CFR 225.15(m)(6)].

This memorandum removes the existing \$100,000 threshold referenced at 7 CFR 225.15(m)(6) and links it to the Federal small purchase threshold currently set at \$150,000.

State Representative Present at Bid Openings

A bid opening is the stage in the bidding process where sealed bids are publically opened and examined by the sponsor. Currently, Program regulations require the presence of a State agency representative at SFSP bid openings when sponsors are expected to receive over \$100,000 in Program payments [7 CFR 225.6(h)(4)]. The State agency representative may be present in person, or through electronic communication.

This memorandum removes the existing \$100,000 threshold referenced at 7 CFR 225.6(h)(4) and links it to the Federal small purchase threshold currently set at \$150,000.

State Agency Approval Prior to Bid Acceptance

Currently, Program regulations require all FSMC bids totaling \$100,000 or more to be submitted to the State agency for approval before the sponsor can accept a bid [7 CFR 225.6(h)(6)]. In addition, any bids (regardless of dollar amount) that exceed the lowest bid must be submitted to the State agency for approval before acceptance with an explanation of why that particular bid was chosen [7 CFR 225.6(m)(4)(xii)].

Regional Directors
State Directors
Page 3

This memorandum removes the existing \$100,000 threshold referenced at 7 CFR 225.6(h)(6) and 7 CFR 225.6(m)(4)(xii) and links it to the Federal small purchase threshold currently set at \$150,000.

The requirements set forth in Program regulation, while no longer required for FSMC contract procurements under \$150,000, are encouraged as best practices for contracts of any amount. Specifically, requirements set forth in 7 CFR 225.6(m)(4)(v-vii) aim to promote meal quality and may be utilized to ensure bids are developed based on accurate meal pattern requirements.

School Food Authority Sponsors

SFA sponsors participating in the NSLP have the option to comply with the NSLP procurement standards found in 7 CFR 210.21 in lieu of SFSP procurement standards at 7 CFR 225.17. State agency approval is not required to utilize this option. NSLP has comprehensive procurement requirements in these areas and compliance with the NSLP requirements satisfies the intent of the corresponding SFSP requirements and will simplify participation for SFAs (SFSP Memorandum 4-2013, *Summer Feeding Options for School Food Authorities*, November 23, 2012).

State agencies are reminded to distribute this information to Program operators immediately. Program operators should direct any questions to the appropriate State agency. State agency contact information is available at <http://www.fns.usda.gov/cnd/Contacts/StateDirectory.htm>. State agencies should direct questions to the appropriate FNS Regional Office.

Original Signed

Cynthia Long
Deputy Administrator
Child Nutrition Programs