

# Frequently Asked Questions

## Food Service Management Companies

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1. **What is the link to USDA's Contracting with Food Service Management Companies (FSMC): Guidance for School Food Authorities handbook?**

<https://www.fns.usda.gov/cn/updated-guidance-contracting-food-service-management>

2. **When will TDA have the new contract and renewal approvals completed?**

TDA will review the documents for the 2025-2026 school year within 30 business days of receipt. However, if required documents are not submitted accurately, TDA will return to SFA with instructions. When the SFA resubmits, the 30 business days resets. Districts may submit RFP documents and renewals beginning on October 1, 2024. All RFP documents for review are due by December 6, 2024. All renewal documents for review are due by February 14, 2025.

All new contract selections must be submitted to TDA for approval to award and execute by April 1, 2025. TDA will review and approve selected awardee contracts by May 1, 2025. Once TDA has approved the award, the SFA has until June 21, 2025, to sign and return all executed contracts and upload them to Smartsheet.

Refer to the FSMC page of [Squaremeals.org](https://www.squaremeals.org) for all due dates [here](#).<sup>i</sup>

3. **What is the renewal process for an existing contract with optional years remaining?**

SFAs choosing to renew a contract should complete the steps outlined [here](#).<sup>ii</sup>

4. **What Consumer Price Index (CPI) should I use for 2025-2026 FSMC contract renewals?**

The FSMC must present a calculated annual CPI growth percentage based on the formula issued by the [Bureau of Labor Statistics](#). The CPI calculation must be submitted with the renewal documentation. The report is posted monthly. The latest CPI for acceptable use for renewals for 2025-2026 is December 2024. The SFA must provide the methodology for the CPI increase/decrease and TDA will review the CPI presented and approve accordingly.



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The methodology includes a comparison of the seasonally adjusted value of the CPI as published by the U.S. Department of Labor, Bureau of Labor Statistics, Food Eaten Away From Home for a specific month in the prior year to the seasonally adjusted value of the CPI for the same month of the current year. The increase is then calculated on a percentage basis.

### 5. Are districts required to permit an additional CPI increase for their FSMC?

No. Districts may determine that an increase in the CPI is not appropriate or affordable for their program. The SFA may also choose to apply a CPI increase in their annual contract renewal based on the CPI calculation (see question 4 above).

### 6. Do school boards have to approve renewals after TDA approves them?

Districts should follow their local procedures and follow school board approval processes for renewal and initial bid documents. A district's governing body may not approve or authorize execution of any contract or renewal amendment prior to TDA's review and written approval of such documents. 7 CFR 210.19(a)(5)

### 7. Who can assist with questions on completing the RFP or contract renewals?

SFAs should contact their Education Service Center representative for technical assistance in completing the RFP or contract renewal documents. FSMCs **cannot** assist in any manner with the RFP or renewal document(s).

Exception: The FSMC may provide the methodology for renewal if a fee increase is agreed upon by both parties. The SFA must review and ensure the methodology is accurate before submitting it to TDA for review.

### 8. What meal equivalency factor (MEF) should SFAs use for SY 2024-25?

The MEF calculated by TDA for 2024-25 includes three factors:

Previous Year Federal Free Lunch reimbursement rate	\$4.25
Meal Certification	\$0.08
State Match	\$0.00
USDA Foods Published Rate of Assistance	\$0.36
Total	\$4.69



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### 9. What is the difference between a meal equivalent and the meal equivalency factor (MEF) and non-program rate?

A meal equivalent is a standard unit of measurement derived from converting non-program (à la carte, catering, concessions, adult meal) sales.

The MEF (for 2024-2025) is the rate (\$4.69) used in the statistical formula to convert non-program sales into meal equivalents for billing purposes for fixed rate contracts.

The non-program rate is the rate stated by the FSMC to charge non-program food meal equivalents. It is in Exhibit G of the currently approved contract.

The MEF formula provided by TDA to calculate meal equivalents is:

$$\begin{array}{l} \text{Non-program revenue} \\ \text{sales such as a la carte,} \\ \text{adult meals, catering,} \\ \text{concessions, etc.} \end{array} \div \begin{array}{l} \text{Meal Equivalency} \\ \text{Factor (2024-25) } \$4.69 \end{array} = \begin{array}{l} \text{Total Meal Equivalents} \\ \text{Count} \end{array}$$

To calculate your total non-program meal equivalent charges:

$$\begin{array}{l} \text{Non-program} \\ \text{Meal Equivalent} \\ \text{Price (Exhibit G)} \end{array} \times \begin{array}{l} \text{Total Meal} \\ \text{Equivalents Count} \end{array} = \begin{array}{l} \text{Total charged for non-} \\ \text{program meals} \end{array}$$

### 10. If there is a discrepancy in the MEF, how is it rectified?

The district must use the MEF formula provided by TDA, as described in Question 8. If the district is not using the above MEF, the district should work with their FSMC to correct any discrepancies for the current school year (2024-2025).

SFAs must ensure that the correct MEF is used for 2024-2025.

### 11. Must all non-program costs, including catering, be billed using the meal equivalency factor?



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Yes, all non-program costs shall be converted to meal equivalents using the MEF formula (Total non-program sales/\$4.69 meal equivalency factor) and charged the non-program fixed rate quoted by the vendor during the solicitation process.

### 12. Is the name requested in the TX-UNPS system as the food service director meant to be the FSMC director or a district employee?

The name in the TX-UNPS must be a district employee. District decisions may not be made by FSMC employees. Therefore, the contact in TX-UNPS must be a district staff person responsible for decisions and oversight of the FSMC and the child nutrition programs.

### 13. Are vendor rebates required to be itemized in addition to USDA Foods values?

Yes, invoices should itemize costs and any rebates and discounts, whether commercial foods or USDA Foods due to the district. USDA Foods values must also be returned to the district and should be reconciled to the values on WBSCM. Reconciliation is required at least once a year but TDA recommends at least monthly. The discounts, credits, and rebates, etc. are applied to the FSMC invoices. Reconciliations are reviewed during the administrative and procurement reviews.

### 14. Is a pre-proposal meeting required?

No. A pre-proposal meeting is optional but highly recommended. If the SFA opts out of a pre-proposal meeting, the SFA is still responsible for providing the same operational information to all approved Texas FSMC vendors if questions arise.

### 15. How should the SFA measure evaluation criteria for compliance and audit history, including past performance?

SFAs should use factual and objective criteria and maintain documentation of scoring, evaluation, and award. SFAs set the criteria in the RFP and evaluate consistently based on the defined parameters. The SFA can access compliance and audit history (FSMC Performance Review) for each vendor on the FSMC page located [here](#). If further clarification is needed on the finding, contact School Operations at [school.operations@texasagriculture.gov](mailto:school.operations@texasagriculture.gov) to request information on the procurement review.



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SFAs also provide their protest procedures to ensure transparency in the RFP process.

### **16. If a district has awarded its solicitation to a vendor where there is evidence of collusion or unfair procurement practices, how is this addressed?**

Matters concerning the propriety of an award may be submitted to TDA. If TDA's review process determines that a contract was awarded improperly or illegally, the SFA will be required to take remedial action as appropriate. TDA will not approve an award to a vendor involved in the solicitation process in any manner. Additionally, TDA files a report to the Office of Inspector General (OIG).

### **17. How does an FSMC vendor resolve perceived unfair procurement practices?**

FSMCs should resolve procurement concerns at the local level through district appeal/dispute processes. Vendors may also report information to TDA at [squaremeals@texasagriculture.gov](mailto:squaremeals@texasagriculture.gov) or [FSMC@texasagriculture.gov](mailto:FSMC@texasagriculture.gov).

### **18. Can a district that used an FSMC as a consultant for assistance in RFP processes award the subsequent FSMC contract to that same FSMC?**

No. A vendor, FSMC, or contractor that assists a SFA with developing or drafting specifications, requirements, statement of work, or any other solicitation document must be excluded from competing for such procurements.

### **19. Can a chart be added to the RFP template?**

Yes, only if the required information does not easily fit into the template, the SFA may include the information in a separate document and/or chart that clearly defines where it fits into the prototype. Changes to the RFP prototype will not be accepted.

### **20. Does the Buy American provision only apply to food items in child nutrition programs?**

Yes, additional information on Buy American can be found [here](#).<sup>iii</sup>





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### 21. May the FSMC bill the SFA for new employees hired or transferred from the SFA?

No. The FSMC can only charge the fixed meal rate, which should account for all costs of doing business with the SFA. If the SFA has elected to retain some of their staff or transfer staff to the FSMC, this must be outlined in the RFP to inform the FSMC of all labor costs and ensure an accurate offer.

### 22. Are products such as food and equipment purchased by the FSMC to run a SFA's food service program owned by the FSMC or the SFA?

SFAs retain ownership of all property and assets, including food, USDA Foods, and equipment, purchased or acquired with program funds for use in the SFA's food service program. SFAs are responsible for purchasing or acquiring any equipment needed to operate the program.

### 23. Can SFAs procure food without involvement of the FSMC?

Yes. SFAs usually delegate food procurement to the FSMC. However, SFAs may designate to maintain food procurement by utilizing local coop agreements or district procurement. Where food is provided by the SFA, pricing should be substantially reduced. The SFA must ensure that they are not charged a rate that includes food, although they are purchasing.

### 24. Can the FSMC decline to use USDA Foods?

No. All food and supplies have monetary value, and it is not prudent to use federal funds to permit the waste or discard of allowable SFA purchases.

### 25. Does the required annual USDA foods reconciliation need to balance to the allocated or received value?

Reconciliation is based on the received value. Because of USDA value changes, the reconciliation may not balance to the penny. The SFA is required to track monthly and be able to provide TDA with the annual reconciliation during an Administrative Review and the FSMC contract renewal period. The SFA may also use the USDA Foods annualized value (November 15) as another tool to track reconciliation value.



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### 26. Does the value of bonus USDA Foods received need to be credited at full value by the FSMC?

Yes. The FSMC must credit the SFA for the value of all donated foods received in the school year, including bonus commodities. Such crediting may be completed by invoice reduction, discounts, refunds, or other means (7 CFR 250.51(b), in accordance with the SFA/FSMC contract (7 CFR 250.53(a)(2)).

### 27. What are the requirements for the 21-day cycle menu?

The SFA must develop the 21-day cycle menu for the FSMC RFP utilizing the required advisory board. This is not the Student Health Advisory Committee. The development should be based on student feedback and the advisory board. FSMC employees may not participate in the development of the 21-day cycle menu. The Education Service Center (ESC) representatives can provide technical assistance to the district for menu development for the 21-day cycle menu to ensure compliance with meal pattern requirements.

A SFA may not contract with an FSMC to develop their menu for the SFA's solicitation if that FSMC plans to respond to the FSMC RFP, as doing so could place the FSMC at a competitive advantage [2 CFR 200.319(a)]. The FSMC must strictly adhere to the cycle menu for the first 21 days. FSMCs may not request SFAs to change the initial 21-day cycle menu.

### 28. Can SFAs approve modifications to the first 21-day menu cycle of the first year of the contract?

No. Neither TDA or SFA have the authority to change the initial 21-day menu. Changes after the first 21 days may be made with the approval of the SFA. [7 CFR 210.16(b) (1)]. Failure to follow through on the 21-day menu cycle will result in the disallowance of meal reimbursements for the days not followed. It is the district's discretion to recoup disallowances from the FSMC or to pay from other non-federal funds.

### 29. What are some areas that cause a material change and a rebidding of the contract?



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The following, while not an all-inclusive list, may be considered a material change and require an FSMC contract to be rebid:

- Assumptions added to the FSMC Contract
- Side contracts
- Changes of contract terms either in the base year or renewals
- Changes in programs operated, changes in the number of school days, and/or adding or subtracting schools in renewals that were not listed in the base year contract
- Changes in staffing from the base year contract
- Change of guarantee from what was requested in the base year contract
- Any change that would have caused others to respond differently to the RFP, if disclosed

### **30. If an SFA moves a school site to the Community Eligibility Program (CEP), is that a material change?**

An SFA moving to CEP districtwide or individual schools may or may not trigger a material change. If there is a substantive increase in participation, a financial analysis must be performed to determine if the SFA will need to rebid. For example, going from Provision 2 to CEP may not require a rebid since there is no significant increase in participation or operating costs. If there is a revenue increase of over \$50,000, the district is required to rebid.

### **31. Can a FSMC submit, and/or a SFA approve, rates for proposals or renewals over two decimal places?**

Yes. There is no regulation or guidance that prohibits a FSMC from submitting, or a SFA from accepting, proposed meal rates or CPI increases over two decimal places. TDA will allow up to four decimal places in the computation of rates and fees. However, rounding up to allow for two decimal places is not allowed.

### **32. What is the process for a SFA with contractual issues between the SFA and the FSMC?**

If the FSMC is not adhering to the contract, the SFA should contact the district's legal representation. Neither TDA nor ESCs may provide legal advice, formal letters or legal guidance regarding a contract between a SFA and an FSMC.



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### 33. If vendor presentations are part of the pre-proposal meeting, should the evaluation of the presentations be part of the evaluation criteria?

Yes. If the SFA includes vendor presentations as part of the pre-proposal meeting, the SFA must provide parameters and expectations for the presentations to all potential proposers. The SFA must include the evaluation of the presentations in their evaluation criteria with a value of no more than 10 points.

### 34. Does a Student Health Advisory Committee (SHAC) meet the requirements for the FSMC Advisory Committee/Board?

No. The health advisory committees play an important role in strengthening the connection between health and learning. The role of a School Health Advisory Council (SHAC) is a group appointed by the school district to serve at the district level. Members of the SHAC come from different areas of the community and from within the school district. The majority of members must be parents who are not employed by the district. Texas law ([Texas Education Code, Title 2, Subtitle F, Chapter 28, Subchapter A, §28.004](#)) requires the establishment of a SHAC for every school district. SHACs are required to meet at least four times each year.

SFA must maintain an FSMC Advisory Board composed of parents, teachers and students to assist in menu planning. TDA suggests the Advisory Board meet at least twice during the program year to plan Fall/ Winter and Spring/Summer menus.

The SFA can have the FSMC serve as a member within the Advisory Board except when meeting to discuss the menus for a solicitation.

### 35. Can the FSMC provide a food truck as an optional serving line?

If the FSMC's proposal offers to provide or utilize a food truck in the SFA's food service operation, whereas a food truck is not within the scope of the solicitation, this is considered overly responsive, and the proposal shall be disqualified.

If the FSMC wishes to add a food truck in the middle of a contract for use, this will result in a material change and would require a rebid.

Exception: If the SFA owns a food truck (USDA approved or district purchased) and requested a food truck in the RFP to be utilized as a serving line by the FSMC, this



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option is viable, as it was made available to all potential proposers as an opportunity to provide an appropriate price response.

### 36. When does the FSMC provide credit for USDA Foods received?

The FSMC must provide credit to the SFA when the product arrives in the state contracted warehouse available for use in the meal program. For example, a SFA received 100 cases of frozen blueberries from USDA Foods and stored the product at the state contracted warehouse. The USDA Foods credits are provided to the SFA upon arrival at the state contracted warehouse.

When the SFA orders products from the Department of Defense (DoD) Fresh Fruit and Vegetable Program (FFVP), the FSMC must provide credit to the SFA when the product arrives and is in possession of the SFA, whether the product is stored in the SFA warehouse, kitchen or the FSMC facility. 2CFR 250.51(a)

When the SFA further processes USDA foods, the FSMC must provide credit to the SFA when the final product is available to the SFA, whether the product is at the state contracted warehouse, kitchen or the FSMC facility. 2CFR 250.51(a)

If the FSMC contract ends (terminated by either party), the FSMC must return all unused donated beef, pork, and processed end products and all other unused USDA Foods in which they provided credit to the SFA. [7 CFR 250.52(c)]. The value of other unused USDA Foods shall be based on the market value of all USDA Foods received for use in the SFA's food service. The market value shall be provided to the SFA by TDA. [250.51(a)]. Upon termination of the contract, the SFA must ensure that the FSMC has credited the SFA for the value of all donated foods received for use in the SFA's meal service in a school year or fiscal year.

It is critical that the SFA specify in the RFP and resulting contract whether the FSMC handles storage and receiving of USDA Foods.

### 37. How does the SFA account for alternate meals in the FSMC contract?

Each SFA is required to have an alternate meals policy. A copy of this policy must be provided to the FSMC and/or made available during the pre-proposal meetings or as part of their RFP documents. The expectations of this policy must be incorporated into the operations plan of the FSMC proposals. This includes how the meals will be charged to the SFA. For example, the district's alternate meals policy provides the



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student with a cheese sandwich and juice. The cost of this must be determined and considered part of non-program revenue which the FSMC will calculate.

If the district provides a full reimbursable meal to the student, this may be included as a breakfast/lunch meal cost and the student meal cost would be provided to the district to reimburse the child nutrition program from a non-child nutrition accounting source.

### **38. When determining the cost of foods from the State contracted warehouse, do we utilize the Fair Market Value calculator or the prices in WBSCM?**

Neither. SFAs should use the cost management tool developed by TDA to determine the value of Direct Delivery USDA Foods at state contracted warehouses. This tool utilizes the average price USDA paid for a material in the prior year. USDA publishes these values each November on their Average Price File. The tool will provide SFAs a streamlined way to determine the values of allocated, reallocated and bonus USDA Foods that may not be associated with a requisition in WBSCM. The link to the tool can be found here: <https://squaremeals.org/Programs/Food-Distribution-Program-for-NSLP/Resources>

### **39. If and when the SFA decides to use processors in commodities, is the FSMC part of that decision?**

The responsibility of USDA Foods is solely with the SFA. Any decision regarding processing, direct deliveries or DoD must be approved by the SFA. The USDA Foods entitlement is provided to the SFA and not the FSMC. The SFA should discuss these decisions with the FSMC to ensure the FSMC is aware of how USDA Foods will support the planned menu.

### **40. If I have questions regarding my commodities, processor choices or USDA Foods, where can I obtain additional information?**

If you have any questions regarding your USDA Foods, click on this link to obtain additional resources: <https://squaremeals.org/Programs/Food-Distribution-Program-for-NSLP/Resources>

Additionally, your Education Service Center is available to provide you training and technical assistance regarding all aspects of USDA Foods. You may also email



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[CommodityOperations@texasagriculture.gov](mailto:CommodityOperations@texasagriculture.gov) to ask specific questions regarding any issues or errors you have identified with your requisitions or current inventories.



Food and Nutrition Division



TEXAS DEPARTMENT OF AGRICULTURE  
COMMISSIONER SID MILLER

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Updated 2/12/2025  
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In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
- (2) fax: (833) 256-1665 or (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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<sup>i</sup> <https://squaremeals.org/Programs/National-School-Lunch-Program/Food-Service-Management-Companies>

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<https://squaremeals.org/Programs/NationalSchoolLunchProgram/FoodServiceManagementCompanies.aspx>

<sup>iii</sup> [https://fns-prod.azureedge.net/sites/default/files/resource-files/FactSheet\\_BuyAmerican.pdf](https://fns-prod.azureedge.net/sites/default/files/resource-files/FactSheet_BuyAmerican.pdf)



Food and Nutrition Division



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This product was funded by USDA.  
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