

Instructions for the Food Service Management Company Request for Proposal /Contract

SY 2024-2025



CHILD NUTRITION

NATIONAL SCHOOL LUNCH PROGRAM

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Instructions Regarding the RFP and the FSMC Contract Development Process

PLEASE READ THIS DOCUMENT THOROUGHLY

All Food Service Management Company (FSMC) contracts must be competitively procured. The Request for Proposal (RFP) template and Contract (hereafter, template will be used by a School Food Authority (SFA) initiating a new contract with an FSMC. The contract will provide meal services for the National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program (SMP), Fresh Fruit and Vegetable Program (FFVP), Summer Food Service Program (SFSP), Seamless Summer Option (SSO), Child and Adult Care Food Program (CACFP), and Child and Adult Care Food At-Risk Supper/Snack Programs. SFAs must use the template without variation, additions, or deletions. The use of the template ensures requirements of federal and state regulations and statutes are met.

Carefully review the template, including the procedure for submission outlined on the following pages. If you have questions, please contact your assigned ESC representative to assist in the process. The Texas Department of Agriculture (TDA) has a mailbox set up for FSMC questions at FSMC@TexasAgriculture.gov.

Competitive Proposal Procedures

The following procurement procedures must be implemented to ensure compliance with federal and state regulations and statutes. The requirements apply to all new FSMC contracts. An SFA failing to complete the required procurement procedures will be prohibited from utilizing nonprofit food service funds to pay for the FSMC contract.

1. TDA will open the FSMC contract process to SFAs on September 1st for contracts beginning July 1st of the following school year. The SFA submits documentation to TDA via the Smartsheet link on SquareMeals/FSMC page. The SFA is encouraged to begin the process as soon as possible and not wait until the deadline. Late submissions will not be accepted.
2. All staff that are involved in new contract development must understand the roles and responsibilities of the SFA and the vendor when utilizing an FSMC contract.
3. Before contracting with an FSMC, the SFA should review its current food service operation, including:
 - a. Financial Analysis- profit/loss over the last five years;
 - b. Costs- labor, food, and the value of a qualified child nutrition director;
 - c. Operational considerations - facilities, equipment, and food service staff; and
 - d. Other factors, such as the impact to the community and internal/external stakeholders.

The SFA should understand that even when contracting with an FSMC, there are responsibilities that the SFA may not delegate. The SFA must have a district employee designated as the contract manager who will be responsible for the oversight of the FSMC contract. The SFA responsibility to comply with federal regulations cannot be abdicated to an FSMC. The FSMC contract is another layer of regulations the SFA must follow.

4. The SFA **must not** allow the FSMC or their affiliated companies or contractors to participate in the preparation of the FSMC RFP. Any FSMC participation would prohibit the FSMC from being selected. 2 CFR §200.319(b).
5. The SFA must use the RFP and Contract template provided by TDA. Changes **are not** permitted outside of the fillable spaces.
6. The SFA must provide a completed copy of the RFP/Contract to TDA for approval **before publication**. The submission period opens September 1st and closes December 1st of each year. Any RFP/Contract not submitted by the due date will not be accepted.

Tailoring the Template

The SFA should carefully read the template to ensure all blanks provided have been accurately completed to meet the needs of the food program.

The SFA must prepare the 21-day cycle menus using the advisory board. The SFA must include all menus by campus level and for each program that will operate for the school year 2024-2025. The SFA is responsible for making sure the 21-day menu is in compliance with USDA meal pattern requirements. The contract approval process is to ensure the SFA is in compliance with federal procurement regulations.

The FSMC will submit proposals based on the projected revenue and meal participation data provided by the SFA. The FSMC must use the SFAs 21-day cycle menu. No substitutions are allowed. In addition, menus cannot be developed by the FSMC, or they will be unable to bid on the contract.

Exhibit G: Price Proposal Form – Before publication, the SFA must complete the “SFA’s Estimated Annual Meals and Meal Equivalents at all sites” column only. This is to supply totals for each meal type the SFA is requesting price.

Publishing and Evaluating the RFP

When the SFA completes the information in the template specific to its needs, the document becomes a RFP.

All Texas school districts that propose to contract with a FSMC must publicize their RFP to ensure maximum competition. The advertisement shall run for a period of no less than 14 consecutive days (the first 14 days of posting) in a publication of general circulation covering the area served by the school district. This includes electronic media publications or a combination of both print and electronic. In instances where there is limited circulation, advertisements should also be run in the largest metro area near the districts.

Notices of RFP must also be sent to all registered FSMC that have been approved by TDA. The current TDA-Approved FSMC Vendor list can be found at:

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

All RFPs must be approved by TDA before advertising to ensure compliance with federal regulations. Postings should be in place for at least 21 days before the pre-bid conference to allow enough time for distribution of the RFP and responses by prospective FSMC, in accordance with USDA procurement guidance. The SFA must maintain documentation of advertisement and submit to TDA with the evaluation and award documents.

The SFA may provide, as an additional bidding option, a uniform and secure electronic interactive system for the submittal of bids. If desired, this information must be added to the RFP template where indicated.

Receiving and Evaluating Proposals

All questions and answers submitted in response to the RFP must be maintained on file by the SFA and provided to TDA for review as part of the evaluation process of a final award. If the SFA is considering disqualifying a vendor, the documentation must be submitted to TDA for review.

The terms of the RFP must not be altered by the offeror. Proposal documents and graphic presentation documents provided by an offeror will not be included in the final contract and cannot be considered for scoring. Only the forms, certifications, and documents requested in the RFP will comprise the subsequent contract. If any portion of the FSMC proposal is overly responsive, that portion must not be included in the evaluation and scoring and may render the entire FSMC proposal ineligible for contract award.

After evaluating the proposals using the criteria established in the RFP, the SFA will score each proposal to determine which is the most advantageous to the SFA’s school nutrition program, price and other factors considered, with price as the primary factor.

Once the SFA has scored the proposals, it must submit all proposals, evaluations, scoring sheets, and the advertisement to TDA for review and approval. TDA will not approve an award without having a copy of each

proposal submitted in response to the solicitation. The SFA may not convey notice of an award to the selected FSMC prior to receiving written approval by TDA.

SFAs will receive approval of the FSMC contract by May 1, 2024.

RFP/Contract Provisions

Term of Contract

Per federal regulations, the term of the contracts between the SFAs and the FSMC are no longer than one year with the option to renew yearly. It cannot exceed four additional years.

Material Changes

Contract amendments that modify the scope or change the value of a contract in excess of the Simplified Acquisition Threshold (\$50,000) may result in a material change. Material changes to the RFP, contract, or renewals are not permitted. Price increase provisions should be based on the Consumer Price Index (CPI) for All Urban Consumers, Food Away From Home. Some examples of material change per the Administrative Reviews are adding schools beyond the original contract, changing the school days from a five-day to a four-day week, change in staffing from the base year contract, assumption, or side contracts, change of guarantee from the base year contract, etc.

Scope and Purpose

The RFP must identify which federally reimbursable meal program(s) or nonprofit food service activities the FSMC will be involved in, e.g., NSLP; SBP; SMP; FFVP; SFSP; SSO; CACFP; At-Risk Afterschool Program; non-program foods and meals, such as a la carte sales during and/or between meal service periods; after hours snacks; and other food service operations, as required (i.e., catering services, if applicable). If the RFP does not clearly project the scope and identify the products and services requested, the bid prices and the products and services provided by the FSMC may not be reasonable or responsive to the SFAs needs. SFAs need to plan and project for five years to identify all programs to be operated, and products and services needed to avoid unnecessary costs or rebid. Since material changes to the RFP and contract are not permitted, the RFP must encompass all anticipated products and services in the solicitation scope and/or provisions. For example, if an SFA foresees adding additional programs to their operations during the school year, the solicitation must include this information. Likewise, if the SFA anticipates opening a new school, the anticipated date of this operation and projected enrollment must be included. If schools will be consolidated and closed due to projected decreases in enrollment, it must be included in the RFP.

Pre-Proposal Conference Guidance

The SFA may be required by local procurement policies or may choose to conduct a pre-proposal conference. If this is the first procurement for meal services by the SFA, conducting a pre-proposal conference may be very beneficial to both the SFA and the prospective FSMC. This general guidance should be considered when planning a pre-proposal conference.

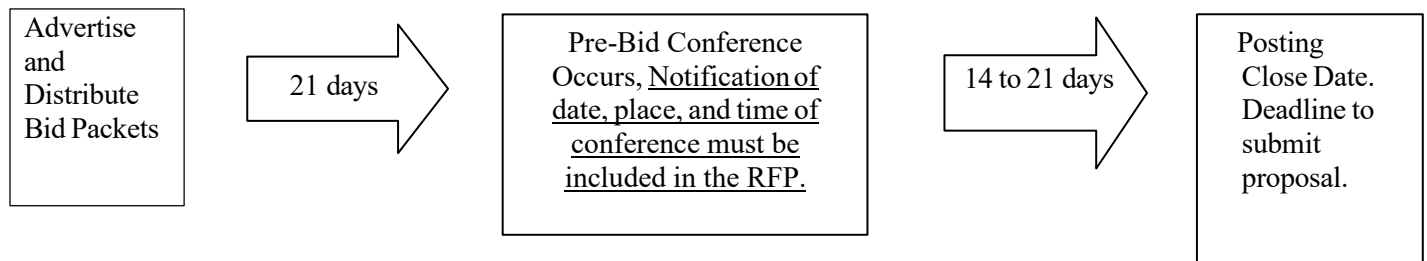
Attendance

Determine whether you want attendance to be mandatory or optional. If mandatory, the SFA may utilize electronic or remote meeting methods to conduct the meeting to encourage participation. If the SFA indicates attendance is mandatory, this cannot change once the RFP is posted.

Scheduling

It is recommended that the pre-proposal conference be scheduled at least 21 days after the start of public advertisement and distribution of the proposal packets. This allows 7 full days after the advertisement stops for the FSMC to prepare for the pre-proposal conference. The announcement of the pre-proposal conference should be included in both the proposal packet and the public advertisement.

In addition, the posting close date should be scheduled at least 14 to 21 days after the pre-proposal conference to allow the SFA sufficient time to reply to questions that may result from the conference and for offerors to subsequently prepare their proposal. A minimum 35-day solicitation period is required.



Purpose of Pre-Proposal Meeting

- Provide information and clarification regarding contract specifications that will assist in the preparation of proposals,
- Answer questions,
- Conduct a facility tour,
- Discover ambiguities, errors, or omissions in the RFP that may later be clarified.

If the SFA determines not to have a pre-proposal conference, they should ensure there are other means in the RFP for a potential FSMC to see the campus kitchens and ask questions so all potential vendors will have the same understanding and access as the incumbent vendor. Without a means to ensure all potential vendors have the same information it may result in an unfair advantage and the incumbent vendor could be prohibited from being awarded the contract. Alternatives to pre-proposal conference could be virtual meetings, Q & A's, pictures with descriptions. During the final review, the SFA should be able to present the information provided to all vendors to ensure full and open competition.

The conference should NOT be held as a substitute for formally amending a deficient or ambiguous specification or to disseminate performance requirements in addition to those contained in the solicitation.

Addenda/Amendments

It should be stated in the opening of the conference that information provided should not be considered official until provided in writing to all prospective vendors that have received the RFP. Oral explanations or instructions given before the award of the contract shall not be binding. Any information given to a prospective offeror shall be furnished to all prospective offerors that received the original solicitation/contract and shall be made available to the State Agency as part of the final approval documentation.

FSMC Score Card Instructions

Each Evaluation Committee member should read these instructions in full.

The SFA must select 3, but not more than 5, people to evaluate the proposals received for the FSMC vendor (s). The evaluation committee's individual evaluators will review the FSMC Proposals and complete a scorecard (Form A) for each vendor that is being considered. Each proposal submitted is to be scored exclusively based on the criteria outlined in the RFP. **Each committee evaluator must document the specific reasons (justification) when the scoring less than maximum points, or otherwise justified. Scoring must be based on the proposal. Max points might require justifications, as necessary. TDA will review the score cards to ensure compliance.**

Scoring Criteria

Scoring for price/cost, years of experience, and guarantee are objective and must be scored uniformly by evaluators. Price/cost must be based on the formula provided. **For all objective criteria, scores should be the same for each committee member.** = lowest price / the meal price * point value (25 or more).

Guarantee – If included in the RFP, the maximum score for the guarantee is 5 points. No points may be granted for proposals offering a guarantee less than or more than the amount requested in the RFP. **This score should be the same for all committee members.** If a guarantee is not requested in the RFP, the guarantee criteria may not be included in the scoring evaluation. In this case, an alternate scoring criterion such as nutrition education, investments in operation, utilization of USDA Foods entitlement, and financial capability, or other criteria may be evaluated by the SFA.

Experience – Based on the years of experience working with the Programs. The SFA should verify the number of years of experience the FSMC reports in the proposal. The scoring criteria is outlined in the RFP documents. **The score should be the same for all committee members.**

Service Capability Plan – The committee is to review the service capability plan of each bidder. If one FSMC offers a greater level of service, the committee member is to document the specific service offered that is not offered by other bidders. Document on Form A. If each FSMC offers the same level of service, they must receive the same score.

Financial Conditions/Stability, Business Plan – The committee should review each FSMC's most recent independent financial or single audit to determine the score for Financial Conditions/Stability. Documentation must be provided as to the scoring of each FSMC.

Accounting and Reporting Systems – The committee should review each proposal's accounting and reporting systems. If one FSMC offers a system that is superior to another FSMC's and is given a better score, the specific accounting and/or reporting system offered should be noted in the justification. If they are similar, they should receive the same score. If a vendor has been determined to have errors in invoicing, billing, or providing credits properly to SFAs, they may not receive the maximum points, even if they have excellent software in place because the accounting practices are not sound.

Promotion of the CNP – The SFA will rate the FSMC based on the specific plan proposed. This could include a variety of factors such as nutrition education signage in the cafeteria, nutrition education activities, Promotions of the month, culinary exhibitions, participation in Farm to School activities, the dollar value that the FSMC plans to spend on locally grown agricultural products per year, the planned level of participation in wellness activities, participation and responsiveness to the advisory committee, and student feedback. Provide a justification.

Personnel Management/Staffing Considerations – The SFA will rate how well the vendor responded to the requirements in the job descriptions provided. If there were requirements for additional education, bilingual skills, or certifications (e.g., R.D. and SNS), outlined in the RFP, they must be considered in the evaluation scores. A vendor cannot receive the maximum points if they do not meet ALL the conditions outlined. If all vendors met the standards requested, all may receive the maximum points.

Student Engagement – The SFA will rate how the vendor responded to actions to promote student and patron engagement.

Other criteria may be assessed if outlined in the RFP such as: nutrition education, investments in operation, utilization of USDA Foods entitlement, and history with like school systems. If used, please designate in the “other” section and identify how these areas will be evaluated by the committee.

The committee is to complete both the FSMC Proposal Score Card (Form A) and the FSMC Scoring Summary (Form B) and submit to TDA. This documentation, along with all other documents related to the award of the bid must be maintained for the entire length of the contract.

The SFA must provide detailed, legible justifications for scores. Inadequate justification as determined by the State Agency will result in the return of the documents to the SFA.

OVERALL RESPONSIBILITY OF THE EVALUATION COMMITTEE

Statute, rule, and policy require an evaluation process that is fair and equitable with all proposals. The following bullets outline the process to assure the integrity of the evaluation process:

- Members of the evaluation committee are selected based on their ability to provide an objective, impartial evaluation of the proposals.
- Members of the evaluation committee with actual or potential conflicts of interest are required to declare and describe the situation in writing. This may exclude the evaluation committee members from participating if a potential conflict exists and will exclude evaluation committee members if an actual conflict exists.

Accountability and Public Record

Evaluation committee members are accountable for everything said and written regarding the RFP, each proposal, and the evaluation process. Proposal evaluations are part of the RFP and contract files and are subject to public records.

To preserve the integrity of the public contracting process, evaluation committee members are responsible for following these instructions to avoid consequences ranging from excluding an evaluation committee member's score from the selection process to canceling the RFP and starting over.

Vendors may request to review evaluations of all proposals and may use the information to submit a protest.

Conflict of Interest

Each evaluation committee member must sign the attestation at the bottom of the scoring sheets, which declares any “actual” and “potential” conflict.

After reviewing the list of vendors, if there is or if there might be a conflict of interest, including any circumstances that could be perceived by others as a conflict of interest, please contact the SFA procurement office immediately by phone or email to discuss the actual or potential conflict to determine next steps. A substitute evaluator may need to be utilized.

Contact with Others / Nondisclosure

Evaluation committee members should not have any contact with potential vendors during any part of the evaluation process. If a proposer contacts you about the RFP, contact TDA immediately at FSMC@texasagriculture.gov.

Evaluation committee members SHALL NOT:

- Discuss any aspect or opinion of vendors, proposals or proposal ranking, or share information from proposals outside any evaluation committee meeting.
- Discuss the scores in any way with vendors or accept anything from vendors. This includes gifts and meals. These actions may constitute grounds for rejection of the respective proposal and disqualification of the vendor.
- Evaluate proposals based on criteria other than those contained in the RFP, or on the basis of information not included in the proposals.
- Use personal knowledge about a vendor.

FSMC Proposal Score Card Form A
(One form required per vendor and per committee member)

School Food Authority (SFA) _____

SFA Employee _____

Vendor/Offeror Name _____

Criteria	Possible Points	Points Granted	Justification for Scoring *
Cost – The FSMC with the lowest price receives the maximum points. The other vendors receive points equal to the lowest price divided by their meal price multiplied by 25 (or maximum points) - Do not round. - 25 points or more			
Guarantee in RFP Included in Proposal. (No points for increased guarantee or not meeting guarantee) Maximum of 5 points			
Years of Experience in working with Child Nutrition Programs – Maximum of 10 points 10+ years = 10 points 5 years = 5 points 9 years = 9 points 4 years = 4 points 8 years = 8 points 3 years = 3 points 7 years = 7 points 2 years = 2 points 6 years = 6 points 1 year = 1 point			
Determined by CE			
Determined by CE			
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Determined by CE			
Determined by CE			
Determined by CE			
Determined by CE			
Determined by CE			
Total Points	100		

*Scorecards must include detailed justifications.

Attestation: Under the penalty of perjury, I attest that no one discussed scoring or evaluation preferences with me that would alter my score in one direction or another. My evaluation was done alone and solely based on my evaluation of the material presented. I have read the evaluation committee responsibilities and affirm I have no conflicts of interest with any vendors who have submitted proposals.

Printed Name of Committee Member _____

Signature of Committee Member _____

Date _____

FSMC Vendor Committee Scoring Summary Form B

Committees should be composed of a minimum of 3 and a maximum of 5 evaluators.

Committee Member	Name of Vendor 1	Name of Vendor 2	Name of Vendor 3	Name of Vendor 4	Name of Vendor 5
Totals					

Record each committee member's name in the 1st column. Record each member's total score for each vendor. Total all responses. The vendor with the highest score is the most responsive and responsible offeror.

Signatures –

A signature below affirms that the scores provided were independently derived, without influence, bias, or edit, for the purpose of evaluating the proposals submitted for FSMC vendors. Further, by signing below, each evaluation committee member affirms that a conflict of interest does not exist regarding the responsive vendors for this FSMC RFP and contract.

Signed:

Committee Member 1

Signed:

Committee Member 2

Signed:

Committee Member 3

Signed:

Committee Member 4

Signed:

Committee Member 5

Signed:

Committee Member Head/Observer/Other

Standards of Conduct and Certification for Procurement

In accordance with 2 CFR Part §200.318, the following standards of conduct must be followed by all officers, employees, or agents of the non-Federal entity herein named, (SFA) that are engaged in the selection, award, and administration of contracts:

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

Disciplinary actions shall be applied for violations of the above standards by officers, employees, or agents, up to and including termination from the program.

Officers, employees, and agents shall avoid the acquisition of unnecessary or duplicative items. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, officers, employees, and agents shall make every effort to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

Officers, employees, and agents shall make every effort to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Officers, employees, and agents shall make every effort to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at an overall lower cost.

Officers, employees, and agents shall award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, a record of past performance, and financial and technical resources. (See also 2 CFR §200.214 Suspension and Debarment)

Officers, employees, and agents shall maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

Officers, employees, and agents shall use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.

All standards to award contracts outlined in 2 CFR §200.318(h) and 2 CFR §200.214 must be followed.

Officers, employees, and agents of _____ (SFA), shall do the following:

Accept full responsibility, in accordance with good administrative practices and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.

Make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition, including procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, in accordance with 2 CFR §200.325.

These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

Attestation:

I understand and will follow the standards of conduct outlined for this procurement.

Committee Member Head/Observer/Other

Date

Procurement Standards of Conduct Certification Statement

I, _____ (Authorized Representative) for _____
(SFA) hereby certifies the following:

Officers, employees, and agents shall conduct all procurement transactions in a manner providing full and open competition consistent with the standards of 2 CFR §200.319, (inclusive of written procedures for procurement transactions that:

Ensure clear and accurate description of technical requirements for the material, product, or service to be procured. Identify all requirements which must be fulfilled by offerors and all factors to be used in the evaluation of bids and proposals.

Ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Ensure that potential bidders are not precluded from qualifying during the solicitation period.

Officers, employees, and agents shall conduct all procurement transactions, using the sealed bid or request for proposal as one of the methods of procurement noted in 2 CFR §200.320.

Officers, employees, and agents shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, in accordance with 2 CFR §200.321.

Officers, employees, and agents shall comply with the procurement of recovered materials, as specified in 2 CFR §200.323.

Officers, employees, and agents shall perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, including contract modifications, in accordance with 2 CFR §200.324.

Officers, employees, and agents shall ensure that the bonding requirements are followed, in accordance with 2 CFR §200.326.

Officers, employees, and agents shall ensure that all contracts contain the applicable provisions described in Appendix II to Part 200, in accordance with 2 CFR §200.327.

Officers, employees, and agents shall comply with the retention requirements for records, in accordance with 2 CFR §200.334.

Officers, employees, and agents shall provide access to records, in accordance with 2 CFR §200.337.

Officers, employees, and agents shall adhere to the Cost Principles contained in 2 CFR Subpart E §200.400 - §200.476.

Committee Member Head/Observer/Other

Date