

# Section 12000

## Frequently Asked Questions

### Table of Contents

<b>12000</b>	<b>Frequently Asked Questions</b>
12010	Travel
12020	Budgets/Allowable Costs/Income to the Program
12030	Oversight, Training and Monitoring
12040	Procurement
12050	Feeding Infants
12060	Eligibility for Free and Reduced-Price Meals
12061	Extending and Documenting Extended Eligibility

[This page intentionally left blank.]

## 12000 Frequently Asked Questions

Below are frequently asked questions sorted by topic.

### 12010 Travel

1. **Question:** When you travel to a particular destination and you live 2/3's of the way to the destination versus the full destination being the center location, how many miles can be charged?  
**Answer:** Costs for program travel require prior approval and may be charged on an actual, per diem, or mileage basis. If you are charging travel based on mileage, you would charge the number of miles from your home to the destination. You must ensure that you keep proper documentation for travel and transportation costs.

### 12020 Budgets/Allowable Costs/Income to the Program

1. **Question:** Where do you list contract dietician or bookkeeping services related to CACFP?  
**Answer:** Bookkeeping is listed under "Financial Costs," while a contracted dietitian is an "Organization Cost."
2. **Question:** Where do extermination (professional) costs go?  
**Answer:** Under Organization Costs.
3. **Question:** What if all of your employees are leased by a payroll leasing agency?  
**Answer:** The costs are allowable under Professional Services.
4. **Question:** Could a CE contract for services such as the cook or even the caregivers? Some employment agencies call offering the services of said personnel.  
**Answer:** Yes, a CE can contract for labor. The costs are allowable under Professional Services.
5. **Question:** What would we do for software used for program only?  
**Answer:** The costs for software used in the CACFP only are allowable under Supplies and Equipment as a durable supply.

6. **Question:** Where can the Food Service certification be charged to? Is there a standard as to who must have the I.D. card? People who prepare, serve or distribute?  
**Answer:** The food service certification I.D card is issued by the Health Department; therefore, you should contact them to find out which employees must have the card. You may claim the cost of obtaining the food service certification ID card under Organization Costs.
7. **Question:** What is the purpose of the CACFP?  
**Answer:** The purpose of the CACFP is to help day care facilities provide nutritious meals to children and adults who attend their day care facilities. The CACFP reimbursement that you receive is intended to supplement your other funding sources. As with any other government program, procedural changes occur and will continue to occur. Your Community Operations office is available to provide you with technical assistance whenever you have questions concerning the operation of the CACFP.
8. **Question:** Does an organization have to submit a budget amendment when adding any additional facilities?  
**Answer:** Generally the addition of a new site would affect the revenue and expenses generated from the nonprofit food service account; therefore, you would need to amend the budget.
9. **Question:** When filling out the budget, can you just include food and nonfood?  
**Answer:** Yes, you may include just food and nonfood in your budget. You may include any allowable food service expenses for which you will use food service revenue.
10. **Question:** Can a contractor that has both Child Care Services (CCS) & Head Start programs in the same facility where the Head Start is in the morning & the CCS program is in the afternoon charge the food program for a given child twice? Note: The CCS portion of the day is at least 6 hours.  
**Answer:** You may only count a child once in the enrollment data you report each month on your *Claim for Reimbursement*. In addition, you may only claim 2 meals and one snack or 2 snacks and one meal per day per child.
11. **Question:** An organization buys 2 PC's worth \$4000.00 (under the \$5000.00 capital equipment). Organization decides to direct expense the PC's with Prior Written Approval. At the end of the contract year, the organization decides to discontinue CACFP. Does the organization keep the PC's as part of their inventory of acquired equipment? If the organization comes back into the CACFP one year later, what prevents the organization from acquiring 2 new PC's again?

**Answer:** It is unlikely that a PC would be used strictly for food program activities; therefore, the cost of the PC would need to be pro-rated between program and non-program use. In addition, to be able to purchase the PC's using food service funds, the PCs must be necessary and reasonable and the organization must be able to fund all other program requirements. If the PCs are purchased with food service funds and the organization decides to stop operating the CACFP, the organization may retain the PCs. The history on this CE must be retained for 3 years. If the CE reapplied and tried to acquire two new PCs, the CE would have to provide justification.

12. **Question:** What can we do to simplify the food program?

**Answer:** CACFP requirements are based on state and federal requirements. CEs that have suggestions to simplify the program are encouraged to submit comments whenever state or federal regulatory changes are proposed. CEs may also submit recommendations for program improvements to TDA or USDA.

13. **Question:** We cannot make parents/guardians/participants put financial information on the CACFP Meal Benefit Income Eligibility Form – it is not mandatory. Why are we penalized for not getting this information?

**Answer:** You may claim reimbursement for all participants who are properly enrolled in your program. However, you will receive a lower reimbursement for participants who do not provide the income information needed to determine their eligibility for free or reduced-price meals.

14. **Question:** We will be opening a pilot program where we will be in collaboration with Head Start. In one area, a classroom will be strictly collaborative. In another area of our center, I will be leasing some classrooms to HS. However, I will be feeding these children under the CACFP. Must I ask for any level of approval for these areas and must I subtract these areas as an expense? How can this collaboration work with CACFP-CCC?

**Answer:** If you will be receiving any funding from Head Start that is specifically designated for food service you will need to deposit those funds in your nonprofit food service account. If you will be claiming a portion of the occupancy as a part of your approved budget, you will need to ensure that you do not receive leasing fees for the same space that you are charging the nonprofit food service account. This would be “double dipping”. You should contact your Community Operations office for technical assistance concerning any specific questions you have concerning this collaboration.

**NOTE:** You can claim meals served to all of the children, even those enrolled in Head Start, on the CACFP-CCC if they are properly enrolled for child care in your center.

15. **Question:** How is it that we are expected to maintain a reputable/acceptable program if there may not be enough funding to go around?  
**Answer:** The funding you receive is based on the number of meals you serve and the eligibility of the individuals enrolled for care. Your reimbursement is not affected by how many other organizations participate in the CACFP. Your CACFP reimbursement is a supplement only and not intended to fund your entire food service operation.
16. **Question:** Is extra money given to us for staff in our yearly budget?  
**Answer:** No, you receive reimbursement based on the eligibility of participants (free, reduced-price or paid) and the number of meals served. Your reimbursement is not based on the costs to operate the food service.
17. **Question:** For record keeping/documentation of food costs, is it acceptable for our bookkeeper to keep receipts, invoices, canceled checks, etc., in her office which is located in a separate building on our Church campus? Or, do I need to keep duplicate copies in our center?  
**Answer:** It is acceptable to keep all of the records in the bookkeeper's office on the Church campus. However, the records must be available for review at all times, i.e., someone in the center must be able to get into the bookkeeper's office.
18. **Question:** Are documentation forms which must be filled out and signed by the employee, such as the "Time Distribution Report" available in other languages? Spanish? Vietnamese is also prevalent in Houston. These are growing documentation concerns. Many food service workers are non-native recent additions to the workforce. Training materials? Training classes?  
**Answer:** The sample Time Distribution Report is not available in other languages. You, as a CE, are responsible for accommodating any translation needs of materials for use by your staff.
19. **Question:** Are field trips considered in the equipment, facility & supply costs when food is served by someone else?  
**Answer:** No, the cost of a field trip is generally unallowable. Note: If your site is self-prep and you take a field trip to a restaurant you may not claim reimbursement for the meals served or the cost of purchasing meals. If you prepare the meals at the site and then serve them off site the meals are reimbursable and the costs are allowable.
20. **Question:** Is there a computer program we can use that would make paper work easier to keep track on and more accurate?  
**Answer:** F&N does not approve or endorse software packages for use by CEs in managing the CACFP. CEs may purchase such software independently. However, F&N holds the CE accountable for ensuring that the purchased software supports the CE in operating the CACFP according to program requirements.

21. **Question:** Do I have to get approval on “everything” I buy with the food program money? Or is there a specific amount?

**Answer:** Yes, you must get approval for everything that you will buy with nonprofit food service account funds. The budget that you submit as part of your application each year is where you request approval to spend nonprofit food service account funds.

22. **Question:** For disclosures, is there a form or specific protocol for giving background information? How far in advance do you have to go to get written approval?

**Answer:** There is no specific protocol or form for giving disclosure information on related party transactions, less-than-arms-length transactions or ownership interests in equipment, supplies, vehicles and facilities. The application for CACFP that you complete each year will ask you to disclose any information needed for F&N to make an informed decision on the allowability of a cost. You must have specific prior written approval before claiming costs that require disclosure. The amount of time in advance that you must request specific prior written approval depends on the complexity of the relationship between the parties.

23. **Question:** If you disclose that the spouse of an employee drives a delivery truck for a major food distributor from which you buy, does it need to be reported if he leaves that job?

**Answer:** Yes, you should submit a Form H1548, *Application/Management Plan Change*, when you have changes in your CACFP operation.

24. **Question:** A sponsoring organization can claim no more than 15 percent for allowable administrative costs. Can F&N require the sponsor to budget a specific percentage of the CACFP reimbursement for food?

**Answer:** Generally no. However there are three exceptions by which F&N will require the sponsor to increase its food expenditures: (1) F&N determines that the lack of adequate food expenditures are the cause or contributing factor in a site’s failure to meet meal pattern requirements; (2) F&N determines that the site’s meals need improvement that can be accomplished by increasing food expenditures; or (3) F&N determines that a sponsor continues to earn CACFP reimbursement in excess of its expenditures (in this case F&N can require the sponsor to increase its food expenditures or other operational costs, to prevent an excess nonprofit food account balance).

25. **Question:** Why must F&N first determine that inadequate food expenditures are a contributing factor to meal pattern deficiencies before requiring the CE to devote more money to food expenditures?

**Answer:** Not all meal pattern deficiencies result from inadequate food expenditures. Examples of meal pattern deficiencies that are unrelated to food expenditures include:

- Improper crediting of foods
- Incorrect serving sizes
- Incorrectly computing the amount of a food item to purchase or prepare in order to provide the correct number of servings
- Untrained or poorly trained cooks and other food service staff

26. **Question:** F&N determined that a CE had to increase its food expenditures and the CE submitted a budget amendment for the increase. How does F&N verify that the CE actually complied with the requirement to devote a specified amount or percent of CACFP funds on food expenditures?

**Answer:** F&N will continue to review a CE's actual food expenditures as part of its management and oversight of the CE's CACFP operation. F&N will also continue to monitor and assess a CE's compliance with any required corrective action.

27. **Question:** Can F&N require a CE to spend more CACFP funds on the food service equipment or conduct more training?

**Answer:** Yes. If F&N determines that improvements must be made to the CE's food service equipment or training activities, F&N can require the CE to designate more CACFP funds to pay for those improvements.

28. **Question:** F&N determines that the CE's failure to hire qualified staff is a contributing factor to a serious deficiency identified in the CE's operation of the CACFP. Can F&N require the CE to spend more CACFP reimbursement on labor to increase the competency of the CE's staff?

**Answer:** F&N can require a CE to take any action identified as appropriate to correct a serious deficiency in the CE's operation of the CACFP, including simply requiring a CE to hire employees that meet certain competency levels without regard to any specific increase in level of expenditure.

## **Advertising**

1. **Question:** Are yellow pages allowable when you are advertising meals and snacks?

**Answer:** Yes, the cost to advertise the availability of the CACFP in the yellow pages is an allowable expense.

## Audits

1. **Question:** Our general auditor must audit the financial transactions and records including those related to CACFP. Is any percentage of auditor fees allowable?

**Answer:** The cost for an organization-wide or a program specific audit that meets the requirements of 7 CFR Part 3052 is allowable. If you do not expend \$500,000 or more in federal funds annually (non-profits) or receive \$500,000 or more in CACFP reimbursement in a program year (for-profits), then you are not required by 7 CFR Part 3052 or TDA to obtain an audit. Cost for other audits incurred by an organization to meet State, local or organization needs are unallowable.

**NOTE:** If your organization operates multiple programs you may only claim the CACFP percentage for the audit cost.

## Communications

1. **Question:** Internet access fees for food program only, is this an allowable expense?

**Answer:** Yes.

## Depreciating and Expensing Equipment

1. **Question:** If purchasing equipment over \$5000.00 and we receive \$3000.00 from CACFP funds; can the remaining \$2000.00 carry over to the next month?

**Answer:** There are two methods of charging the nonprofit food service account for equipment: depreciation and expensing equipment. General equipment must be depreciated and not directly expensed.

You may use either 15-year straight-line depreciation or the depreciation method used and accepted for Federal income tax reporting. With specific prior written approval, the program's share of the cost for some equipment purchased by the organization (not an individual) can be directly expensed.

2. **Question:** What if you buy a piece of equipment over \$5000.00 and only want to charge a portion to the food program?

**Answer:** An organization may charge to the Food Service, as a direct cost, certain types of equipment at the time the item is purchased. With specific prior written approval, the program's share of the cost for some equipment purchased by the organization (not an individual) can be directly expensed.

You may never expense, either directly or through depreciation, the cost of improving rental space or facilities, the cost of equipment purchased by individuals, and the cost of equipment or other property donated to the institution. You may never directly expense the following items, but the institution's acquisition cost for these items may be depreciated: buildings, additions, alterations and improvements to buildings and land; general purpose equipment, including office equipment and furnishings; air conditioning equipment; reproduction and printing equipment; motor vehicles; and automated data processing equipment used for both program and general administrative purposes.

### **Facilities and Space**

1. **Question:** Need to add hand washing sink in kitchen and put tile under the refrigerator – is this a capital improvement?  
**Answer:** With specific prior written approval, the cost of putting tile under the refrigerator is an allowable facilities and space cost because the tile is a necessary repair for the efficient and effective operation of the food program and is not a capital improvement. As long as the addition of the sink in the kitchen is for the dedicated use of CACFP operations, it too is an allowable expense.

### **Food Costs**

1. **Question:** Some food items, seasoning, corn chips, etc., are not CACFP allowable costs. Does this mean I cannot purchase this with my non-profit food service account when that account is funded from other sources besides CACFP?  
**Answer:** Allowable food costs are the net price of the purchased foods used in the CACFP. Seasoning and corn chips are allowable food items when they are used in the preparation of a reimbursable food item. You may purchase these items using your nonprofit food service account if you have included food in your approved budget.
2. **Question:** Purchased Services: If we contract with an Independent School District to provide meals for participants, does this require specific prior written approval?  
**Answer:** No, you are not required to obtain specific prior written approval for food costs.
3. **Question:** How do you prorate the cost of food when you're feeding your program staff or serving seconds to participants? Also, these are servings that are not being reimbursed by the government.  
**Answer:** Allowable food costs are the net price of the purchased and vended foods and meals used in the program. Your program staff are part of your food program and therefore, the cost of preparing their meals is an allowable food expense. You must plan and prepare meals with the intent of serving no more than one of each approved meal type per participant per day.

If you are preparing enough for second meals for your participants you will need to factor out the cost to prepare this excess food from your food service costs. You will need to determine the cost to prepare each individual meal and then subtract the cost of the excess meals. If you are only preparing enough to serve one meal to each participant, but just happen to have enough food to serve some seconds because of a fluctuation in participation, you do not need to factor out the cost of the second meals.

4. **Question:** How does this apply when our site is being catered?

**Answer:** Just like any other CACFP CE, you must operate a nonprofit food service. You will probably want to include in your food service budget "Food Cost." Allowable food costs are the net price of the purchased and vended foods and meals used in the program.

### **Income to the Program**

1. **Question:** How do you pay for food in October (for example milk bill is due weekly) before October reimbursement is received? Do you have to use other general revenue funds that can never be replaced?

**Answer:** If you do not have funds in your nonprofit food service account from the previous program year to pay for allowable October expenses, you may do an internal transfer of funds to meet cash flow needs until your reimbursement is received. For example: You transfer from your general revenue account \$2000.00 to meet cash flow needs in your nonprofit food service account. When your reimbursement is received you transfer \$2000.00 from your nonprofit food service account back to your general revenue account. Your organization must have a written policy that allows for internal transfers to meet cash flow needs.

2. **Question:** Our center sponsored a Spring Festival as a fundraiser. It included a silent auction, cakewalk, a raffle, bingo, game booths, music, and food. All items were donated including food items, cooking & serving by parents & volunteers. The food was served through the two kitchen doors. The intent of the fundraiser was for general use. Would money raised on food sales have to go into restricted funds?

**Answer:** Since the purpose of the Spring Festival was to raise money for general use and not for the food service, none of the funds raised have to be put into the restricted nonprofit food service account.

## **Indirect Costs**

1. **Question:** For agencies that receive only Child Care Services (CCS), CACFP and private funds where would we get instructions for setting cost allocation standards?

**Answer:** Indirect costs must be allocated on a consistent and rational basis.

Your indirect cost rate must be developed through a cost allocation plan approved by the cognizant Federal or State agency. The Texas Department of Agriculture Food and Nutrition does not develop or approve cost allocation plans. You should contact the agency that provides you with CCS funds to find out if they will develop and approve cost allocation plans. If this agency does not develop and approve cost allocation plans then you may not budget for or claim indirect costs.

2. **Question:** If an organization has a conferred indirect rate (by the federal government), can this rate be used as indirect rate for administrative cost? We have a conferred indirect rate of 11.1%. Rate is conferred by [U.S.] Department of Health and Human Services in conjunction with Department of Labor (Head Start Program). This rate is also accepted by local Workforce Boards for state federal child care (CCS).

**Answer:** Yes, you may use an indirect cost rate that has been developed through a cost allocation plan approved by the cognizant Federal or State Agency.

## **Labor**

1. **Question:** Cook is needed 9:00 a.m. to 2:00 p.m. every day (5 hrs/day required). If she is off a day, someone has to fill in for her (still 5 hr./day). If cook is needed to sub for a teacher in the afternoon, I keep her over. But, this does not change the fact that she has only 5 hrs/ CACFP. I want to be able to use Time Distribution Report – Alternate Certification Statement in lieu of daily record. Bottom line – someone works 5 hrs. in CACFP.

**Answer:** We understand that completing the Time Distribution Report on a daily basis can be time consuming. However, the Alternate Certification Statement can be used only when the employee worked 100% of their time in the food service and did not deviate from their fixed work schedule. If there is no “fixed work schedule,” then the Alternate Certification Statement cannot be used.

2. **Question:** Our cook’s time is split (50/50) between an Adult Day Care contract and a Child Care Centers contract. 100% of time is spent on food service. Does she need to fill out a time distribution or can she check 100% box?

**Answer:** Your cook may sign the Alternate Certification Statement if she spends 100% of her time on the CACFP, even if part of the time is spent on the CACFP for Adult Day Care and the other part of the time is spent on the CACFP for Child Care Centers. Note: The Alternate Certification Statement can be used only when the employee worked 100% of their time in the food service and did not deviate from their fixed work schedule.

3. **Question:** If the cook is on paid vacation or sick leave and I have a substitute cook, can I claim both expenses?

**Answer:** If the cook's salary is the only labor cost that you include in the budget, then the cook's salary is the only expense that you can claim.

If another employee did cooking duties in the absence of the cook you would not claim a portion of that substitute cooks salary. If your approved budget included a cook and a substitute cook, then you could claim both the cook's salary and the substitute cook's salary.

4. **Question:** If cook(s) goes overtime, would they need to fill out a monthly time distribution report, or just sign the alternate certification statement?

**Answer:** The cook would need to complete a Time Distribution Report on a daily basis if they work outside of their fixed work schedule. The Alternate Certification Statement can be used only when the employee worked 100% of their time in the food service and did not deviate from their fixed work schedule.

5. **Question:** Under what circumstances does a staff (i.e. cook, caregiver) accrue compensatory time? Is this paid when used? At what rate? Note: The U.S. Department of Labor states compensatory time is not allowed.

**Answer:** Payment of overtime, holiday pay for work performed on a non-work holiday and compensatory leave is allowable with specific prior written approval for each instance. You must have a written compensation policy which includes the organization's policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay and payroll tax withholding. The compensation policy must also reflect the requirements of the US Department of Labor's FLSA for all FLSA-nonexempt employees. According to the US Department of Labor, compensatory time is not allowable if the employee is required to take it rather than overtime.

6. **Question:** Can staff sign in/out when doing CACFP duties?

**Answer:** You may require your staff to sign in/out when doing CACFP duties, but this may not be adequate documentation to meet the requirement for claiming labor costs.

To establish the portion of costs that may be claimed as program labor, a daily log or other time distribution method must be used. This report must be completed by the employee, prorated based on the hours worked for program and non-program activities, separate for each employee, done after-the-fact, and in 15-minute increments.

7. **Question:** Your examples of compensation policies were overly complex for my size agency. Would you have access to and provide us with a more basic version of a compensation policy for small agency?

**Answer:** All organizations must establish and maintain a written compensation policy for every element of compensation charged to the program. If you do not charge labor to the food service, then you do not have to maintain a written compensation policy. At a minimum, the written compensation policy must apply to any individual or group of individuals employed by the institution and identify:

- Rates of pay (this can be a range, e.g., cooks will be paid between \$5.50 and \$7.00 based on experience and time of service);
- Hours of work, including breaks and meal periods; and
- The organization's policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay and payroll tax withholding.

8. **Question:** I plan to include only the cook's salary in the program costs, which is generally allowable. However, on occasion the cook doesn't show up and I cook or the Head Teacher cooks. Should I just include us on the time and attendance report as I would the cook?

**Answer:** Time and Attendance Reports are required to justify labor costs charged to the program. These reports must identify the total time actually worked by the individual employee, not just the time spent on CACFP activities. Time and Attendance Reports are different from Time Distribution Reports. If the cook's salary is the only labor cost that you include in the budget, then the cook's salary is the only expense that you can claim. If another employee did cooking duties in the absence of the cook you would not claim a portion of that substitute cook's salary. If your approved budget included a cook and a substitute cook, then you could claim both the cook's salary and the substitute cook's salary.

9. **Question:** I have a cook whose wife is also an employee. Does this qualify as a situation in which I need to disclose the related-party or less-than-arms-length status for Labor Cost purposes?

**Answer:** Less-than-arms-length and related party transactions are not applicable to labor costs. Therefore, you may employ family members and, with the proper documentation, claim their time spent on the food service as a labor cost.

10. **Question:** Does compensation plan have to be in a singular document? What if requirements are covered in several documents? (i.e., Personnel Policies, Policies, Job descriptions, etc)

**Answer:** No, your written compensation policy may be in several documents. However, you must make all of these documents available to TDA upon request.

11. **Question:** If a teacher is out ill, does the substitute teacher need to complete a time distribution report for that day? Also, if the administrator or admin. assistant replaces the teacher who is out ill, does she complete the form and is it legal for her to still claim CACFP hours as admin. cost when she catches up on her paperwork?

**Answer:** Time Distribution Reports must be completed by all full-time and part-time employees who are listed in the approved food service budget, and must account for the total activity for which each employee is compensated. A separate report for each employee who is in the approved budget is required.

If your approved food service budget has expenses for “teachers,” “substitute teachers,” “administrator” and “administrative assistant,” then each of these employee types will be completing their own Time Distribution Report. You will claim labor expenses based on these completed time distribution reports.

12. **Question:** Do cooks who are 100% CACFP need to complete a time distribution report?

**Answer:** Yes. However, they may be able to sign a certification statement instead of completing the Time Distribution Report on a daily basis. Refer to your CACFP Handbook for additional guidance.

13. **Question:** If the director is related to the owner, does the owner have to get prior approval for the director’s salary that CACFP pays for (administrative & operational)?

**Answer:** Less-than-arms-length and related party transactions are not applicable to labor costs. Therefore, you may employ family members and, with the proper documentation, claim their time spent on the food service as a labor cost. As with any other cost you will need prior approval to claim the employed family member’s time spent in the food service.

14. **Question:** I am the director. I claim the food reimbursement every month. Would I be able to claim my time to do all the paper work?

**Answer:** Yes, the amount of time spent gathering and processing food program paper work is an allowable expense. You must ensure that you include the “Director” position in the approved budget and that you keep all required documentation to claim labor.

15. **Question:** Time distribution alternate certification statement – fixed work schedule: My cook (100% CACFP) is normally scheduled from 7:00 a.m. to 1:00 p.m. She only does CACFP duties so it is 100%, but some days she leaves early if she finishes duties early and some days she may stay a little after 1:00 p.m. if the dishes are taking longer or she is making preps for next day. Could she still sign the alternate certification statement if it says, “I did not work outside the hrs. of my fixed schedule?”

**Answer:** No, your cook would need to complete a Time Distribution Report on a daily basis if they work outside of their fixed work schedule. The Alternate Certification Statement can be used only when the employee worked 100% of their time in the food service and did not deviate from their fixed work schedule.

16. **Question:** Our cook sometimes comes in on her off time to be a sub caregiver. Does this make a difference as far as the time distribution sheet? She still fulfills her cook duties, but comes in other times too. Can she still sign the Alternate Certification Statement?

**Answer:** No, she must complete the Time Distribution Report daily. The Time Distribution Report must be completed by all full-time and part-time employees and must account for the total activity for which each employee is compensated.

17. **Question:** What is considered a “substantial increase” in salary? For example, is it a substantial increase if I pay our cook \$9.50/hr. during his probationary period, and then raise his salary to \$10.00/hr. or \$10.50/hr. when he demonstrates proficiency in his job (does CACFP paperwork, all ordering, inventory, cooking, etc.)? This salary is comparable to other salaries in our organization.

**Answer:** All organizations must establish and maintain a written compensation policy for every element of compensation charged to the program. You are only required to establish and maintain a written compensation policy for the positions that are charged to the program. At a minimum, the written compensation policy must apply to any individual or group of individuals in your approved food service budget and identify:

- Rates of pay (this can be a range, e.g., cooks will be paid between \$5.50 and \$7.00 based on experience and time of service);
- Hours of work, including breaks and meal periods; and
- The organization’s policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay and payroll tax withholding.

Your written compensation policy should include your procedures for granting raises. A raise that results from a successful completion of a probationary period or on an annual basis would be acceptable. A “substantial increase” would be one in which you are granting the increase to maximize CACFP reimbursement or an increase that is not in line with similar employees in the community.

18. **Question:** Are Child Care credits (e.g., 50% discount of care) considered allowable fringe benefits?

**Answer:** No.

19. **Question:** Do fringe benefits include part of the FICA & Medicare taxes, worker compensation and insurance?  
**Answer:** Fringe Benefits are the employer's share of costs including vacation leave, military leave, health benefits, life and disability insurance, paid non-work holidays and retirement benefits.
20. **Question:** Cooks that are paid 100% and USDA clerks that are paid 100% — do they need to fill out a time distribution sheet?  
**Answer:** Yes, all labor costs that are charged to the program must be supported by Time Distribution Reports.
21. **Question:** I can't see why you would discourage providers from using labor or a cost in the CACFP application. Daily time studies within 15-minute increments are not feasible.  
**Answer:** It is not our intention to discourage you from claiming allowable costs in your nonprofit food service budget. It is our intent to give you all the necessary information to choose whether or not you want to claim a certain cost based on the documentation requirements. If you do choose to claim labor costs, you must complete all the necessary documentation, i.e., Time Distribution Reports, for this cost to be allowable.
22. **Question:** On the Time Distribution Report, for employees that only work 1 hour to 2 hours a day. Do we still have to document every 15 minutes throughout the day?  
**Answer:** Yes.
23. **Question:** How does "less-than-arms-length" and "related party transactions" affect the small day care center that employs family members or relatives to work in the day care?  
**Answer:** Less-than-arms-length and related party transactions are not applicable to labor costs. Therefore, you may employ family members and, with the proper documentation, claim their time spent on the food service as a labor cost.
24. **Question:** Do we have to send our compensation plan to TDA for review/approval?  
**Answer:** No, staff will review your written compensation policy at your visit prior to approval and during your administrative review(s). However, we may request a copy of your written compensation policy if we have a question about the labor amounts in your budget.
25. **Question:** Since all cooks fill out a signed time sheet on a bi-weekly basis and they work 8 hrs. for CACFP, they would be eligible to use the "Alternate Certification Statement." Can we add the "Alternate Certification Statement" to the current existing timesheet to lessen paperwork?  
**Answer:** We have no set form that must be used to fulfill the requirements for documenting the time distribution for individual employees.

26. **Question:** Do we have to include our staff on the yearly budget? Can we use cook and Admin. Director only?  
**Answer:** No, you do not have to include labor in your annual food service budget. Yes, if you choose to include labor costs it can be for selective positions.
27. **Question:** Our cook is also our grandmother. Do we need to send a disclosure in for this? We pay her a set dollar amount that I believe would be fair to anyone else that would be our cook.  
**Answer:** Disclosure is not required for labor costs, even when individuals employed by the organization are related.
28. **Question:** Do I have to tell TDA every time I give or want to give a raise?  
**Answer:** No. However, your policy on when you give raises must be part of your written compensation policy. You may not give an employee a raise that is intended to maximize reimbursement.
29. **Question:** Compensation Policy – Is it necessary to create a compensation policy if only the cook is listed as part of the labor cost for the CACFP? Are we required to give & list employee’s positions (caregivers)/salaries if they are not included as part of our CACFP budget?  
**Answer:** Yes, all organizations must establish and maintain a written compensation policy for every element of compensation charged to the program. You are only required to establish and maintain a written compensation policy for the positions that are charged to the program. At a minimum, the written compensation policy must apply to any individual or group of individuals in your approved food service budget and identify:
- Rates of pay (this can be a range, e.g., cooks will be paid between \$5.50 and \$7.00 based on experience and time of service);
  - Hours of work, including breaks and meal periods; and
  - The organization’s policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay and payroll tax withholding.

### **Less-Than-Arm’s Length Transactions**

1. **Question:** Conflict of Interest – Disclosure: As a Pastor much of my business is done with individuals I’ve been “in relationships” for some years. I have been doing business with certain vendors that give me great rates. Am I to disclose all family, friends, even members of my church who I’d like to continue doing business with each year?

**Answer:** Yes, all organizations participating in the CACFP are required to disclose and identify related party transactions, less-than-arm's length transactions, ownership interest in equipment, supplies, vehicles and facilities, or disclose any other information that inhibits us from making an informed assessment of the allowability of a particular cost.

2. **Question:** Does a church & a day care have a disclosure problem of less-than-arm's length? If a building owner is also a decision maker in a center, how much rent can the building owner charge the center per month for rent?

**Answer:** All organizations participating in the CACFP are required to disclose and identify related party transactions, less-than-arm's length transactions, ownership interest in equipment, supplies, vehicles and facilities, or disclose any other information that inhibits TDA from making an informed assessment of the allowability of a particular cost.

All related party rental transactions for commercial space and facilities are subject to cost limitations. Costs under less-than-arm's length arrangements, no matter how represented, may not exceed the amount that would have been allowed had the item been owned by the institution. For space and facilities you can only charge the amount that result from applying 30 year life expectancy to the property's acquisition cost less the value of land. The organization may claim depreciation, but not rent.

A less-than-arm's length transaction is one under which one party to the transaction is able to control or substantially influence the actions of the other(s). Such transactions include, but are not limited to, those between divisions of an organization; organizations under common control through common officers, directors or members; and an organization and a director, trustee, officer, key employee of the institution or immediate family, either directly or through corporations, trusts or similar arrangements in which a controlling interest is held.

The renewal completed by all CACFP CEs annually requires disclosure of less-than-arm's length transactions when such costs are included in the food service budget.

## **Material & Supplies**

1. **Question:** If you purchase a year's supply of paper out of your agency's center operations account, can you direct expense it out to your CACFP account per month by writing a check to the centers operations monthly?

**Answer:** Costs of expendable supplies and materials, such as paper, actually used within one month are an allowable cost. You may write a check each month out of your nonprofit food service account to pay for this expense, if you have an approved line item in the budget (Materials and Supplies).

2. **Question:** Can expendable supplies be documented and rolled over from general account each month?

**Answer:** Yes, if you have an approved line item in the budget (Materials and Supplies) you may purchase a bulk amount of expendable supplies out of the general revenue account and then bill the food service account monthly for the amount used in the nonprofit food service within the month. Be sure to keep adequate documentation to explain your billing practice.

3. **Question:** Can the purchase of a stove & refrigerator be claimed and bought using CACFP funds? If so what percentage can be claimed?

**Answer:** Yes, if you have an approved line item in the budget (Materials and Supplies) you may charge the cost of the stove and/or refrigerator to the nonprofit food service account at the time of purchase. You may charge the entire cost of the stove and/or refrigerator if the item will be used exclusively in the CACFP. If the item will be used for other purposes, you may charge only a percentage based on use.

**NOTE:** If the cost of the stove or refrigerator, individually, is over \$5000.00 you will need to have an approved line item in the budget for Equipment and follow those documentation requirements.

### **Monitoring Nonprofit Food Service Status**

1. **Question:** If a school has a Head Start class & operates CACFP in it and a separate claim is filed to USDA for meals served, should the revenue/reimbursement received from Head Start claim be included in the food service budget?

**Answer:** Only those Head Start funds that are specifically designated for food service must be deposited into the restricted nonprofit food service account. Note: All funds received from the CACFP must be included in the restricted nonprofit food service account, even if those funds are based on the participation of Head Start children.

2. **Question:** Can a CE transfer funds monthly into non-profit food service account to pay monthly food service expenses? I do not want to transfer in more than necessary, because once mixed the funds can only pay for allowable food service costs.

**Answer:** Yes, monthly transfers are acceptable for a CE who has expenses in the approved budget that exceed the CACFP reimbursement and must supplement the nonprofit food service account. As noted in the question, once a transfer is posted to the food service account the funds become restricted and can only be used for allowable food service expenses.

3. **Question:** If using Child Care Services (CCS) funds to pay for what was not covered by CACFP do we have to show how those CCS funds are being used?

**Answer:** If the CCS funds are deposited or posted into the food service account, then the use of those funds must be for allowable food service activities and must be appropriately tracked and documented.

4. **Question:** Is it necessary to have a separate fund for CACFP program on general ledger or is cost worksheet for each month sufficient for cost allocation purposes?

**Answer:** You must have a separate account or a separate accounting system, e.g., separate “code” on the general ledger, to track all food service revenue and expenses. A cost worksheet would not be sufficient documentation.

5. **Question:** If clearly evident costs associated with the food program surpass the revenues from USDA, is it necessary to show/prove less evident costs associated with the food program?

**Answer:** All participating organizations must operate a nonprofit food service principally for the benefit of enrolled participants and maintain records documenting the operation of that food service. The revenues from USDA, e.g., your monthly CACFP reimbursement, may not be the only funds that are in your nonprofit food service account. When completing your annual food service budget you must show expenses that equal or exceed food service revenue. **Example:** If your annual budget show expenses for food and cook labor and these two expenses will exceed your food service revenue then you do not have to include any other expenses that may be more time consuming to document.

6. **Question:** When there are excess monies in the non-profit CACFP account that should be spent (over 3 mo. average expenditures) and we want to use it to replace materials such as cracked dishes – is a budget amendment necessary?

**Answer:** If you do not already have a line item in the approved budget for materials and supplies – dishes, then you would need a budget amendment approval prior to expending the funds.

7. **Question:** Can we use Form H4502, *Claim for Reimbursement Worksheet*, to show all management of CACFP income and expenses?

**Answer:** You may use the Form H4502 to show all management of CACFP income and expenses; however, this would not alleviate the responsibility of maintaining a nonprofit food service account which shows all food service revenue and expenses.

8. **Question:** How often do you have to change/amend budget if you deviate from projected budget?

**Answer:** You must maintain a nonprofit food service account which includes all CACFP reimbursement as well as all other income specifically identified and restricted for use in the nonprofit food service. You should contact your Community Operations office to get guidance on when to submit an amended budget. Generally, if the amount in the line item is within a month of depletion you should amend your budget to add funds to the line item.

9. **Question:** We currently have a “general” restricted account. I could have anything from educational material to toys in that account. Do CACFP funds need a separate sub account? If not then how should we show the expenses coming from that money only? Labor costs wouldn’t be able to be applied to that money because payroll has its own account. This issue can be difficult to show on a balance sheet or income statement.

**Answer:** Yes, CACFP reimbursement and all other food service revenue need to be maintained in a separate account or separate line item in your accounting system, e.g. sub account. If you use a separate account system, ensure that it is readily identifiable for your Program Review Specialist when they review your center operation.

### **Purchased Services**

1. **Question:** Can a CE put a line item in the budget for “Equipment Repairs” as they know they have had refrigerator, stove, etc., repairs every year? Or must a CE request an amendment specifically for “dishwasher repair” when the dishwasher breaks?

**Answer:** You may include a line item under purchased services for the projected amount of repairs or upkeep of administrative and food service equipment. You will need to keep documentation, e.g. service invoice, of actual expenses that you expend and claim.

### **Rental**

1. **Question:** How do you split the pro-rated cost for items like rent between admin & operations, and why is it necessary?

**Answer:** When charged as a direct cost, the rental costs for facilities must be allocated between program and non-program use and between administrative and operations space. Follow these procedures to identify the maximum food program share of the cost for space.

First, prorate the rental cost by the ratio of square footage of program administrative space. Then, prorate the rental cost by the ratio of the actual number of hours of program administrative use to the total number of hours that the space is used. You will follow the same procedure to determine the allowable program operations space cost.

Your Community Operations office can help you with these calculations.

2. **Question:** If you are paying a mortgage on a building, can you budget – expense the CACFP portion of the building being used as the kitchen? What percentage is allowed? What about depreciation on that percentage?

**Answer:** Yes, you can budget as depreciation the portion of the building being used for the kitchen. Follow these procedures to identify the maximum food program share of the cost for space.

- a. Determine the maximum amount for depreciation that can be claimed for the building using a 30-year straight line method.
- b. Next, prorate the maximum depreciation amount by the ratio of square footage of kitchen space to the total square footage of space in the building.
- c. Lastly, prorate by the ratio of actual number of hours of kitchen use for the CACFP to the total number of hours the kitchen is used for all programs.

**NOTE:** You cannot prorate the mortgage payment. You can only prorate the depreciation.

Your Community Operations office can help you with these calculations.

3. **Question:** If you lease ADP equipment, can you pro-rate the equipment as a direct expense?  
**Answer:** Yes. The rental cost for equipment owned by a third party when a bona fide arms-length written rental agreement exists is an allowable cost. The rental cost must be prorated between program and non-program use.

4. **Question:** If you are accounting for a vehicle that is leased that is strictly CACFP used and you usually account for fuel expense for that vehicle plus two other vehicles – used for CACFP shopping, training, & monitoring sites – is fuel cost only allowable for the non-leased vehicle?

**Answer:** No, you may charge the actual program share of costs for operating the vehicle including gas, oil, routine maintenance, and leasing fee. You may not, however, use a mileage allowance, set amount like .50 per mile, when a lease fee is charged for the same vehicle.

### **Specific Prior Written Approval**

1. **Question:** Are there time limits set on getting specific prior written approval?  
**Answer:** F&N must grant the organization specific prior written approval of both the cost and the amount of the cost before the cost is incurred. F&N must have sufficient time to evaluate the request.

2. **Question:** With specific prior written approval, a letter is required to explain justification. If you have more than one cost item requiring specific prior written approval, do you need to write more than one letter or may you combine all of your cost items that need Specific Prior Written Approval on one letter?

**Answer:** You will request specific prior written approval using the Budget Detail and Budget Justification and Disclosure form and not a letter. You must identify which costs on your budget require prior written approval, specific prior written approval and FNS Regional Office approval.

## **Taxes**

1. **Question:** Sales tax is chargeable, but according to IRS standards property tax (County and School) is also a write off. Yet no mention is made. This includes real property, personal property and vehicles.

**Answer:** Taxes or payments in lieu of taxes that the organization is legally required to pay as a result of operating the CACFP are allowable. Unallowable taxes include: (1) personal income taxes; (2) corporate income taxes; (3) taxes resulting from non-program operations; (4) special assessments on land that represent capital improvements; (5) any taxes form which exemptions are available, whether or not the exemption is exercised; and (6) penalties and interest payments resulting from late filings or payments when these costs result from complying with specific CACFP provisions or written instructions from FNS.

## **12030 Oversight, Training and Monitoring**

1. **Question:** Will a signed statement from a parent or a printout sent to the site by the sponsor constitute annual update of the child's enrollment?

**Answer:** No. A signed statement from a parent that did not also certify that the child's days, hours, and meals received in care had not changed would be insufficient. We may permit sites to provide parents with the previous year's enrollment form, and to ask parents to indicate any changes and to sign and date the form. In that way, parents have an opportunity to indicate a change to their child's days, hours, and meals received in care.

2. **Question:** Must all enrollments expire on the same date?

**Answer:** No. Enrollment forms do not have to expire at the same time. The only limitation is that enrollment forms cannot be in effect for more than 12 months.

3. **Question:** Does the new requirement for normal days and hours in care on the enrollment form mean that the CE and site cannot claim meals served to a child at other times?

**Answer:** No. The expanded information on the enrollment form is intended to serve as a red flag for CACFP monitors during on-site reviews. We understand that there are many legitimate discrepancies between a child’s projected schedule and the actual attendance and meal counts recorded by a CE and site. Asking parents to estimate when their children will be in care provides the monitor with information that will make it easier to detect when meal counts are being inflated.
4. **Question:** How should parents fill out an enrollment form when their work schedule (and child care needs) varies from one week to the next?

**Answer:** When parents work swing or rotating shifts, we would expect them to indicate on the enrollment forms that they work multiple shifts, and that their children would be in care for different hours on different days. Although their schedules may be unpredictable, we would ask the parents to estimate the hours and days they expect that their children will most often be in care.
5. **Question:** What is the definition of an enrolled child? Is it a child who attends a child care center at least once during the month, or is it a child who may attend, based on the yearly enrollment update?

**Answer:** An enrolled child is defined as a child whose parent has submitted a signed document indicating that the child is enrolled for child care. Any child who could be in attendance, for the purpose of receiving child care and at least one CACFP meal, would be an enrolled child.
6. **Question:** Do Head Start centers need to have enrollment forms if they have attendance sheets? If so, do they need to capture information on each child’s expected days, hours, and meals received in care if all of the children receive the same meals and are in care on the same days?

**Answer:** Yes. Children in Head Start centers must still be enrolled for care, and the new information on the child’s expected days, hours and meals received in care must be captured on the enrollment form. However, because the majority of Head Start programs enroll children in a particular “session” (i.e., AM session, PM session, or all day) and provide the same meals to all children in that session, such Head Start centers are permitted to simply capture information on the enrollment form about which session the child will attend that year.
7. **Question:** Why do CEs and sites have to have CACFP enrollment forms if the State licensing agencies already require enrollment forms for all children in child care?

**Answer:** There is no requirement for a “CACFP enrollment form.” Rather, it is required that children be “enrolled for care” in order for their meals to be eligible for CACFP reimbursement. If the licensing agency mandates that its enrollment form be utilized in that State, then the form must be annually reviewed and signed by a parent or guardian, and must include the newly-required information on each child’s expected days, hours, and meals received in care. If the State licensing agency will not amend its form, you must capture the required information on each child’s expected days, hours, and meals received in care in some other fashion.

8. **Question:** If a CE or site provides transportation does it still need to include normal hours of care on the enrollment forms?

**Answer:** Yes. The enrollment forms must still include the children’s normal days and hours in care.

9. **Question:** How can a sponsor monitor conduct a five-day reconciliation if the enrollment forms have not been updated as required?

**Answer:** The initial step in conducting a five-day reconciliation is to determine whether the enrollment and attendance data are current and accurate. If the monitor determines that the enrollment data are not current or accurate, then attendance data should be used to conduct the reconciliation.

In this case, the monitor would require corrective action to bring the site into compliance with the enrollment requirements. Depending on the site’s previous record, the corrective action might or might not be part of a declaration of a serious deficiency.

10. **Question:** In order for an onsite review to count as one of the three required annual reviews, must five-day reconciliation be performed? What if the review is conducted between the 1<sup>st</sup> and 5<sup>th</sup> of the month, and the site has mailed all of its prior month’s documentation to the sponsor?

**Answer:** Yes. Sponsors must conduct a five-day reconciliation of enrollment or attendance records to meal counts as part of the onsite review. When scheduling onsite reviews, the sponsor should consider factors such as the availability of information needed for the review.

11. **Question:** In five-day reconciliation, what constitutes a discrepancy? Enrollment, attendance, and meal counts will rarely be the same.

**Answer:** When conducting five-day reconciliation, the monitor’s task is to determine whether the meal counts were accurate when compared to the daily or shift attendance for all meal types for the selected five-day period. Enrollment data serves as a check on the attendance data.

If attendance exceeds enrollment, for any day or for any shift (if shift care is provided), the monitor must determine the source of the error (e.g., inaccurate attendance records, missing enrollment forms) before the five-day reconciliation can be completed, and the nature of the required corrective action can be determined.

12. **Question:** Do all three reviews of each site conducted annually by sponsors have to be conducted onsite?  
**Answer:** Yes. Even though monitors may review many records in the sponsor's office prior to the review, an onsite review must still be conducted.
13. **Question:** During a meal service observation, is a monitor required to be at the site for the entire meal service period?  
**Answer:** Not necessarily. If the monitor has completed all of the necessary review elements, the monitor may leave. If the monitor has come to review a site at a scheduled meal time and no one is present, the monitor can either wait for the entire meal service to verify that the site is missing the meal service, or they can conduct a review at another nearby site and return before the end of the meal service, either to conduct the review or to verify that the site missed the meal service.
14. **Question:** May sponsors claim meal types (e.g., a supper or a post-supper snack) that they do not intend to monitor?  
**Answer:** No. Although it would be impractical for the sponsor to review each meal service at each site every year, sponsors must provide reasonable oversight of each meal service claimed by their sites.
15. **Question:** If the sponsor is notified by the State licensing agency of a problem at one of its sites, will the subsequent review count as one of the three required reviews?  
**Answer:** Yes. It will count as long as it covers all of the required review elements.
16. **Question:** Please clarify the term "annual training." Does it mean that training must be given within a 12-month period?  
**Answer:** No. Annual training may be scheduled at slightly different times each year. The basic requirement is that, during each program year (PY), the site's key staff must be trained. For example, a sponsor that conducts training in September 2011 and April 2012 is complying with the requirements because training was held during PY 2010 and PY 2011.
17. **Question:** Please clarify: do the regulations cover only site training, or are sponsors also required to attend training?  
**Answer:** Sites, independent CEs and sponsors are all required to attend training. F&N provides training and technical assistance to independent CEs and sponsors. Site-level training requirements are addressed in Item 4330, Training, of this handbook.

18. **Question:** If I am giving an infant that is 8 to 11 months formula and I offer the parent the baby food that is offered for the day and the parent declines the baby food that is offered that day and they bring their own, do we get reimbursement for that meal because we offered but they decline and we are still giving the infants the formula?

**Answer:** Yes, as long as the parent (or guardian) declined the baby food and the CE or site is providing the infant formula in the minimum quantity required in the infant meal pattern, then the CE and site will be eligible to claim that meal for reimbursement. Note: The CE and site must maintain a statement from the parent (or guardian) on file that parent/guardian declined the baby food.

19. **Question:** Infants – What is an example of a cheese food and cheese spread that is allowed?

**Answer:** Any cheese food and cheese spread not labeled with the wording “imitation” cheese or cheese “product” is allowed. Refer to Section 1: Meat/Meat Alternates on pages 1-23 through 1-25 of the Food Buying Guide for additional guidance.

20. **Question:** Infants – Are we required to serve all needed formula (i.e., a child might eat 6 oz. every three hours) or only required meals?

**Answer:** Yes, you are required to serve infants all needed formula. Infants must be fed at a span of time consistent with the infant’s eating habits. These times may or may not occur during the site’s approved meal service times. As long as the infant is served a meal that contains, at a minimum, each of the food components indicated in the quantity that is required for the infant’s age, the site can claim two meals and one snack or one meal and two snacks per infant per day.

21. **Question:** Are we required to be responsible for all feeding on demand or can we require parents to provide all unclaimed feedings?

**Answer:** Yes, you are responsible for all feedings on demand that are consistent with the infant’s eating habits. These times may or may not occur during the site’s approved meal service time(s).

Meals are reimbursable when all of the required components in the meal pattern are provided. CEs and sites participating in the CACFP are reimbursed for two meals and one snack or one meal and two snacks.

22. **Question:** Cheese food and cheese spread – lots of oil – is this healthy?

**Answer:** Yes, as long as the cheese food and cheese spread is not labeled with the wording “imitation” cheese or cheese “product”. Refer to Section 1: Meat/Meat Alternates on pages 1-23 through 1-25 of the Food Buying Guide for additional guidance.

23. **Question:** If a doctor requires a different brand formula, does the CE have to supply (e.g., Enfamil vs. Similac)?

**Answer:** Yes and no.

<p>If a doctor requires a different brand formula due to an infant's ...</p>	<p>Then the ...</p>
<p>Disability,</p>	<p>CE or site is required to provide the different brand formula. The CE and site must keep on file a copy of the licensed physician's medical statement. The medical statement must identify:</p> <ul style="list-style-type: none"> <li>• The infant's disability and an explanation of why the disability restricts the infant's diet;</li> <li>• The major life activity affected by the disability;</li> <li>• The food or foods to be omitted from the infant's diet;</li> <li>• The food or choice of foods that must be substituted; and</li> <li>• Any other restrictions and/or requirements specific to the infant's disability (i.e., caloric modifications or the substitution of a liquid nutritive formula).</li> </ul>
<p>Medical or special dietary need,</p>	<p>Decision as to whether or not the CE or site will provide the different brand formula is at the CE's or site's discretion. CEs and sites not required to satisfy the unique formula needs of every infant. Although we urge child CEs and sites to make every effort to satisfy the unique formula needs of each infant with a formula that meets program requirements, we recognize that this may not always be possible due to operational and financial constraints.</p> <p><b>Note:</b> CEs and sites that provide the substitution must keep on file a copy of the medical statement signed by a recognized medical authority. In these cases, a recognized medical authority may include physicians, physician assistants, or nurse practitioners. The medical statement must include the:</p> <ul style="list-style-type: none"> <li>• Medical or special dietary need that restricts the infant's diet;</li> <li>• Food or foods to be omitted from the infant's diet; and</li> <li>• Food or choice of foods that may be substituted.</li> </ul>

24. **Question:** If infant 8-11 months is on table food must I serve baby cereal according to meal pattern?

**Answer:** Yes and no. According to the infant meal pattern chart for 8 through 11 months, you must serve all components. The breakfast meal service must include baby cereal. The lunch or supper meal service may include baby cereal, but it is not required, so long as a meat or meat alternate is served. Refer to Item 4113.1, Meal Pattern Charts – Infants, of your CACFP-CCC Handbook for additional guidance.

25. **Question:** Do we claim the amount offered a baby or exactly what they ate?

**Answer:** Neither. Claims for reimbursement are based on meal counts taken at point of service for meals served to infants that meet infant meal pattern requirements. A reimbursable meal must have, at a minimum, each of the food components indicated in the infant meal pattern in the quantity that is required for the infant's age.

26. **Question:** Since infants are required to be fed, if a doctor prescribes a certain formula, do I have to purchase or should this be under Medicaid?

**Answer:** Yes and no. If a doctor prescribes a certain formula, then it depends if the prescribed formula is due to an infant's disability or an infant's medical or special dietary need. Refer to the answer to Question 23 above for additional guidance.

If the doctor prescribes a certain formula due to an infant's medical or special dietary need and you determine that it is not possible to offer the substitution due to operational and financial constraints, then it is the responsibility of the parent (or guardian) to provide the prescribed infant formula and file a claim with Medicaid, if applicable.

27. **Question:** When an infant receives both breast milk and formula, is the meal eligible for reimbursement?

**Answer:** Yes, a meal served to an infant under 12 months of age which contains some amount of breast milk (and some amount of formula) is reimbursable as long as 1) the total number of ounces offered to the infant meets, or exceeds, the minimum amount for the milk component as specified in the CACFP infant meal pattern; and 2) the site provides the formula or at least one optional meal component listed in the meal pattern for the appropriate age group.

28. **Question:** Are meals served to children 12 months of age and older reimbursable if they contain infant formula?

**Answer:** Yes, with the following caveat. When a child 12 months of age is weaning from infant formula to whole cow's milk (or transitioning), meals that contain infant formula may be reimbursable for one month. During the weaning process from formula or breast milk to cow's milk, it is a common practice to provide the infant with both foods at the same meal service to gradually ease the infant into accepting some of the new food.

However, for children 13 months of age and older, you must have a statement from a recognized medical authority requiring infant formula to continue to be served to a child in order for the meal to be eligible for claiming for reimbursement.

29. **Question:** If a physician prescribes whole cow's milk as a substitute for breast milk for an infant less than 12 months of age, is the meal reimbursable?

**Answer:** Yes. A meal or snack containing whole fluid cow's milk served to an infant less than 12 months of age is eligible for reimbursement if the substitution is authorized in a written statement from a recognized medical authority. Similarly, if a recognized medical authority prescribes a formula such as low-iron fortified formula, which is not currently listed as a creditable formula for CACFP, the meal is eligible for reimbursement. The medical statement which explains the food substitution or modification must be kept on file by the CE or site.

30. **Question:** A mother would like her 5-month old infant to receive breast milk which she provides and solid foods, which are listed as options in the meal pattern. Because the infant is developmentally ready for solid foods, whose responsibility is it to provide them?

**Answer:** If an infant is developmentally ready for one or more solid food items and the parent or guardian requests that the infant be served solid foods, the CE or site is responsible for purchasing and serving them to the infant.

The CACFP infant meal pattern considers the difference in developmental rates for infants. Some food items such as fruit and cereal are listed as options in order to account an infant's readiness to accept the new foods. A CE or site must serve a complete meal to every infant or child enrolled for the meal service. Therefore, if a child is developmentally ready for these solid foods and the parent or guardian requests that the infant is served solid foods, the components are no longer considered as options and should be served to the infant.

31. **Question:** Is a meal reimbursable if the parent or guardian provides the majority of the meal components for infants older than three months?

**Answer:** A parent may provide additional food items for meals for infants older than three months of age provided that the parent observes local health codes in the preparation and transporting of the food. However, in order for the meal to be eligible to claim for reimbursement, the CE or site must provide at least one of the components in the minimum quantity specified in the meal pattern. CEs and sites must ensure that the parent or guardian is indeed choosing to provide the preferred component(s) and that the CE or site has not solicited them to do so in order to complete the meal and reduce cost to the CE or site.

32. **Question:** If a mother comes to the site to nurse her infant, is the meal reimbursable?  
**Answer:** No, if breast milk is the only required item for the meal. However, if the infant is over 3 months of age and the site provides at least one other component, the meal is considered reimbursable.

33. **Question:** Cottage cheese is a meat alternate in the lunch and supper meal pattern for infants ages 8 through 11 months. How much cottage cheese must be offered to fulfill the meat/meat alternate meal pattern requirement?

**Answer:** The amount of cottage cheese required to be served to fulfill the meat/meat alternate requirement is 1 - 4 ounces.

34. **Question:** Beech-Nut has a product called a “dessert” which contains only apples, apple concentrate with water added, cinnamon, and Vitamin C. There is no added sugar. I know that we don’t allow “desserts” to be credited, in general; since this product does not contain pudding, cereal, or some other type of an extender, would this be an exception? It is possible that Beech-Nut has many other fruit “desserts” that would fall in the same category.

**Answer:** The Beech-Nut product labeled as a “dessert” is not reimbursable in the infant meal pattern of the CACFP. Commercial baby foods in the dessert category (these generally have “dessert” or “pudding” as part of the product name on the front of the label) which list a fruit as the first ingredient in their ingredient listing are not reimbursable meal components in the infant meal pattern. If a CE, site or parent wishes to feed an apple-containing baby food, there are numerous baby food manufacturers, including Beech-Nut, that produce baby food fruit products containing apple as a single ingredient or in combination with other fruits.

35. **Question:** Carnation has a new product which is infant cereal and formula mixed together. I consider this a “combination food” and thus not creditable. Have you received anything from Carnation to indicate how much cereal would be in a serving?

**Answer:** All infant cereals which contain formula ingredients added to them by the manufacturer are not reimbursable.

The CACFP infant meal pattern will allow only infant cereal that meets the definition “any iron-fortified dry cereal specially formulated for and generally recognized as cereal for infants that is routinely mixed with breast milk or iron-fortified infant formula prior to consumption” and does not contain additional ingredients such as fruit or infant formula ingredients.

36. **Question:** In the “Feeding Infants” booklet, page 30, it describes good practices for preparing bottles, including boiling everything for 5 minutes. What was the source agency for this information? Is this something that is cited in each state’s sanitation regulations?

**Answer:** According to the product labels on most cans of infant formula, most manufacturers recommend boiling bottles and their parts for 5 minutes to ensure that the bottles and parts are sterilized and sanitary. The upcoming edition of “Feeding Infants - A Guide for Use in the Child Nutrition Programs” will include this same recommendation.

The above recommendation is also included in the publication “Keeping Kids Safe: A Guide for Safe Food Handling & Sanitation for Child Care Providers” (November 1996) published by USDA’s Food Safety and Inspection Service, under “Safe Handling of Bottles,” page 6: “Wash bottles, bottle caps and nipples in the dishwasher OR hand wash, rinse and boil for 5 minutes or more just before re-filling.” The recommendation to boil bottles and their parts for 5 minutes may or may not be in each State’s sanitation regulations.

37. **Question:** We received a mysterious call about a Food Guide Pyramid for ages 2-6. Can you share any background information?

**Answer:** The Center for Nutrition Policy and Promotion (CNPP) published the “Food Guide Pyramid for Young Children”. Team Nutrition then printed and distributed copies of the poster to child care sponsors, State agencies, and the USDA Regional Offices. You can contact Team Nutrition to order. The booklets and sample menu flyers which were also developed by CNPP can be purchased from the National Food Service Management Institute. If you have further questions on this issue, please contact Vicky Urcuyo at (703) 305-1624.

38. **Question:** Is a CE or site required to provide a non-dairy milk substitute if it is not related to a medical disability?

**Answer:** No. It is at the CE’s or site’s discretion to provide a non-dairy milk substitute if it is not related to a medical disability.

39. **Question:** Will CEs or sites receive additional meal reimbursements if they provide a non-dairy milk substitution?

**Answer:** No. All non-dairy milk substitutions are at the expense of the CE or site and/or the child’s parent or guardian.

40. **Question:** If a parent provides a creditable non-dairy milk substitute, can the CE or site serve it and still receive reimbursement?

**Answer:** Yes. If a parent provides a non-dairy milk substitute that meets the nutritional standards as outline in 7 CFR 210.10(m)(3) and that has been approved by the State agency, the CE or site may serve the non-dairy milk substitute and still claim reimbursement for the meal.

41. **Question:** If a parent or adult participant can request a non-dairy milk substitute that is equivalent to cow's milk, can the parent or adult participant also request that their child or themselves be served whole or reduced-fat (2%) milk?

**Answer:** No. The Act requires that milk served to children and adults in the CACFP be aligned with the most recent version of the Dietary Guidelines for Americans. The 2010 Dietary Guidelines for Americans recommends that persons over the age of two consume low-fat (1%) or fat-free (skim) milk. Therefore, any request for higher fat milk must be made through a medical statement, related to a medical disability, and prescribed by a licensed physician.

42. **Question:** What if the parent agrees to provide the non-dairy substitute, but brings in one that does not meet the USDA's nutritional standards; can the caregiver serve it and still receive reimbursement?

**Answer:** CEs and sites should inform parents about the types of creditable non-dairy milk substitutes. If a non-dairy milk substitute is served that does not meet the nutritional standards outlined in 7 CFR 210.10(m)(3), then the meal is not reimbursable.

43. **Question:** When submitting menus for review, do CEs and sites need to document the type of milk that they serve?

**Answer:** No. CEs and sites are not required to document the type of milk served on their menus. **However**, TDA does require CEs and sites maintain meal production records which must document the specific item used, for example 1% milk, and the quantity prepared.

44. **Question:** What type of milk may one-year old children be served?

**Answer:** The milk requirements for children one year of age remain unchanged at this time. It is recommended, but not required, that children 12 through 23 months of age be served whole milk only.

45. **Question:** If one-year old and two-year old children sit together for the same meal, must they be served different types of milk?

**Answer:** Children older than two must be served low-fat (1%) or fat-free (skim) milk and it is recommended that children one year of age be served whole milk. CEs and sites must ensure that children of various ages seated at the same meal receive the appropriate type of milk.

46. **Question:** What happens if a CE or site serves reduced-fat (2%) or whole milk on or after October 1, 2011?

**Answer:** Effective October 1, 2011, meals served to participants two years of age and older that include reduced-fat (2%) or whole milk are not reimbursable and must be disallowed. In addition, the CE or site must submit corrective action to TDA, or the sponsor as applicable, and TDA and/or the sponsor will follow up to ensure it has been successfully implemented.

### **Edit Checks (Flag Items)**

1. **Question:** Can a sponsor employ an edit check that is more restrictive than the minimum edit checks required by the regulations?

**Answer:** Yes. However, the sponsor would always have to ensure that, whatever edit checks they employ, they include the minimum requirements for edit checks set forth in Item 4340, Monitor Reviews, of this handbook.

2. **Question:** Does a sponsor with a manual system need to apply each of the edit checks to every site's meal count? Our sponsors with manual systems check 25 percent of the claims each month, and then more if at least 2 percent are in error.

**Answer:** Yes. The edit checks specified must be applied to each site's claim each month. Checking a percentage of the sponsor's sites is not an acceptable method of complying with these requirements.

3. **Question:** For a sponsored site, are the edit checks applied to each classroom, or to the site as a whole?

**Answer:** The edit checks are to be applied to the site as a whole.

4. **Question:** Do sponsors' edit checks have to be able to separately track different types of snacks?

**Answer:** Sponsoring organizations are required to have edit checks that differentiate between types of snacks.

If they did not, it would be difficult to tell whether a site was claiming for three meals (e.g., breakfast, lunch and PM snack) or four meals (e.g., breakfast, lunch, AM snack and PM snack). Therefore, sponsor edit check systems should be designed to capture information on each meal type, and therefore must be capable of distinguishing between AM, PM and Evening snacks.

## **At-Risk Afterschool Care Centers**

1. **Question:** What are the basic eligibility criteria for afterschool care centers? Are for-profit centers eligible to receive reimbursement for at-risk afterschool meals? Can traditional child care centers already participating in the CACFP qualify for at-risk afterschool reimbursement?

**Answer:** To participate in the at-risk afterschool meals component of the CACFP, a public or private nonprofit organization (including a school) must operate an afterschool program organized primarily to provide care for children after school hours or on weekends, holidays, or school vacations during the regular school year and that:

- Provides children with regularly scheduled activities in an organized, structured, and supervised environment;
- Includes education or enrichment activities; and
- Is located in a geographical area served by a school in which 50 percent or more of the children enrolled are eligible for free or reduced price school meals.

For-profit centers may receive reimbursement for at-risk afterschool meals, if they:

- Meet all at-risk afterschool eligibility requirements above; and
- Are eligible to receive reimbursement as a for-profit center through the traditional child care component of the CACFP.

A child care center participating in the traditional component of the CACFP that meet the above criteria may be eligible to receive reimbursement in the at-risk component if they serve meals and snacks to children who attend the center after their school day has ended. Children who do not attend school would continue to participate in the traditional CACFP meal service.

2. **Question:** Are there any afterschool care programs that may not be approved?

**Answer:** Yes. Organized athletic programs engaged in interscholastic or community level competitive sports only (i.e., youth sports leagues such as “Babe Ruth” and “Pop Warner” baseball leagues, community soccer and football leagues, area swim teams) may not be approved. However, afterschool care programs which include supervised athletic activity may participate provided that they are “open to all” and do not limit membership for reasons other than space or security or, where applicable, licensing requirements. For example, an afterschool police athletic league program that uses sports and recreational activities to provide constructive opportunities for community youth could be approved to participate in the CACFP at-risk afterschool snack program.

3. **Question:** Does the “open to all” criterion apply to programs other than interscholastic sports programs?  
**Answer:** No. Afterschool care programs that are designed to accommodate special needs or that have other limiting factors may be eligible to participate. They may include, but are not limited to programs targeted to children who have learning disabilities or programs for children who are academically gifted.
  
4. **Question:** Is licensing required for an afterschool care program?  
**Answer:** Otherwise eligible afterschool care programs do not need to be licensed in order to participate unless there is a State or local requirement for licensing. If there is no State or local requirement for licensing, then afterschool care programs must meet State or local health and safety standards. Organizations should check with their State and local health departments to determine the requirements they must meet to operate an afterschool care program in their community. Existing afterschool care programs that have not had a meal service as part of their program in the past should also check with State and local health department officials to determine whether any additional requirements apply as a result of the service of an afterschool snack.
  
5. **Question:** If the State or locality does not require licensing for afterschool centers and has no existing health and safety standards for afterschool centers, can organizations still participate in the program?  
**Answer:** No. Meeting State and local health and safety standards is a requirement for participation.
  
6. **Question:** Do at-risk afterschool programs have to be drop-in or can enrolled programs also participate?  
**Answer:** At-risk afterschool programs may be either drop-in or enrolled.
  
7. **Question:** Are programs that operate on weekends eligible for reimbursement?  
**Answer:** Meals and snacks may be reimbursed if they are served on weekends or holidays, including vacation periods (e.g., Spring break), during the regular school year only.
  
8. **Question:** Are programs that operate during the summer vacation eligible for reimbursement?  
**Answer:** At-risk afterschool meals and snacks may not be reimbursed during summer vacation. Organizations that wish to operate programs during summer when school is not in session may be eligible to receive reimbursement for meals and snacks through the Summer Food Service Program.

In areas where schools operate on a year-round basis, afterschool programs may receive reimbursement for at-risk meals and snacks through the CACFP all year if these programs are set up to serve children attending the year-round schools.

9. **Question:** Are the licensing provisions under P.L. 105-336 also applicable to Outside-School-Hours Care Centers (OSHCC's), or are they limited to afterschool at-risk centers?

**Answer:** The licensing provisions apply to both OSHCC's and afterschool at-risk centers. Therefore, otherwise eligible OSHCC's or afterschool at-risk centers do not need to be licensed in order to participate in CACFP unless there is a State or local requirement for licensing. If there is no State or local requirement for licensing, then OSHCC's and afterschool at-risk centers must meet State or local health and safety standards.

10. **Question:** What are the differences between Outside-School-Hours Care Centers (OSHCC's) and afterschool at-risk centers in the CACFP?

<b>Requirement</b>	<b>OSHCC's</b>	<b>Afterschool At-Risk Centers</b>
Eligible Institutions	Public; private nonprofit; or qualifying for-profit centers.	Public; private nonprofit; or qualifying for-profit centers.
Licensing	Licensing not required unless there is a State or local requirement for licensing. If there is no State or local requirement for licensing, then centers must meet State or local health and safety standards.	Licensing not required unless there is a State or local requirement for licensing. If there is no State or local requirement for licensing, then centers must meet State or local health and safety standards.
Determination of Reimbursement	Program may operate in any area. Individual free and reduced-price applications are collected to determine level of reimbursement (free, reduced price, and paid).	Program must be located in a geographic area served by a school in which 50 percent or more of the children enrolled are eligible for free or reduced-price meals. All meals and snacks are reimbursed at the free rate.
Age of Participants	12 years of age and under, children age 15 and under who are children of migrant workers, and persons of any age who meet the definition of "Persons with disabilities".	School-age children up through age 18 (or 19 if the child turns 19 during the school year) and persons of any age who meet the definition of "Persons with disabilities".
Type of Meals Eligible for Reimbursement	Breakfast, snack, and supper. Lunch may be served during school vacations during the regular school year.	Snack and supper. Breakfast or lunch may be served in lieu of supper on weekends, holidays, or during school vacations during the regular school year.

Requirement	OSHCC's	Afterschool At-Risk Centers
Number of Reimbursable Meals	Maximum of 2 meals and 1 snack or 1 meal and two snacks per child per day.	Maximum of 1 meal and 1 snack per child per day.
Meal Patterns	CACFP meal patterns.	CACFP meal pattern.
Meal Service Periods	School days, weekends, and holidays; no weekend-only programs.	School days, weekends, and holidays during the regular school year.
Time Restrictions for Meal Service	See TDA meal service requirements in 4115 of this handbook.	See TDA meal service requirements in 4115 of this handbook.

11. **Question:** Can an at-risk afterschool program charge “tuition”, similar to a regular child care facility?  
**Answer:** Similar to non-pricing child care centers, there may be a fee for the care provided or a “tuition” charge, but there can be no separate charge for the food service. Although the regulations do not specifically prohibit or specifically authorize tuition charges, should TDA encounter a situation where a substantial participation fee is being charged that might adversely affect the ability of needy children to participate, the CE may not be approved to participate in the at-risk component.
12. **Question:** May 21<sup>st</sup> Century Community Learning Center schools that have been claiming reimbursement for snacks as Outside-School-Hours Care Centers under CACFP now switch to NSLP?  
**Answer:** Yes. Schools operating afterschool care programs funded through the Department of Education’s 21st Century Community Learning Centers (CLC) grants may switch from CACFP to NSLP. However, 21st Century CLC schools wishing to switch Programs must amend their agreement with the State agency, and meet the eligibility requirements for NSLP. Their agreement with the State agency must also be amended if they want to continue operating under CACFP and expand snack service to children through the age of 18.
13. **Question:** Are there any restrictions on afterschool programs switching from CACFP at-risk during the school year to SFSP during the summer when school is not in session.  
**Answer:** Yes, there are restrictions. An organization which only serves afterschool snacks to children under CACFP during the school year could serve meals to all children through age 18 under SFSP during the summer months, subject to approval of their SFSP application.

However, a traditional child care center that also serves at-risk afterschool meals/snacks (i.e., the center has enrolled pre-school children in care during the day, but also serves at-risk afterschool meals/snacks to school-age children) must comply with FNS Instruction 782-4, rev. 3.

This instruction states that traditional child care centers may only claim some or all of their meals under SFSP during the summer when there is a substantial change in program activities or a significant increase in enrollment. Organizations approved for both CACFP and SFSP must ensure that the same children are not served meals in both programs, and separate records must be kept.

Generally, organizations may not establish separate entities using separate tax identification numbers to serve the same children under different child nutrition programs in order to avoid the restrictions or to earn higher reimbursement. However, if there is a legitimate need for a separate organization and it meets the requirements above, it may be approved to participate in the SFSP.

If a traditional child care center did not substantially change its activities or significantly increase its enrollment during the summer months, it could only receive reimbursement through SFSP for meals served to children who participate in the afterschool care program during the school year. Such a center would receive free, reduced price, and paid reimbursement through CACFP for all other children enrolled for care (through the age of 12). Per FNS Instruction 782-4, rev. 3, the determination to either approve the institution for participation in both the CACFP and SFSP or solely for the CACFP should be based on the institution's program objectives.

14. **Question:** May a school food authority which vends afterschool snacks to a private nonprofit sponsor claim those snacks under the NSLP?

**Answer:** No. A school food authority that vends afterschool snacks to a private nonprofit sponsor may not claim those snacks under the NSLP. In order for the school food authority to claim those snacks, the school food authority must have an agreement with the State agency and must assume full responsibility for meeting Program requirements. However, snacks vended to a private nonprofit sponsor could be claimed by the sponsor under CACFP.

15. **Question:** How does an afterschool care program site qualify as area eligible?

**Answer:** An at-risk afterschool site qualifies as area eligible if it is located in the attendance area of a public school in which at least 50 percent of the students are eligible for free or reduced-price meals.

16. **Question:** How should organizations operating afterschool care programs that want to participate through the CACFP obtain free and reduced-price school enrollment data?  
**Answer:** You can find the list of schools on the TDA website at [www.squaremeals.org](http://www.squaremeals.org), select Child and Adult Care Food Program, CACFP Administration & Forms and select the School Date (PIEMS) from the list of forms.
17. **Question:** Can school district wide data be used to establish area eligibility, or must data from individual school buildings be used?  
**Answer:** Only data from the appropriate individual school(s) may be used to establish a site's area eligibility.
18. **Question:** If schools have unassigned attendance (i.e., parents can choose where to send their children), what data should be used to determine a site's area eligibility?  
**Answer:** In site's located in school buildings, use that schools free and reduced price enrollment data. All others will be determined on a case-by-case basis in consultation with USDA.
19. **Question:** If a school district has mandated busing of students, can free and reduced-price school data be used to determine a site's area eligibility?  
**Answer:** Yes. If an afterschool care program is located in an area that has mandated busing of students, site eligibility based on school data may be determined using one of two methods. The CE may determine eligibility based on the enrollment/attendance data for:
- The school the children attend and are bused to, or
  - The school the children would have attended were it not for the school's busing policy (the neighborhood school where the children live).

Area eligibility may be determined as described above only if the SFA is able to document the percentage of children eligible for free or reduced price meals at each school before and after students are reassigned. The same method must be used for each site participating under the CE.

20. **Question:** How long is a determination of a site's area eligibility valid?  
**Answer:** A site's area eligibility determination made under CACFP is valid for five years from the beginning of the month in which the determination was made. For example, a determination of a particular site's area eligibility made on April 20, 2012, is valid through April 2017.

21. **Question:** May afterschool care programs use private school free and reduced-price enrollment data to qualify as area eligible sites?  
**Answer:** In an afterschool care program site is located in a private or charter school, then that site may use the free and reduced price enrollment data for that private or charter school, or free and reduced-price enrollment data for the public school in whose attendance areas the private or charter school is located, to qualify as an area eligible site. However, since most private schools do not have defined attendance areas, an afterschool program may not use private or charter school free and reduced-price enrollment data for purposes of determining area eligibility unless the afterschool program is actually located in the private or charter school.
22. **Question:** What are the reimbursement rates for meals/snacks served in afterschool care programs?  
**Answer:** All meals/snacks are reimbursed at the free rate. The reimbursement rates are adjusted annually every July 1.
23. **Question:** How does a child care center which uses claiming percentages or blended rates claim free meals/snacks for its at-risk afterschool care component in CACFP?  
**Answer:** All organizations participating in the at-risk afterschool care component of CACFP must submit separate meal counts for afterschool meal/snack service. This includes child care centers that are currently participating in CACFP and using claiming percentages or blended rates.
24. **Question:** Are afterschool meal/snack reimbursements restricted to children ages 13-18?  
**Answer:** No. Reimbursement may be claimed for meals/snacks served to all children through the age of 18 in eligible afterschool care programs. Reimbursement may also be claimed for those children who turn age 19 during the school year.
25. **Question:** Does an at-risk afterschool program have to be open to the full age range up to 18?  
**Answer:** No. There is no requirement that each site must serve the full age range of eligible children. For example, a program could operate at a high school and serve only high school age students.
26. **Question:** Are afterschool care programs eligible to receive reimbursement for meals/snacks served to pre-primary children?

**Answer:** Meals/snacks served to children who are attending classes of preprimary grade in a school (e.g., Head Start or Even Start) and who are participating in an eligible afterschool care program after their regularly scheduled school program may be claimed for reimbursement. For example, serving lunch and an afternoon snack to children after half-day kindergarten or a half-day Head Start Program is allowable because their school day has ended.

27. **Question:** Can a school system participating in the School Breakfast Program (SBP)/National School Lunch Program (NSLP) and the at-risk component of the CACFP receive reimbursement under CACFP for a meal and snack served to children who also received breakfast and lunch under SBP/NSLP?

**Answer:** Yes. Based on the nature of the at-risk afterschool care meals component of CACFP, the expectation is that most of the participating children attend school and receive free or reduced price meals. With that in mind, schools that serve children meals through NSLP are eligible for reimbursement for a meal and a snack served to children in an at-risk afterschool program through CACFP. However, schools may not serve children an afterschool snack through NSLP and then serve those same children an additional snack through CACFP.

28. **Question:** Can extended day schools participate in the at-risk afterschool component?

**Answer:** A School operating longer than the traditional school day may be eligible for afterschool snack reimbursement through the NSLP or CACFP, provided that it operates a school day that is at least one hour longer than the minimum number of school day hours required for the comparable grade levels by the local educational agency in which the school is located.

29. **Question:** Are there policies in place to streamline participation for School Food Authorities?

**Answer:** Yes. Schools already successfully operating the NSLP do not need to submit a separate management plan, may use the NSLP and SBP meal patterns in place of the CACFP meal patterns and do not have to meet additional health and safety requirements.

30. **Question:** Can RCCIs (like juvenile justice facilities or boarding schools) in which all children are eligible for free meals be eligible for three meals and two snacks per day if they enroll both the NSLP (breakfast, lunch and snack) and the CACFP (supper and snack)?

**Answer:** Generally, programs that serve only residential children (with the exception of homeless shelters) are not eligible to participate in the CACFP. However, a residential facility may be eligible to serve at-risk meals if it has non-residential care programs and these programs offer afterschool education and enrichment programs for nonresidential children.

31. **Question:** Must an afterschool program receiving reimbursement for afterschool meals “manage” the day-to-day activities of the afterschool care program?  
**Answer:** No. An organization may contract with another organization to provide enrichment or educational activities for the afterschool program. However, the sponsor or independent center must retain administrative and fiscal responsibility for the meal service. Furthermore, the sponsor or independent center must be the party that enters into the agreement with the state agency and must assume responsibility for meeting all meal service requirements, including ensuring meals are served in eligible sites.
32. **Question:** Must the educational and enrichment activities offered by a non-profit afterschool program be provided by non-profit entities?  
**Answer:** No. For-profit entities may provide the educational or enrichment activities for non-profit after school programs.
33. **Question:** If area eligibility was determined by a school that closes, may census data be used instead?  
**Answer:** No. Census data may not be used to establish area eligibility for the at-risk afterschool component of the CACFP. CACFP regulations require that, *except for emergency shelters*, at-risk afterschool programs must be located in the attendance area of a public school (elementary, middle or high school) where at least 50 percent of the students are eligible for free or reduced price meals under the NSLP.
34. **Question:** I run an afterschool program that is not in an eligible area, but 50 percent of the children I serve receive free and reduced price school meals, is my center eligible to participate in the program?  
**Answer:** No. CACFP regulations require that, *except for emergency shelters*, at-risk afterschool programs must be located in an eligible area to participate. There is no alternate method, such as relying on census data or individual income eligibility, to determine area eligibility.
35. **Question:** Is there an offer-versus-serve (OVS) option for at-risk afterschool meals and snacks?  
**Answer:** OVS is available only to schools or facilities sponsored by or receiving meals from schools, but may not be used for snacks. However, family style meal service is an option available to all CACFP CEs.
36. **Question:** May USDA Foods be used for at-risk afterschool meals and snacks?  
**Answer:** Yes. After school programs may use USDA Foods in their afterschool snack and/or meal service. Please note, however, that the school or institution will not earn additional entitlement foods as a result of service afterschool snacks. The amount of entitlement foods earned will continue to be based solely upon the number of lunches or suppers served to children.

37. **Question:** May two different fruits or vegetables be used to make up one meal component?  
**Answer:** Yes. Two different fruits and/or vegetables may be served, but they only meet the requirement of one component. Therefore, at snack another component must be served with the fruits and vegetables. For example, celery stalks, carrot sticks, and peanut butter could be a reimbursable snack. However, celery sticks and carrot sticks alone would not.

38. **Question:** May all meals be served cold? Is there any requirement for a certain number of hot meals?

**Answer:** There is no Federal requirement that any meals be served hot. All requirements for meals are outlined in Section 4000 of this handbook. It is possible to meet the meal pattern requirements without serving hot meals.

## 12040 Procurement

1. **Question:** When can a CACFP CE pay bonuses?

**Answer:** Generally, bonuses paid to employees are allowable costs and nonprofit food service account funds may be used to pay the costs of bonuses for efficient performance or as a result of a suggestion or safety improvement. However, the bonuses can be paid to employees only as long as the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to a formally established labor agreement. Thus, this generally requires that such payments be a standard personnel practice.

2. **Question:** Does F&N have a provision in place that allows a CACFP CE to use a noncompetitive contract due to an emergency situation such as the situations created by the hurricanes?

**Answer:** Yes, as long as the CE has received approval from F&N regarding emergency designation.

3. **Question:** A CACFP CE would like to purchase milk in plastic packaging (commonly called chugs) instead of the traditional paperboard cartons. If, however, the CE is unaware whether it can afford the higher cost of the plastic packaging how can it award the contract to a supplier of the milk in plastic packaging when the supplier of the paperboard carton submitted a cheaper bid price?

**Answer:** As long as the CE is not prohibited by State and local procurement requirements from using options within its bid documents, then it can conduct a solicitation that will allow for pricing on each type of carton individually. To accomplish this, the CE's bid document should: 1) include the specifications for each type of product (i.e., plastic packaging versus traditional paperboard cartons); 2) provide explicit information about how bids for each option will be evaluated to determine responsiveness and pricing and the basis for contract award; 3) make clear that in the evaluation of the bids, responsiveness and pricing will be compared only within each option (i.e., the bids submitted for plastic

packaging are only compared to each other); or across all of the options (i.e., price of plastic packaging compared to paperboard packaging); and 4) ensure that the award criteria is drafted to permit the CE to award the bid to the lowest priced responsible responsive bidder for either of the options. Also, to maximize competition, potential bidders should be encouraged to submit bids for all of the options offered.

4. **Question:** Can a CE purchase directly from a Buying Organization or Group?

**Answer:** CEs are not prohibited from purchasing from a buying organization or group, as long as they comply with procurement requirements. However, a CE cannot purchase directly from a buying organization without considering other sources. Depending on whether the procurement is informal or formal, the appropriate competition must take place to ensure that the contractor is obtaining the lowest responsive bid or offer. Joining or procuring directly from a buying service without opening up competition to other like sources does not ensure that the lowest responsive bid or offer has been obtained. The prices of a buying group or organization could be factored in and assessed against other bidders or offerors.

5. **Question:** How can CACFP CEs participating in Cooperative Buying Groups (CBGs) provide more than one supplier on the purchasing list so that they are not limited in terms of the items they can purchase?

**Answer:** By pooling their purchasing power to acquire goods and services, CACFP CEs hope to lower their operating costs, better respond to competition, and improve overall performance. Often, however, CBGs believe that their ability to purchase in large quantities, due to their pooling of purchasing power, limits them to negotiating a volume purchase with only one food vendor to achieve the best price.

This does not have to be the case. A CBG can identify in its solicitation document that it will seek multiple suppliers. The CBG would test the products of the responding vendors using an evaluation system that assesses and scores the products based on taste, price, quality, and quantity. The CBG would set a percentage and those vendors whose products score at or beyond the set percentage would pre-qualify.

The CBG would then ask for best and final prices of those that have pre-qualified and allow the CEs participating in the CBG to purchase from the top ranked of the vendors who provided the lowest price.

6. **Question:** If all our sites are equipped with a specific brand of coolers, for which we maintain a supply of replacement parts, and for which our maintenance staff is trained to repair, would we be able to request a specific brand, make, and model as a replacement?

**Answer:** Yes, with the approval of TDA. Generally, restricting the procurement to a brand name or specific product is not permitted.

However, situations do arise when a CE has a compelling need, such as compatibility with current equipment, to purchase a brand specific item. In this example, when supporting its request for permission to conduct a procurement for a specific brand of cooler, at a minimum, the CE would need to document all of the following: The other available brands of coolers are not compatible with the CE's: (1) current equipment, (2) replacement part inventory, and (3) maintenance staff's expertise. TDA can impose additional requirements prior to approving brand name procurement.

If approved, the CE would still need to maximize competition in the brand specific procurement. In the situation presented, there may be more than one equipment distributor carrying the specific product. When an adequate number of equipment distributors do exist, TDA would approve the CE to conduct sealed bid procurement to acquire the replacement cooler. In conducting this procurement, the CE needs to be alert to situations where suppliers are affiliated or associated, which could result in collaboration or restrict competition. On the other hand, if only one supplier is available nationally, TDA can authorize the CE to conduct a noncompetitive negotiation with that one supplier, if noncompetitive negotiation is allowed under applicable State and local rules.

7. **Question:** Is the situation described in the above question sole-source procurement?  
**Answer:** No. Although a situation exists in which a specific make and model is needed, this is not sole source procurement. In the Child Nutrition Programs, sole source procurement occurs only when the goods or services are available from only one manufacturer through only one distributor or supplier. While the specific cooler described in the above question is only available from one manufacturer, it is highly unlikely that there will be only one national distributor of that cooler.
8. **Question:** What is the difference between a noncompetitive negotiation and sole source procurement, since both involve negotiating with a potential supplier?  
**Answer:** Noncompetitive negotiation is a procurement method used to compensate for the lack of competition, while sole source describes a condition of the procurement environment.

As stated in the answer above, a sole source situation occurs when the goods or services are only available from one manufacturer through only one supplier. In a true sole-source situation conducting a traditional solicitation (sealed bid, competitive negotiation or small purchase) is a meaningless act, because the element of competition will not exist. When faced with an actual sole-source situation, a CE must first obtain TDA approval, and then go directly to the one source of supply to negotiate terms, conditions and prices.

Often, a sole-source situation is confused with a lack of competition, which occurs when a CE receives an inadequate number of responses to its solicitation. This lack of competition may result from overly restrictive solicitation documents, an inadequate number of suppliers in the area, or the procurement environment may have been compromised by inappropriate supplier actions, i.e., market allocation schemes. Unlike sole source in which a solicitation is not issued, noncompetitive negotiation occurs after the solicitation (sealed bid, competitive negotiation or small purchase) has been issued, but competition on that solicitation has been deemed inadequate.

Noncompetitive negotiations are restricted to specific situations and may only be used when: (1) there is inadequate competition in a formal competition, (2) a public emergency exists, or (3) the awarding agency provides prior approval. Regardless of the circumstance, due to the absence of full and open competition, a contract cannot be awarded unless negotiations are actually conducted with one or more potential contractors. Negotiations must include both price and terms using the same procedures that would be followed for competitive proposals.

9. **Question:** Can a distributor that carries multiple brands of pizza bid and receive a CACFP CE's pizza contract if the distributor wrote the CE's pizza specification?

**Answer:** No. Federal Regulations prohibit a CE from entering into a contract with a potential contractor that develops or drafts specifications, requirements, statement of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use in conducting procurement. Regardless of the number of pizza products available through the distributor, if a distributor wrote the specification used in the CE's pizza bid, the distributor is not eligible for the award.

However, if the distributor simply provided information to the CE about all or only one of its pizza products, and the CE wrote its own pizza product specifications, the distributor would still be eligible to compete for the procurement. The Federal Regulations is not concerned with potential contractors that simply provide information, but rather with those individuals and firms that are actually writing specifications, evaluation criteria, and other contract terms and conditions.

CEs must have sufficient information to develop well-written specifications and procurement solicitations. CEs can obtain adequate and pertinent information through a variety of sources, including trade shows, market research, conferences, and discussions with manufacturers and suppliers. Using all of these resources allows the CE to develop a well-written solicitation that promotes full and open competition, which in turn leads to competitive responses and the best products and services at the best price.

10. **Question:** What are the “other documents” referenced in this phrase from the Federal Regulations: “In order to ensure objective contractor performance and eliminate unfair competitive advantage, ...a person that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by a grantee or sub grantee in conducting a procurement under the USDA entitlement programs...shall be excluded from competing for such procurements.”?

**Answer:** “Other documents” refers to any documents that are used in any aspect of procurement. This can include, but is not limited to, evaluation criteria, ranking criteria, bidder responsibilities, bidder requirements, CE procurement practices, contract terms and conditions, payment terms, and CE contract administration procedures. It is important to remember, that procurement is not limited to the solicitation process but includes all of the elements of the process from the initial determination that goods or services are needed through the retention of records following the expiration of the contract.

11. **Question:** Can I limit bidders to pre-approved suppliers?

**Answer:** Yes, as long as you are not prohibited from using such lists under applicable State and local laws and the CE’s procurement procedures still ensures maximum open and free competition. The procedures the CE will follow when conducting a procurement using a pre-approved suppliers list depends on the procedures that were used to place the suppliers on the list. Some pre-approved supplier lists are nothing more than mailing lists of potential suppliers, i.e., any supplier that may be interested in competing for the CE’s business can be included on the list. In other cases, suppliers and their products are subject to a comprehensive competitive evaluation and must compete with other suppliers before being included on the list.

When using the “mailing list” form of a pre-approved supplier list, the CE must still develop comprehensive procurement documents, complete with adequate specifications and evaluation criteria and must still publicly announce the solicitation, in addition to contacting the potential suppliers on the list.

With the second form of pre-approved suppliers list, a technical evaluation of the supplier’s products and eligibility to participate in a contract with the CE occurs prior to adding the supplier’s name to the list.

In some cases, the prices of the products have been established through this competitive process, but not delivery or handling charges. When using this form of pre-approved supplier, the CE would initiate a competitive procurement for those features that had not previously been subject to competition, but can limit responsive bidders to those suppliers/products on the pre-approved list.

In all cases, the CE must make sure that (1) the list is current; (2) a suitable number of qualified sources exist on the list; (3) when applicable, the product or services on the list are specific in nature, not just a general such as food, supplies, etc.; (4) all potential suppliers had the opportunity to be included on the list; (5) when applicable, all potential suppliers were subject to the same evaluation and ranking criteria; (6) suppliers that did not request or when applicable, compete, for inclusion on the list are not on the list; (7) lists are updated at least annually; (8) the opportunity exists to add new qualified suppliers; (9) potential suppliers are not prohibited from qualifying for inclusion on the list during the solicitation period; and (10) a system exists to remove listed suppliers, for cause.

12. **Question:** CACFP CEs are directly copying specifications from other companies associated with child care center food service for their procurement. Is this acceptable?

**Answer:** CEs are prohibited from entering into a contract with a person that develops or drafts specifications, requirements, statement of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use in conducting procurement.

In many instances, the company may not be aware that a CE has copied available company information verbatim, or a CE may utilize the specifications from another CACFP CE's solicitation without knowing that the original solicitation itself was improperly copied from a company's literature, specification, website, etc.

13. **Question:** Often CACFP CEs will share bid specifications and other documents. What steps should a CE take to make sure that a potential contractor did not draft these documents?

**Answer:** A CE that uses another CE's solicitation or contract documents should always inquire as to the origin of the information so that they do not unintentionally violate the provisions of federal procurement guidelines. The CE should pursue its inquiry until the original author of the documents is identified.

14. **Question:** A few years ago, I attended a training session on factors to consider when writing bid specifications for software systems. Is it a problem if I use information from the handout I received at that session to help me prepare the specifications for my software procurement?

**Answer:** No. CEs are encouraged to obtain information from as many sources as possible when developing procurement specifications. The handout referenced in this question provided general information and was not specific to any one potential contractor's system.

15. **Question:** With the price of rising fuel costs, my distributor asked me to include a price adjustment in our current contract to help him recover some of his costs associated with these increases. I can see his argument. Can I give him an increase?

**Answer:** Price changes are permitted only when the CE included terms for these price changes in its solicitation and contract documents. When the CE agrees that a price adjustment factor is appropriate but did not include the adjustment factor in its procurement documents, the CE needs to conduct a new procurement that includes the adjustment factor.

16. **Question:** My contract with a distributor is a fixed price for the products for the entire term (12 months) of the contract with a fixed fee for delivery and service expressed as a percentage of the product fixed price as. Is this a “cost plus percentage of cost” contract?

**Answer:** No. The contract described is a fixed price for goods with a service fee expressed as a percentage of the fixed cost. In an actual cost plus percentage of cost contract, the percentage mark-up is added to the cost of the product, which is not fixed but changes over the term of the contract. This is the type of cost plus percentage of cost contract that is prohibited by federal regulations. An example of a prohibited cost plus percentage of cost contract provision would be: “The distributor will be paid the cost of goods plus 10% of these costs.” In this type of pricing structure the distributor is rewarded for increased costs, and therefore has no incentive to provide the CE with the best pricing available.

In the contract described in this question, the contractor will receive a fixed price for the product, and a distribution fee based upon the percentage of the fixed product cost. Since the price of the goods does not change for the contract period, the distribution fee in effect will remain the same, and therefore it is also fixed. The distributor only increases its revenue based upon the actions of the CE, i.e., increased purchase volume, and not through its own actions, i.e., the purchase of higher-priced product.

17. **Question:** Can an FSMC act as the CE’s agent to procure automated accountability systems (point of service, inventory, financial management, etc.)?

**Answer:** Generally, the CE can use a single contractor to perform more than one function.

For example, a CE can contract with a FSMC to manage its food service and act as its procurement agent for acquiring an automated accountability system. However, the CE must ensure that its procurement solicitation and contract identifies the scope of duties the FSMC must fulfill and the FSMC’s responsibilities as the agent of the CE. The solicitation and contract documents should also include a description of the procedures the FSMC must follow in procuring the automated accountability system since the FSMC, as the CE’s agent, must comply with the same requirements the CE would use to procure the system. The solicitation and contract documents must also identify whether the CE or the FSMC as the CE’s agent will sign the contract with the successful system’s bidder. Finally, the CE should include an adequate description of how the FSMC will be paid for these services and how the CE will pay for the system.

**Note:** TDA requires CEs to use the *Invitation for Bid (IFB) and Contract for Purchased Meals*, for contracts with FSMC/Vendors. The IFB does not contain provisions such as described above. A CE who wishes to use a vendor for services other than providing meals should enter into a separate contract for those services, or request approval from TDA to modify the IFB before proceeding.

18. **Question:** Some FSMCs apparently have pre-existing arrangements with specific software companies. Is this a problem if the CE seeks to use a FSMC that has such an arrangement for its automated accountability system?

**Answer:** While it is not a problem in the procurement of the FSMC, it may render the FSMC's software partner ineligible to compete for the CE's software acquisition. Regulations prohibit the participation of an employee, officer or agent in the award or administration of a contract when an actual or apparent conflict of interest exists. A conflict of interest can arise when the employee, officer or agent or an organization, which employs or is about to employ any of the preceding has a financial interest in the firm selected for award. If the CE's solicitation document for a FSMC requires the FSMC act as the CE's agent to acquire the automated accountability system, then the FSMC must follow the same procurement procedures that CE would use to obtain the software system. Since the FSMC has a pre-existing relationship with a specific software partner at least the appearance, if not an actual, conflict of interest, could arise.

**Note:** TDA requires CEs to use the *Invitation for Bid (IFB) and Contract for Purchased Meals*, for contracts with FSMC/Vendors. The IFB does not contain provisions such as described above. A CE who wishes to use a vendor for services other than providing meals should enter into a separate contract for those services, or request approval from TDA to modify the IFB before proceeding.

19. **Question:** Can the CE issue a FSMC procurement solicitation that requires the FSMC provide an automated accountability system?

**Answer:** Yes, but there are factors the CE must consider. First, the CE must develop its own software and hardware specifications for the automated accountability system, and include those with its FSMC procurement solicitation. The ranking and evaluation of a combined FSMC and automated accountability system solicitation will require a higher degree of technical expertise than would normally be required to obtain a FSMC.

Second, the CE needs to ensure that it has not unduly restricted competition by requiring the FSMC provide both food service management and the automated accountability system.

Third, the CE needs to remember that it will not "own" the software system, but will only have access to it for the period of its FSMC contract. This means that the automated accountability system must be viewed as a one-year acquisition since its FSMC contract is only a one-year contract (with up to 2 one-year renewals).

**Note:** TDA requires CEs to use the *Invitation for Bid (IFB) and Contract for Purchased Meals*, for contracts with FSMC/Vendors. The IFB does not contain provisions such as described above. A CE who wishes to use a vendor for services other than providing meals should enter into a separate contract for those services, or request approval from TDA to modify the IFB before proceeding.

20. **Question:** As an alternative to the question above, can the CE issue a FSMC procurement solicitation that requires the FSMC provide an automated accountability system that the CE will own?

**Answer:** Yes. However, the CE will still need to develop its software and hardware specifications so that the system it acquires is not dependent on the renewal of its FSMC contract. Additionally, the CE must ensure that the automated accountability system is not integrated with FSMC's system so that it would be able to function with another FSMC or a self-operated food service.

**Note:** TDA requires CEs to use the *Invitation for Bid (IFB) and Contract for Purchased Meals*, for contracts with FSMC/Vendors. The IFB does not contain provisions such as described above. A CE who wishes to use a vendor for services other than providing meals should enter into a separate contract for those services, or request approval from TDA to modify the IFB before proceeding.

21. **Question:** Are there any other factors CEs needs to consider when it seeks to combine its procurement of some type of automated accountability system with its procurement of a FSMC?

**Answer:** Yes, there are a number of other factors the CE needs to consider. Among these are that the automated accountability system may require multiyear implementation. If a multi-year approach is required, it cannot be dependent upon the renewal of its FSMC contract.

Second, if the automated accountability system's cost will be amortized over more than one year, non-renewal of the FSMC's contract cannot cause acceleration of the payment schedule without approval of the CE.

Third, if the automated accountability system will include participant eligibility information, the CE must ensure adequate controls exist to prevent improper use or disclosure of that information.

Fourth, the CE needs to ensure any automated accountability system is compatible with its current and long term automation plans including its requirements for software and hardware compatibility and integration.

Finally, if the FSMC will use a subcontractor to provide the automated accountability system, the CE needs to determine the extent to which it will have authority to accept or reject a particular subcontractor and whether subcontracting is permitted under applicable State and local rules.

**Note:** TDA requires CEs to use the *Invitation for Bid (IFB) and Contract for Purchased Meals*, for contracts with FSMC/Vendors. The IFB does not contain provisions such as described above. A CE who wishes to use a vendor for services other than providing meals should enter into a separate contract for those services, or request approval from TDA to modify the IFB before proceeding.

22. **Question:** Is the CE liable if reports and documents, used in support of meal claims and prepared by the Food Service Management Company (FSMC)/Vendor, are determined to be inaccurate?

**Answer:** Yes. Program regulations require CEs to accept final financial and administrative responsibility for management of a proper, efficient and effective food service. Additionally the regulations require that a CE who contracts with a FSMC/Vendor shall remain responsible for ensuring that the food service operation conforms to the CEs agreement with TDA. The CE is responsible for reviewing the FSMC/Vendor to ensure compliance with program requirements and requiring corrective action from the FSMC/Vendor if applicable.

23. **Question:** According to the new Farm Bill regulations, CEs receiving funds through the Child Nutrition Programs may apply a geographic preference when procuring unprocessed locally grown or locally raised agriculture products. Does this mean competition does not need to occur and contractors can simply pick a farmer to provide them with fresh, unprocessed vegetables?

**Answer:** No. The most important principle to a good procurement is that it is competitive and allows for free and open competition. A CE must still get quotes from several farmers when procuring unprocessed locally grown or locally raised agricultural products, so that competitors have an opportunity to compete for the bid. The way in which a geographic preference is applied could depend on whether the procurement method is informal or formal. If informal, i.e. falling below the small purchase threshold, a CE may simply want to approach approximately 3-4 local producers and obtain price quotes. Competition is ensured by developing a solicitation that contains criteria which all the respondents will be subject to.

If the procurement exceeds the small purchase threshold, a formal procurement method must be used which would involve the sealed bidding process (i.e. IFB) or the competitive negotiation process (i.e. RFP).

This would entail public notification of the solicitation; however, when procuring locally unprocessed agricultural products the notification may be focused on the locale in which the contractor is situated as a criteria of the solicitation. In a situation where the solicitation for locally unprocessed agricultural products is in fact open to offerors beyond the local area, a way in which to apply a geographic preference is to grant preference points to the local farmers who respond to the solicitation.

24. **Question:** The Joint Explanatory Statement accompanying the new Farm Bill legislation states that de minimis handling and preparation might be necessary to present an agricultural product to a contractor in a useable form, such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk, and putting eggs in a carton. Additionally, consistent with FNS guidance, geographic preference may only be applied to the procurement of unprocessed agricultural products which are locally grown and locally raised, and that have not been cooked, seasoned, frozen, canned, or combined with any other products. Does produce that has been chopped or cut fall into the category of “minimal handling and preparation necessary to present in a useable form?”

**Answer:** Unprocessed agricultural products that have been chopped, cut, sliced, diced or shucked do meet the parameters of unprocessed as used in the Farm Bill. Therefore, CEs and other service institutions may use a geographic preference when procuring those agricultural products.

25. **Question:** Is processing meat into a hamburger patty allowed under this rule?

**Answer:** No. Grinding meat into a hamburger is considered “processing” and therefore geographic preference may not be applied to this product. Livestock and poultry can only be butchered in order to still be considered “unprocessed”.

26. **Question:** According to the new Farm Bill regulations, CEs receiving funds through the Child Nutrition Programs may apply a geographic preference when procuring unprocessed *locally* grown or raised agricultural products. How is “local” defined? For example, could a CE only accept bids/offers for unprocessed agricultural products from farmers within a 50 mile radius?

**Answer:** Due to the geographic diversity in each state, the CE responsible for the procurement has the discretion to define the area for any geographic preference (e.g., State, county, region, etc.). However, it is important to keep in mind that local preference should not be defined in a way that unnecessarily limits competition.

27. **Question:** Section 104(d) of the William F. Gooding Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a Buy American provision, Section 12(n) of the NSLA (42 USC 1760(n)) requiring that a CE, to the maximum extent practicable, purchases domestic commodities or products. Does this provision extend to other products like paper plates, equipment, or software?

**Answer:** No. The Buy American provision applies to domestic commodities or products, meaning an agricultural commodity that is produced in the United States, and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

28. **Question:** A report accompanying the Buy American provision also states that a food product processed in the United States “substantially” using agricultural commodities produced in the United States means that over 51% of the final processed product consists of agricultural commodities that were grown domestically. Should the packaging of a product be factored in as a portion of this final processed product?

**Answer:** No. The packaging of a product is not included in the requirement that over 51% of the final processed product consist of domestic agricultural commodities.

## 12050 Feeding Infants

1. **Question:** How often must CE and site update documented exceptions to the Infant Meal Pattern requirements?

**Answer:** CEs and sites must update documented exceptions (for disabilities and medical or special dietary needs) to the Infant Meal Pattern requirements each time the infant transitions from one category to the next. The Infant Meal Pattern consists of three categories:

- 0 - 3 months;
- 4 - 7 months; and
- 8 - 11 months.

2. **Question:** An infant has been ill and returns to the center with a statement from the doctor to feed Pedialyte. Is this infant considered an infant with special dietary needs and the CE or site must purchase the Pedialyte or because this is only a temporary condition is the parent responsible for providing the Pedialyte?

**Answer:**

<b>If the Pedialyte is ...</b>	<b>Then the ...</b>
Being served as a substitution to a meal component in the Infant Meal Pattern due to the infant's disability <sup>1</sup> ,	CE or site is required to provide the Pedialyte as a meal component substitution to the infant.
Being served as a substitution to a meal component in the Infant Meal Pattern due to the infant's medical or special dietary need <sup>1</sup> ,	Decision as to whether or not the CE or site will provide the substitution is at the discretion of the CE or site. A CE/site is not required to satisfy the unique dietary needs of each infant. TDA urges CEs and sites to make every effort to satisfy the unique medical or special dietary needs of each infant; however, we recognize that this may not always be possible due to operational and financial constraints. If the CE or site chooses not to provide the Pedialyte, then it is the parent's (or guardian's) responsibility to provide the Pedialyte.
Not being served as a substitution to a meal component in the Infant Meal Pattern,	Infant is not considered to have a disability or a medical or special dietary need, and it is the parent's (or guardian's) responsibility to provide the Pedialyte.

3. **Question:** Some Special Dietary Formulas are very expensive. Do CEs or sites have the option to not take a child for care because they cannot provide the "required special diet"?  
**Answer:** TDA does not regulate child care requirements, so whether or not a center has the option to not take a child for care because they cannot provide the "required special diet" would be a question that would need to be asked of the Texas Department of Family and Protective Services – Child Care Licensing, or other licensing authority. See the chart above for specific requirements related to the CACFP.
  
4. **Question:** In order to claim an infant meal that has component(s) other than breast milk/formula, does the CE or site have to provide all of the other components?  
**Answer:** If the infant is developmentally ready for solid foods, it is required that those solid food meal component(s) be provided to the infant. The required meal component(s) may be provided by the CE, site and/or the parent (or guardian). However, in order to claim reimbursement, the CE or site must provide at least **one** of the required meal components in the minimum quantity specified in the infant meal pattern.

5. **Question:** Instead of purchasing pre-packaged baby food can the CE or site blend their own strained vegetables, fruits, etc.?

**Answer:** Yes, a CE or site may blend their own strained vegetables and/or fruits. Additional information regarding infant meals and blending foods is available in the “Feeding Infants: A Guide for Use in the Child Nutrition Programs” publication at [www.fns.usda.gov/TN/Resources/feeding\\_infants.html](http://www.fns.usda.gov/TN/Resources/feeding_infants.html). You can also access other resources on the TDA website at [www.snptexas.org](http://www.snptexas.org) and click on “Nutrition Links”.

6. **Question:** Does the CE or site have to offer a variety of infant formulas or is offering one formula sufficient?

**Answer:** No, a CE or site is not required to offer a variety of infant formulas. It is sufficient to offer one standard formula that meets CACFP requirements (i.e., iron fortified).

7. **Question:** If the parent signs a waiver stating they are declining the infant formula offered by the CE or site, and provides their own infant formula, is the CE or site still required to claim that infant?

**Answer:** No, a CE or site is not required to claim meals. However, CEs and sites are required to **serve** meals that meet CACFP requirements to all children enrolled for child care.

<b>If the parent signs a waiver declining the formula offered, and ...</b>	<b>Then the CE or site may claim that meal when the ...</b>
Infant formula or breast milk is the only required component,	Meal is fed to the infant by the CE’s or site’s staff.
There are other meal components,	CE or site provides all other required meal components that the child is developmentally ready to accept.

8. **Question:** The infant pattern has "optional" components that the CE and site may feed. Since it is optional, would a CE or site have to include it on the meal production record when they served it?

**Answer:** Yes, CEs and sites required to include “optional” components on the meal production record when they are served. Although the infant meal pattern indicates “Optional” components, a serving of this component becomes a requirement if the infant is developmentally ready to accept it. As a result, any item that is used toward meeting the CACFP meal pattern requirements must be included on the meal production record.

9. **Question:** If an infant age 13 months or older still must stay on the infant feeding pattern due to dietary concerns and the doctor has provided a statement, is that child kept on the infant meal production record or moved to a separate meal production record because of their age?

**Answer:** CEs and sites would record the meal on the meal production record appropriate for the child's age group, and make a note that the doctors' statement is in the child's file.

The F&N Training Unit will be offering a revised version of *"Feeding Infants: During the First Year"* (event code NUTR-FI). This course is OPTIONAL for contractors who wish to learn more about USDA requirements and recommendations for feeding infants up to one year of age.

Once you have received TDA notification that the course is available for registration, you can access the dates and locations for the nearest training event (event code NUTR-FI) by going to the TDA website at [www.snptexas.org](http://www.snptexas.org) and click on "Program/Nutrition Training". Choose the "Scheduled Classes" link to enter the training registration system. The upcoming NUTR-FI classes will be located on the "Search" link as "NET – Nutrition Education and Training" events.

10. **Question:** The parent and child are participants of Women, Infants, and Children (WIC) and are receiving infant formula which they cannot use due to the excess of formula received. The parent does not want the infant formula to be wasted, so therefore, the parent declines the infant formula provided by the CE/site but brings the same infant formula from home. Can the CE or site claim the meal for reimbursement?

**Answer:** Yes, as long as the CE or site has a statement from the parent declining the infant formula offered by the CE or site.

11. **Question:** The child turns one year old and the parents have infant formula and iron-fortified infant cereal they would like to give to the CE or site as a donation. Can the CE or site use the infant formula and iron-fortified infant cereal and claim reimbursement?

**Answer:** Yes, the CE or site can use the infant formula and iron-fortified infant cereal and claim reimbursement as long as the CE or site documents that the donations were used for use in the CACFP.

12. **Question:** Can the CE or site claim reimbursement if parent volunteers come to the center and feed the infants?

**Answer:** Yes, CEs and sites can claim reimbursement if the parent volunteers are feeding the infants infant formula and/or iron-fortified infant cereal provided by the CE or site. If the parent volunteer is breastfeeding their infant at the center or brought their own infant formula and/or iron-fortified infant formula, CEs and sites cannot claim reimbursement.

## 12050, Eligibility for Free and Reduced-Price Meals

### 12051, Extending and Documenting Extended Eligibility

- Question:** A child is determined eligible for free meals because he/she is a member of a household with someone who has a SNAP, FDPIR or TANF case number listed on the application. If that child resides in another household during the 12 months the eligibility determination is valid, does this policy apply to any children in the second household?

**Answer:** No. While that child retains free status for the remainder of the 12 months, if he/she moved to another household, eligibility is not extended to others. Free meal eligibility based on receipt of SNAP, FDPIR or TANF benefits can be extended only to other children who are in the same household as the child receiving SNAP, FDPIR or TANF benefits.
- Question:** A child's parents have shared physical custody during the 12 months the eligibility determination is valid. How does this policy apply if only one parent's household receives SNAP, FDPIR or TANF benefits?

**Answer:** If a child is determined eligible for free meals because he/she receives SNAP, FDPIR or TANF benefits in one parent's household, he/she retains eligibility for free meals regardless of where the child is living for the remainder of the 12 months. When that child is residing in the second parent's household, the child is a member of that household and because he/she was determined eligible for free meals based on receipt of SNAP, FDPIR or TANF benefits, eligibility extends to the other children in that household. If a child is not determined eligible for free meals based on his/her own receipt of SNAP, FDPIR or TANF benefits, but on the extended eligibility from another family member in the first parent's household, eligibility is not extended to other members of the second parent's household.
- Question:** How should CEs and sites document extended status?

**Answer:** Children in a household with a child or adult receiving SNAP, FDPIR or TANF benefits are considered eligible on the same basis (case number) as the person(s) receiving benefits. Because the CACFP Meal Benefit Income Eligibility form captures all members in the household the child's eligibility is documented on that form. However, when other records are used to determine eligibility, such as shared income eligibility information from a school, CEs and sites must indicate on the application, or documentation provided from the school, which children are eligible for free meals based on extended eligibility. If the child/children with extended eligibility move from the household that receives SNAP, FDPIR or TANF benefits to a household not receiving these benefits, the child/children retain free meal eligibility for the remainder of the 12 months. Because eligibility cannot be extended by the child/children, CEs and sites must note the extended eligibility for the child/children when adding the child/children to the new household.

4. **Question:** If one child in a household is receiving SNAP, FDPIR or TANF benefits, does that make all of the children in the household categorically eligible for free meals in the CACFP?

**Answer:** Yes. Children receiving SNAP, FDPIR or TANF benefits are categorically eligible for free meals in the CACFP. If one child in the household is receiving any of these benefits, categorical eligibility extends to the other children in the household.

5. **Question:** Under the CACFP, if a child who is receiving SNAP, FDPIR or TANF benefits moves in with a family that was not previously eligible for free meals or Tier I rates, would that child's receipt of SNAP, FDPIR or TANF benefits extend categorical eligibility to the rest of the family? What if that child has moved from another State?

**Answer:** Regardless of how a child becomes part of a household, the policy applies. Eligibility determinations are made at a point in time. See above for additional information.

6. **Question:** If an adult in the household participates in the Adult Day Care component of the CACFP and is categorically eligible based on receipt of SNAP, FDPIR or TANF benefits, does categorical eligibility extend to other children or adults in the household participating in a child nutrition program?

**Answer:** Yes. The adult's eligibility extends to other household members.