

Section 7000

Financial Management

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made since the last release will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
March 2026	Updated micro-purchase threshold from \$10,000 to \$15,000 and formal procurement threshold from \$50,000 to \$100,000.	Throughout
	Updated citations to other handbook sections.	Throughout
	Added guidance from FNS Instruction 796-2 related to interest earned on advance payments.	7313
	Added more information about operational costs incurred by sponsors of unaffiliated centers	7231.1
	Moved content related to administrative expenses for sponsors from the previous location (7312.2) to more appropriate Administrative Expenses sub-section 7322.	7322
	Added a reference to the waiver of the 15% administrative expenses withholding, which is explained in more detail in Section 4300.	
	Moved content related to software and service costs required by a sponsor to this section from previous Section 4000.	
	Clarified that reconciliation of administrative expenses withheld from sites against the amount of annual allowable administrative expenses must occur at the end of the Program Year.	7330
	Added guidance noting that sponsors and unaffiliated sites must reimburse their food service accounts for any unallowable expenses and that a sponsor will be held accountable for any unallowable expenses that cannot be recovered from a site.	7420
	Moved guidance related to allowability of Day Care Home Licensing fees from Section 3000 to this section.	7430

May 2025	Consolidated content from all four current CACFP Handbooks (Child Care Center, Day Care Homes, Adult Day Care, and At-Risk). This section is now identical in all four handbooks. Once consolidation of all sections is complete, TDA will release a new version of a single CACFP Handbook.	
	Rewrote and reorganized throughout to enhance clarity and readability.	
	Updated broken URLs throughout as needed	
	Clarified that sponsors may allow their sites (day care homes, affiliated centers, or unaffiliated centers) to purchase food and other items according to their own practices, even if those procurements do not uphold federal requirements for free and open competition.	
	Added clarifying language about micro-purchases and small purchases applying to a single transaction.	
	Added that development of clear technical requirements must be included as a step in documented procurement procedures	
	Clarified that costs less than the formal procurement threshold can use informal procurement. Costs at or over the threshold require formal procurement.	
	Clarified that CEs must use TDA's Invitation for Bid prototype to procure vended meals.	
	Provided options and instructions for how to properly advertise a formal procurement solicitation.	
	Added a link to the Emergency/Sole Source Procurement Request Form on SquareMeals.	
	Added content about forecasting and performing a cost analysis to determine if formal procurement is more cost effective than multiple micro-purchases over the course of a year.	
	Specified that contracts should include a provision for non-payment for expenses unallowable under the Program	
	Specified that contracts should contain a provision for compliance with mandatory standards and policies relating to energy efficiency	
	Specified that contracts for more than the simplified acquisition threshold must contain provisions or conditions that will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.	

May 2025	Added strategies related to geographic preference that may be used when procuring unprocessed locally grown, raised, or caught agricultural products	
	Clarified that signed copies of all Invitation for Bid and Contracts must be submitted to TDA prior to operations under that contract.	
	Clarified requirements about new provisions added to an existing vended meals contract.	
	Clarified that sponsored child care centers, At-Risk centers, and adult day care centers must maintain a nonprofit food service account. Day care home providers are excluded from this requirement.	
	Added additional content explaining requirements for using and carrying over, if applicable, administrative reimbursement.	
	Provided more clarification on unused reimbursement and how to manage excess net cash resources in the non-profit food service account.	
	Clarified that specific prior written approval is not required every year for multi-year contracts.	
	Updated method for submitting SPWA requests.	
	Clarified that in their budgets, sponsors of unaffiliated centers must limit their administrative expenses to 15% of the estimated or actual reimbursements received during the Program Year.	
	Clarified that computer equipment valued under \$10,000 would be considered “supplies” and not equipment.	

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7100 Financial Controls

A CE's financial management controls must be in compliance with 2 Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 48 CFR Part 31, *Contract Cost Principles and Procedures*, 7 CFR Part 226, *Child and Adult Care Food Program*, FNS Instruction 796-2 *Financial Management – CACFP*, and TDA policies. The financial controls must provide for the following:

- Identification, in its accounts, of the Federal awards received and expended, and the Federal programs under which they were received. Federal program and Federal award identification must include:
 - The Catalog of Federal Domestic Assistance (CFDA) title and number (for example, Child and Adult Care Food Program #10.558);
 - Federal award identification number (FAIN) and year;
 - Name of the Federal agency; and
 - Name of the pass-through entity, if any.
- Accurate, current, and complete disclosure of the financial result of each Federal award or program.
 - Up-to-date correct information supported by documentation
 - Accounts for all elements of the Program
 - Complies with generally accepted accounting principles (GAAP)
- Records that identify adequately the source and applications of funds for federally funded activities. The records must contain information pertaining to the Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest, and must be supported by source documentation.
- Effective control over, and accountability for, all funds, property, and other assets. The CE must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- Comparison of expenditures with budget amounts for each Federal award.
- Written procedures to ensure:
 - Disbursement of funds is done in a manner that minimizes the amount of time between the CE's receipt of the funds to the disbursement of those funds, whether disbursement is made by electronic funds transfer, checks, warrants, or payment by other means.
 - Request and use of advance payments only after other resources have been exhausted, and in accordance with 2 CFR 200.
- Written procedures for determining if costs are allowable in accordance with 2 CFR 200 and FNS Instruction 796-2 *Financial Management – CACFP*.

- Internal controls that ensure the CE:
 - *Manages* the Program in compliance with Federal statutes, Federal regulations, and TDA rules, policies, and guidance.
 - *Complies* with Federal statutes, Federal regulations, and TDA rules, policies, and guidance.
 - *Evaluates and monitors* its compliance with Federal statutes, Federal regulations, and TDA rules, policies, and guidance.
 - *Takes prompt action* when instances of noncompliance are identified, including noncompliance identified in audit findings.
 - *Safeguards* protected personally identifiable information and other information.

These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government”¹ issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”² issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Reference also Section 2000, *Eligibility and Application Requirements* for Viability, Capability, and Accountability (VCA) performance standards. VCA processes and procedures submitted during the application process must be in compliance with the above and must be updated as changes occur.

Federal awards include, but are not limited to, reimbursement from participation in any of the child nutrition programs administered by TDA.

7200 Procurement

Procurement is the orderly process of acquiring, by lease or purchase, goods and services such as food, meals, equipment, bookkeeping, and auditing. Procurements must be conducted in a manner that allows for full and open competition (meaning everyone that wants to bid is on a “level playing field” and has the same opportunity to compete). A CE must comply with state and federal procurement requirements. These requirements enable the purchase of goods and services at the best available price and avoid conflicts of interest when making purchases.

Costs incurred through improper procurements are unallowable. If TDA disallows costs because of improper procurements, it may be determined that the food service operation is not nonprofit and could result in adverse action, up to and including termination of the CE’s participation in the CACFP.

By contracting with TDA to be a sponsor in the CACFP, the CE has accepted final administrative and financial responsibility for the operation of the Program, including the operation of the

¹ [https://www.gao.gov/products/gao-14-704g#:~:text=Standards%20for%20Internal%20Control%20in%20the%20Federal%20Government%20\(the%20%E2%80%9CGreen.an%20effective%20internal%20control%20system.](https://www.gao.gov/products/gao-14-704g#:~:text=Standards%20for%20Internal%20Control%20in%20the%20Federal%20Government%20(the%20%E2%80%9CGreen.an%20effective%20internal%20control%20system.)

² <https://www.coso.org/guidance-on-ic>

Program at sponsored sites/providers. Any fiscal action as a result of a sponsored site/provider's failure to operate the Program correctly will be taken against the sponsor.³

NOTE: All sponsored sites/providers (day care homes, affiliated centers, or unaffiliated centers) are exempt from formal federal procurement guidelines and may purchase food and other items according to their own practices, even if those procurements do not uphold federal requirements for free and open competition⁴.

7210 Procurement Methods

7211 Micro Purchases

A micro-purchase is the acquisition or purchase of products or services that costs less than or equal to the micro-purchase threshold of **\$15,000** within a single transaction.

When using the micro-purchase method, formal quotes and a formal cost analysis are not required. However, the CE must ensure that the cost of the product and/or service is reasonable (for example, by performing a cost comparison). Cost comparisons can be as simple as a list of commonly purchased items with comparison prices from two to three different vendors, newspaper advertisements, or spreadsheets. The method and frequency must be documented in the written procurement procedures.

To the extent practicable, the CE must distribute micro-purchases equitably among qualified suppliers/vendors. This can be accomplished in many ways, such as alternating suppliers/vendors each month, or purchasing some items from one vendor and other items from another vendor on the same day. The CE/site must still ensure the cost is reasonable and that micro-purchase is the proper method.

7212 Small Purchases

If purchasing services, supplies, or other property in a single transaction costing more than **\$15,000** but less than **\$100,000**, either small or formal procurement procedures must be used.

Small purchase procedures require a CE to obtain price quotations from an adequate number of qualified sources (for example, three vendors).

Acceptable forms of price quotations include but are not limited to:

- Newspaper advertisements from various suppliers/vendors.
- Online advertisements from various suppliers/vendors.
- Documentation of phone quotes from various suppliers/vendors to include:
 - Supplier/vendor name.

³ School Food Authorities operating the National School Lunch Program (NSLP) and either CACFP child care centers or at-risk afterschool care centers have the option to comply with NSLP procurement standards as outlined in 7 CFR 210.21 and TDA's Administrator's Reference Manual for NSLP (located on SquareMeals.org).

⁴ FNS Instruction 796-2, Rev. 4, Exhibit J, Procurement (p. 12)

- Name of person providing information.
- Date(s) of contact.
- Information provided, including product and pricing.

Procurement procedures must include a step for developing clear and accurate technical requirements for the material, product, or service to be procured. Specifications must be developed prior to obtaining quotes to ensure the determination that the small purchase method is the appropriate procurement method and to ensure that the quotes from suppliers/vendors are for the same goods and services.

7213 Formal Procurement

7213.1 Competitive Sealed Bids

Competitive sealed bids must be used if a purchase is equal to or more than **\$100,000** and the CE can:

- Completely and accurately describe the goods or services it wants to purchase.
- Locate two or more responsible bidders that are willing to compete for the business.
- Award a firm-fixed price contract.
 - Fixed price means a price that is fixed at the inception of a contract and is guaranteed for a specific period of time. A fixed-price contract may also contain an economic cost adjustment provision tied to a standard index.
- Choose from among bidders mainly on the basis of price.

EXAMPLE: A CE purchases milk at a cost of \$107,000 per year. There are several milk vendors in the community. Since the purchase is over **\$99,999.99** and this type of purchase lends itself to sealed bids, the CE must use this method of procurement.

When conducting a competitive sealed bid, CEs will:

- Advertise publicly in accordance with *Advertising* below.
- Solicit bids from an adequate number of known suppliers.
- Clearly describe the items or services to be purchased in the invitation for bid.
- Publicly open the bids at the time and place stated in the invitation.
- Award the contract to the lowest responsive and responsible bidder that meets the requirements of the invitation.
- Document any and all reasons a bid is rejected.

EXCEPTION: A CE may award a contract to a supplier that is not the lowest bidder if the CE has sound documented business reasons for doing so, and this documentation is submitted to TDA for approval prior to the award.

7213.2 Competitive Proposals

Competitive proposals for purchases of \$100,000 or more should be used when the conditions for sealed bids do not exist. The competitive proposals method of procurement requires a CE to publicize a request for proposals (RFP) and solicit proposals as well. After the proposals are received, the CE will evaluate responsive proposals and, upon award, may conduct contract negotiations with two or more respondents.

When using competitive proposals, CEs must:

- Solicit proposals from an adequate number of qualified sources.
- Advertise the RFP.
- Honor all requests to compete as far as practical.
- Identify all evaluation factors and their relative importance in the RFP.
- Have a written procedure for
 - Evaluating proposals,
 - Determining with whom they will negotiate, and
 - Selecting the successful bidder.
- Award contracts to the most advantageous bidder.
- Promptly notify unsuccessful bidders.

EXAMPLE: A CE wants to purchase accounting services that would cost more than \$99,999.99 per year. Since several factors are of equal or greater importance than price, the CE may want to use competitive proposals for this purchase rather than a competitive sealed bid.

7213.3 Developing Specifications and Solicitations

Written procurement procedures must indicate a step for developing specifications and solicitations when the formal procurement method is used. When developing specifications and solicitations:

- The description and scope (specifications) must be in line with what is being procured.
- Must be clearly stated so that bidders will understand and can be responsive to the need.
- Must identify all of the requirements that bidders must fulfill so that changes do not need to be made to a contract after it is awarded, including identification of prohibited expenditures.
- Must include evaluation and scoring factors, with cost as the primary factor.
- Must not contain features which unduly restrict competition.

CEs should also include any other factors, in both the solicitation and the resulting contract, that affect the bidder (for example, provision which allows for individual competitive procurement of similar items during peak seasons; emergency provisions, etc.)

A CE cannot allow any entity bidding for a contract award to develop:

- Specifications.
- Requirements.
- Statements of work.
- Invitations for bids.
- Requests for proposals.
- Contract terms and conditions.
- Other procurement documents.

CEs must draft its own specifications and procurement documents (**EXCEPTION** – CEs must use TDA’s *Invitation for Bid and Contract for Purchased Meals (IFB)*⁵ when procuring vended meals. See *Vended Meals* below).

Any CE that copies a list of features or evaluation and ranking criteria drafted by a potential vendor and then permits that potential vendor to submit a bid has violated both Federal and State procurement regulations.

While it is understood that CEs have broad discretion in gathering information for use in connection with procurements, any information from potential bidders must be appropriately modified to develop tailored specifications; otherwise, these bidders must be excluded from competing. This is to ensure objectivity and eliminate unfair competitive advantage.

EXCEPTION: If CEs choose to use a vendor’s information or assistance in developing procurement documents and the vendor is allowed to compete for the award, then the CE **must not** use any CACFP or any other Child Nutrition Program funds for the resulting award.

7213.4 Advertising

When advertising a formal procurement solicitation, the advertisement must be posted for no less than 14 calendar days utilizing one or more of the following options:

- **Option 1:** A publication of general circulation covering the area served by the CE. This includes electronic media publications or a combination of both print and electronic. For a print publication that publishes other than daily, a single advertisement would count for the full number of days that the publication is in circulation. Where there is limited circulation, advertisements should also be run in the largest metro area near the CE.
- **Option 2:** Qualifying CEs may elect to advertise their solicitation online in the Texas Comptroller-managed Electronic State Business Daily (ESBD) in order to satisfy notification requirements.

In computing the period of days, the first day is excluded, and the last day is included. In addition, if the last day of any period is a Saturday, Sunday, or legal holiday, the period must be extended to include the next day that is not a Saturday, Sunday or legal holiday.

⁵ Located on the CACFP Administration/Forms page at: <https://squaremeals.org/Programs/Child-and-Adult-Care-Food-Program/Administration-Forms>

7214 Non-Competitive Proposals

In non-competitive proposals, the CE negotiates with a single source. This method may be used only when the CE has submitted a written request and been granted permission from TDA via the [Emergency Procurement/Sole Source Request](#)⁶ form on SquareMeals.org. TDA may approve the use of this method when one or more of the following conditions exist:

- The item that the CE wants to purchase is only available from one source;
- A public exigency or emergency exists, i.e., when the urgency for the requirement will not permit a delay incident to competitive solicitation;
- After solicitation of a number of sources, competition is determined inadequate.

7214.1 Sole Source

The product and/or service is available only from a single (sole) source distributor, supplier, or manufacturer. For a sole source method to be used, there must be only one possible source for the product and/or service. A CE cannot accept a statement from the supplier, distributor, or manufacturer as verification that the product and/or service is only available from a single source. To determine if the product and/or service is sole source, a CE must:

- Attempt to solicit offers from other suppliers, distributors, or manufacturers
- Retain records that demonstrate its efforts to solicit offers for the product and/or service from other suppliers, distributors, or manufacturers.

TDA must approve all sole source procurement transactions before the award of the contract. To request approval to use a sole source contract, the CE must submit a request via the [Emergency Procurement/Sole Source Request](#) form on SquareMeals.org. In its request, the CE must include the following information:

- Description of the CE's actions to ensure that the supplier, distributor, or manufacturer is sole source.
 - CE's review may include questioning other vendors of similar products/services to determine if those vendors can meet the precise needs of the CE. If not, written justification should be provided to TDA as to why a particular vendor would not qualify as a source.
- Copies of the CE's solicitation, advertising, and other relevant documentation that demonstrate that the supplier, distributor, or manufacturer is a sole source.

When there is a compelling need to purchase a specific brand product and/or service, such as compatibility with current equipment, the CE must have documentation that demonstrates other available brands are not compatible with the CE's:

- Current equipment,
- Replacement part inventory, and
- Maintenance staff's expertise.

⁶ <https://app.smartsheet.com/b/form/c6689484ed8a4b45846e10ebcb24fd23>

However, even if the CE meets the brand name sole source purchase criteria listed above, the CE must still determine if there is more than one supplier for the brand of equipment or the services. If there are multiple suppliers, the CE must follow normal procurement processes in awarding a contract.

NOTE: In some cases, collaboration or affiliation among suppliers providing a specific brand name may restrict competition. CEs will need to address this as appropriate to ensure full and open competition.

TDA will provide written notification of approval or disapproval.

NOTE: A procurement where there is only one offer is not necessarily sole source. There may be other suppliers, distributors, or manufacturers that could have submitted an offer but chose not to. Refer to *Inadequate Competition* below for more information.

EXAMPLE: There are three companies that commonly provide the type of cooking equipment that a CE is attempting to procure. Company A chooses not to bid because it is unable to meet the delivery timeline. Company B no longer distributes the line of products that would have met the specifications and technical requirements. Therefore, Company C is the only offeror. In this situation, the **single offer submitted is not sole source**. Rather, it is an inadequate competitive response to the solicitation.

7214.2 Public Exigency or Emergency

A public emergency (exigency) or unexpected emergency is a situation that will not permit a delay resulting from the additional time required for a competitive solicitation for the product and/or service. Emergency non-competitive procurement requires TDA approval.

To request approval to use a non-competitive method during an emergency, the CE must submit the [Emergency Procurement/Sole Source Request](#)⁷ form. In cases of extreme emergency, a CE may call TDA directly or their regional Education Service Center (ESC) to alert TDA about the situation. The request must still be submitted in writing, but a phone call will raise TDA's awareness of the need for an expedited response. In its written request, the CE must include the following information:

- Explanation of the circumstances that require an emergency purchase.
- A detailed description of the products and/or services to be procured.
- Supplier, distributor, or manufacturer from whom the product and/or services will be procured.
- Period of time the CE plans to use the noncompetitive method for the emergency.

TDA will provide written notification of approval or disapproval.

⁷ <https://app.smartsheet.com/b/form/c6689484ed8a4b45846e10ebcb24fd23>

7214.3 Inadequate Competition

If, after the CE actively and appropriately attempted to solicit offers from a number of sources, the number of offers that met the solicitation specification and technical requirements (i.e., responsible and responsive offers) was less than expected, the competition is deemed inadequate. This would include when a CE receives only one responsible and responsive offer.

This may occur when a CE is so remotely located that there is a very limited number of qualified sources in the area. In this case, a CE may only pursue a noncompetitive procurement if it has ensured that the specifications in the original IFB or RFP are not so restrictive that they limit other potentially qualified bidders, and that the proposal has been publicized.

After engaging in competitive purchasing procedures, the CE does not need TDA approval to award a noncompetitive bid when there are a limited number of offers as long as documentation is retained by the CE that proves its due diligence in ensuring that the CE did not limit competition. Examples of this due diligence include but are not limited to the following:

- Performing reviews of the solicitation and advertising process.
- Surveying suppliers, distributors, or manufacturers to determine why a bid was not submitted.
- Retaining copies of the solicitation, advertising, mailing lists, communication documents, contact logs, and other relevant documentation to support their findings.

7215 Forecasting

Forecasting must be included as a step in the CE's written procurement procedures. When preparing a budget, CEs should conduct forecasting to determine what goods or services might be needed throughout the program year. Plan procurements by evaluating resources, projecting expenses, and determining needs prior to initiating a procurement process by assessing:

- Current approach, such as meal preparation (self-preparation, central kitchen, need for a Food Service Management Company (FSMC)).
- Storage capacity.
- Equipment.
- Resources, such as income/revenue and staff.
- Other operational needs.

Generally, the cost of the goods or services in a single transaction will determine the procurement method to be used. A single transaction occurs when goods or services are purchased from the same supplier at the same time, regardless of the quantity of items purchased or the length of payment terms (for example, payment over a specified period of time such as 12 months).

CEs can choose to use a formal procurement method for items that fall below the **\$100,000** threshold but cannot use an informal procurement method for items that equal or exceed the

\$100,000 threshold. If total cost for the year for a particular good or service will equal or exceed **\$100,000**, the CE should perform a cost analysis to determine if procuring a vendor via formal procurement for that good or service is more economical than multiple single purchases under the micro-purchase method. Any costs that the CE incurs as a result of the CE intentionally breaking up larger purchases into smaller amounts to qualify under the micro-purchase threshold are unallowable costs.

CEs must document in their procurement procedures any other factors, such as distance, storage, etc., and decision steps that will be used to determine the method. Regardless of the dollar amount or the method of procurement used, CEs must ensure full and open competition and follow their written procurement procedures.

CEs cannot:

- Require unreasonable credentials for potential bidders when qualifying them to do business.
- Allow non-competitive practices between suppliers.
- Permit organizational conflicts of interest.
- Impose unnecessary experience and bonding requirements on suppliers who seek the CE's business.

7220 Contracts

Contracts must be sound, complete, and include certain required elements as discussed in *Contract Provisions* below.

Cost-reimbursable contracts are unallowable. These include cost-plus-fixed fee, cost-plus-incentive fee, cost-plus-award fee, and cost-plus-percentage-of-cost contracts. Cost-reimbursable contracts provide for payment of allowable costs plus the payment of a fixed fee to the contractor.

Forward contracts (ones in which products are bought or sold at a specified time in the future at a price agreed upon today) with local producers, or contracts with a Community Supported Agriculture (CSA) program are allowable. However, CEs are responsible for ensuring that all costs are reasonable, necessary, and allocable, and these two types of contracts require CEs to commit to buying products that may or may not actually be produced. Therefore, before entering into such a contract, the CE must give careful consideration to the potential risks weighed against the benefits.

Should the CE choose to retain the services of a contractor to perform one or more functions, the CE is still required to retain final administrative and financial oversight and responsibility of the work performed by the contractor.

CEs may not contract out the management of the Program; however, they may subcontract some Program activities required in the management of the CACFP. Refer to Section 3000, *Program Agreement*, for additional information.

Contact your Education Service Center (ESC) for additional information and guidance.

7221 Contract Provisions

In order to subcontract specific CACFP activities, the CE must ensure that the:

- Services to be performed by the contractor are required in the administration/management of the CACFP;
- Services have been properly procured according to Program procurement guidelines;
- Terms of the agreement are adequate for the services to be performed;
- Costs are reasonable in relation to the services to be performed; and
- Costs are not contingent on the CE's receipt of reimbursement.

Written agreements must be established with a contractor if the activities to be performed by the contractor are directly related to the CACFP. The written agreement must at a minimum:

- Identify the person(s) or party(ies) that will perform the subcontracted activities, including any assumed names;
- Certify that neither the contractor, nor any of its staff, are included on the National Disqualified List (NDL) or the Texas Excluded SFSP List (TEXSL);
- Identify the specific activities that the contractor will be performing (i.e., Scope of Work);
- State that the CE (not the contractor) accepts "final administrative and financial responsibility for the operation of the CACFP";
- Stipulate the requirement of the contractor to protect confidential information;
- Provide addresses, including mailing and street addresses for both parties;
- Designate who will receive any formal notices and the acceptable manner for the delivery of such notice;
- Include the contract term (i.e., the duration of the contract);
- Include a contract renewal clause, if applicable;
- Specify conditions for requesting and receiving approval for any price increases, if applicable;
- Specify the total cost not to exceed a definite amount;
- Include specifications regarding the rate of progress of the work and the acceptable fulfillment of the service;
- Specify payment terms, including non-payment for unallowable expenses;
- Provide a dispute resolution process;
- Outline the responsibilities of both parties;

- Include terms for abandonment or default (i.e., if the contractor defaults on the contract, the CE reserves the right to terminate the contract), including sanctions and penalties as appropriate; and
- Specify conditions for termination including:
 - Termination for Convenience - The CE reserves the right to terminate the contract at any time for convenience, in whole or in part, by providing thirty (30) calendar days advance written notice of intent to terminate.
 - Termination for Cause - The CE reserves the right to terminate the contract for cause if the contractor fails to perform in full compliance with the contract requirements, through no fault of the CE, by providing thirty (30) calendar days advance written notice of intent to terminate.

All contracts procured with federal funds must include the following provisions:

- The equal opportunity clause provided under 41 CFR 60-1.4(b);
- A provision for compliance with the Davis-Bacon Act provided under 40 U.S.C. 3141-3144 and 3146-3148;
- A provision for compliance with mandatory standards and policies relating to energy efficiency that are contained in the State energy efficiency conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163)
- A provision for compliance with the Contract Work Hours and Safety Standards Act at 40 U.S.C. 3701-3708, for awards in excess of \$100,000; and
- The *Certification Regarding Federal Lobbying* (H2049), for contracts in excess of \$100,000, in accordance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Contracts for more than the federal simplified acquisition threshold must contain provisions or conditions that will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.

Contracts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

Additionally, the CE must obtain:

1. A debarment certification from the contractor in one of the following manners:
 - Include the following debarment and suspension certification in the written agreement with the contractor:
 - (1) The prospective contractor certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this proposal.

- Require the contractor to sign and submit the TDA Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts (H2048); or
- Print the page from the *System for Award Management* which indicates the contractor is not presently debarred or otherwise excluded from participation in the contract by any federal department or agency or by the State of Texas and maintain that document on file with the subcontract documents. The *System for Award Management* can be accessed at: <https://www.sam.gov/>.

2. Certification Regarding Federal Lobbying (H2049) for any subcontract of \$100,000 or more.

CEs should also include any other factors, in both the solicitation and the resulting contract, that affect the bidder, such as a provision which allows for individual competitive procurement of similar items during peak seasons.

For additional guidance on contract provisions, refer to *2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* located at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>.

7222 Compensation for Purchased Services

If a CE agrees or contracts with a consultant or contractor for the purchase of a service, compensation for that service will be based on the provisions of the contract or agreement. When a contract or agreement identifies a fee or compensation that is based on a set percentage, the contractor or consultant cannot assess additional fees.

EXAMPLE: A contractor or consultant cannot charge sales tax on services in addition to a set percentage that is assessed for that service as stated in the contract or agreement. If a contractor or consultant charges sales tax on the service that they provide, they must extract the tax from the compensation (that is, set percentage) that is stated in the contract or agreement.

7223 Contract Duration and Renewal Options

The term of contracts cannot exceed 12 months and can include a provision for up to four renewals in the four consecutive years following the initial year (procurement year) of the contract, if the scope and purpose of the contract have not changed.

Prior to renewing a contract, the CE must evaluate the terms and determine if conditions or circumstances have changed that would require re-procurement.

Some examples of changes that would affect the original scope and purpose include, but are not limited to:

- The addition of new services.
- Adding participation in another program.
- Adding sites not originally included in the procurement.
- Other changes that would materially affect the contract.

7224 Geographic Preferences

CEs may apply geographic preferences when procuring unprocessed locally grown or locally raised agricultural products.

The CE must include in its written procurement policies and procedures its definition of *local* for the use of this option. Definitions might include “within the state,” “within specific counties,” or “within a specific number of miles.” This means products procured using geographic preference must come from animals or produce that are caught (e.g. fish), raised, or grown in the area defined by the CE as “local.” The CE must ensure its definition does not restrict full and open competition (for example, a definition that includes “within 5 miles”), and that it adheres to its own definition or it risks the procurement being determined unallowable.

Two strategies that may be used when procuring unprocessed locally grown, raised, or caught agricultural products include:

- Using local as a specification (i.e., the written description of a product or service that a vendor must meet to be considered responsive to a solicitation).

- Using a defined scoring advantage while scoring bids in response to a solicitation. This means giving additional points or credit to bids for local unprocessed agricultural products that meet the CE's definition of local. Common methods for applying a defined scoring advantage include, but are not limited to:
 - Giving a price or percentage reduction in the bid evaluation process, which does not affect the actual price paid to a bidder, and awarding the solicitation to the lowest bidder;
 - Granting bonus points to bidders offering local products and awarding the solicitation to the bidder with the highest points; and
 - Offering a sliding scale of bonus points or price reductions in the bid evaluation based on the percentage of local products the bidder could provide.

With any method, CACFP CEs must clearly define and describe the method in the solicitation and ensure it does not unreasonably limit competition.

Geographic preference can **only** be applied to products that are locally grown and locally raised, and that have not been cooked, seasoned, frozen, canned, or combined with any other products. This does not preclude foods that have been handled and prepared to make them usable, such as washing vegetables, bagging greens, chopping, cutting, slicing, dicing or shucking, butchering livestock and poultry, pasteurizing milk and putting eggs in a carton, as well as using a minimal amount of preservatives to prevent spoilage.

Allowable products include, but are not limited to:

- Fruits.
- Vegetables.
- Meats (including fresh or unprocessed frozen products and formed products such as patties that contain no additives or fibers).
- Fish (including whole, form, filets, or nuggets that contain no additives or fillers).
- Poultry (including whole, form, or various cuts).
- Dairy (applies to unflavored pasteurized fluid milk that meets State and local standards only).
 - Flavored milk or any processed dairy products, such as yogurt, cheeses, etc. are not allowed.
- Eggs.
- Grains (including quinoa, rice, barley, etc. in whole form and other grains in ground form such as flour).

The option to allow geographic preferences when procuring unprocessed locally grown or locally raised agricultural products does not eliminate the requirement for procurements to be conducted according to the policies and procedures outlined in this handbook.

For more information on the geographic preference, refer to additional USDA guidance here: <https://www.fns.usda.gov/f2s/geographic-preference-option-qa-memo>

7230 Vended Meals

A CE may contract with a vendor to provide meals to be used in its food service. TDA has developed a standard *Invitation for Bid and Contract for Purchased Meals* (IFB) that must be used for purchased meal procurements and contracts, regardless of the amount of the contract.⁸ The term of the contract cannot exceed 12 months. See below for contract renewal options.

The IFB can be found at <http://www.squaremeals.org>, under CACFP Administration and Forms, under Form Number “IFB.” The CE must submit the contract to TDA (CACFP.Bops@TexasAgriculture.gov) for review and approval before it is signed, and a signed copy must be submitted to TDA prior to operations under that contract. Contact your ESC for questions regarding the procurement process.

It should be noted that the procurement process for purchased meals can take up to six months, so CEs should plan accordingly to ensure a plan for preparation of meals is in place during the process.

CEs that have existing contracts for vended meals at the time they apply for participation can continue under their existing contracts, including renewals, with the following exceptions:

- If the scope and purpose of the existing contract have changed, the CE will be required to re-procure using the TDA IFB.
- If the existing contract does not meet the requirements and guidelines, it is unallowable; the existing contract would need to be terminated and re-procured using the TDA IFB.

CEs contracting with franchise restaurants for meals must ensure that procurement procedures are followed, including competition and use of the TDA IFB.

7231 FSMC Contract Renewal Options

CEs may renew an existing FSMC/vendor contract during each of the four consecutive years following the base year (procurement year) of the contract, if the scope and purpose of the contract does not change.

Examples of changes that would affect the original scope and purpose of an existing contract, thus requiring new procurement, include:

- The addition of new services, such as providing catering or vended meals to sites not under the sponsorship of the CE, concessions, or vending machines;
- Adding participation in another TDA-administered program;
- Changes in fees or the basis for fee increases not reflected in the original Invitation for Bid and Contract for Purchased Meals;
- A major shift in responsibilities for the CE, sponsored site, or the FSMC/vendor staff; or

⁸ CEs purchasing meals from a school food authority that participates in the National School Lunch Program (NSLP) are not required to conduct procurement for purchased meals.

- Changes to the formula that is used to identify a meal.

NOTE: Any additional provisions to the contract that do not alter the original scope of the contract must be submitted to TDA for approval.

CEs must follow established procurement procedures when obtaining an FSMC/vendor contract for the base year. The contract period may only be effective for a maximum of one year to end September 30 each year. The contract can then be renewed each of the four consecutive years following the base year without going through the procurement process if the scope and purpose have not changed. After the base year and four renewal years have passed, the CE must go through the procurement process using the procurement method appropriate to their needs when obtaining a contract for purchased meals.

NOTE: The base year coincides with the Program Year, October 1 through September 30.

7240 Procurement using Cooperatives, Agents, and Third-party Entities

Cooperatives, agents, and third-party entities can be beneficial in assisting CEs in obtaining better buying power and ensuring proper procurement when the CE does not necessarily have the technical understanding of the process. However, using any of the following options does not relieve the CE from administrative and financial responsibility for proper procurement as conducted by the CE itself or on behalf of the CE using one of the methods discussed below.

These methods are not a type of procurement, and a CE using any of the options below to conduct procurement must ensure that procurements are conducted in a manner maximizing full and open competition and that all costs are necessary, reasonable, allocable, and otherwise allowable per 2 CFR 200.403, applicable cost principles in 2 CFR 200, subpart E, and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program*.

7241 Cooperatives

A cooperative that is comprised solely of CEs may procure as a group and must do so in compliance with the procurement standards that apply to the CE (7 CFR 226.22, and/or 48 CFR Part 31, and 2 CFR 200).

This includes complying with all State and local procurement standards, if more restrictive, and publishing solicitations and contracts with all terms, conditions, required contract provisions, as applicable. All solicitations must clearly identify all product descriptions, specifications, and estimated quantities required. Further, each CE that is a member of the cooperative is responsible for monitoring contractor performance to ensure compliance with all contract provisions. Written agreements delineating roles and responsibilities are encouraged.

7242 Agents

An agent is a person or business authorized to act on a client's behalf. An agent may be necessary for procuring goods or services when/if the CE does not have the necessary technical understanding of the equipment, service, food, or other food service supplies to be purchased, or

lacks time or expertise to conduct a proper procurement. A procurement agent represents a special fiduciary relationship of trust between itself and the CE. In other words, the agent must be contractually required to conduct all competitive procurement methods with the CE's interests solely in mind. An agent's services above the micro-purchase threshold of **\$15,000** must be competitively procured in accordance with Federal procurement methods outlined in 2 CFR 200.

When an agent is needed to procure goods and services on behalf of the CE, the CE must first determine if the agent fee is within the micro-purchase threshold or if a competitive procurement method must be conducted for the services of the agent. If a solicitation is required, the scope of duties and responsibilities must be clearly defined as well as how prices/costs for services are to be quoted for evaluating agents' bids/responses for contract award.

Some agents often charge fees to vendors who pass such fees on to the CE. CEs must not enter into a contract with an agent that charges the CE a fee **and** charges the vendor a fee. The CE must include in its solicitation if the agent will be paid based on a:

- Flat fixed-rate for services; or
- Fee based on purchase unit, volume, or cost. Fees based on a purchase unit, volume, or cost must be fixed (fees cannot be a percentage of cost). If this method is selected, agents cannot be considered if they do not openly provide the full fixed fee rate based on price per purchase unit, volume, or cost for their service; or
- Vendor fee charged to the vendor by the agent, which is paid to the CE and used by the CE to pay the agent's fee. If this method is selected, the vendor fee must be based on a purchase unit, volume, or cost and must be fixed (fees cannot be a percentage of cost). If this method is selected, agents cannot be considered if they do not openly provide the full fixed fee rate based on price per purchase unit, volume, or cost for their service.

CEs must include language in its solicitations and contracts that stipulates that agents must follow procurement procedures consistent with 2 CFR Part 200 and applicable Program regulations, or State and local procurement requirements if more restrictive. Published solicitations and contracts must include all terms, conditions, required contract provisions, as applicable, and all product descriptions, specifications, and estimated quantities required.

The procurement agent must confirm in its response to the solicitation that it will represent the CE and will have the CE's best interests exclusively in mind when preparing solicitations for publication on the CE's behalf. The agent may not have any conflict of interest, real or apparent. For example, the agent may not use pre-existing contractual relationships in lieu of conducting a competitive procurement on behalf of the CE.

In order to ensure free and open competition, the procurement agent must:

- Work closely with the CE to understand the CE's needs;
- Develop solicitations on the CE's behalf consistent with 2 CFR Part 200 and applicable Program regulations as required for the CE as noted above;

- Award contracts only to responsible contractors whose bid/offer is lowest/most advantageous to the Program with price as the primary factor;
- Award fixed-price contract; and
- Monitor the ensuing contract on behalf of the CE as required in 2 CFR 200 if specified in the original solicitation and resulting contract.

NOTE: An agent publishing a solicitation on behalf of a CE may not respond to such solicitation, as this would constitute an unfair advantage and be in violation of Federal procurement requirements.

7243 Third-Party Entities

Third-Party entities include State procurement agency agreements, inter-agency agreements, group purchasing organizations, group buying organizations, and third-party vendors.

7243.1 State Procurement Agency Agreements

This is an inter-governmental agreement with the State, which may include public, private, and non-profit entities. This agreement allows CEs to purchase from the State's contracted sources. When competitive procurement methods are conducted by the CE, this agreement may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

The CE may consider a State agency's procurement as one source for procurement. For example, if the purchase is less than or equal to **\$15,000**, the CE may purchase directly from the State's procured sources as long as the prices are reasonable and the CE equitably distributes all procurements among all qualified suppliers available. If the procurement is less than **\$100,000**, the CE may obtain a price or rate quotation from the State's procured sources, among other qualified sources available. For procurements of **\$100,000** or over, a CE must first conduct a cost analysis and then develop a solicitation (sealed bid or competitive proposal). The CE may use vendors and prices from the State's contract as one source. Remember, it is not the State procurement agency agreement that is the competitive procurement; rather, this agreement gives the CE further options of sources to utilize to ensure full and open competition.

7243.2 Inter-agency Agreements

These agreements may include public, private, and non-profit entities formed to procure goods and services together. When the CE conducts competitive procurement methods, this agreement may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

CEs purchasing through an inter-agency agreement includes entering into the inter-agency agreement to competitively procure common goods and services, then developing and publishing solicitations through sealed bids/competitive proposals. These solicitations must include procurement procedures and include the terms, conditions, required contract provisions, as applicable, and all products, descriptions, specifications, and estimated quantities. Further, each CE is responsible for monitoring contractor performance to ensure compliance with all contract provisions.

7243.3 Group Purchasing Organizations, Buying Organizations, and Third-Party Vendors

Collectively referred to here as GPOs, these often include CEs and non-CEs (entities that do not participate in a child nutrition program) such as public and private schools, hospitals, universities, law enforcement, public works, etc. who join a third-party company or service provider. GPOs could be private for-profit or nonprofit entities. A GPO is typically structured in a way that may include a membership fee paid by member users, who are then granted access to the GPO price list of products and services. When competitive procurement methods are conducted by the CE, GPO price lists may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

The business model of a GPO may include a variety of services, including facilitating procurement for members/member agencies and procuring products and services from an external source, such as an affiliated or unaffiliated full-line distributor. Membership involves paying a fee in addition to the price of products and services purchased. However, paying a fee does not constitute compliance with the competitive procurement process that CEs are required to conduct when procuring products and services.

A CE may pay a membership fee to multiple GPOs, and when using micro or small purchase procedures, may consider the price for products from GPOs as one source among an adequate number of qualified sources. For the procurement of goods and services greater than **\$99,999.99**, CEs must publish sealed bids or competitive proposals, to which GPOs may respond, provided the GPO has not drafted such solicitations. Likewise, responses to bids/proposals must be evaluated by the CE to determine the lowest responsible and responsive bidder/offeror with price as the primary factor.

Purchasing goods and services from a GPO without conducting a compliant procurement process is limited to the micro-purchase threshold. Under the micro-purchase threshold, single transactions are at or below **\$15,000**, prices would be reasonable, and purchases would be equitably distributed among qualified suppliers.

7250 Conflicts of Interest

Organizations participating in the CACFP are required to disclose and identify related party transactions; less-than-arms-length transactions; and ownership interest in equipment, supplies, vehicles and facilities, or disclose any other information that inhibits TDA from making an informed assessment of whether a particular cost is allowable.

A less-than-arms-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 organization, or immediate family, either directly or through corporations, trusts, or similar arrangements in which a controlling interest is held. See also Arms-length bargaining and related party transaction in Exhibit A of *FNS Instruction 796-2, Financial Management – CACFP*.

Related parties include, but are not limited to:

- Brothers/sisters
- Spouse
- Parents/grandparents
- Children/grandchildren
- Half-brothers/sisters
- Domestic partners and parents thereof
- Any individual related by blood or affinity whose close association is the equivalent of a family relationship
- Affiliates of the organization
- Principal owners of the organization and immediate members of their families
- Management of the organization and immediate members of their families

A CE cannot allow a conflict of interest or potential conflicts of interest when procuring goods and services.

No officer, agent, consultant, contractor, volunteer, or other employee of a CE or sponsored site/provider may engage in any activity that causes or could cause a conflict of interest in the operation of the CACFP, including but not limited to:

- Renting or leasing from a firm in which any officer, agent, consultant, or employee (or relative) has an interest, and this related party transaction has not been fully disclosed.
- Soliciting or accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, sites, or parties to subcontracts.
- Soliciting donations or fees from the CE's sites/providers.
- Asking sponsored sites/providers to engage in any kind of business on the CE's behalf.
- For day care homes, participating as a provider while actively engaged in the day-to-day operations of its sponsorship (board members are not considered "actively" engaged in the day-to-day operations).

A CE must establish and maintain a written code of standards of conduct that govern the performance of its officers, employees, or agents. This written code must:

- Prohibit owners, members, officers, or employees from soliciting gifts, travel packages, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- Prohibit owners, members, officers, or employees from accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- Prohibit an owner, member, officer, or employee from participating in the selection, award, and administration of any contract to which an entity or certain persons connected to them have a financial interest.

- Set standards when financial interest is not substantial or the gift is an unsolicited item of nominal value, and therefore may be acceptable.
- Provide for disciplinary actions in the event of violation.

Additionally, sponsors of child care centers, adult day care centers, or At-risk centers may require a site to have a written code of standards of conduct as part of corrective action if needed.

All less-than-arms-length transactions must be disclosed to TDA and require specific prior written approval before the cost is incurred and included in the budget.

7260 Procurement Documentation and Record-Keeping Requirements

Procurement documentation and records are subject to the same record-keeping requirements as all other CACFP-related records (Refer to Section 4500, *Managing and Monitoring Sites/Providers of this Handbook for additional guidance on record keeping and record retention requirements*).

7261 Procurement Procedures

As referenced in the above sections, CEs must have procurement procedures in place that provide the steps and actions that will be taken to properly procure goods and services in accordance with Program requirements. The level of detail should be reflective of the CE's operations.

The procedures must provide that proposed procurement actions will be reviewed by the CE's officials to avoid the purchase of unnecessary or duplicative items, and where appropriate, an analysis shall be made of lease versus purchase alternatives to determine which approach would be the most economical. The procedures must encompass each procurement method discussed in this handbook. The procedures must also include the following elements:

1. Forecasting and scheduling of purchases - Plan procurements for the Program Year (PY) by evaluating resources, projecting expenses, and determining needs prior to initiating a procurement process by assessing:
 - Current approach, such as meal preparation (self-preparation, central kitchen, need for a Food Service Management Company (FSMC)).
 - Storage capacity.
 - Equipment.
 - Resources, such as income/revenue and staff.
 - Other operational needs.
2. Development of technical requirements – Procedures must include a step for developing clear and accurate technical requirements for the material, product, or service to be procured.

3. Selection of the procurement method – Beyond the cost of a single transaction, CEs must document any other factors, such as distance, storage, etc., and decision steps that will be used to determine the method. Include steps to:
- Develop solicitations.
 - The description and scope (specifications) must be in line with what is being procured.
 - Must be clearly stated so that bidders will understand and can be responsive to the need.
 - Must identify all of the requirements that bidders must fulfill so that changes do not need to be made to a contract after it is awarded, including identification of prohibited expenditures.
 - Must include evaluation and scoring factors, with cost as the primary factor.
 - Must not contain features which unduly restrict competition.
 - Advertise.
 - Content must be sufficient to identify:
 - General nature of the goods or services to be procured.
 - Method of procurement to be used.
 - How a bidder can obtain the solicitation or more information.
 - The due date for responses to the solicitation.
 - Methods of advertisement must allow for full and open competition.
 - State, regional, or nation-wide newspapers.
 - Trade periodicals.
 - Internet sites.
 - Direct mailings (small purchase procurement method only).
 - Ensure small and minority businesses and women’s business enterprises are utilized when possible.
 - Include qualified small and minority businesses and women’s business enterprises on solicitation lists.
 - Ensure that small and minority businesses and women’s business enterprises are solicited whenever they are potential resources.
 - When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small and minority business and women’s business enterprises’ participation.
 - Where the requirement permits, establish delivery schedules which will encourage participation of small and minority businesses and women’s business enterprises.
 - Use the services of the Small Business Administration and the Minority Business Enterprise of the Department of Commerce.

- If subcontracts are to be let, require the prime contractor to take the affirmative steps above.
4. Evaluation of proposals/offers:
- Determine if bids were received from responsible and responsive contractors.
 - “Responsive” means contractor’s products or services meet the specifications.
 - “Responsible” means a contractor that can and will successfully fulfill the terms and conditions of the proposed procurement. Attributes of a responsible contractor include the following:
 - Integrity.
 - Compliance with public policy.
 - Record of past performance.
 - Financial and technical resources.
 - Must use cost as the primary factor.
 - Must be evaluated without consideration of any included unallowable cost provisions.
5. Award and management of the contract:
- Must be awarded to the lowest responsive and responsible bidder, or the responsible firm whose proposal is most advantageous to the Program with price as the primary factor.
 - Legally ensures commitment.
 - Provides record of the deal.
 - Ensures contractor performs in accordance with the terms, conditions, and specifications of the contract by verifying:
 - The quantity and quality of the goods and services requested.
 - The goods and services were received on time.
 - The prices charged for the goods and services are the prices bid and within budget.
6. Protest procedures: provide dispute resolution for any action that diminishes open and free competition
- Supply copies of dispute resolution procedures to all potential bidders.
 - Include name and address of person who will make a determination whether or not the protest should be sustained.
 - Disclose information regarding all protests to TDA.

7262 Contract Records

When a contract is continued or renewed annually or recorded at other intervals, the three-year retention period for the records of the contract period starts on the date the final payment is recorded in connection with the final renewal of the contract and not the initial contract execution date. The three-year record retention period does not begin until the final contract renewal period has expired and/or the final payment is recorded, whichever occurs first.

Actions such as bid protests, litigation, and audits may result in an extension of the three-year record retention period. In such cases, the records must be retained until the completion of the action and resolution of all issues arising from it or the expiration of the regular three-year period, whichever occurs latest.

Examples of such records are:

- A written rationale for the method of procurement
 - Procurement procedures
 - Justification for use of a method that does not follow the CE's written procedures
- A copy of the Request for Proposal or the Invitation for Bid
- The bidding and negotiation history
- The basis for contractor selection
 - Criteria used
 - Evaluation documentation
 - Including justification for selection of a contractor that was not the lowest bidder and copy of TDA approval of selection, if applicable
- Approval from TDA to support a lack of competition when competitive bids or offers are not obtained
- The terms and conditions of the contract
- Any changes to the contract and negotiation history
- Billing and payment records
 - Invoices
 - Receipts
 - Handwritten receipts, such as those from Farmers' Markets are acceptable as long as they include the date of purchase, name of vendor/farmer, item cost, amount, and total cost
- A history of any contractor claims
- A history of any contractor breaches

If procurement records generated during the performance of the contract award do not demonstrate compliance with applicable procurement requirements, the following penalties may occur:

- Disallowance of costs.
- Termination of contract.
- Request CE to issue a “stop work” order.
- Placement into the serious deficiency process.
- Other actions deemed appropriate.

7300 Maintaining a Nonprofit Food Service Account

The information provided throughout this section comes from 2 Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 48 CFR Part 31, Contract Cost Principles and Procedures, 7 CFR Part 226, Child and Adult Care Food Program and FNS Instruction 796-2, Financial Management – CACFP and is not all inclusive of all information contained in those documents. CEs are responsible for understanding and complying with the above mentioned guidance. CEs must operate a nonprofit food service principally for the benefit of enrolled participants and must document all aspects of the food service operation.

Sponsors of child care centers, At-Risk centers, and adult day care centers must ensure their sites operate a nonprofit food service. **Day care home providers are not required to maintain a nonprofit food service account.**

Nonprofit status does not require that the CE or site operate at a break-even or loss. Nonprofit food service status is determined by the scope of the food service activities and the use of nonprofit food service revenues through:

1. Identifying all nonprofit food service revenues;
2. Deducting allowable net expenses;
3. Identifying the excess of all nonprofit food service revenues over nonprofit food service expenses; and
4. Verifying that any excess of revenues over expenses is retained and used only in the nonprofit food service operation.

Food service revenue includes:

- CACFP reimbursement.
- Income to the Program, such as:
 - Funding from other government sources
 - Cash donations specifically given for food service
 - Grants from other organizations or individuals
 - All interest earned on CACFP reimbursements or advances

- All other funds used or restricted for use in the nonprofit food service.

7310 Program Revenue

7311 Meal Reimbursement

The primary source of revenue for the site/provider is meal reimbursement for eligible meals served and claimed. A CE's claim is a participation report documenting the meals served at an independent center or at a sponsor's sites/providers. The money passed through to sites/providers based on these claims is used to reimburse them for costs associated with providing food service. Meal reimbursements are based on the site type, meal type, and eligibility of the participant. Refer to Section 4300 *Counting, Claiming, and Reimbursement* for more information.

7312 Administrative Reimbursement (Day Care Home Sponsors Only)

Sponsors of sites/providers primarily act as a pass-through entity for federal funding, disbursing meal reimbursement from TDA to the sites they sponsor within five days of receipt. However, sponsors of day care home providers may receive extra reimbursement to account for allowable net administrative expenses, as noted in their Management Plan, needed for planning, organizing, and managing the Program while sponsoring the CACFP activities of their providers. Sponsors must report all administrative expenses with the claim each month.

USDA determines administrative reimbursement by annually adjusting the following base administrative rates, applied per provider per month, set forth in 7 CFR 226 as follows:

- Initial 50 day care homes, 42 dollars;
- Next 150 day care homes, 32 dollars;
- Next 800 day care homes, 25 dollars;
- Additional day care homes, 22 dollars

Annual adjusted rates for each range listed above can be found on the SquareMeals CACFP Reimbursement Rates page located at: <https://squaremeals.org/Programs/Child-and-Adult-Care-Food-Program/Reimbursement-Rates>

Per regulation, a **maximum 10%** of administrative funds received during the Program Year can carry over from one program year to the next if approved by TDA. Based on the total administrative costs reported on the CE's monthly claims for reimbursement and on the total administrative payments the CE receives in a program year, TDA will annually send each CE a close-out letter documenting the amount of administrative reimbursement remaining, the total that can be carried over (if applicable) and total that must be returned to TDA (if applicable).

CEs will use this information to amend the carry-over amount in their current budget. The close-out letter will be sent around December 1st of each program year to ensure that all claims for reimbursement for the previous program year have been received and processed.

Example:

- Administrative expenses documented in monthly claims during the year total \$100,000.

- Administrative payments for the Program Year total \$150,000, yielding a surplus of \$50,000.
- CE may carry over up to \$15,000 (10% of total administrative reimbursement) into the next Program Year.
- CE must return \$35,000 to TDA (\$50,000 surplus - \$15,000 allowed carryover)
- The CE's PY budget shows a carryover into the next year of \$25,000. An amended budget is required to reflect \$15,000.

Any funds carried over that are not spent during the next program year must be returned to TDA.

Note: CEs are not required to carry over administrative funds. At the end of the program year, any unexpended funds eligible for carryover may be returned to TDA at the CE's option.

7313 Program Income

In addition to meal reimbursements, food service revenue can come from other sources of Program income. Program income is the gross income earned from activities supported by the Program, and includes, but is not limited to:

- Participants' payments for meals at sites operating pricing programs.
- Payments received from food sales to adults when the cost of the adult meal is not deducted from total operating costs.
- Proceeds from the disposition of real and nonexpendable personal property acquired with Program funds.
- Royalties and other income earned from the sale or licensing of copyrighted work developed under the Program.
- Revenue from the sale of food grown in a CACFP-funded garden.

Additionally, the Program may receive income from other sources that are applied to Program operations. Examples include:

- Cash donations specifically earmarked for use in the Program's food service.
- Interest earned on advance administrative funds or meal service and site pass-through reimbursement that can be retained by the CE.
- For interest earned **on advance payments**, public institutions may only retain up to a maximum of \$100, and non-profit organizations may only retain up to a maximum of \$250 per fiscal year for program use only. Any amount of interest accrued in excess of those maximums must be returned to TDA.
- Funds received from the sale of unused or unneeded supplies purchased with Program funds.

All income to the Program must be retained and **used only in the Program food service**. Income to the program may not be used to pay unallowable costs in the CACFP such as:

- Incentives and bonuses provided to sites to participate in the program.

- Training related to, but not required for program participation, such as training to maintain licensing/certification requirements.

The receipt of all funds related to the CACFP, including grants, donations, and loans, regardless of their source, must be documented in writing.

All loans must satisfy TDA financial management system requirements, including, but not limited to, the following criteria:

- A written agreement specifying the terms and conditions of the loan, including a repayment schedule, must be signed by both parties.
- Loans may not be entered into retroactively.

EXAMPLE: A donation or grant may not be converted to a loan agreement after the fact.

- Interest accrued on the loan is not an allowable program cost.

7314 Non-Cash Donations

Donations, such as food, building use, services, and labor are not considered Program income. However, a CE must maintain and make available documentation of each donation to demonstrate how it manages the Program on the CACFP reimbursement. CEs that submit a budget that does not reflect an acceptable level of food costs to support the number and type of meals it intends to claim should submit this documentation with the application to explain the discrepancy.

7320 Program Expenses Overview

Specific allowable and unallowable program costs are covered in more detail in *Specific Program Costs* below. This section is designed to show the effect of allowable operating and administrative expenses on the nonprofit food service account.

7321 Operating Expenses

Operating expenses are allowable expenses for serving meals to eligible participants.

Examples of operating costs include:

- Food;
- Food service labor;
- Nonfood supplies; and
- Food service equipment.

All sites/centers and sponsors of centers, if applicable, must compute the cost of food used in the nonprofit food service. FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program* Exhibit B provides guidance on computing the cost of food, food inventory, and food purchases.

7231.1 Operating expenses Incurred by Sponsors

Sponsors of day care homes generally do not have operating costs, as the operating costs are absorbed by the provider; providers are not required to keep records of their operating costs for CACFP activities.

Sponsors of unaffiliated centers **may** incur operating expenses on behalf of some or all of their sites. Such expenses must adhere to the following:

- Must be documented in the Budget Detail as operational costs.
- Must be tracked and withheld separately from the reimbursement withheld for administrative expenses (see *Administrative Expenses* below).
- Additional reimbursement withheld from the site must align with actual operational expenses, and the site must agree in writing to the actual expenses for which reimbursement was withheld.

Sponsors of affiliated sites will likely incur operational costs on behalf of its sites; however, operational expenses must be tracked separately from funds withheld from reimbursement for administrative expenses (see *Administrative Expenses* below).

7322 Administrative Expenses

Administrative expenses are limited to an organization's allowable expenses for planning, organizing, and managing the Program. Examples of administrative expenses include salaries, wages, fringe benefits, etc. to accomplish the following:

- Reviewing and submitting site or provider applications to TDA for Program participation approval;
- Reviewing and approving CACFP Meal Benefit Income Eligibility Forms;
- Providing training for CE staff, sponsored sites, or DCH providers; and
- Conducting monitoring visits to sponsored sites or day care homes.

While sponsors of day care homes receive additional administrative reimbursement for administrative expenses (see *Administrative Reimbursement (Day Care Home Sponsors Only)* above), sponsors of centers account for administrative expenses by withholding an amount from a site's monthly claims as follows:

- Money withheld must align **with actual allowable administrative costs** incurred by the sponsor in supporting the operations of the Program; **AND**
- The amount withheld is **not to exceed 15%⁹ of the total reimbursement received**, with the amount withheld to be stipulated in the Permanent Agreement between the sponsor and the site. The sponsor must maintain documentation to support the percentage of CACFP reimbursement withheld.

⁹ Sponsors may request TDA approval to withhold a percentage of reimbursement exceeding 15% for allowable administrative costs if the sponsor does not have any outstanding debt to TDA, is not currently in the serious deficiency process, and is in good standing with the Comptroller of Public Accounts. For more information on the waiver process, refer to Section 4300, *Counting, Claiming, and Reimbursement*.

Federal regulation (7 CFR 226.16(b)(1)) mandates that by the end of the Program Year, any funds withheld by sponsors in excess of the agreed-to amount between the sponsor and site (maximum 15% of the total annual reimbursement per site), **or** in excess of actual documented administrative expenses, must be distributed to its sites.

Sponsors of Affiliated Sites

Sponsors of affiliated sites and centers, who account for all operational costs incurred at the site level, are not necessarily disbursing meal claims to the individual site, as that site is legally affiliated with the sponsor. Nevertheless, a sponsor of affiliated sites must also only withhold an amount of reimbursement not to exceed 15% of each site's total CACFP reimbursement to pay for actual allowable administrative costs. Any remaining reimbursement must be used on operational costs to enhance the quality of the food service operation at the site.

Software and Service Costs Required by Sponsor

A sponsor requiring a site to use software or services the sponsor provides must include the cost of the software or services in the allowable percentage of administrative reimbursement the sponsor can withhold each month, and cannot charge a separate amount in addition to the allowable percentage, regardless of whether the software or services are paid for out of CACFP funds or non-CACFP funds.

In addition, a sponsor requiring a site to use software or services provided by another source must reduce the allowable percentage of administrative reimbursement it can withhold each month by the amount paid by the site to that third party, regardless of whether the software or services are paid for out of the CACFP funds or non-CACFP funds by the site.

Sponsors charging a site for software or services, or requiring a site to purchase software or services from another source without reducing the paid amount from its administrative withholding, will be required to reimburse the site for excess charges and may be placed in the serious deficiency process.

7330 Excess funds (Unused Reimbursement)

Sponsors of sites/providers must correctly process any excess, unused reimbursement in their nonprofit food service account at the end of the Program Year. As noted in the *Administrative Expenses* and the *Administrative Reimbursement (Day Care Home Sponsors Only)* sections above:

- At the end of each Program Year, after reconciling all allowable administrative expenses for the year against the amount of money withheld from sites, **sponsors of centers/sites** must distribute any excess reimbursement withheld above actual administrative expenses to their sponsored sites, or if administrative expenses exceeded 15% of total reimbursement, any amount withheld over 15%.
- Sponsors of day care home providers may carry over 10% of total annual administrative reimbursement but must spend that carryover amount in the next Program Year.

Independent center CEs, sponsored unaffiliated centers/sites, and any sponsor that does not pass reimbursement to its sites (for example, a sponsor that incurs all financial costs for

operation at the site) must ensure that CACFP reimbursement does not exceed net costs.¹⁰ Net costs are total costs minus Program income.

EXAMPLE: A CE's reimbursement is \$10,000 per year. Records support total costs of \$11,000 and total additional Program income of \$1,000. Since the net costs (\$11,000 - \$1000) and CACFP payments are the same, the CE has shown that the program is nonprofit.

TDA allows independent centers, sites, and any CE that does not pass reimbursement to their sponsored sites to maintain a maximum of three months' average expenditures in the nonprofit food service account at one time. If an independent center CE approaches the maximum amount allowed in the nonprofit food service account, it should use the *Excess Net Cash Resources Plan for Child and Adult Care Food Program*, available on the CACFP Administration/Forms page of SquareMeals to develop a plan to spend down the excess amount. Sponsors of unaffiliated sites may require their centers/sites to use this form as well if their unused reimbursement is approaching or exceeds three months' average expenditures.

Note that unused reimbursement must be spent on allowable program costs that primarily benefit the participants of the Program. Operators should prioritize costs that improve food quality or overall food service. Any increase to administrative budget line items will be analyzed by TDA to ensure that the costs are still reasonable, necessary, and allocable to the Program prior to approval (see *Financial Administration of the Program* below).

7400 Financial Administration of the Program

This section generally covers identifying the costs necessary to administer the program, budgeting requirements prior to the beginning of the Program Year, common budget line items associated with administration of the Program, and allowable and unallowable uses of Program funds.

7410 Allowable costs

A cost may be allowable in the CACFP if it is determined to be necessary, reasonable, and allocable to the program.

Necessary costs are those that represent an activity or function that is generally recognized as necessary for the operation of the Program. The cost must be essential to fulfill the regulatory requirements for proper and efficient administration of the Program.

Reasonable costs are those that represent an amount that does not exceed what a prudent person would pay under the same circumstances.

Allowable costs can be either direct or indirect costs. Direct costs are those costs that can be specifically identified as costs used solely for the nonprofit food service. Indirect costs are those costs that are incurred for a common purpose within the organization, but a portion cannot be easily allocated to the nonprofit food service. If the CE will be claiming indirect costs, the rate must be part of their cost allocation plan. A cost allocation plan is a written explanation of how costs are classified.

¹⁰ Day care home providers are not required to maintain a non-profit food service account.

CEs and sponsored sites must account for all nonprofit food service costs using generally accepted accounting principles (GAAP). CEs and sponsored sites are responsible for accounting for costs accurately and for maintaining records to demonstrate that costs claimed have been paid, are allowable to the program, and comply with financial management requirements found in FNS Instruction 796-2, *Financial Management – CACFP* located at <http://www.squaremeals.org>, under:

- CACFP Administration & Forms;
- CACFP Policy & Handbook; and
- F&N Resources, tools and links.

Some allowable costs require prior approval. Levels of required approval, such as specific prior written approval (SPWA) from TDA and additional USDA Food and Nutrition Service (FNS) approval, are described in the FNS Instruction 796-2, *Financial Management – CACFP*, as well as the Budget Details and its instructions.

Costs that require specific prior written approval from TDA or the FNS Regional Office must be submitted in writing prior to the CE incurring the cost or including the cost in its budget. To request specific prior written approval or FNS Regional Office approval, submit the request, with all supporting documentation to justify the cost, to TDA using one of the following methods:

- TX-UNPS SPWA Request Module; or
- Email to: CACFP.Bops@TexasAgriculture.gov; or
- Regular or certified mail, Attn: CACFP Applications, to:
1700 North Congress Avenue
Austin, Texas 78701
- Overnight delivery, Attn: CACFP Applications, to:
P.O. Box 12847
Austin, Texas 78711

Regardless of the method of submission, ensure the name and CE ID is included.

NOTE: If the specific prior written approval is for a contractual service/item, then an SPWA is not required every year that the contract is in place. During annual budget submittal, the CE will be able to note within the system that the current item has already been approved. If, however, the SPWA is for a monthly service contract that must be renewed annually, the CE will need to submit an SPWA for that service each year.

7420 Unallowable Costs

Unallowable costs may be expressly unallowable, directly associated with expressly unallowable costs, or may be unallowable through the actions or inactions of the CE or sponsored center.

- Expressly unallowable costs are those that are prohibited by FNS Instruction 796-2, applicable laws, or regulations.

- Directly associated unallowable costs are the costs that result from the CE incurring expressly unallowable costs, such as the cost of supplies used by a CE engaging in prohibited lobbying activities.
- Costs made unallowable by the action or inaction of the CE include costs that might otherwise be allowable, such as approved labor costs for which the CE failed to maintain the required documentation to support the costs.

When unallowable costs are discovered at the CE level, TDA will issue fiscal action requiring the CE to pay back their non-profit food service account the unallowable amount with non-federal funds. If TDA issues a fiscal action against an organization for unallowable costs and the organization lacks a reliable source¹¹ of non-Program funds to repay the debt, the organization will be placed in the Serious Deficiency (SD) process. Repaying the debt in full within 90 days and establishing a steady source of non-Program revenue will be required elements of acceptable corrective action. Refer to Section 10000, *Serious Deficiency*, for more information on the SD process.

Sponsors of centers are responsible for any unallowable expenses incurred by sponsored sites. Sponsors may require a site to repay its non-profit food service account for the amount of unallowable expenses or repay the sponsor, who will then return the money to TDA. If the sponsor is unable to recoup the funds from the site, it must assume the site's debt and repay TDA for the amount of unallowable expenses identified.

CEs that fail to renew the Program or attempt to terminate prior to replenishing their food service accounts for any unallowable expenses will be placed in the serious deficiency process, and any outstanding money owed must be paid back to TDA before the organization will be eligible to apply to operate the Program again.

7430 Budgeting

For budgeting purposes, the cost of an expense may be estimated; however, the nonprofit food service accounting system and the CE's supporting documentation must show only actual costs. In addition, costs must be necessary and reasonable to the operation of the nonprofit food service.

Budgeted costs are separated by operating expenses and administrative expenses as described above. TDA must approve a CE's administrative and operating costs, including labor costs, for the CE to use CACFP reimbursements and income for those costs. Note that the administrative budget submitted by a sponsoring organization of centers must demonstrate that the administrative costs to be charged to the Program do not exceed 15 percent of the meal reimbursements estimated for the budget year.

Refer to Section 2000, *Eligibility and Application Requirements*, for specific instructions and guidance related to submitting an annual budget.

¹¹ A reliable source of non-Program funds must, at any time during the Program Year, contain adequate non-Program funds to continue to pay employees and suppliers during temporary interruptions in Program payments and/or to pay debts when fiscal claims have been assessed against it.

The *Budget* contains the following cost categories:

NOTE: The information below only includes those cost categories from FNS Instruction 796-2, *Financial Management – CACFP* that are potentially allowable and not determined expressly unallowable by USDA. CEs are responsible for using the instruction for any costs not discussed below to determine if those costs are unallowable.

Labor

This includes operational and administrative labor. See FNS Instruction 796-2, #23 for all the requirements for labor costs, including allowable and unallowable costs, documentation requirements, and specific levels of approval. Labor costs include costs for employees. Labor costs for independent contractors would be entered in either purchased services or contracting organization costs (see Legal expenses and other professional services).

To determine whether the cost is for an employee or independent contractor visit the IRS website at <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee? ga=1.74484946.1747892112.1462550897>

Reminder: Purchased services/professional services (such as an independent contractor) must be properly procured.

Food

Food costs include the net cost of food used or the net cost of delivered meals, not the cost of all food purchased.

Facilities and Space

- Health and safety standards
 - Costs to meet regulatory Program requirements for inspections of at-risk afterschool care centers and outside school hours care centers.

UNALLOWABLE: Costs to bring owned or rented spaces into compliance with other State and local requirements.

- Rearrangement and alteration
 - The cost necessary for efficient and effective Program operation but do not result in capital improvements. See FNS Instruction 796-2, #17 (3).
 - This cost requires specific prior written approval.
- Rental costs
 - The cost of space used for Program purposes and that does not exceed the rental costs of comparable space and facilities for privately owned buildings in the same

locality. Related party transactions are subject to additional cost limitations. See FNS Instruction 796-2, #36 d(3) for further information.

- Utilities
 - See *Purchased Services* below.
- Other space costs
 - The cost of special lease arrangements, costs incurred during periods of non-occupancy; and a single base such as square footage to allocate maintenance and operation costs between Program and non-Program activities when these costs are not included in rent or other space charges. See FNS Instruction 796-2, #17 (d).
 - These costs require specific prior written approval.

Supplies and Equipment

- Materials and supplies
 - The cost of durable supplies (cell phones, etc.) and expendable materials and supplies (pens, paper, ink cartridges, etc.) that do not meet the definition of equipment. **NOTE:** Computers under \$10,000 are considered supplies per federal regulation.
 - The cost of materials and supplies related to wellness efforts, including the promotion of physical activity and limiting the use of electronic media, may be an allowable cost if the CE or site has determined the free materials provided by USDA are not sufficient and if the materials must also include information on how nutritious meals promote wellness.
 - CEs must ensure the costs meet the FNS Instruction requirements and that the meal service quality is not jeopardized by using Program funds towards wellness efforts. **Materials and supplies used by the CE and individuals for non-Program use are unallowable.**
 - See *Media Costs* below for allowability of publication and reproduction of wellness materials.
 - The cost of supplies, such as seeds, fertilizer, watering cans, rakes, etc., to grow food that will be used as part of a reimbursable meal and for nutritional education activities.
 - Costs related to the purchase of potable water or water filtration equipment – see *Other Costs* for additional guidance.
- Rental costs
 - The cost of vehicles and equipment owned by a third party or parties that are leased by the CE for Program purposes when properly procured and a bona fide arms-length written rental agreement exists. Related party transactions and other factors are subject to additional requirements and cost limitations. See FNS Instruction 796-2, #36 for further information.

Purchased Services

- The cost of services, excluding professional services, required for Program purposes and not included in other cost categories, such as maintenance, repair or upkeep of food service equipment that neither adds to its permanent value or prolongs its expected useful life but keeps it in an efficient operating condition, provided the cost was incurred in arms-length transactions.
- The cost of utilities, purchased security and janitorial services, etc. not included in labor.
- With specific prior written approval, the cost of all services obtained through less-than-arms-length transactions, maintenance, and service repair contracts on Program equipment, and all other purchased service costs needed for Program operations.

UNALLOWABLE: Costs that prolong expected useful life of equipment or facilities, any share of purchased service costs incurred for non-Program purposes, and less-than-arms-length transactions that are not fully disclosed.

Financial Costs

- Accounting costs
 - The cost of establishing and maintaining accounting and other information systems required for the management of CACFP.

UNALLOWABLE: Costs incurred to meet or maintain the organization's incorporation or nonprofit status are unallowable.

- Bonding costs
 - The cost of the performance bond required by TDA for new sponsoring organizations and the cost of premiums of bonds covering employees who handle CACFP funds.

UNALLOWABLE: The cost of bonding for general administrative staff, officers, or individuals not responsible for handling CACFP funds is unallowable.

- Other financial costs
 - The cost of bank service fees for Program accounts, including the Program share of fees for commingled accounts, for check printing, and routine account servicing charges.
 - With specific prior written approval, stop payment charges for site advance and reimbursement payments and other disbursements; Program account reconciliation and analysis fees, including the allocated share for commingled accounts; interest incurred on organizational debt used to acquire or replace equipment or other property or make allowable improvements. See FNS Instruction 796-2 #22 for more information and the list of unallowable financial costs.

Day Care Home Provider Licensing

Day care home sponsors may use administrative Program funds for licensing-related expenses of unlicensed or unregistered, low-income providers. CEs may use a maximum of \$300 per provider of expansion, start-up, and/or administrative payments for this purpose.

NOTE: Sponsors may only use expansion funds for this purpose to assist unlicensed and unregistered income-eligible providers located in low-income or rural areas.

Sponsors must include licensing or registration-related expenses in their approved budgets before using administrative Program funds.

NOTE: Sponsors may only use CACFP funds once per provider to assist with licensing or registration. Funds cannot assist already or previously licensed/registered providers.

At the end of the Program year, sponsors must submit records detailing Program fund usage for licensing-related expenses. TDA may request a repayment of Program funds that were not used according to Program requirements upon review (e.g., the CE spent more than \$300 on an individual provider).

Media Costs

- Advertising and public relations costs
 - The cost of advertising media to solicit bids for
 - The procurement of Program goods and services;
 - Recruitment of personnel for the Program;
 - Disposal of scrap or surplus materials acquired in the performance of the Program; and
 - With prior written approval, the advertising and public relations costs for pamphlets, news releases and other information services to
 - Inform individuals, groups or the general public about the CACFP; or
 - Increase a CE's CACFP participation.

The costs of fundraising for the purpose of meeting Program objectives are allowable with FNS Regional Office approval.

UNALLOWABLE: Advertising and public relations costs to advertise or solicit non-program-related business.

- Communications
 - The cost of supplies, equipment and services used for Program operations, such as cellular phone, data plans, mobile hotspots, air cards, and internet charges.
 - Costs in this category require specific prior written approval.

UNALLOWABLE: Supplies, equipment, and services in this category that are transferred to or owned by officers, trustees, directors, consultants, or employees, and supplies and services used for non-Program purposes regardless of ownership.

- Publication, printing, and reproduction
 - The cost for in-house and outside publication and printing not included in other cost categories, such as publication, printing, and reproduction of materials related solely to the Program or the allocable share of direct costs when both Program and non-Program purposes are benefited.
 - The cost of publication, printing, and reproduction of materials related to wellness efforts, if the materials were provided by USDA or were purchased/produced in accordance with *Supplies and Materials* above.

UNALLOWABLE: Publication, printing, and reproduction costs included in other cost categories and costs for non-Program related purposes.

Contracting Organization Costs

- Administrative appeal costs
 - The cost for appeals pursuant to the CACFP regulations and that include in-house or properly procured private counsel; professional services such as an accountant or consultant, administrative or clerical services; and costs of directly related services provided by the CE's employees, officers, and trustees not otherwise claimed as labor. Costs for civil, legal, or other proceedings are unallowable, including the costs of pursuing a judicial review of a decision rendered by a hearing official in a CACFP hearing.
- Legal expenses and other professional services
 - The sponsoring organization's cost to pursue administrative or judicial recovery of funds due from sponsored sites when the costs are reasonable in relation to (a) the amount of funds due; and (b) the amount of the funds that can reasonably be expected to be recovered.
 - The CE's cost for services performed by individuals who are not officers, employees, or members of the CE when (a) the services are required in the administration of the Program; (b) the costs are reasonable in relation to the services provided; (c) the services have been properly procured; (d) the terms of the contractual arrangement are adequate for the services required; and (e) the costs are not contingent upon recovery of Program funds.

UNALLOWABLE: The costs to maintain legal staff to discharge general responsibilities, and the costs incurred in connection with organization and reorganization.

- The cost of water testing services - see "other costs" for additional guidance.
- These costs require specific prior written approval.
- Meetings and conferences

- The cost for travel and registration fees to attend CACFP Federal, State, local, national, or regional conferences. Travel and registration fees to attend meetings or conferences for which CACFP is only a portion of a larger child and adult care-related agenda require specific prior written approval.
- Membership, subscriptions, and professional organization activities
 - The cost for membership in civic, business, technical, and professional organizations, and subscriptions to professional and technical periodicals related to the Program.
 - With specific prior written approval of Food and Nutrition Service Regional Office (FNSRO), the cost of public or nonprofit organization memberships in civic or community organizations.
 - With specific prior written approval, membership in discount warehouse buying clubs when the membership will be used strictly for the CE and will save the Program money.

UNALLOWABLE: Costs of individual memberships in professional organizations, for-profit organizations memberships in civic or community organizations, all other costs of membership in allowable organizations and individual or personal subscriptions.

- Participant training and other participant support costs
 - The cost of training, including materials and supplies, meals, lodging, travel, speaker fees, child care services, and substitute employees to cover Program duties for employees required to attend training. These costs can be operating or administrative; reference FNS Instruction 796-2 #30 for specifics.

UNALLOWABLE: Motivational speakers, social events, entertainment, flowers, etc.

- Travel
 - Reference FNS Instruction 796-2, #39 for the various allowable forms of Program-related travel costs as well as travel costs that are unallowable.

Unaffiliated Facility or Day Care Home Costs (Sponsors Only)

This includes the total anticipated annual CACFP reimbursement that will be earned by unaffiliated sites or day care homes.

Other Costs

This includes any other costs associated with the nonprofit food service, including indirect costs.

- Contribution and donation costs
 - The cost required to make goods or services donated to the institution usable for the Program.
 - These costs require specific prior written approval.

UNALLOWABLE: Cash and the value of noncash contributions and donations made by the CE to others.

- Criminal and civil proceedings, claims, and appeals
 - This does not include administrative appeal costs as detailed above. See FNS Instruction 796-2, #11 for specifics related to these costs.
 - These costs require FNSRO approval.
- Employee morale, health, and welfare costs and credits
 - These costs may be allowable when not included in labor costs as part of the organization's written compensation policy. See FNS Instruction 796-2, # 14 for specifics related to these costs.
 - These costs require specific prior written approval.
- Insurance
 - The cost of:
 - (1) insurance required by TDA (currently TDA does not have any insurance requirements),
 - (2) with specific prior written approval:
 - (a) cost of other insurance maintained by the CE in connection with the general activities of the Program;
 - (b) cost of insurance or contributions to any self-insurance reserve covering the risk, loss, or damage to Federal Government property to the extent that the CE is liable for such loss or damage;
 - (c) cost of insuring the lives of Directors and officers provided that
 - (i) the insurance policy actually provides liability coverage related to the CACFP; and
 - (ii) if the insurance policy also provides coverage for non-CACFP liability, the CACFP share of the cost is properly allocated;
 - (d) contributions to a reserve for self-insurance to the extent that the reserve meets State insurance requirements and the type of coverage, extent of coverage and the rates and premiums would have been allowed had insurance been purchased from a commercial provider to cover the risks.

UNALLOWABLE: Insurance costs for non-Program activities and the cost of actual losses that could have been covered by permissible insurance through the purchase of insurance or an approved self-insurance plan.

- Lobbying and Advocacy Costs
 - The cost of:

(1) responding to a documented request made by a member of Congress or the State legislature, a legislative body or subdivision or a cognizant staff member thereof for a technical or factual presentation of information on a topic directly related to the performance of the Program;

(2) travel lodging and meal costs for individuals offering testimony at a regularly scheduled congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing;

(3) lobbying to influence State legislation that would directly reduce the CE's Program costs or avoid a material impairment of the CE's authority or ability to fulfill Program requirements; and

(4) legislative liaison activities when the activities are not carried on or in support of, or in preparation for prohibited lobbying activities.

- See FNS Instruction 796-2, #25 for the list of unallowable costs as well as disclosure requirements.
- Management Studies
 - The cost of studies directly related to the Program that are performed by entities other than the CE itself.
 - These costs require specific prior written approval.

UNALLOWABLE: Costs for studies conducted by the organization's officers, employees, or family member, thereof, and the cost of studies for non-Program purposes.

- Proposal costs
 - The cost of preparing proposal submissions for FNS Child Nutrition Program grants or projects.
 - These costs require specific prior written approval.

UNALLOWABLE: The cost of preparing applications in other FNS Programs or preparing all other grant applications and proposals.

- Records retention
 - The cost for supplies, storage, and maintenance of records necessary for Program administration.
- Taxes
 - The cost of taxes or payments in lieu of taxes that the CE is legally required to pay as a result of operating the Program.

UNALLOWABLE: Refer to FNS Instruction 796-2, #37 for the list of unallowable taxes.

- Water

- The purchase of potable water, water testing, or equipment to filter water may be allowable costs to ensure potable water is available to Program participants. A requesting CE must submit documentation to demonstrate that a) it has sufficient funds, b) it is lacking in capital improvement funding, and c) the expense is necessary to carry out the mission of the Program.

7440 Depreciation and Direct Expensing

7441 Depreciation

Depreciation is the allocation of the cost of acquiring or materially improving a capital asset to all accounting periods (fiscal years) whose Program operations benefit from the CE's use of the asset. Capital assets include tangible property such as buildings, furniture, motor vehicles, and other equipment; and certain intangible property such as computer software. Land is a capital asset but can **never** be depreciated.

Depreciation is based on the asset's acquisition cost, expected useful life, the costs of improvements or alterations that materially increase the value or prolong its useful life, and the asset's depreciable cost.

Whether privately or publicly owned, buildings can be depreciated using 30-year straight-line or the depreciation method used and accepted for federal income tax reporting purposes. In addition, the acquisition cost upon which depreciation is based must exclude the value of land. Any other depreciation method requires specific prior written approval from TDA.

The organization may use either 15-year straight-line depreciation (five years for Automated Data Processing (ADP) equipment and vehicles) or the depreciation method used and accepted for federal income tax reporting purposes. Any other depreciation methods require specific prior written approval.

All depreciation charged to the program must be documented through depreciation records indicating the amount of depreciation taken each period and, when appropriate, prorated between program and non-program use.

7442 Direct Expensing

Direct expensing means charging a capital expenditure as a direct cost to the CE's nonprofit food service account at the time the items are purchased or improvements are made. Direct expensing requires specific prior written approval. See FNS Instruction 796-2, #13 & 16 for specifics related to these costs, including documentation requirements and unallowable costs.

7500 Documentation Requirements

TDA is able to observe a CE's daily operation of the CACFP only in the course of administrative reviews and audits. Therefore, TDA must rely on the records a CE keeps to determine compliance with CACFP standards, the amount of reimbursement to which the CE is entitled, and the CE's compliance with maintaining a non-profit food service account. If a CE's records do not support its eligibility or the eligibility of its sites or claims for reimbursement, the CE will be required to repay any amounts paid improperly.

Documentation requirements when including costs in the budget vary depending on the cost category. CEs and sites must reference FNS Instruction 796-2 for specific documentation requirements when requesting budget approval.

Examples of required documentation include:

Food cost records:

- Procurement documents, including bids and contracts;
- Purchase orders;
- Delivery receipts;
- Receipts;
 - Handwritten receipts, such as those from Farmers' Markets, are acceptable as long as they include the date of purchase, name of vendor/farmer, item cost, amount, and total cost
- Invoices;
- Canceled checks;
- Itemized cash receipts;
- Purchase records;
- Credits, returns, and rebates; and
- Inventory records.

If a CE or site purchases prepared meals from a vendor, such as a food service management company, the CE or site must keep delivery slips from each delivery. The CE or site must verify the count and counter-sign the delivery notice.

Documentation requirements for labor costs include:

- An established and maintained written compensation policy for every element of compensation charged to the nonprofit food service. At a minimum, the written compensation policy must identify: (a) rates of pay; (b) hours of work, including breaks and meal periods; and (c) the organization's policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay, and payroll tax withholding. The written compensation policy and approved budget must be in agreement for labor costs to be allowable.
- Time and attendance reports for all labor costs. These reports must identify the total time actually worked by the employee and not just the time spent on nonprofit food service activities. At a minimum, these reports must include (a) start time; (b) end time; and (c) absences.
- Time distribution reports if the employee works on more than one Federal award, a Federal award and non-Federal award, an indirect cost activity and a direct cost activity, two or more indirect cost activities which are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity. To establish the portion of costs that may be claimed as labor, a daily log or time distribution method must be used. Time distribution reports must be:

- Completed by employee and accounts for the total activity for which the employee is compensated;
- Prorated by the amount of time spent on nonprofit food service activities;
- Completed for each employee separately;
- An after-the-fact determination of the actual activity of each employee; and
- In intervals no less than every 15 minutes.
- In addition, the report for proprietary and nonprofit organizations must be compiled at least monthly and coincide with one or more pay periods. For public organization employees who work only in the nonprofit food service, certifications completed at least every six months can be substituted for time distribution reports. Budget estimates and time studies of any kind are not acceptable documentation.
- In all cases, time and attendance and time distribution reports must be completed by the employee and signed and certified as true and correct by the employee and a responsible supervisor.
- Payroll records. At a minimum, a record for each employee containing:
 - Employee name;
 - Employee identification number;
 - Rate of pay;
 - Hours worked;
 - Benefits earned;
 - Any reductions or increases to the employee's base compensation, e.g., overtime pay, incentive award, etc.;
 - Gross pay;
 - Net pay;
 - Date of payment to employee;
 - Method of payment, i.e., check, cash, Electronic Funds Transfer (EFT); and
 - Verification that the employee has been paid, i.e., canceled checks or EFT deposit verification. For cash payments, an original signature certifying receipt of payment is required.

Documentation of mileage expenses include records of:

- The date of each trip.
- The driver's name.
- The mileage.
- The origin and destination of each trip.
- Parking costs.
- The reason for each trip.

CEs may develop their own travel form containing these elements.

Documentation of donations must include, at a minimum, (1) date of donation; (2) description of donation (i.e., non-fat milk); (3) amount of donation (i.e., gallon, half-gallon, pints).