



STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION



TO: Sponsors of the National School Lunch Program (NSLP) and School Breakfast Program (SBP)

FROM: Cheryl Resha, Education Manager
Bureau of Health/Nutrition, Family Services and Adult Education

DATE: January 15, 2009

SUBJECT: Operational Memorandum # 5-09
Final Rule on Management of Donated Foods in Child Nutrition Programs

In response to an audit by the USDA Office of Inspector General, the U.S. Department of Agriculture (USDA) has issued the final rule for *Management of Donated Foods in Child Nutrition Programs, the Nutrition Services Incentive Program, and Charitable Institutions*. This final rule establishes specific requirements to ensure that recipient agencies in child nutrition programs, **that contract with a food service management company (FSMC) to manage their food service program**, receive the benefit and value of all donated foods received and provided to food service management companies to conduct the food service. This final rule is applicable for all procurement solicitations initiated on or after November 6, 2008.

In summary, this rule requires:

- The school food authority to meet USDA procurement requirements in 7 CFR parts 3016 or 3019, as applicable, in obtaining the services of a food service management company, as well as applicable requirements in 7 CFR parts 210, 220, 225, or 226;
- Specific language be included in bid documents and contracts;
- FSMCs to credit districts for the value of all donated foods **received** for use in the district's meal service in the school year or fiscal year;
- Assurance that the FSMC will not itself enter into the processing agreement with the processor required in subpart C of 7 CFR part 250;
- The district to maintain a record of the donated foods and processed end products received and provided to the FSMC for use in the district's food service;
- The district to maintain documentation that the FSMC has credited the district for the value of all donated foods received for use in the district's food service in the school or fiscal year;
- The FSMC to maintain records of the donated foods and processed end products received from, or on behalf of the district, for use in the district's food service;

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- The FSMC to maintain documentation that it has credited the district for the value of all donated foods received for use in the district's food service in the school or fiscal year;
- The FSMC maintain documentation of its procurement of processed end products on behalf of the district;
- That the district must ensure that the FSMC is in compliance with the requirements of 7 CFR part 250 through its monitoring of the food service operation, as required in 7 CFR parts 210, 225, or 226; and
- The district to conduct a reconciliation at least annually and upon termination of the contract to ensure that the FSMC has credited it for the value of all donated foods received for use in the district's food service in the school or fiscal year, including, in accordance with the requirements in section 250.51(a), the value of donated foods contained in processed end products.

A copy of the final rule may be downloaded at:

http://www.fns.usda.gov/fdd/regs/final/7cfr250_08DonatedFoods.pdf.

A copy of the Sample RFP and the Sample Contract that contain the language required by the final rule may be downloaded at:

http://www.sde.ct.gov/sde/lib/sde/word_docs/DEPS/Nutrition/PSsampleRFP.doc and http://www.sde.ct.gov/sde/lib/sde/word_docs/DEPS/Nutrition/FSMC_Sample_Contract.doc, respectively. The added language in the RFP is in section 12.5 and the added language in the Contract is in section 3.13.

If you have questions about any of the information provided in this Memorandum, please contact Bob Zwack at 860-807-2081 or robert.zwack@ct.gov.

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