



**RHODE
ISLAND**

Food Service Management Company Monitoring & Procurement Training

August 23, 2023



Food Service Management Company (FSMC) Monitoring Overview

SFA Monitoring & Recordkeeping Responsibilities

Contract management is a requirement for all Federal awards, including FSMC contracts.

Per 2 CFR
200.318 (b) &
FSMC
Guidance for
SFAs

SFAs must maintain oversight of contractors to ensure contractors perform in accordance with the terms, conditions, and specifications of their contracts and purchase orders.

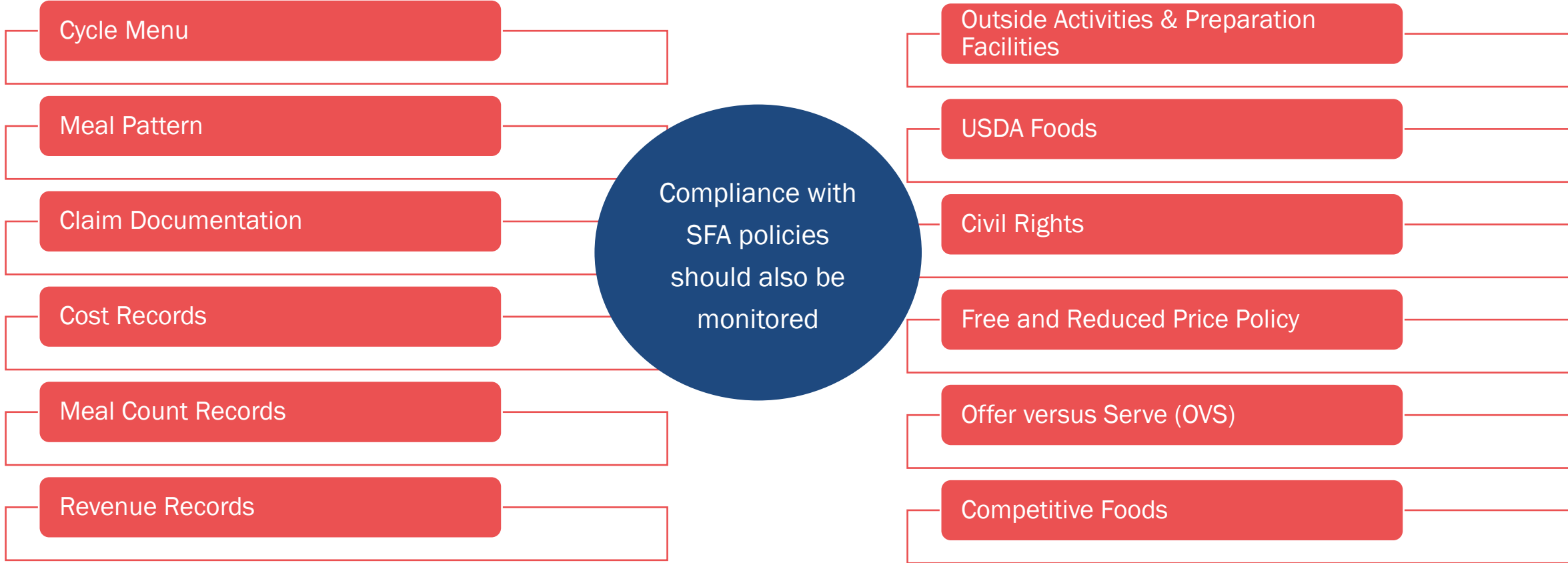
“Contract administration of an FSMC Contract is more than just a periodic on-site visit...”

FSMC monitoring, including the crediting of USDA Foods, must be conducted and documented on at least an **annual basis**. The SFA must also document actions taken when findings of noncompliance with the contract are identified.



Monitoring Requirements

The SFA's contract monitoring responsibilities for FSMCs include, but are not limited to, the subject areas as outlined in the USDA's Contracting with Food Service Management Companies Guidance for School Food Authorities



Monitoring Documentation

The SFA must maintain documentation of its monitoring as well as any books, papers, and records directly pertinent to the solicitation, award, or extension of any given contract and the implementation of that contract.



To facilitate the FSMC monitoring process and documentation of that process, RIDE has broken down the USDA's sample monitoring form into six sections that can be completed independently.



Section 1 – Menus & Service

Required Documents & Activities

This section addresses the menu, meal pattern, and competitive food requirements for SFAs and FSMCs and includes initial and on-going oversight activities.

Initial Contract Year

- Menu for the first 21 days of school
- Production records for the first 21 days of school
- FSMC or SFA developed menus as part of the FSMC procurement

Annually

- Executed FSMC Contract
- FSMC Monthly Invoices
- FSMC Vendor Monthly Invoices
- USDA Menu Certification Workbook
- Cafeteria Walk-Through
- Meal Service Observation
- Child Nutrition Program Ledger
- List of a la cart food items & Smart Snack calculator documentation
- Student Surveys



Primary Goals

Has the SFA maintained the type and quality of meal service and are they being charged appropriately?

Questions here will attempt to determine whether the FSMC is serving and charging the SFA only for wholesome items, meeting meal pattern requirements, and specified in the contract.

Has the SFA maintained control of the nonprofit school foodservice account, pricing, and menu compliance?

These questions will seek to determine whether the SFA is maintaining program control as required in regulation and outlined in the contract.

Is the FSMC serving only allowable items?

Does documentation support that the FSMC is serving reimbursable meals and allowable a la carte items only?

Review procedures may vary based on contract type (cost reimbursable vs. flat fee per meal) as well as based on the specifics of your procurement and contract documents



Common Findings

Issues that are not effectively addressed through the FSMC monitoring process often become findings for the SFA during the Administrative Review process.

Menu & Service Findings

Menu changes made within the first 21-days of service without approval: Regardless of whether the initial menus were developed by the SFA or FSMC, they must be adhered to for the first cycle OR changes must be pre-approved by the SFA

7 CFR
210.16(b)(1)

Production records are missing or incomplete: The FSMC failed to complete or fully complete production records for all meals claimed for reimbursement. Production records must document how each item offered contributes to the meal pattern for meal and age/grade group being served

7 CFR
210.10(a)(3)

Meal are monitored to ensure only reimbursable meals are claimed: Cashiers do not consistently identify reimbursable meals and/or the meal service set up is not conducive to monitoring meal service to ensure only reimbursable meals are claimed

7 CFR
210.7(c)(1)(iii)

Noncompliant competitive foods are sold: A la carte items for sale do not meet local, state, or Federal standards

7 CFR 210.11

Section 2 – USDA Donated Foods

Required Documents & Activities

This section addresses ordering, use, and crediting of USDA Foods.

Annually

- FSMC Monthly Invoice
- USDA Foods Billing Statement
- FSMC Contract
- K-12 Foodservice/Processor Link/third party track balance and usage reports
- Inventory Records
- DoD Produce Invoices
- Report showing the value of unprocessed commodity product and/or Summary End Product Data Schedule (SEPDS) for processed commodity products
- Most recent commodity reconciliation reports and supporting documentation

Unlike the prior section, the USDA Foods monitoring does not require any on-site review and can be accomplished fully off-site through a review of documentation.

The SFA will choose a month for review and should request each piece of document for the same time frame being reviewed, if applicable.



Primary Goals

Is the FSMC using donated foods effectively?

If the FSMC is managing USDA Foods on behalf of the SFA, are they planning menus and managing inventory in a way that fully utilizes all entitlement dollars without waste?

Is the SFA receiving the full value of donated foods?

By regulation, all USDA Foods belong to the SFA, even if they are managed by the FSMC. USDA Foods are an additional form of Federal subsidy and it's up to the SFA to ensure that they are receiving the full benefit

Is there a reconciliation process in place?

Regulations require commodity reconciliation at least annually, though a best practice would be to reconcile monthly in order to be able to answer the above two questions and make any necessary adjustments throughout the school year.

Most cost reimbursable contracts will reference “credit by disclosure” for USDA Foods, but SFAs should refer to their individual contracts for details on the method and frequency of commodity crediting.



Common Findings

Issues that are not effectively addressed through the FSMC monitoring process often become findings for the SFA during the Administrative Review process.

USDA Donated Food Findings

There is no commodity reconciliation process in place: The SFA does not have a process in place to ensure that the FSMC is appropriately crediting commodities, per the Contract, and that the SFA is receiving the full value of all allocated commodities.

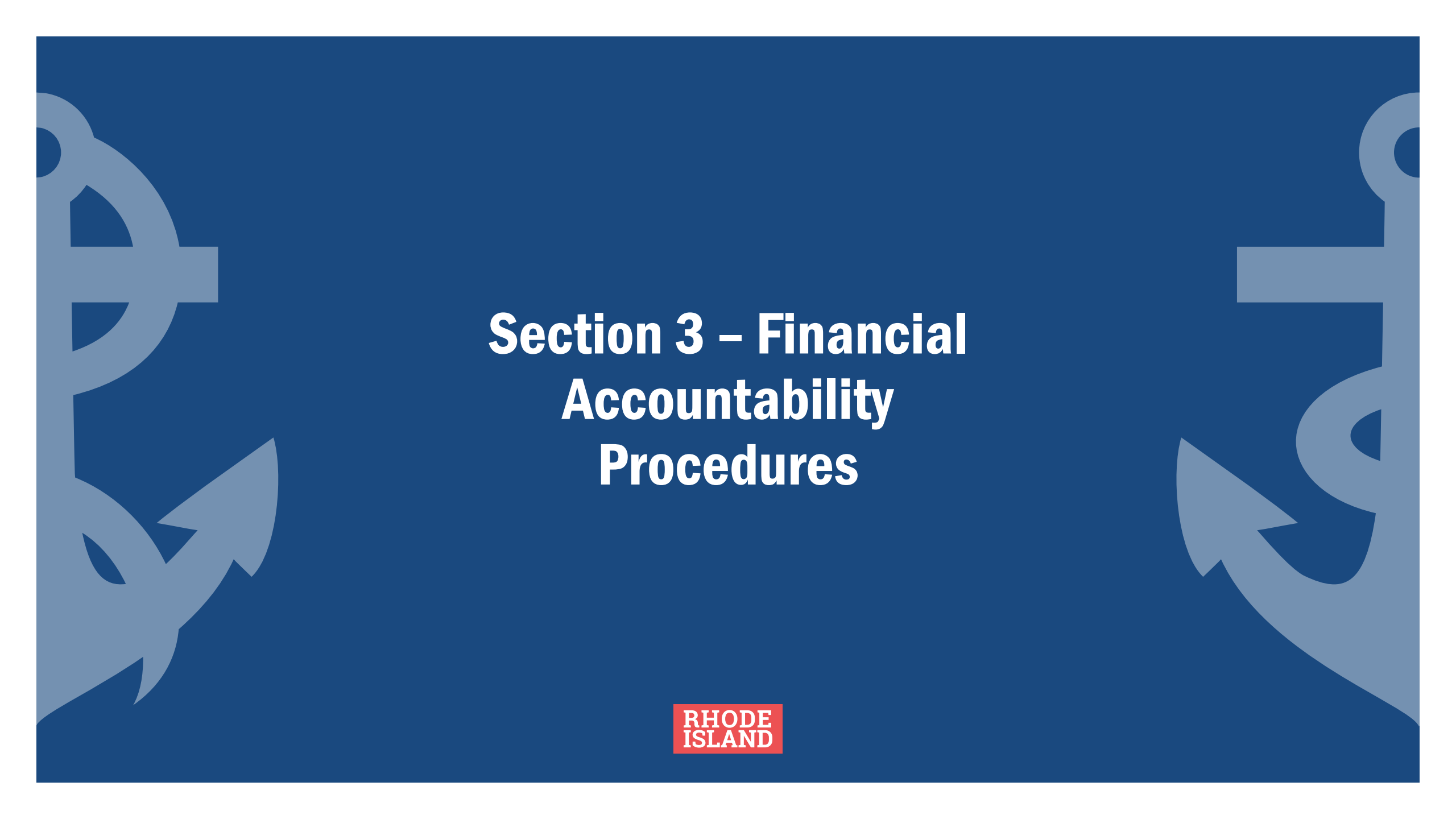
7 CFR 250.51(a)

The commodity reconciliation process is not sufficient: There is a commodity reconciliation process in place but it does not include SFA oversight of all portions of the USDA Foods allocation and management, making it impossible to determine if the full value of allocated commodities is received.

7 CFR 250.51(a)

An effective USDA Foods reconciliation process will take into account the starting allocated balance, receipts from NOI (verified by 3rd party websites), DoD Fresh statements, brown box delivery statements, and commodity inventory levels. Through this process, the SFA is confirming that the FSMC has or is on track to fully utilize the SFAs commodity entitlement solely to support the production of reimbursable meals.





Section 3 – Financial Accountability Procedures

Required Documents & Activities

This section addresses financial accountability procedures, including meal counting & claiming, revenue tracking, and invoice monitoring/allowability of costs.

Annually

- Monthly meal count records to show meal type and eligibility, including meals not claimed (such as adult meals)
- Daily income records/ point of sale reports
- FSMC Contract
- FSMC monthly invoices and supporting documentation
- FSMC timesheets
- CNP general ledger showing FSMC invoices paid

Supporting documentation
will vary by contract type

The SFA will choose a month for review and should request each piece of document for the same time frame being reviewed, if applicable.

Like the USDA Foods section, monitoring of financial accountability procedures does not require any on-site review and can be accomplished fully off-site through a review of documentation.

Primary Goals

Does the SFA have internal controls in place to verify accuracy of claims & safeguard program revenue?

While the FSMC may manage the daily meal count process and bank deposits related to Program activity, it is up to the SFA to ensure that records are accurately maintained to support all meal claims and that all Program revenue is accruing correctly to the non-profit school food service account

For cost reimbursable contracts, is the FSMC appropriately billing only for actual & allowable expenses?

Since all Program costs incurred by the FSMC are passed thru to the SFA in a cost-reimbursable contract, the SFA must have a procedure in place to ensure that only actual and allowable costs are billed to any paid for by the non-profit school food service account.

For cost reimbursable contracts, is FSMC billing reflective of all applicable discounts, rebates, and credits?

Requirements around the reporting of costs, net of all applicable discounts, rebates, and credits are clearly outlined within the FSMC contract and the SFA must have a process in place to oversee compliance with these provisions.



Common Findings

Issues that are not effectively addressed through the FSMC monitoring process often become findings for the SFA during the Administrative Review process.

Financial Accountability Procedures Findings

There is no process in place to ensure that all Program revenues accrue to the NPSFSA: The SFA does not have internal controls established to reconcile bank deposits and revenue reports, ensuring that all revenues accrue correctly to the NPSFSA.

7 CFR 210.14(f)(3)

The no process in place to ensure that only actual and allowable costs are passed thru to the SFA as part of the FSMC invoice: The SFA does not reconcile actual invoices and other supporting documentation from the FSMC to support the monthly invoice for cost reimbursable contracts.

7 CFR
210.21(f)(1)(ii)(B)

For a cost reimbursable contract, the SFA needs to audit all invoices submitted by the FSMC to assure only allowable food and non-food costs are charged. SFA's must have written procedures for auditing FSMC invoices that assure program compliance. This process will generally include validating one or more cost of goods categories reported on the monthly operating statement by reviewing associated vendor invoices.





Section 4 – Sanitation & Safety Procedures



Required Documents & Activities

This section pertains to the FSMCs practices around food safety and sanitation and requires both documentation review and a visit to the FSMC preparation facilities.

Annually

- Food business license for the facility/facilities
- Local DOH notification and request for inspection
- Food safety certificates for workers
- Food safety inspection reports
- Food safety training documentation
- Temperature charts
- Food safety self-monitoring documentation
- Food safety/ HACCP plan
- Walkthrough of child nutrition facilities
- Meal preparation and meal service observation

HACCP: Hazard Analysis
and Critical Control
Point



Primary Goals

Is the FSMC maintaining the appropriate food safety licenses/certifications?

This will include licenses related to the foodservice facilities as well as food service staff.

Are Food Safety Inspections requested annually?

The SFA or FSMC must request at least two (2) RI DOH inspections annually. Inspection reports must be posted in a visible location and findings from inspections must be addressed.

Are appropriate food safety measures in place?

All SFAs must have an appropriate food safety plan in place and must ensure that employees are following the tenants of this plan. This includes maintaining required documentation as well as performing daily activities in conformance with the plan.

The FSMC is acting on behalf of the SFA and it is the SFA's responsibility to safeguard the health and safety of their students by monitoring the FSMC's food safety practices.

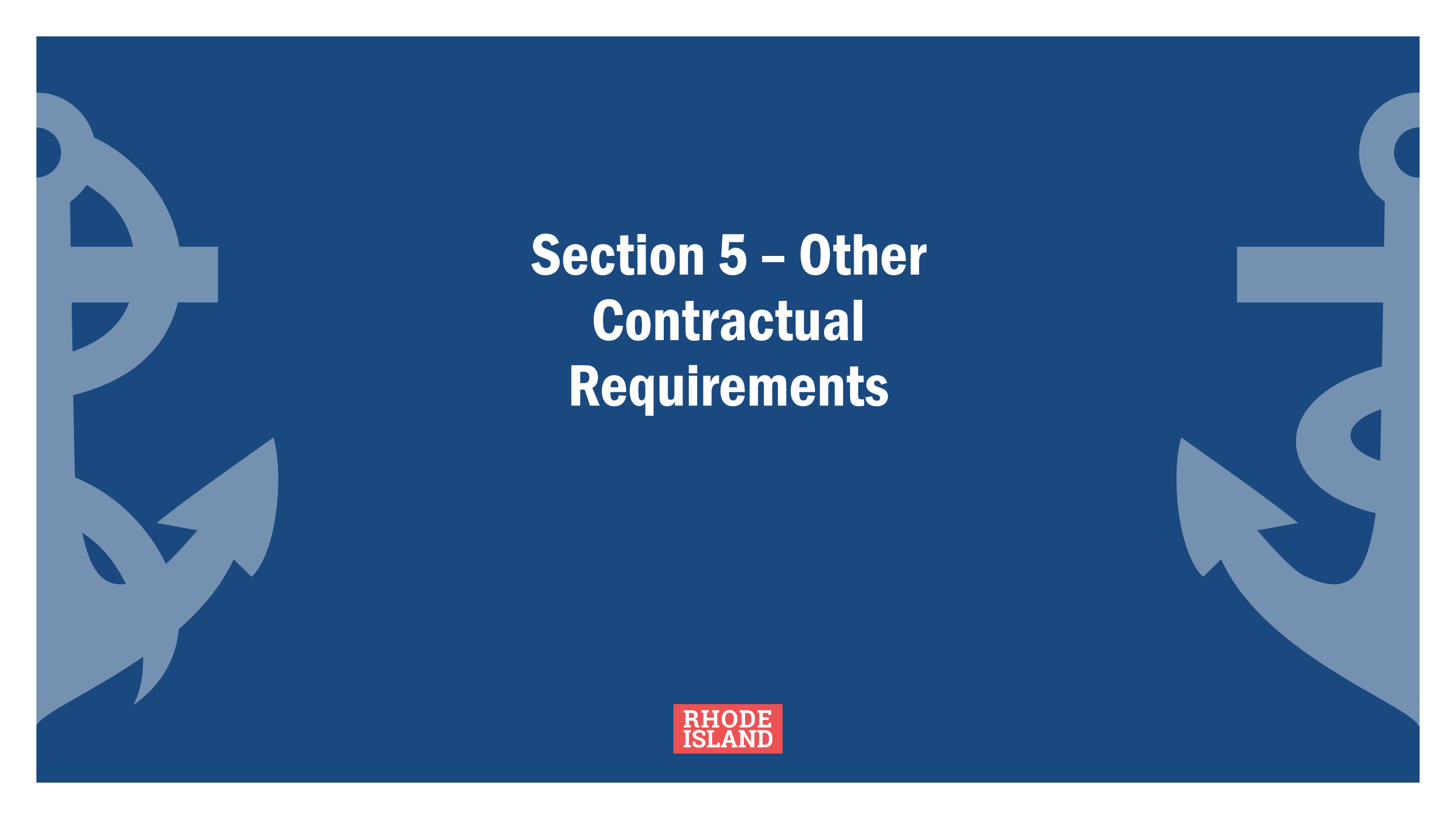


Common Findings

Issues that are not effectively addressed through the FSMC monitoring process often become findings for the SFA during the Administrative Review process.

Sanitation & Safety Procedures Findings	
The minimum number of required food safety inspections have not been requested or completed: The SFA must request a minimum of two (2) food safety inspections per site per year from either RI DOH or an approved third-party vendor.	7 CFR 210.16(a)(7)
Food safety inspection reports are not posted in a visible location: All food safety reports must be posted in a visible, customer-facing location in the cafeteria or kitchen.	7 CFR 210.16(a)(7)
A written food safety plan is not available in all food preparation sites: The FSMC either does not have a written food safety plan or the plan is generic, outdated, and/or unavailable at food preparations sites.	7 CFR 210.13(c)

RI DOH plans to conduct all school food safety inspections (2 per site per year) without need for a third-party contractor, however, it is the SFAs responsibility to request these inspections and follow-up with DOH if they have not occurred.



Section 5 – Other Contractual Requirements

Required Documents & Activities

This section covers the remaining contractual requirements that must be monitored as part of an FSMC contract.

Annually

- Agenda/Minutes/Sign-in Sheet from menu planning session with the Advisory Committee
- Most recent State Agency Administrative/Procurement review to include corrective action
- Most recent internal audit results
- Procedures to monitor FSMC contract compliance
- FSMC Contract
- FSMC Staffing Plan
- FSMC Monitoring Forms(s)



Primary Goals

Does the SFA have the appropriate procedures in place to ensure on-going compliance with FSMC monitoring?

There are many ways in which the CNPs are monitored which may require corrective action. It's up to the SFA to ensure that the FSMC is effectively implementing established corrective action from all review processes AND that the SFA has the appropriate procedures in place to ensure on-going compliance.

Is the SFA maintaining control of the Program as required by regulation?

There are certain Program responsibilities that an SFA can't allow an FSMC to perform. Effective FSMC monitoring ensures that responsibilities are clearly outlined and adhered to.

Have all responsibilities of the FSMC been met as defined in the Contract?

Many of the FSMC responsibilities have been covered and monitored in prior sections but there are a few remaining areas in which the SFA must ensure compliance.

Administrative Reviews, Procurement Reviews, single audits, SFSP/CACFP Program reviews, and self-monitoring assessments all often result in required corrective action that an FSMC may have some responsibility for implementing.



Common Findings

Issues that are not effectively addressed through the FSMC monitoring process often become findings for the SFA during the Administrative Review process.

Other Contractual Requirements Findings

The FSMC failed to establish an Advisory Committee or the established committee does not meet requirements: An advisory committee should consist of parents, students, and teachers and should convene regularly to assist in menu planning. Committee activities must be documented.

7 CFR 210.16(a)(8)

The FSMC is conducting monitoring on behalf of the SFA: The FSMC can't be responsible for monitoring itself! Monitoring responsibilities must remain with the SFA.

7 CFR 210.16(a)

Monitoring is not conducted, documented, and/or followed up on: SFAs should use prototype monitoring forms provided by RIDE and complete them in their entirety. Monitoring that results in required corrective action must have follow-up and the SFA must have procedure in place to ensure that monitoring occurs as described.

7 CFR 210.16(a)(2)

SFAs that choose to use an existing Wellness Committee to meet the FSMC Advisory Committee requirement must be clear in their agendas and documentation in order to demonstrate compliance.

Section 6 – Procurement Requirements

Required Documents & Activities

This section covers the requirements surrounding the FSMC procurement process and is required to be monitored only at the time of procurement *prior* to executing a new FSMC contract.

At the time of procurement only

- A brief description of the procurement method utilized (i.e. IFP or RFP)
- The rationale for the method of procurement
- A description of the evaluation factors/criteria used to evaluate responses and their relative weight/importance
- A list of the technical review committee members
- A description of the method of conducting the evaluation and the date of such evaluation
- A brief description of the rationale for the rejection of any bid or proposal
- A copy of the RFP, as advertised
- A copy of all bids/proposals received
- A timeline of the process
- A copy of the documentation for the ranking of proposal received
- A brief description of the rationale for the selection of the FSMC awarded the contract
- A copy of the proposed Agreement

In addition to the SFA, RIDE also has a responsibility for monitoring compliance with the FSMC procurement process and all listed documentation must be submitted to RIDE for approval prior to an SFA executing an FSMC Agreement.



Primary Goals

Did the SFA procure the services of an FSMC in a way that promotes free and open competition?

The procurement process must meet the requirements established in Program regulations at 7 CFR 210 as well as those outlined in the Uniform Grant Guidance in the 2 CFR 200 series. Procurement must promote free and open competition and be free from conflicts of interest.

Does the proposed FSMC Agreement include all required regulatory language?

There are many required contract provisions that must be included both as part of the initial solicitation and within the resulting contract in order for an Agreement to be considered valid.

Did the SFA award to the most responsive and responsible vendor based on the solicitation and responses received?

The SFA must choose a vendor based on the evaluation criteria outlined in the solicitation. All vendors considered must be responsive to the material specifications of the solicitation.

Failure to meet requirements at any step of the process may invalidate the entire procurement! This process is designed to safeguard taxpayer dollars while ensuring a contract that is most advantageous to the SFA.



Common Findings

FSMC procurement issues are addressed as the procurement process unfolds but can result in an SFA being at risk of not having a valid contract in place at the start of the school year.

Procurement Requirement Findings

The SFA failed to conduct the procurement in a timely fashion: FSMC procurement is a lengthy process, especially since RIDE approval is required at multiple points. It is imperative to start the process early to ensure that a new contract is in place prior to the expiration of the current contract.

The SFA allowed the current FSMC to develop specifications for solicitation/contract: Vendors cannot be allowed to aid in the development of solicitation or contract documents for a procurement on which they intend to bid. This includes using current vendor menus as part of a solicitation for FSMC services!

The SFA awarded to vendor that was non-responsive or made an award that was not based on the advertised evaluation criteria: SFAs must reject any bids that do not conform to the material specifications outlined in the solicitation, including but not limited to pricing structures and increases. Additionally, **only** the evaluation criteria that are outlined in the solicitation can be considered when evaluating proposals.

While much of the prototype solicitation and contract documents for FSMCs include required regulatory language that cannot be changed, there are opportunities for SFAs to make edits to reflect local priorities. Editing evaluation criteria is one of these areas, as long as cost remains the highest weighted factor.



The FSMC Procurement Process

FSMC Procurement Oversight

USDA regulations governing procurement requirements for the National School Lunch, School Breakfast and Special Milk Programs were amended effective November 30, 2007 and require a higher level of oversight by RIDE in the FSMC procurement process.

During the FSMC procurement process, RIDE must:

- Review and provide written approval of invitations to bid and requests for proposals (RFP) for food service management companies (FSMC) before their issuance by School Food Authorities (SFA). Review and approve SFA procurements of food service management companies' services in advance of agreement execution.
- Review and approve SFA procurements of food service management companies' services in advance of agreement execution. Annually review each agreement (including supporting documentation) between an SFA and food service management company to ensure compliance with all of the provisions and standards of the regulations.
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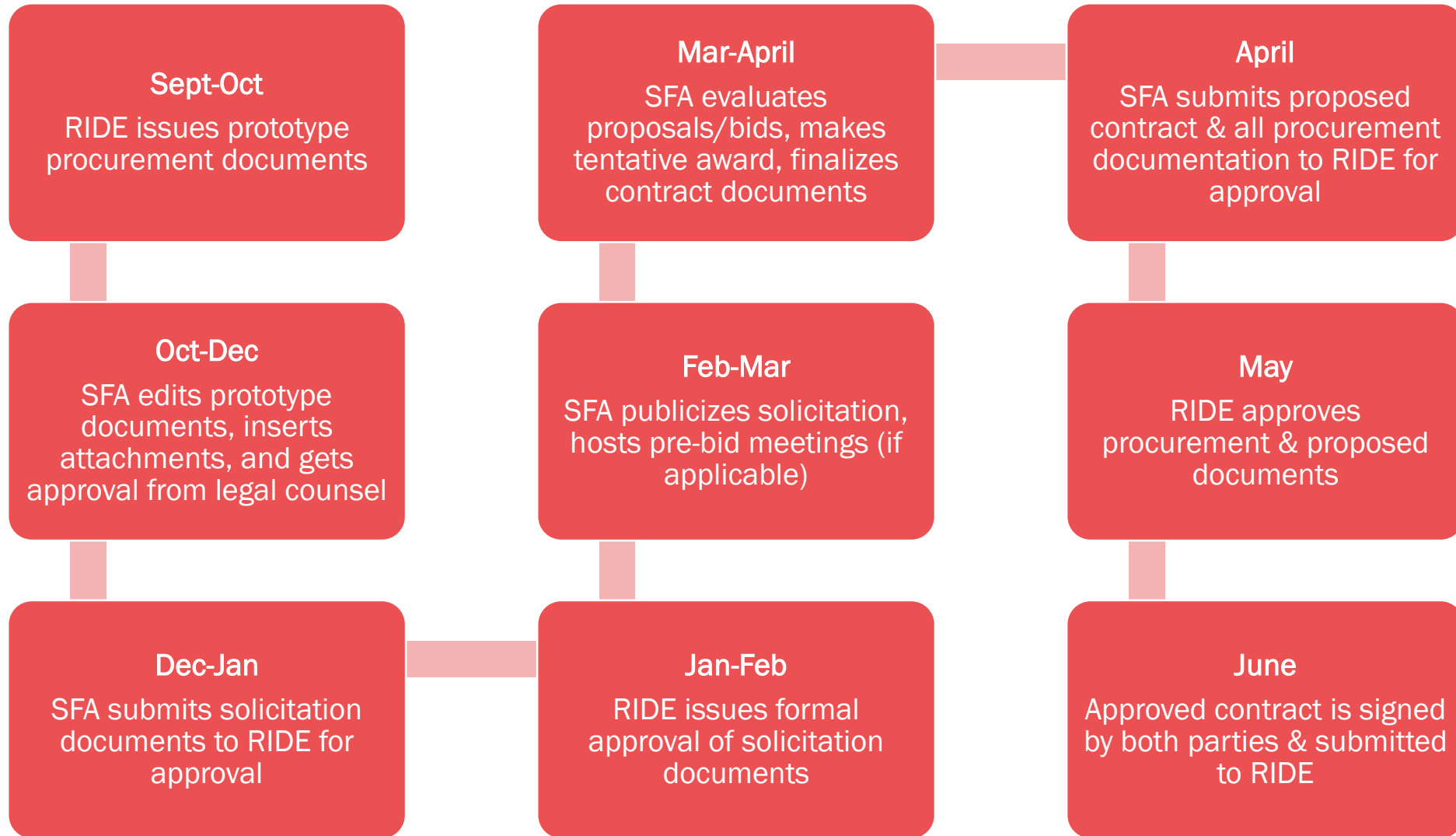
The FSMC Procurement Process

The FSMC procurement process is lengthy and requires multiple approval points.



These represent the six (6) basic steps that must take place during the procurement process. Generally, this will take place during the final year of the current FSMC contract and must be completed prior to the expiration of the current contract.

The FSMC Procurement Timeline



FSMC Procurement Steps

1

SFA modifies
procurement
templates

Modifying the procurement template

- You will need to know which type of procurement (IFB or RFP) and contract (cost reimbursable or fixed price) that you want to use
- Be sure that you have the most current version of RIDE prototypes for your selected procurement
- Remember, much of the language in the prototype is required by regulation and can't be changed, but there ARE changes that you can make. Here are a few examples:
 - Adding specifications
 - Editing evaluation criteria
- The contract is a core component of the solicitation and needs to be reviewed/edited at the same time
- All local edits should have been approved by your legal counsel prior to submitting to RIDE for approval
- Be sure to complete all attachment schedules
- Track your changes!



FSMC Procurement Steps

2

SFA submits
finalized
procurement
documents to RIDE

Submitting solicitation documents to RIDE

- Documents should be in their final form, ready to be publicized
- The solicitation document, contract document, and attachments should be included
 - Note: it is sufficient to submit only those attachments that require specific input (the Excel schedules) for RIDE review but all attachments will need to be included when the solicitation is publicized
- Allow for at least 30 days for RIDE review/approval
- Be prepared to make edits
- Send the modified documents in Word format with changes tracked



FSMC Procurement Steps

3

SFA publicly
advertises the
procurement

Advertising your solicitation

- Procurements must be publicly advertised
- Best practice is to allow at least 30 days from the date of issuing the solicitation to the bid due date
- To attract the most competition, multiple publication channels are recommended and could include: local newspapers, the SFA website, SFA social media channels
- Be sure to document all efforts to publicize the solicitation
- In addition to posting, SFA may choose to send the solicitation directly to a list of known vendors
- The solicitation should be advertised exactly as it has been approved by RIDE with no additional modifications*
- After solicitation, contact with potential vendors should be limited and occur only as allowable in the SFA's procurement procedures



FSMC Procurement Steps

4

SFA opens and evaluates bids/proposals and makes a tentative award

Evaluating bids/proposals

- Public opening must occur at the date and time as specified in the solicitation. Late bids should not be considered
- Evaluators must be given instructions on the evaluation process including the scoring criteria and directives related to confidentiality and conflicts of interest
- Only bids that are considered responsive to the solicitation (meeting all material specifications) and that are from responsible vendors should be considered for evaluation
- All evaluators must use the same scoring criteria, as publicized in the solicitation. No additional factors may be considered
- All evaluation efforts must be documented, including rationale for any bids that are not considered
- Even if only one bid is received, it must be evaluated based on the publicized criteria, if the vendor is considered responsive and responsible
- The award must be made to the vendor with the most advantageous proposal*



FSMC Procurement Steps

5

SFA submits all procurement documentation to RIDE for approval

Submitting for RIDE approval

- Submissions must include all procurement documents, including the proposed contract that has been reviewed and approved by the legal counsel of both parties. Required documentation includes:
 - Brief description of procurement
 - Rationale for the method of procurement
 - Evaluation criteria
 - List of technical review committee members & instructions for evaluation
 - Description of the evaluation process and dates
 - Rationale for the rejection of any bids
 - A copy of the RFP as advertised & proof of advertisement
 - A timeline of the process
 - A copy for any vendor Q&A
 - Documentation of the ranking of proposal received
 - Rationale for the selection of the chosen FSMC
 - A copy of the proposed Agreement, unsigned
 - The completed SFA-FSMC Procurement Monitoring Form



FSMC Procurement Steps

6

The finalized contract is signed by both parties & submitted to RIDE

Finalizing the procurement

- RIDE will issue written approval of the procurement process and proposed contract if all required documentation has been submitted and meets regulatory requirements
- No changes to the proposed Agreement should be made after RIDE approval
- A fully executed copy of the contract must be sent to RIDE after it has been signed by both parties; this happens *after* RIDE has approved the procurement
- Agreements should be finalized prior to the expiration of the current contract
 - Remember: you should be prepared for the procurement process to result in a change of vendor. In this case, it's not just a matter of the contract being signed in time, the chosen vendor will need time to transition operations
- It is possible that RIDE's review of the procurement process will result in the proposed FSMC Agreement being denied – you should be prepared for this possibility!



Thank You

