

Chapter 6:

SA Review

Timing

Under 7 CFR 210.19(a)(6), the SA must review each contract (including all supporting documentation) between a SFA and FSMC prior to execution of the contract to ensure compliance with all the provisions and standards set forth in this part and also in Part 250, Subpart D. The SA is advised to consult with the State distributing agency if different from the SA with respect to contract requirements relating to donated foods.

Contract Checklist

A checklist should be completed by the SFA and submitted with documents to be reviewed by the SA. In the case of renewals, the SFA may want to submit with the renewal documents a copy of the checklist submitted with the initial contract, with notations where changes have occurred and an indication of the basis for the renewal.

Response to SA Comments

For sealed bid procurement, the SA's comments on the prototype contract can be easily accommodated. In the case of negotiated contracts, the situation may be more complex. If the SA reviewed the non-negotiable provisions of the contract prior to release of the RFP, the SA's comments can be incorporated prior to issuing the RFP. After negotiations are completed, the negotiated provisions of the proposed contract should be reviewed by the SA. These provisions may require revision before the contract is final. This can create situations where the offeror withdraws or modifies a final offer. In these cases, the SFA may need to reopen negotiations. In cases where the SA did not review the non-negotiable provisions of the contract, the entire contract should be reviewed and could be open for revision.

In either case, any revisions required by the SA in a negotiated contract must be accepted by the successful offeror before the contract can be finalized. If the revisions significantly alter the scope of work under the contract, re-negotiations may be necessary. After the SA reviews the negotiated contract and any revisions have been made, the contract can be signed by the SFA and the FSMC. For both sealed bid and negotiated contracts, a copy of the signed contract must be submitted to the SA.

For more information on SA review, see the FSMC Guidance for SAs.