

**Illinois State Board of Education
Nutrition Programs Division
Budget Procedures
Child and Adult Care Food Program
Day Care Home Sponsoring Organization**

Less-Than-Arms-Length Transactions

The definition of 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 institution or immediate family members, either directly or through corporations, trusts, or similar arrangements in which a controlling interest is held. (FNS Instruction 796-2, Revision 3 Exhibit A Glossary T)

All less-than-arms-length relationships involving the CACFP must be disclosed to ISBE. All costs for less-than-arms-length transactions require scrutiny and the allowable cost to the CACFP may be limited.

Less-Than-Arms-Length Transactions for Rental Costs

When the space or equipment rented by the CACFP is owned by a party related to the sponsoring organization, specific rules limiting the amount of costs allowed to be charged to the CACFP must be followed. When the space is part of a residence, the square feet of space occupied by the CACFP and the amount of time used for the CACFP must be considered. The FNS Instruction 796-2, Revision 3 (VIII I 36 d) states: "Costs under-less-than-arms-length arrangements, no matter how represented, may not exceed the amount that would be allowed had the item been owned by the institution. All transactions between related parties are less-than-arms-length."

The calculation for the annual rental amount for less-than-arms-length arrangements follows:

$$\frac{\text{Property acquisition cost minus value of land}}{30 \text{ years}} \times \frac{\text{Sq ft of CACFP}}{\text{Total sq ft}}$$

If this area also has personal use, the amount would then be further prorated by the amount of time used for the CACFP. The calculation would be as follows:

$$\frac{\text{Value from above calculation}}{\times} \frac{\text{Hours of operation for the CACFP}}{\text{Total hours available for use}}$$

Less-Than-Arms-Length Transaction for Other Than Rental Costs

When a less-than-arms-length relationship exists for the sponsorship for other costs, the required guidance for procurement must be fully supported to establish that the costs presented were obtained in good faith and at reasonable rates for the services or product offered. All less-than-arms-length transactions require disclosure to ISBE when presented as a budget cost of the CACFP. Calculations of submitted budget costs must be included.

Regulation FNS Instruction 796-2, Revision 3 VIII (B) states:

The failure of the institution to identify related party transactions, less-than-arms-length transactions, ownership interests in equipment, supplies, vehicles and facilities, or disclose any other information to the State agency that inhibits the State agency's ability to make informed assessment of the allowability of a particular cost will result in the disallowance of the cost and may subject the institution, its principals, employees, consultants, or others to the administrative and legal remedies available to the State agency and FNS.