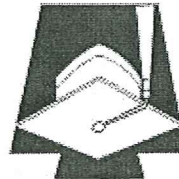


pennsylvania
DEPARTMENT OF EDUCATION



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
333 MARKET STREET
HARRISBURG, PA 17126-0333
www.pde.state.pa.us

**Food Service Management Company (FSMC)
Request for Proposals (RFP) and Contract**

Enter the name of the SFA here

Enter your PEARS agreement number here

July 1, 2009 to June 30, 2010

In accordance with federal law and United States Department of Agriculture (USDA) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, or call (202)720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

Any School Food Authority (SFA) selecting to use a FSMC must prepare a RFP utilizing this document which may not be re-typed or changed in any way. Addendums are permitted as long as it provides additional information and does not contradict, eliminate or replace the information in this document. This document meets Child Nutrition (CN) Programs federal and state requirements as of November 6, 2008.

Request for Proposal Checklist

For SFA use only

Do not submit to FSMC or the Pennsylvania Department of Education (PDE) as part of the RFP

Agreement Page

- ☐ Original Signatures of contracting parties should only be obtained after PDE returns the packet with an approval signature on each page.
- ☐ Dated by both parties (should be completed when the signatures are obtained)
- ☐ The Number of Renewals is listed

Specifications must contain the following:

- ☐ Type of Procurement Method
- ☐ Date and Time that bids will no longer be accepted
- ☐ Contact Information
- ☐ Contract Terms
- ☐ Date of the Pre-Bid Meeting
- ☐ Ownership of the Employees must be indicated
- ☐ Award Criteria must be completed
- ☐ FSMC indicated the crediting process for commodities
- ☐ FSMC indicated the method used in determining the donated food values to be used in crediting
- ☐ Check the boxes beside all the programs that apply to this contract
- ☐ Indicate the method of procurement
- ☐ Indicate the type of menu planning option to be followed
- ☐ Check the box that will be used for purchasing and inventory procedures
- ☐ Include a copy of an invoice from the winning FSMC displaying the method of returning and credits, rebates and applicable credits to the SFA
- ☐ Indicate the Term Begin Date (the end date must always be June 30 of each year)
- ☐ Insurance Requirements must be detailed (include a copy of the proof of insurance)
- ☐ Comprehensive General Liability, Workman's Compensation, Vehicle Insurance)

Forms

- ☐ Average Daily Participation Worksheet
- ☐ Cost Responsibility Worksheet
- ☐ Labor and Fringe Worksheet
- ☐ Projected Operating Costs Worksheet(s)
- ☐ Site Building and Service Requirement Worksheet

Menus

- ☐ 21 Day Lunch Menu
- ☒ 21 Day Breakfast Menu (if applicable)
- ☒ 21 Day Afterschool Snack Program (if applicable)
- ☒ 11 Day Summer Food Service Program Menu (if applicable)

Additional Requirements

- ☐ Copy of at least 2 bid advertisements in 2 different major newspapers or trade papers (RFP must be advertised for at least 1 day a week for 3 weeks)
- ☐ Copy of the sign-in sheet for bidders in attendance at the pre-bid meeting
- ☐ Copy of Solicitations
- ☐ (at a minimum, 5 vendors from PDE's list of vendors must be solicited)
- ☐ Independent Price Determination (must have original signatures)
- ☐ Suspension and Debarment Certification (must have original signatures)
- ☐ Clean Air and Water Certificate (must have original signatures)
- ☐ Certification Regarding Lobbying and/or Disclosure of Lobbying Activities (must have original signatures)

Agreement Page

This bidder certifies that he/she shall operate in accordance with all applicable State and Federal regulations.

This bidder certifies that all terms and conditions within the Bid Solicitation shall be considered a part of the contract as if incorporated therein.

This Agreement shall be in effect for one year starting **Enter begin date here** and may be renewed by mutual agreement for up to four additional one-year period(s).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representative the day and year.

_____ Name of SFA	_____ Name of FSMC
_____ Signature of Authorized Representative*	_____ Signature of Authorized Representative*
_____ Printed Name of Authorized Representative	_____ Printed Name of Authorized Representative
_____ Title	_____ Title
_____ Date Signed	_____ Date Signed
_____ Attest	_____ Attest

* All contracts must be signed in blue ink.

General Information

A. Intent

This solicitation is for the purpose of entering into a contract for the operation of a food service program for Enter the name of the SFA, herein after referred to as the School Food Authority (SFA).

The bidder is herein referred to as the Food Service Management Company (FSMC). The contract will be between the FSMC and SFA.

B. Procurement Method

All procurement transactions shall be conducted in a manner that provides maximum open and free competition consistent with Title 7 CFR § 3016. Choose one of the following options.

☐ This contract will be a **Fixed Price Contract** to be bid in three parts with the total per meal cost reimbursement.

- Direct Cost of Operation
- Administrative Fee
- Management Fee

Although the maximum per meal cost reimbursement is the bid price, the per meal reimbursement to the FSMC is contingent upon the following:

- Direct cost of operations as audited and approved.
- Administrative fee (quoted per meal fee multiplied by meals served) - expenses included must be itemized.
- Management fee - represents a profit to the FSMC.

The SFA must determine the existence of the proper pass through value of the donated commodities; e.g., credits or reductions on the invoice in the month of receipt. The values are to be based on the values at the point the SFA receives the commodities from the PDA, and on USDA commodity prices pertinent to the time period, and shall include both the basic commodities allocation as well as any bonus commodities.

☐ This contract will be a **Cost-Reimbursable** contract whereas the FSMC will be paid on the basis of the direct cost incurred plus a fixed fee. All program expenses not otherwise defined in the contract will be assumed by the FSMC under the Administrative Fee. Expenses that represent overhead cost must be itemized. A management fee represents a profit to the FSMC.

The value of commodities received must be itemized in the regular monthly billing to the SFA to document savings resulting from commodity receipt. The FSMC will ensure that its system of inventory management will not result in the SFA being charged for donated foods.

C. Pre-Bid Meeting

A meeting with interested bidders to review the specifications, to clarify any questions, and for a walk-through of the facilities with school officials will be held on Enter the date of the walk-through at Enter the location of the facility. **Attendance is required.**

D. Bid Submission and Award

1. Proposals are to be submitted to:
Enter the SFA name
Attention:
Street Address
City, State and Zip

Public opening will be at Time on Date. Proposals will not be accepted after this time. Proposals are to be submitted in a sealed envelope marked Food Service Management Bid.

2. The SFA will not conduct the procurement process in a manner that uses statutorily or administratively imposed in-state or local geographic preferences in accordance with Title 7 CFR § 3016.60(c).
3. SFAs are prohibited from entering into a contract with a FSMC that develops or drafts specifications, requirements, statements of work, requests for proposals, contract terms and conditions, or other documents for use in conducting procurement.
4. The SFA reserves the right to reject any or all bids, if deemed in the best interest of the SFA.
5. For consideration, each FSMC must submit a complete response to this solicitation using the forms provided.

6. The SFA will award the contract to the qualified and responsible FSMC whose proposal is responsive to this solicitation. A responsible FSMC is one whose financial, technical and other resources indicate an ability to perform the services required by this solicitation.
7. FSMCs or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting proposals; failure to do so will be at the FSMC's own risk and cannot secure relief on the plea of error. The SFA is not liable for any cost incurred by the bidder prior to PDE's Division of Food and Nutrition's (DFN) final approval of the contract and the signing of the contract by all parties. Paying the FSMC from CN Program funds is prohibited until the contract is signed by both parties. **DFN approval must be stamped on each page of the contract prior to the signing of the contract.**
8. If additional information is required, please contact Insert a contact's name at Insert a telephone number or at Enter an e-mail address.

F. Award Criteria

The relative value assigned to the evaluation of each such criterion must be specified. However, the highest consideration (the most weight) must be given to bid price. An evaluation committee must be comprised of at least three people. Each committee member evaluates proposals independently. All bidders receiving an average of 85% or more should be contacted for further consideration prior to a contract being offered.

Cost and Performance Bond	Enter the amount of possible points
Service Capability	Enter the amount of possible points
Financial Conditions/Stability, Business Practices	Enter the amount of possible points
Accounting and Reporting Systems	Enter the amount of possible points
Personnel Management	Enter the amount of possible points
Experience and References	Enter the amount of possible points
Promotion of the School Food Service Program	Enter the amount of possible points
Involvement of Students, Staff and Patrons	Enter the amount of possible points
Total points possible:	100

F. Bid Protests

Any action which diminishes open and free competition seriously undermines the integrity of the procurement process and may subject the SFA to bid protests. SFAs are responsible for properly responding to protests and concerns raised by potential contractors. Pursuant to §3016.36(b) (12), SFAs must have protest procedures in place to handle and resolve disputes relating to their procurements and must in all instances disclose all information regarding a protest to DFN.

G. Bonding Requirement
Bid Guarantee: The FSMC shall submit with its proposal, a bid guarantee for five percent (5%) of the total bid price in the form of a firm commitment such as a bid bond, postal money order, certified check, cashiers check, or irrevocable letter of credit. Bid guarantees other than bid bonds will be returned (a) to unsuccessful FSMCs as soon as practicable after the opening of bids; and (b) to the successful FSMC upon execution of such further contractual documents (i.e., insurance coverage) and bonds as required by the proposal.

H. Captions
Captions in all sections of this document are provided only as a convenience and shall not effect the interpretation of this instrument, its attachments, and addenda.

I. Contract Terms
The contract shall be for a period of one year beginning on or about July 1, Enter the year, and ending June 30, Enter the year, with up to four one-year renewals with mutual agreement between the SFA and the FSMC. This contract cannot be effective prior to the date of final approval by DFN and signed by both parties.

J. Employees
The current food service employees will Make a Selection.

K. Errors or Omissions
The proposing vendor shall not be allowed to take advantage of any errors or omissions in the specifications. Where errors occur in the specification, the vendor shall promptly notify the contact person listed. Inconsistencies in the specifications are to be reported prior to proposals being submitted.

L. Final Contract
The complete contract includes all documents included by the SFA in the RFP and all documents submitted by the FSMC that have been mutually agreed upon by both parties; i.e., worksheets, appendices and operating cost sheets.

M. Gifts from FSMC
The SFA's officers, employees, or agents shall neither solicit nor accept gratuities, favors, nor anything of monetary value from contractors nor potential contractors. To the extent permissible under State law, rules, or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards.

N. Incurred Cost
Any cost incurred by the FSMC prior to DFN final approval and the signing of the contract by all parties, shall be the responsibility of the FSMC.

O. Late Bids
The SFA will not consider any bid received after the exact time specified for receipt.

P. Limitation on Nonperformance for Deficit Operations
The SFA and the FSMC shall work together to ensure a financially sound operation. If the food service operations result in a deficit during the initial contract school year, the FSMC shall reimburse the SFA for the deficit. All FSMC assumptions used in calculating financial projections shall be clearly defined in the financial section of each proposal. Factors not clearly defined shall be the sole responsibility of the FSMC. If the contract is renewed, this condition shall apply to subsequent years. FSMCs cannot recover any deficits in subsequent years if the contract is renewed. This program must be self-sustaining and must not require any subsidy from school funds.

Q. Meal Equivalents

For the purpose of making the meal count computation, the number of meals served to children shall be determined by actual counts of reimbursable meals. The FSMC and SFA shall determine a la carte meal equivalents by dividing the a la carte revenue by the sum of the Federal and State free meal reimbursement plus the value of USDA entitlement and bonus donated foods. A la carte revenue shall include adult meals and a la carte sales to students and adults. If applicable, include revenue from vending machine sales as part of the a la carte revenue.

R. Payment and Fees

The following definitions are provided to clarify what are allowable direct costs:

- **Food:** limited to those items purchased for use in the preparation and service of student, adult, and a la carte meals as specified under terms and conditions.
- **Labor:** limited to on-site employees responsible for the management, preparation, service, and clean up of meals.
- **Miscellaneous Expenses:** paper supplies (including decorations), equipment rental, cleaning materials, commodity handling and warehousing charges, travel as required for effective program management, uniforms, printing, taxes and licenses, insurance, and as contractually obligated herein.

Standard Terms and Conditions

1. Scope and Purpose

A. The FSMC shall operate in conformance with the SFA's Policy/Agreement with PDE, PDE-3528.

B. The FSMC, such as an independent contractor, shall have the exclusive right to operate the National School Lunch Program (NSLP), which includes all of the following checked programs:

- | | |
|--|---|
| ☐ National School Lunch Program (NSLP) | ☐ A la Carte |
| ☐ Provision 1, 2 or 3 | ☐ Seamless Summer Option (SSO) |
| ☐ Child and Adult Care Food Program (CACFP) | ☐ Special Milk Program (SMP) |
| ☐ Summer Food Service Program (SFSFP) | ☐ Vending |
| ☐ School Breakfast Program (SBP) | |

Proposals must include all of the SFA's programs. Please note that the SFA cannot add additional programs after execution of the contract or subsequent renewals that results from this RFP unless appropriate procurement procedures are followed.

C. The FSMC shall be an independent contractor and not an employee of the SFA. The employees of the FSMC are not employees of the SFA.

D. The food service provided shall be operated and maintained as a benefit to the SFA's students, faculty, and staff and not as a source of profit to the FSMC.

E. All income accruing as a result of payments by children and adults, federal and state reimbursements, and all other income from sources such as donations, special functions, grants, loans, etc., shall be deposited in the SFA's food service account. Any profit or guaranteed return shall remain in the SFA's food service account. The guaranteed return can be no less frequent than yearly.

F. The SFA and the FSMC agree that this contract is neither a "cost-plus-a-percentage-of-income" nor a "cost-plus-a-percentage-of-cost" contract as required under 7 CFR § 210.16(c) and 7 CFR § 3016.36(f) and 3019.44(c).

G. The SFA shall be legally responsible for the conduct of the food service program, and shall supervise the food service operations in such manner as will ensure compliance with the rules and regulations of PDE and the United States Department of Agriculture (USDA) regarding each of the CN Programs covered by this contract.

H. The SFA shall retain control of the CN Program's food service account and overall financial responsibility for the CN Programs.

I. The SFA shall establish all selling prices, including price adjustments, for all reimbursable and non-reimbursable meals/milk and a carte (including vending, adult meals, contract meals, and catering) prices. (Exception: Non-pricing programs need not establish a selling price for reimbursable meals/milk.)

J. The FSMC shall provide additional food service, such as banquets, parties, refreshments for meetings, etc., as requested by the SFA. The SFA or requesting organizations will be billed for the actual cost of food, supplies and labor, and the FSMC's overhead and administrative expenses if applicable to providing such service. The total price will not exceed the actual cost plus Enter the maximum percent profit the FSMC may charge%. (The percent profit should not exceed 10%). USDA commodities shall not be used for these special functions unless the SFA's students will be primary beneficiaries. (Reference All State Directors' Memo 99-SNP-14.)

K. The SFA reserves the right, at its sole discretion, to sell or dispense any food or beverage before or after the SFA's regularly scheduled lunch or breakfast periods, provided such is not prohibited by local wellness policies, state (school nutrition incentive), or federal program regulations.

L. The FSMC shall cooperate with the SFA in promoting nutrition education and coordinating the SFA's food service with classroom instruction. The FSMC shall comply with the Wellness Policy including the nutrition guidelines as required.

M. The FSMC shall comply with the rules, regulations, policies, and instructions of PDE and USDA, and any additions or amendments thereto, including but not limited to, Title 7 CFR parts 210, 215, 220, 245, 250, 3016, 3017, 3018, and 3019; and Title 7 CFR § 225 (SFSP), if applicable, and 7 CFR Part 226 (CACFP), as applicable.

N. The FSMC shall make substitutions in the food components of the meal pattern for students with disabilities when their disability restricts their diet, and those non-disabled students who are unable to consume regular lunch because of medical or other special dietary needs. Substitutions shall be made on a case-by-case basis when supported by a Medical Statement with the required information. There will be no additional charge to the student for such substitutions.

O. Payment Terms/Method: The FSMC shall invoice the SFA at the end of each month for amounts due based on on-site records. The SFA shall make payments within 30 business days of the invoiced date. Detailed cost documentation must be submitted monthly to support what the SFA is charged for each cost, charge, or expense. Costs, charges, and expenses must be mutually agreeable to the SFA and the FSMC and be allowed by the State Agency (SA). Upon termination of the Agreement, all outstanding amounts shall immediately become due and payable.

P. The SFA is responsible for all contractual agreements entered into in connection with the CN Programs.

2. Signature Authority

A. The SFA shall retain signature authority for the policy/agreement, PDE-3528, to participate in the CN Programs, including but not limited to the CN Financial Report, the Verification Report, and the on-line submission of the sponsor application/site information and other reports, and letters to PDE to amend the application.

B. The SFA shall retain signature authority for the Monthly Claim for Reimbursement in the CN Program Electronic Application and Reimbursement System (CNPEARS).

C. The SFA is responsible for reviewing the data and signing the Edit Check Worksheet(s) prior to the submission of the monthly Claim for Reimbursement.

3. Free and Reduced Price Meals Policy

A. The SFA shall be responsible for the establishment and maintenance of the free and reduced price meals' eligibility roster.

B. The FSMC shall implement an accurate point of service meal/milk count using the meal counting system submitted by the SFA in their application to participate in the CN Programs and approved by DFN, as required under Title 7 CFR § 210.8. Such meal/milk counting system must eliminate the potential for the over identification of free and reduced price eligible students under Title 7 CFR § 245.8.

C. The SFA shall be responsible for the completion, distribution, and collection of the parent letter and household application for free and reduced price meals and/or free milk.

- D. The SFA shall be responsible for obtaining the Direct Certification List from COMPASS each year for use to determine eligibility for free meals without obtaining a household application for free and reduced price meals and/or free milk from parent/guardian.
- E. The SFA shall be responsible for the determination of eligibility for free and reduced price meals and free milk and will not disclose confidential information to the FSMC, as required under Title 7 CFR § 210.16(a). The SFA will provide the FSMC with a list of children and their category of eligibility. This list must be updated when changes occur in a student's eligibility status.
- F. The SFA shall be responsible for conducting any hearings related to determinations regarding eligibility for free and reduced price meals and free milk.
- G. The SFA shall be responsible for verifying household applications for free and reduced price meals and follow-up activities as required by federal regulations. Indicate the position responsible for completing this process is responsible for completing the verification process.

4. USDA Donated Foods

- A. The SFA shall retain title to all USDA donated foods.
- B. The FSMC is prohibited from entering into any processing contracts utilizing USDA donated foods on behalf of the SFA. All refunds received from processors must be retained by the nonprofit school food service account.
- C. The FSMC shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to, USDA donated foods.
- D. The FSMC shall select, accept and use USDA donated foods in as large quantities as may be efficiently utilized in the SFA's nonprofit food service, subject to approval of the SFA. The SFA shall consult with the FSMC in the selection of commodities; however, the final determination as to the acceptance of commodities must be made by the SFA.
- E. The FSMC will use all donated ground beef and ground pork products, and all processed end products, in the SFA's food service. The FSMC will use all other donated foods, or will use commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, in the SFA's food service.
- F. The FSMC must assure that the procurement of processed end products on behalf of the SFA, as applicable, will ensure compliance with the requirements in subpart C of 7 CFR Part 250, and with the provisions of distributing or recipient agency processing agreements, and will ensure crediting of the SFA for the value of donated foods contained in such end products at the processing agreement value.
- G. The FSMC shall have records available to substantiate that the full value of all USDA donated foods is used solely for the benefit of the SFA.
- H. The values are to be based on the values at the point the SFA receives the commodities from the State distributing agency and based on the USDA Commodity Value Listing pertinent to the time period. This information is available from the Pennsylvania Department of Agriculture, Bureau of Food Distribution (PDA).
- I. The FSMC shall perform the following activities in accordance with §250.50(d): (check all that apply)

☐ Preparing and serving meals using donated foods

☐ Ordering or selection of donated foods (in coordination with the SFA)

- ☐ Storage and inventory management of donated foods
- ☐ Payment of processing fees or submittal of refund requests to a processor on behalf of the SFA, or remittance of refunds for the value of donated foods in processed end products to the SFA

5. Crediting For and Use of Donated Foods

- A. The FSMC must credit the SFA for the value of all donated foods received for use in the SFA's meal service in the school year (including both entitlement and bonus foods).
- B. The FSMC must credit the SFA for the value of donated foods contained in processed end products if the FSMC is required to:

- procure processed end products on behalf of the SFA, or
- act as an intermediary in passing donated food value in processed end products on to the SFA.

- C. The SFA must determine the method by which crediting will occur and the means of documentation to be utilized to verify that the value of all donated foods has been credited. All crediting must be done on no less than a monthly basis.

- D. The FSMC must use the November USDA Commodity Value Listing for determining the donated food values to be used in crediting, in accordance with §250.51(c), or the actual donated food values. All forms of crediting must provide clear documentation of the value received from the donated foods.

6. Inventory, Storage and Record Retention of USDA Donated Foods

- A. When this contract or subsequent renewals terminates, the FSMC must return all unused donated ground beef, donated ground pork, processed end products, and all other unused donated foods.
- B. The FSMC will comply with the storage and inventory requirements for donated foods.
- C. The SFA, the Comptroller General, PDA, PDE, USDA, or their duly authorized representatives, may perform on-site reviews of the FSMC's food service operation, including the review of records, to ensure compliance with requirements for the management and use of donated foods.
- D. The FSMC will maintain records to document its compliance with requirements relating to donated foods, in accordance with § 250.45(b).
- E. The SFA must maintain the following records relating to the use of donated foods:

- The donated foods and processed end products received and provided to the FSMC for use in the SFA's food service.
- Documentation that the FSMC has credited the SFA for the value of all donated foods received for use in the SFA's food service in the school year, including, in accordance with the requirements in § 250.51(a), the value of donated foods contained in processed end products.
- The actual donated food values used in crediting.

- F. The FSMC must maintain the following records relating to the use of donated foods:
- The donated foods and processed end products received from, or on behalf of, the SFA, for use in the SFA's food service.
 - The FSMC must show documentation that it has credited the SFA for the value of all donated foods received for use in the SFA's food service in the school year, including, in accordance with the requirements in § 250.51(a), the value of donated foods contained in processed end products.

c. The FSMC must maintain documentation of its procurement of processed end products on behalf of the SFA, as applicable.

G. The SFA must ensure that the FSMC is in compliance with the requirements of this part through its monitoring of the food service operation, as required in 7 CFR Parts 210, 225, or 226, as applicable. Please indicate the position responsible for monitoring is responsible for this monitoring process.

H. The SFA must 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 SFA's food service in the school year.

7. Health Certifications

A. The SFA shall maintain all applicable health certifications on its facilities and shall ensure that all state and local regulations are being met by the FSMC preparing or serving meals at any SFA facility.

B. The FSMC shall maintain state and/or local health certifications for any facility outside the SFA in which it proposes to prepare meals and shall maintain this health certification for the durations of the contract as required under Title 7 CFR § 210.16(c).

C. The FSMC shall adhere to the Food Safety Plan implemented by the SFA for all preparation and service of school meals, using a Hazard Analysis and Critical Control Point (HACCP) system as required under Public Law 108-265.

D. The FSMC agrees to allow at least two health inspections to be conducted by the Health Department at every site involved in school meal preparation and/or service as required by Public Law 108-265.

E. The SFA shall immediately correct any problems found as a result of a health inspection.

8. Meals

A. The FSMC shall serve meals on such days and at such times as requested by the SFA.

B. The SFA shall retain control of the quality, extent, and general nature of the food service.

C. The FSMC shall offer free, reduced price and paid reimbursable meals to all eligible children participating in the CN Programs.

D. In order for the FSMC to offer a la carte food service, the FSMC must offer free, reduced price and paid reimbursable meals to all eligible children.

E. The FSMC shall provide meals in the CN Programs that meet the Choose a menu planning option menu planning option.

F. The FSMC shall provide the specified types of service in the schools/sites listed in Section 1, letter B.

G. The FSMC shall promote maximum participation in the CN Programs.

H. The FSMC shall sell on the premises only those foods and beverages authorized by the SFA and only at the times and places designated by the SFA.

I. No payment will be made to the FSMC for meals that are spoiled or unwholesome at the time of delivery, do not meet detailed specifications as developed by the SFA for each food component in the meal pattern, or do not otherwise meet the requirements of the contract.

9. Books and Records and Reports

A. The FSMC shall maintain such records (supported by invoices, receipts or other evidence) as the SFA will need to meet monthly reporting responsibilities, and shall submit monthly operating statements in a format approved by the SFA no later than the tenth (10th) calendar day succeeding the month in which services were rendered. Participation records shall be submitted no later than the fifth (5th) working day succeeding the month in which services were rendered. The SFA shall perform edit checks on the participation records provided by the FSMC prior to the preparation and submission on-line of the claim for reimbursement.

B. The FSMC shall maintain records at the SFA to support all allowable expenses appearing on the monthly operating statement. These records shall be kept in an orderly fashion according to expense categories.

C. The FSMC shall provide the SFA with a year-end statement.

D. The SFA shall conduct an internal audit of food, labor and other large expense items quarterly, as well as performing random audits on smaller expense categories.

E. The SFA and the FSMC must provide all documents as necessary for the independent auditor to conduct the SFA's single audit.

F. Books and records of the FSMC pertaining to the CN Program operations shall be made available, upon demand, in an easily accessible manner for a period of three (3) years from the end of the contract term (including extensions) to which they pertain, for audit, examination, excerpts and transcriptions by the SFA and/or any state or federal representatives and auditors.

G. If audit findings regarding the FSMC's records have not been resolved within the three-year period, the records must be retained beyond the three-year period for as long as required for the resolution of issues raised by the audit. (Reference 7 CFR § 210.9[b][17], 7 CFR § 3016.36[i][10] and 7 CFR § 3019.49[d].)

H. The FSMC shall not remove federally required records from the SFA premises upon contract termination.

I. The SFA is responsible for ensuring resolution of program review and audit findings.

10. Employees

A. The SFA reserves the right to interview and approve the on-site food service manager/director.

B. The SFA must designate if the current SFA employees, including site and area managers as well as any other staff, will be retained by the SFA or be subject to employment by the FSMC. Employees will be retained by Choose from these options.

C. The FSMC shall provide the SFA with a schedule of employees, positions, assigned locations, salaries, and hours to be worked as part of the proposal. Specific locations and assignments will be provided to the SFA two full calendar weeks prior to the commencement of operation.

D. The FSMC must provide time sheets indicating the pro-ration of shared employees. These time sheets must be submitted monthly with each invoice that is submitted for payment. The time sheets need to clearly indicate all locations that a pro-rated employee works and the percent of time that this employee worked in each location.

E. The FSMC shall comply with all wage and hours of employment requirements of federal and state laws. The FSMC shall be responsible for supervising and training personnel, including SFA employed staff.

Supervision activities include employee and labor relations, personnel development, and hiring and termination of FSMC management staff except for the site manager. The FSMC shall also be responsible for the hiring and termination of non-management staff who are employees of the FSMC.

F. The FSMC shall maintain its own personnel and fringe benefits policies for its employees. A copy of these policies must be submitted with all proposal documents. These policies are subject to review by the SFA.

G. Staffing patterns, except for the site manager, shall be mutually agreed upon.

H. The FSMC shall not hire employees in excess of the number required for efficient operation.

I. The SFA shall provide sanitary toilet and hand washing facilities for the employees of the FSMC.

J. The SFA may request in writing the removal of any employee of the FSMC who violates health requirements or conducts himself/herself in a manner that is detrimental to the well-being of the students.

K. In the event of the removal or suspension of any such employee, the FSMC shall immediately restructure the food service staff without disruption of service.

L. All SFA and/or FSMC personnel assigned to the food service operation in each school shall be instructed in the use of all emergency valves, switches, fire and safety devices in the kitchen and cafeteria areas.

M. The use of student workers or students enrolled in vocational classes in the food service shall be mutually agreed upon.

N. The FSMC shall provide proof that each prospective employee working with children has had a Pennsylvania State Criminal History Background Check and Federal Criminal History Record that is not more than one (1) year old. (Section 111 of the Public School Code. See Act 48 of 2003 Section 111 for specific convictions that this applies to.)

11. Monitoring

A. The SFA shall monitor the food service operation of the FSMC through periodic on-site visits to ensure that the food service is in conformance with USDA program regulations per 7 CFR §201.16. Further, if there is more than one site, there is an additional requirement that the SFA conduct an on-site review of the counting and claiming system no later than February 1, of each year as required by 7 CFR §210.8. Please enter the position responsible for these duties is responsible for performing all on-site reviews.

B. The records necessary for the SFA to complete the required monitoring activities must be maintained by the FSMC under this contract, and must be made available to the Auditor General, USDA, PDE, PDA, and the SFA upon request for the purpose of auditing, examination, and review.

12. Use of Advisory Group/Menus

A. The SFA is responsible for the formation and establishment of an advisory board composed of students, teachers, and parents to assist in menu planning and periodic meetings. The FSMC shall participate in these periodic meetings as deemed appropriate by the SFA.

B. The FSMC must comply with the 21-day menu developed by the SFA for the programs checked in section I, letter B of this contract, and is included in the RFP (the exception to this would be the SFSP which only requires an 11-day menu). Any changes made by the FSMC after the first 21-day cycle may be made with the approval of the SFA. The SFA shall approve menus no later than two weeks prior to service.

13. Use of Facilities, Inventory, Equipment & Storage

- A. The SFA will make available, without any cost or charge to the FSMC, area(s) of the premises agreeable to both parties in which the FSMC shall render its services.
- B. The SFA reserves the right, at its sole discretion, to sell or dispense food or beverages, provided such use does not interfere with the operation of the CN Programs.
- C. The FSMC and the SFA shall inventory the equipment and commodities owned by the SFA at the beginning of the school year, including but not limited to, silverware, trays, chinaware, glassware, and/or kitchen utensils.
- D. The FSMC shall maintain the inventory silverware, trays, chinaware, glassware, kitchen utensils, and other operating items necessary for the food service operation at the inventory level as specified by the SFA.
- E. The SFA will replace expendable equipment and replace, repair and maintain non-expendable equipment except when damages result from the use of less than reasonable care by the employees of the FSMC.
- F. The FSMC shall maintain adequate storage procedures, inventory, and control of USDA donated foods in conformance with the SFA's agreement with PDA.
- G. The FSMC shall provide the SFA with one set of keys for all food service areas secured with locks.
- H. The SFA shall provide the FSMC with local telephone service.
- I. The SFA shall furnish and install any equipment and/or make any structural changes needed to comply with federal, state, or local laws, ordinances, rules and regulations.
- J. The SFA shall be responsible for any losses, including USDA donated foods, which may arise due to equipment malfunction or loss or electrical power not within the control of the FSMC.
- K. All food preparation and serving equipment owned by the SFA shall remain on the premises of the SFA.
- L. The SFA shall not be responsible for loss or damage to equipment owned by the FSMC and located on the SFA premises.
- M. The FSMC shall notify the SFA of any equipment belonging to the FSMC on SFA premises within 10 days of its placement on SFA premises.
- N. The SFA shall have access, with or without notice, to all of the SFA's facilities used by the FSMC for purposes of inspection and audit.
- O. The FSMC shall not use the SFA's facilities to produce food, meals, or services for other organizations without the approval of the SFA. If such usage is mutually acceptable, there shall be a signed agreement, which stipulates the fees to be paid by the FSMC to the SFA for such facility usage.
- P. The SFA, on the termination or expiration of the contract, shall conduct a physical inventory of all equipment and commodities owned by the SFA.
- Q. The FSMC shall surrender to the SFA upon termination of the contract, all equipment, and furnishings in good repair and condition.

14. Purchases

- A. If the FSMC is procuring goods or services which are being charged to the SFA under the contract, the FSMC is acting as an agent for the SFA and must follow the same procurement rules under which the SFA must operate and that the FSMC may not serve as a vendor. Check one of the below options:
- ☐ The SFA will do all purchasing for the non-profit school food service.
- ☐ For a cost-reimbursable contract: The FSMC bills the SFA for foods when purchased. At the option of the SFA, the FSMC will purchase back unused supplies from the SFA at the termination of the contract in order to prevent overbuying (if the FSMC bills the SFA for supplies as purchased, rather than as used).
- ☐ For a cost-reimbursable contract: The FSMC bills the SFA for food when used. The SFA will buy the ending inventory from the FSMC if the FSMC bills for foods when used.
- ☐ For a fixed-price contract: The FSMC will buy the beginning inventory exclusive of commodities, from the SFA (not applicable in a cost reimbursable contract since the FSMC should only be charging for new purchases).
- B. This contract shall not prevent the SFA from participating in food co-ops or purchasing food from vendors with whom the FSMC normally does not do business.
- C. For cost reimbursable contracts:
- a. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor; to the extent, those credits are allocable to the allowable portion of the costs billed to the SFA.
- b. The contractor must separately identify for each cost submitted for payment to the SFA the amount of each cost that is allowable and unallowable.
- c. The contractor must individually identify the amount of each discount, rebate and other applicable credits on all bills and invoices presented to the SFA. In the case of other applicable credits, the nature of the credit must be identified. (An example of the invoice/bill must be included with the proposal.)
- d. The contractor must identify, on the final invoice of the school year, the method by which it will report discounts, rebates and other applicable credits allocable to the contract that cannot be reported prior to the conclusion of the contract.
- e. The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request for the SFA, DFN, or USDA.
- f. No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost reimbursable contract that fails to include requirements of this section, nor may any expenditure be made from the nonprofit school food service account that permits or results in the contractor receiving payments in excess of the contractor's actual, net allowable costs.
- D. P.L. 110-246, Section 4302 of the Richard B. Russell National School Lunch Act (NSLA), allows SFAs to purchase unprocessed locally grown and locally raised agricultural products. NSLA allows SFAs to apply a geographic preference when procuring unprocessed locally grown and locally raised agricultural products.

E. The payment of late fees with school food service account funds is prohibited (SD Memo #63-01 (12/4/01)).

15. Invoices

A. The FSMC must submit a monthly reconciliation to the SFA comparing the invoice and revenue against the projected revenue and expenses.

B. DFN will randomly request SFAs to submit copies of invoices for compliance with the above items.

16. Buy American

A. The FSMC shall purchase, to the maximum extent practicable, domestic commodities or products which are either an agricultural commodity produced in the United States (U.S.) or a food product processed in the U.S. substantially using agricultural commodities produced in the U.S.

B. The FSMC shall certify the percentage of U.S. content in the products supplied to the SFA.

C. The SFA reserves the right to review vendor purchase records to ensure compliance with the Buy American provision.

17. Sanitation

A. The FSMC shall place garbage and trash in the containers in the designated areas as specified by the SFA.

B. The SFA shall remove all garbage and trash from the designated areas.

C. The FSMC shall clean the kitchen and dining room areas as indicated in the Cost Responsibility Worksheet.

D. The FSMC shall operate and care for all equipment and food service areas in a clean, safe, and healthy condition in accordance with the standards acceptable to the SFA and comply with all applicable laws, ordinances, regulations, and rules of federal, state, and local authorities, including laws related to recycling.

E. The SFA shall clean the ducts and hoods above the filter line.

F. The SFA shall provide extermination services as needed.

G. The FSMC shall comply with all local and state sanitation requirements in the preparation of food.

18. Licenses, Fees and Taxes

A. The FSMC shall be responsible for paying all applicable taxes and fees, including but not limited to, excise tax, state and local income tax, payroll and withholding taxes for FSMC employees; the FSMC shall hold the SFA harmless for all claims arising from payment of such taxes and fees.

B. The FSMC shall obtain and post all licenses and permits as required by federal, state, and/or local law.

C. The FSMC shall comply with all SFA building rules and regulations.

19. Non-Discrimination

Both the SFA and the FSMC agree that no child who participates in any of the CN Programs will be discriminated against on the basis of race, color, national origin, age, sex, or disability.

20. Emergency Closing

- A. The SFA shall notify the FSMC of any interruption in utility service of which it has knowledge.
- B. The SFA shall notify the FSMC of any delay in the beginning of the school day or the closing of school(s) due to snow or other emergency situations.

21. Term and Termination

- A. This contract shall become effective on July 1, Insert Year, and terminates on June 30, Insert Year.
- B. The SFA or the FSMC may terminate the contract for cause by giving 60 days written notice.
- C. At any time, because of circumstances beyond the control of the FSMC, the FSMC or the SFA may terminate the contract by giving 10 days written notice to the other party.
- D. Neither the FSMC nor the SFA shall be responsible for any losses resulting should the fulfillment of the terms of the contract be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any acts not within the control of the FSMC or the SFA, respectively, and which by the exercise of due diligence they were unable to prevent.

22. Nonperformance by the FSMC

- A. In the event of the FSMC's nonperformance under this contract and/or the violation or breach of the contract terms, the SFA shall have the right to pursue all administrative, contractual, and legal remedies against the FSMC and shall have the right to seek all sanctions and penalties as may be appropriate.
- B. The FSMC shall pay the SFA the full amount of any meal over-claims which are attributable to the FSMC's negligence, including those over-claims based on review or audit findings that occurred during the effective dates of the original and renewal contracts.

23. Certifications

- A. The FSMC shall comply with the mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).
- B. The FSMC shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. §327-330, as supplemented by the Department of Labor regulations, 29 CFR, Part 5. Under Section 103 of the Act, the FSMC shall be required to compute the wages of every laborer on the basis of a standard workday of eight hours and a standard workweek of 40 hours. Work in excess of the standard workday or standard workweek is permissible, provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or forty hours in any work week.
- C. The FSMC shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations, 41 CFR, Part 60.

D. The FSMC shall comply with the following civil rights laws, as amended: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a and 15b; the Americans with Disabilities Act; the FNS Instruction 113-6, Civil Rights Compliance and Enforcement in School Nutrition Programs.

E. The FSMC shall comply with the Buy American provision for contracts that involve the purchase of food, Title 7 CFR, Part 210.21 (d).

F. The FSMC shall sign the Certification of Independent Price Determination, Appendix G, which was attached as an addendum to the FSMC's proposal and which is incorporated herein by reference and made part of this contract.

G. The FSMC shall sign the Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Attachment H, which was attached as an addendum to the FSMC's proposal and which is incorporated and made a part of this contract. (Reference 7 CFR §3017.) This certification assures the SFA that the FSMC has not been debarred from entering into contracts with the Federal Government or any other entity receiving Federal funds, or suspended from entering contracts during a time when the vendor is being investigated for a legal action is being taken to debar the vendor from contracting activities.

H. The FSMC shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857[h]), Section 508 of the Clean Air Act (33 U.S.C. 1368), Attachment I, which was attached as an addendum to the FSMC's proposal and which is incorporated and made a part of this contract

I. The FSMC shall sign the Lobbying Certification, Attachment J, which was attached as an addendum to the FSMC's proposal and which is incorporated and made a part of this contract. If applicable, the FSMC has also completed and submitted Standard Form-L.L., Disclosure Form to Report Lobbying, Attachment.

24. Miscellaneous

A. This contract shall be construed under the laws of the Commonwealth of Pennsylvania. Any action or proceeding arising out of this contract shall be heard in the appropriate courts of the Commonwealth of Pennsylvania.

B. The FSMC shall comply with the provisions of the bid specifications, which are hereby in all respects made a part of this contract.

C. No provision of this contract shall be assigned or subcontracted without prior written consent of the SFA.

D. No waiver of any default shall be construed to be or constitute a waiver of any subsequent claim.

E. This contract and any riders, addenda or appendices thereto constitute the entire contract between the SFA and the FSMC.

F. Any silence, absence, or omission from the contract specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and that only materials (e.g., food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA are to be used.

G. Payments on any claim shall not preclude the SFA from making a claim for adjustment on any item found not to have been in accordance with the provisions of this contract and bid specifications.

25. Insurance

- H. The SFA shall be responsible for ensuring the resolution of program review and audit findings.
- I. This contract must be reviewed and approved by DFN prior to execution.

- A. The FSMC is required to be insured adequately to support the terms of the contract. The FSMC shall maintain the insurance coverage set forth below for each accident provided by insurance companies authorized to do business in the state of Pennsylvania. A Certificate of Insurance of the FSMC's insurance, including products and completed operations liability, contractual liability, and independent contractor's liability coverage and personal injury. Minimum coverage shall be \$1,000,000 per incident/per person.
- B. The FSMC shall have in effect during all times under this agreement, comprehensive general liability insurance, including products and completed operations liability, contractual liability, and independent contractor's liability coverage and personal injury. Minimum coverage shall be \$1,000,000 per incident/per person.
- a. General Liability- Enter the amount of coverage
- b. Workman's Compensation- Enter the amount of coverage
- c. Vehicle Insurance- Enter the amount of coverage

- C. The SFA shall be named as additional insured on the General Liability and Automobile insurance policy. The FSMC must provide a waiver of subrogation in favor of the SFA for General Liability, Automobile, and Worker's Compensation.

- D. In addition, the FSMC shall provide fire and theft insurance at its own expense to cover any risk created by fire and/or theft to its property located on the premises of the SFA. The FSMC further agrees to provide all necessary fire and/or theft insurance to cover clothes, garments and other articles owned by their employees.

- E. The contract of insurance shall provide for notice to the SFA of cancellation of insurance policies 30 days before such cancellation is to take effect.

26. SFSP and/or SSO (See letter B under 1 (Scope and Purpose) of the Standard Terms and Conditions for verification of participation)

- A. The FSMC shall offer free meals to all eligible children participating in the SFSP and/or the SSO. A flat price per meal cost must be submitted as part of this RFP for the SFSP. The FSMC will operate the SFSP and/or the SSO including the preparation, record keeping, and delivery of meals. The SFA shall be responsible for determining eligibility for all SFSP and/or the SSO sites. The SFA as a SFSP and/or the SSO sponsor is responsible for conducting and documenting the required site visits of all sites for pre-approval and during operation of the program.

- B. The SFSP and/or SSO will operate from Enter the beginning date to Enter the ending date.

27. Renewal Assumptions

- A. Assumptions: Financial terms of the Agreement are based upon existing conditions and the following assumptions. If there is a material change in conditions, including, without limitations, changes to the following assumptions, this contract (1) may be terminated at the end of the current term or (2) continue under the same terms as written, whichever is mutually agreed upon.

- a. The SFA's policies, practices, and service requirements shall remain materially consistent throughout the contract term and any subsequent contract renewals.
- b. Legislation, regulations, and reimbursement rates that create changes in the school lunch program shall remain materially consistent throughout the year.
- c. Usable commodities of adequate quality and variety required for the menu cycle, valued at an amount as set forth by USDA per pattern meal for the contract year will continue to be available.
- d. The government reimbursement rates in effect shall remain materially consistent throughout the year.
- e. Meal components and quantities required by any of the programs selected in letter B, under 1 (Scope and Purpose) of the Standard Terms and Conditions remain consistent with prior years.
- f. Service hours, service requirements, and type or number of facilities selling food and/or beverages on SFA's premise shall remain materially consistent throughout the contract term and any subsequent contract renewal years.
- g. The state or federal minimum wage rate and taxes in effect shall remain materially consistent throughout the year.
- h. The projected number of full feeding days are: Insert the number of feeding days.
- i. SFA revenue credited to the food service program shall include all state and federal amounts received specifically for CN operations.

The term **materially consistent** shall mean that a change does not (1) materially increase FSMC's cost of providing management service or (2) materially decrease the net revenue derived from the food service operation.

- B. Contract Cost Increase: The SFA may negotiate at the end of each one year contract period for a cost increase not to exceed the annual percentage increase of the Consumer Price Index (CPI) for All Urban Consumers for the preceding year, provided it has been satisfactorily established by the FSMC that there has been at least an equivalent increase in the amount of its cost of operation during the period of the contract.
- C. All contract renewals shall be for a period of one year beginning July 1 and ending June 30, with mutual agreement between the SFA and the FSMC. Renewal contracts cannot be effective prior to the final approval date by DFN and signed by both parties. Failure to have renewal contracts fully executed prior to July 1, will lapse this contract and require the SFA to re-bid the contract.
- D. Renewal year contracts are contingent upon fulfillment of all contract provisions relating to donated foods.
- E. The SFA may add any additional items that need to be covered in this RFP such as Equipment Purchases and POS systems

27. Trade Secrets and Proprietary Information

- A. During the term of the Agreement, the FSMC may grant to the SFA a nonexclusive right to access certain proprietary materials of the FSMC, including menus, recipes, signage, food service surveys and studies, management guidelines and procedures, operating manuals, software (both owned by and licensed by the FSMC), and similar compilations regularly used in FSMC business operations (trade secrets). The SFA shall not disclose any of the FSMC's trade secrets or other confidential information, directly or indirectly,

during or after the term of the Agreement. The SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of the FSMC. All trade secrets and other confidential information shall remain the exclusive property of the FSMC and shall be returned to the FSMC immediately upon termination of the agreement. The SFA shall not use any confusingly similar names, marks, systems, insignia, symbols, procedures, and methods. Without limiting the foregoing and except for software provided by the SFA, the SFA specifically agrees that all software associated with the operation of the food service, including without limitation, menu systems, food production systems, accounting systems, and other software, are owned by or licensed to the FSMC and not the SFA. Furthermore, the SFA's access or use of such software shall not create any right, title interest, or copyright in such software and the SFA shall not retain such software beyond the termination of the Agreement. In the event of any breach of this provision, the FSMC shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available. This provision shall survive termination of the Agreement.

B. Any discovery, invention, software, or programs paid for by the LEA shall be the property of the LEA to which the State Agency and USDA shall unrestricted rights.

Meat/Seafood

All meats, meat products, poultry, poultry products, and fish must be government inspected.

- Beef, lamb, and veal shall be USDA Grade Choice or better.
- Pork shall be U.S. No. 1 or U.S. No. 2.
- Poultry shall be U.S. Government Grade A.
- Seafood to be top grade, frozen fish must be a nationally distributed brand, packed under continuous inspection of USDA.

Dairy Products

- All dairy products must be Government Inspected.
- Fresh eggs shall be USDA Grade A or equivalent, 100% candled.
- Frozen eggs must be USDA inspected.
- Milk shall be pasteurized Grade A.

Fruits and Vegetables

- Fresh fruits and vegetables selected according to written specifications for freshness, quality, and color- U.S. Grade A Fancy.
- Canned fruits and vegetables selected to requirements U.S. Grade A Choice or fancy (fruit to be packed in light syrup or natural juices).
- Frozen fruits and vegetables shall be U.S. Grade A Choice or better.

Baked Products

- Bread, rolls, cookies, pies, cakes and pudding either prepared or baked on premises or purchased on a quality level commensurate with meeting USDA breakfast and lunch requirements as applicable.

Staple Groceries

- Staple groceries to be a quality level commensurate with previously listed standards.

Independent Price Determination Certificate

Both the School Food Authority (SFA) and Food Service Management Company (offeror) shall execute this Certificate of Independent Price Determination.

Name of Food Service Management Company

Name of School Food Authority

(A) By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

(1) The prices in this offer have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any person or firm to submit or not to submit, an offer for the purpose of restricting competition.

(B) Each person signing this offer on behalf of the Food Service Management Company certifies that:

(1) He or she is the person in the offeror's organization responsible within the organization for the decision as to the prices being offered herein and has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above; or

(2) He or she is not the person in other offeror's organization responsible within the organization for the decision as to the prices being offered herein, but that he or she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to (A)(1) through (A)(3) above, and as their agent does hereby so certify; and he or she has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above.

To the best of my knowledge, this Food Service Management Company, its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

Signature of FSMC's Authorized Representative

Title

Date

In accepting this offer, the SFA certifies that no representative of the SFA has taken any action that may have jeopardized the independence of the offer referred to above.

Signature of SFA's Authorized Representative

Title

Date

NOTE: ACCEPTING A BIDDER'S OFFER DOES NOT CONSTITUTE AWARD OF THE CONTRACT.

U. S. DEPARTMENT OF AGRICULTURE

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-
Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name _____ PR/Award Number or Project Name _____

Names(s) and Title(s) of Authorized Representative(s) of the FSMC _____

Signature(s) _____ Date _____

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant are not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Appendix I

Clean Air and Water Certificate

Applicable if the contract exceeds \$100,000 or the Contracting Officer has determined that the orders under an indefinite quantity contract in any one year will exceed \$100,000 or a facility to be used has been the subject of a conviction under the Clean Air Act (41 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act 33 1319(d) and is listed by EPA or the contract is not otherwise exempt. Both the School Food Authority (SFA) and Food Service Management Company (offeror) shall execute this Certificate.

Name of Food Service Management Company

Name of School Food Authority

THE FOOD SERVICE MANAGEMENT COMPANY AGREES AS FOLLOWS:

A. To comply with all the requirements of Section 114 of the Clean Air Act, as amended (41 U.S.C. 1857, et seq., as amended by Public Law 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq., as amended by Public Law 92-500), relating to inspection, monitoring, entry, reports and information as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

B. That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

C. To use his/her best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.

D. To insert the substance of the provisions of this clause in any nonexempt subcontract, including this paragraph.

THE TERMS IN THIS CLAUSE HAVE THE FOLLOWING MEANINGS:

A. The term "Air Act" means the Clean Air Act, as amended (41 U.S.C. 1957 et seq., as amended by Public Law 91-604).
B. The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-500).

C. The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1957c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

D. The term "Clean Air Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342) or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

E. The term "Compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

F. The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location or sites of operations, owned, leased or supervised by the Food Service Management Company.

_____ Signature of FSMC's Authorized Representative	_____ Title	_____ Date
_____ Signature of SFA's Authorized Representative	_____ Title	_____ Date

CERTIFICATION REGARDING LOBBYING

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds.

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of a Federal contract, the undersigned shall complete and submit Standard Form-LTL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Name/Address of Organization (FSMC)

Name/Title of Submitting Official

Signature

Date

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: _____ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance		2. Status of Federal Action: _____ a. bid/offer/application b. initial award c. post-award		3. Report Type: _____ a. initial filing b. material change For Material Change Only: Year _____ Quarter _____ Date of Last Report _____	
4. Name and Address of Reporting Entity: _____ Prime Subawardee Tier, if known: _____ Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of _____ Prime: Congressional District, if known: _____		6. Federal Department/Agency: _____	
8. Federal Action Number, if known: _____		9. Award Amount, if known: \$ _____		7. Federal Program Name/Description: _____ CFDA Number, if applicable: _____	
10. a. Name and Address of Lobbying Entity: _____ (last name, first name, MI) 10. b. Individuals Performing Services (including address if different from No. 10.a.) _____		11. Amount of Payment (check all that apply): \$ _____ Actual Planned 12. Form of Payment (check all that apply): _____ a. cash _____ b. in-kind, specify: _____ _____ c. commission _____ d. contingent fee _____ e. deferred _____ f. other, specify: _____			
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or member(s) contracted for _____ Payment indicated in Item 11: _____ (Attach Continuation Sheet(s) SF-LLL-A, if necessary)		15. Are Continuation Sheet(s) SF-LLL-A Attached: Yes _____ (Number _____) No _____			
16. Information requested through this form is authorized by Title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.					
Signature: _____		Print Name: _____		Title: _____	
Telephone: _____		Date: _____			

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET SF-LLL-A

Reporting Entity: _____
Page _____ of _____

SAMPLE

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use of SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee; e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) Number, Invitation for Bid (IFB) Number; grant announcement number; the contract, grant or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached. List number of sheets if yes.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-00046), Washington, DC 20503.

Prototype Legal Notice

Insert Name of School
Attention: Food Service Management Companies

The Insert Name of School is requesting proposals for school food service management services. The Food Service Management Company will provide management services according to United States Department of Agriculture (USDA) regulations and guidelines, as well as the Pennsylvania Department of Education policies and guidelines.

Food Service Management Companies and/or their representatives may submit proposals to:

Insert Name of School
In C/O FSMC Contact
Insert Street Address
Insert City, State and Zip

The Insert Name of School Board of Education reserves the right to accept or reject any and/or all proposals or to accept the proposal that it finds, in its sole discretion, to be in the best interest of the school district.

A walk-through meeting is scheduled for insert the date at insert time at insert address where meeting will be held.

All proposals must be submitted no later than insert time due on insert date. All proposals should be delivered in a sealed envelope and addressed to the insert name of school and be clearly marked: Food Service Management Proposal.

RFP Evaluation Score Sheet*

Name of FSMC: Enter the Name of the FSMC

Evaluation Criteria		Maximum Score	FSMC Score
A.	Per Meal Equivalent Guarantee		
B.	Management Fee Price Proposal		
C.	Menus/Product Identification/Analysis		
D.	Marketing Strategy/Training Plans		
E.	On-Site Experience		
F.	Management Company Experience		
Total		100	

I certify that I have read the guidance and reviewed the potential Contractor's proposal.

Evaluator:

Signature

Date

*Each committee member must be knowledgeable with all contractors' proposals submitted to the SFA. A checklist sheet with contract requirements must be completed by each member to use when reviewing each FSMC's submitted contract. The original score sheets must be completed and kept on file by the SFA for review purposes.

(For SFA use only - do not submit with documents)

Renewal Year Checklist

- Agreement Page**
- ☐ Original Signatures should only be obtained after PDE returns the packet with an approval signature on each page
 - ☐ Dated by both parties (should be completed when the signatures are obtained)
 - ☐ The Number of Renewals is listed

- Additional Requirements**
- ☐ Certification Regarding Lobbying and/or Disclosure of Lobbying Activities (must have original signatures)
 - ☐ Clean Air and Water Certificate (must have original signatures)
 - ☐ Suspension and Debarment Certification (must have original signatures)
 - ☐ Projected Operating Costs Worksheet(s)
 - ☐ The Fact Sheet in PEARS must be completed

Comments:

Renewal Agreement Page

This bidder certifies that he/she shall operate in accordance with all applicable State and Federal regulations. This bidder certifies that all terms and conditions within the Bid Solicitation shall be considered a part of the contract as if incorporated therein.

This Renewal Agreement shall be in effect for one year starting July 1, **Enter the year** and may be renewed by mutual agreement for up to Select the amount of Renewals Available additional one-year period(s). The provisions of the contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representative the day and year.

Name of SFA

Signature of Authorized Representative*

Printed Name of Authorized Representative

Title

Date Signed

Attest

Name of FSMC

Signature of Authorized Representative*

Printed Name of Authorized Representative

Title

Date Signed

Attest

* All contracts must be signed in blue ink.

U. S. DEPARTMENT OF AGRICULTURE

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-
Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

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

Organization Name _____ PR/Award Number or Project Name _____

Names(s) and Title(s) of Authorized Representative(s) of the FSMC _____

Signature(s) _____ Date _____

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant are not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Appendix I

Clean Air and Water Certificate

Applicable if the contract exceeds \$100,000 or the Contracting Officer has determined that the orders under an indefinite quantity contract in any one year will exceed \$100,000 or a facility to be used has been the subject of a conviction under the Clean Air Act (41 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act 33 1319(d) and is listed by EPA or the contract is not otherwise exempt. Both the School Food Authority (SFA) and Food Service Management Company (offeror) shall execute this Certificate.

Name of Food Service Management Company

Name of School Food Authority

THE FOOD SERVICE MANAGEMENT COMPANY AGREES AS FOLLOWS:

A. To comply with all the requirements of Section 114 of the Clean Air Act, as amended (41 U.S.C. 1857, et seq., as amended by Public Law 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq., as amended by Law 92-500), respectively, relating to inspection, monitoring, entry, reports and information as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued there under before the award of this contract.

B. That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

C. To use his/her best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.

D. To insert the substance of the provisions of this clause in any nonexempt subcontract, including this paragraph.

THE TERMS IN THIS CLAUSE HAVE THE FOLLOWING MEANINGS:

A. The term "Air Act" means the Clean Air Act, as amended (41 U.S.C. 1957 et seq., as amended by Public Law 91-604).
B. The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-500).

C. The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1957c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

D. The term "Clean Air Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342) or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

E. The term "Compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

F. The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location or sites of operations, owned, leased or supervised by the Food Service Management Company.

Signature of Food Service Management Company's
Authorized Representative

Title

Date

Signature of School Food Authority's
Authorized Representative

Title

Date

CERTIFICATION REGARDING LOBBYING

Applicable to Grants, Sub-grants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds.

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of a Federal contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Name/Address of Organization (FSMC)

Name/Title of Submitting Official

Signature

Date

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance		2. Status of Federal Action: a. bid/offer/application b. initial award c. post-award	
3. Report Type: a. initial filing b. material change For Material Change Only: Year _____ Quarter _____ Date of Last Report _____		4. Name and Address of Reporting Entity: Prime Subawardee Tier, if known: Congressional District, if known:	
5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:		6. Federal Department/Agency: 7. Federal Program Name/Description: 8. Federal Action Number, if known: 9. Award Amount, if known: \$ _____ CFDA Number, if applicable:	
10. a. Name and Address of Lobbying Entity: (last name, first name, MI) b. Individuals Performing Services (including address if different from No. 10.a.)		11. Amount of Payment (check all that apply): \$ _____ Actual \$ _____ Planned	
12. Form of Payment (check all that apply): a. cash b. in-kind; specify: Nature _____ Actual _____		13. Type of payment (check all that apply): a. retainer b. one-time fee c. commission d. contingent fee e. deferred f. other; specify:	
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or member(s) contracted for Payment indicated in Item 11: (Attach Continuation Sheet(s) SF-LLL-A, if necessary)			
15. Are Continuation Sheet(s) SF-LLL-A Attached: Yes _____ (Number _____) No _____			
16. Information requested through this form is authorized by Title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			
Signature: _____ Print Name: _____ Title: _____ Telephone: _____ Date: _____			

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET SF-LTL-A

Reporting Entity: _____
Page _____ of _____

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use of SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee; e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) Number, Invitation for Bid (IFB) Number, grant announcement number; the contract, grant or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes; e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached. List number of sheets if yes.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-00046), Washington, DC 20503.

Is a FSMC allowed to only charge the SFA for the revenues that a SFA receives through the CN Programs? For instance, the SFA receives \$5,000 from the Division of Food and Nutrition (DFN) for their reimbursable meals and the SFA receives \$5,000 from A La Carte, Reduced and Paid meals and the only amount due to the vendor would be \$10,000 (more like a Profit and Loss contract).

This financial arrangement is not allowed for several reasons. First, revenue is accruing directly to the FSMC, this is not allowed. But even if revenue accrued to the SFA and the SFA then paid it to the FSMC, this would seem to be a cost-plus-a-percentage-of-income arrangement. Though there is actually no cost, just 100% of income, it is still not allowed. (A cost reimbursable contract is allowed; it's the percent of income part that is **not** allowed.)

Citation: "Contracts that permit all income and expenses to accrue to the food service management company and "cost-plus-a-percentage-of-cost" and "cost-plus-a-percentage-of-income" contracts are prohibited." (7 CFR 210.16(c))

A SFA is not allowed to pay interest with foodservice money, but is a SFA allowed to pay interest with income from other sources?

As long as the SFA agrees to pay interest from the SFA's general fund and not from the school food service account, this would be an allowed transaction.

Contracting with a Food Service Management Company (FSMC) Frequently Asked Questions

Question

If a company submits language stating that the FSMC will net off invoices instead of showing the discounts on the weekly/monthly invoices, how will the client know they are getting the discounts submitted in the bid?

Answer

The School Food Authority (SFA) must obtain documentation of the amounts that are netted off. The rebates do not have to be on the invoice itself, but if they are not, backup documentation must be provided to the SFA to ensure the SFA is receiving these rebates, discounts and credits.

How is it possible for a FSMC to submit a proposal containing lower food costs in a year with 13-15% inflation rate? How can such discounts be given now, if the FSMC has never provided these in the past?

Each FSMC has their own way of disclosing rebates, discounts and credits. If the SFA is unsure of how to compare all of the bids received, the SFA must request documentation or an explanation of how the bidders arrived at the cost projections. This will assist the SFA in comparing proposals on an even level.

Is it possible for a bidder to submit discounts exactly equal to their administrative fee? How do the discounts and the administrative fee equate?

If the bidders are equating or tying the amount of the rebates and discounts, they must return the amount of the administrative fee they charge, since this is negating the intent of the new rule, and is not allowed.

Administrative fees are allowed, but are to be based on administrative type overhead costs like printing, travel, clerical support, data processing as applicable, etc.. They are not to be an arbitrarily added fee.

Administration fees must be determined in the Projected Operating Costs.

Is there a cap placed on the FSMC management fee? Is there any guidance as to how much a FSMC can increase their rates from one year to the next?

There is no rule as to a cap that a FSMC can charge for the management fee. The SFA must keep an eye on this and ask questions as to why it has increased or choose a lower bidding company who keeps their fees more in tow with the contract. If the fees do increase, the SFA must make sure that the fees are for contracted items. The FSMC cannot add new items to a contract (cannot increase more than the Consumer Price Index).

Index of Regulatory Citations Applicable to Food Service Management Company Contracts

7 CFR Part 210 National School Lunch Program

SFA monitoring responsibilities	210.8(a)
Annual agreement	210.9(b)
Determination of F/RP eligibility by SFA's	210.9(b)(7)
Record retention requirements	210.9(b)(17)&(19)
Competitive food services	210.11
Facilities management	210.13
SFA contract parameters with FSMC. Conditions required of the SFA/SA	210.16(a)
Adhere to procurement standards	210.16(a)(1)
Operation is in conformance with agreement	210.16(a)(2)
Periodic on-site visits	210.16(a)(3)
Control quality of meals/food service and prices (SFA retains control)	210.16(a)(4)
Signature authority (SFA retains control)	210.16(a)(5)
Appropriate use of commodities	210.16(a)(6)
Health certification	210.16(a)(7)
Advisory board	210.16(a)(8)
Invitation to bid	210.16(b)
Twenty-one day cycle menu	210.16(b)(1)
Nonperformance	210.16(b)(2)
Contract provisions allowing "cost-plus-a-percentage-of-cost" and "cost-plus-a-percentage-of-income" prohibited	210.16(c)
FSMC shall maintain records to support SFA's claim for reimbursement	210.16(c)(1)
FSMC health certification for any facility used to prepare food outside of school	210.16(c)(2)
Nonpayment conditions (spoiled or unwholesome foods, etc.)	210.16(c)(3)
Duration of contract	210.16(d)
Procurement	210.21

7 CFR Part 245 Determining F/RP Eligibility

Public announcement	245.5
F/RP applications	245.6
Verification	245.6a
Hearings	245.7
F/RP Policy statement	245.10

7 CFR Part 250 Food Distribution

Restitution for commodities in connection with claims	250.12(b)(4)
FSMC responsibility for use of commodities	250.12(c)
Improper distribution, loss of or damage to commodities	250.13(e)
Buy American	250.23
Contract provisions	250.53
Recordkeeping and reviews	250.54

Initial Year Timeline for

Food Service Management Contracts for CN Programs

This process must be completed by July 1st for the upcoming school year!

Meal services that begin prior to PDE's final approval are not eligible for reimbursement through the food service account.

1. August-October Complete the Initial Year Contract Documents (include the following worksheets)
 - a. Average Daily Participation
 - b. Cost Responsibility
 - c. Labor and Fringe Benefits for Employees
 - d. Projected Operating Costs
 - e. Site Building and Service Requirements
2. Create 21-day menus for each food program that you are participating in (only 11 days need to be created for the Summer Food Service Program). Be sure to include all milk choices offered to the students.

- November-December Send (email to yvbrown@state.pa.us) RFP to the Pennsylvania Department of Education, Division of Food and Nutrition (DFN), for approval of the RFP. (This is highly recommended.)
- December-January School Food Authority (SFA) advertises in major state publications. This ad must run for one day a week for three weeks in two different newspapers. Copies of the actual publications must be kept and submitted to DFN with the contract.
- January-February Walk-through of the facility. Representatives from each FSMC submitting proposals are required to attend. Ask for all questions to be submitted in writing prior to this day. Give each company attending this meeting a copy of the questions and answers.

- March FSMC's submit proposals to SFA. Proposals will be opened with one or more witnesses. Representatives from FSMC's are not required, but should be welcomed to attend.
- March-April Evaluation committee awards points to FSMC's' proposals. Evaluation committee makes written, objective evaluations and recommendations to SFA Administration. Proposal/Contract reviewed by SFA's solicitor and provides written approval.

- March-April Draft of winning FSMC proposal and original RFP documents are submitted to DFN for review and approval. DFN will review the contract (at this time, the RFP and the FSMC winning proposal documents become the contract). DFN will contact SFA if anything needs to be adjusted. Once the contract is satisfactory to DFN, the RFP will be stamped with DFN contact person's signature on each page, then returned to the SFA.

Include all documents listed on the Initial Year Contract Checklist, plus any additional items that the FSMC may have submitted as their proposal!

- May- June SFA submits FSMC Fact Sheet in PEARS. This can only be completed once the SFA's Sponsor Application has been entered into PEARS (the Sponsor Application opens in PEARS in May of each year). The Sponsor Application cannot be approved without the Fact Sheet being approved and no claims can be submitted without the Sponsor Application being approved.

SFA submits completed contract (with all required original signatures) to DFN for final approval (The contract becomes legal and binding once the Agreement Page is signed by both parties involved, but is not effective until DFN has entered an approval date on the Fact Sheet).

From the day the RFP is mailed to potential bidders, a minimum of six months is necessary before the first meal service. Federal regulation citations concerning FSMC contracts can be found in 7 CFR Part 210 National School Lunch Program.

Must be completed by the SFA

Do not include Special Functions

Must be completed by the SFA

[illegible]

Do not include Special Functions

Cost Responsibility Detail Sheet (cont.)

Equipment Repair:	FSMC	SFA	N/A
*Car/Truck Rental (include explanation in RFP)			
*Vehicle Maintenance			
*Courier Services (i.e., bank deposits, school deliveries)			
*Storage Costs:	FSMC	SFA	N/A
Food			
Supplies			
*Office Supplies			
*Printing			
*Promotional Materials			
*Employee Recruitment:	FSMC	SFA	N/A
Initial			
Replacement			
*Product and Public Liability:	FSMC	SFA	N/A
Equipment			
Insurance			
*Taxes:	FSMC	SFA	N/A
Sales			
Other			
*License Fees:	FSMC	SFA	N/A
Other: (add other expenses charged to the food service account. Overhead expenses incurred by the FSMC cannot be included)			
Cleaning Responsibilities	FSMC	SFA	N/A
Cafeteria Walls			
Daily Routine Cleaning of Dining Room Tables and Chairs			
Dining Room Floors			
Duct Work			
Exhaust Fans			
Food Preparation Areas (include equipment)			
Grease Filters			
Grease Traps			
Hoods			
Kitchen Floors			
Kitchen Walls			
Light Fixtures			
Periodic Waxing and Buffing of Dining Room Floors			
Restrooms for Food Service Employees			
Serving Areas			
Thorough Cleaning of Dining Room Tables and Chairs			
Windows			
Window Coverings			
Other: (list below)			

Cost Responsibility Detail Sheet

The SFA has deemed the following cost responsibility schedule to be a necessary part of this bid specification. Costs that are not provided for under the standard contract terms and conditions, but are necessary for the effective on-site operation of the food service program and are directly incurred for the SFA's operation, must be assigned by the SFA prior to the bid opening and designated below:

Food	FSMC	SFA	N/A
Food Purchases			
Commodity Processing Charges			
Processing and Payment Invoices			
Labor for Employees	FSMC	SFA	N/A
Fringe Benefits and Insurance			
Payroll Taxes			
Preparation and Processing Payroll			
Retirement			
Salaries/Wages			
Unemployment Compensation			
Workers Compensation			
The items listed below with an asterisk (*) are direct cost items that may or may not apply to each SFA. At local discretion, based upon actual practice and need, the SFA should assign cost responsibility for those items applicable to their operation or designate them as not applicable (N/A).			
Other Expenses	FSMC	SFA	N/A
*Paper/Disposable Supplies			
Cleaning/Janitorial Supplies			
*Tickets/Tokens			
China/Silverware/Glassware:	FSMC	SFA	N/A
Initial Inventory			
Replacement During Operation			
Telephone:	FSMC	SFA	N/A
Local			
Long Distance			
Uniforms			
*Linens			
Laundry			
Trash Removal:	FSMC	SFA	N/A
From Kitchen			
From Dining Area			
From Premises			
Pest Control			
Equipment Replacement:	FSMC	SFA	N/A
Expendable			
Non-expendable			

Choose the appropriate entity

If Worker's Compensation cost is charged to the food service, what is the percentage?
Note: Use actual rates for SFA; do not use a prorated statewide average benefit rate.

The pay rates are for school year _____ to _____

SFA Site Listing

³ A reimbursable meal is to be offered that meets the standard established with the menus included as part of this proposal

Contract Begin Date	_____	School Food Authority	_____
Contract End Date	_____	FSMC Name	_____
Days of Service	_____		

Actual "In-School" Revenue									
(Include Seamless Summer Option (SSO) Actual Revenue, if applicable)									
BREAKFASTS:									
Elementary Paid	#		X	\$					
Secondary Paid	#		X	\$					
Reduced-Price	#		X	\$					
Adult Paid	#		X	\$					
A la Carte Sales	#		X	\$					
LUNCHES:									
Elementary Paid	#		X	\$					
Secondary Paid	#		X	\$					
Reduced-Price	#		X	\$					
Adult	#		X	\$					
A la Carte Sales	#		X	\$					
SNACKS/SUPPLEMENTS									
Paid	#		X	\$					
Reduced-Price	#		X	\$					
Adult	#		X	\$					
A la Carte Sales	#		X	\$					
OTHER:									
Special Milk				\$					
Vending Machine Sales/Concession				\$					
Special Functions				\$					
Subtotal Other									
	#			\$					
Total "IN-SCHOOL" Revenue									

Federal Reimbursement									
To Be Completed By SFA (include SSO Reimbursements, if applicable)									
BREAKFASTS:									
Paid	#		X	\$					
Free	#		X	\$					
Free, Severe Need	#		X	\$					
Reduced	#		X	\$					
Reduced, Severe Need	#		X	\$					
HIGH RATE LUNCHES:									
Paid	#		X	\$					
Free	#		X	\$					
Reduced	#		X	\$					
LOW RATE LUNCHES:									
Paid	#		X	\$					
Free	#		X	\$					
Reduced	#		X	\$					
SNACKS/SUPPLEMENTS:									
Paid	#		X	\$					
Free	#		X	\$					
Reduced	#		X	\$					
SPECIAL MILK									
Paid	#		X	\$					
Free	#		X	\$					
Reduced	#		X	\$					
Subtotal Special Milk									
	#			\$					
Total Federal Reimbursement									

*All items must be included in a budget summary and itemized in full detail

School Nutrition Program-Profit or (Loss)		\$ -
Guarantee to SFA		\$ -
Total Expenses		\$ -
SUMMARY:		
Less Rebates, Discounts and Applicable Credits		\$ -
Less Commodity Usage @ 0.2075 Per Reimbursable Lunches:		\$ -
Subtotal Expenses/Total Cost Per Meal		\$ -
Other: Please List*		\$ -
FSMC Management Fee*		\$ -
Administrative Fee*		\$ -
Nonreimbursable Expenses*		\$ -
Other Direct		\$ -
Direct Labor and Benefits*		\$ -
Commodity Delivery Charge*		\$ -
Food Cost-Including Commodities*		\$ -
EXPENSES:		
TOTAL COST		
COST/MEAL		

(Only if Fixed Price Contract)

(This page to be completed by FSMC)

Total Revenue		\$ -
Interest Income		\$ -
Total All Reimbursements		\$ -
Total "N-SCHOOL" Revenue		\$ -
SUMMARY:		
Total State Reimbursement		\$ -
Subtotal SNI Incentive		\$ -
SNI Breakfast Incentive >20%	#	\$ -
SNI Breakfast Incentive <=20%	#	\$ -
SNI Breakfast	#	\$ -
SNI Lunch	#	\$ -
Subtotal Lunches	#	\$ -
Breakfast Incentive >20%	#	\$ -
Breakfast Incentive <=20%	#	\$ -
Reduced	#	\$ -
Free	#	\$ -
Paid	#	\$ -
LUNCHES:		
Subtotal Breakfasts	#	\$ -
Reduced, Severe Need	#	\$ -
Reduced	#	\$ -
Free, Severe need	#	\$ -
Free	#	\$ -
Paid	#	\$ -
BREAKFASTS:		
State Reimbursements		\$ -
(Include SSO Reimbursements, if applicable)		\$ -
MEALS		\$ -
RATES		\$ -

**Summer Food Service Program (SFSP)
To Be Completed By SFA**

Operating Begin Date _____
 Operating End Date _____
 School Food Authority _____
 Food Service Management Company (FSMC) _____

Actual Reimbursements				
BREAKFASTS:				
Administrative Reimbursements	#	X	\$	
Operating Reimbursements	#	X	\$	
Program Staff	#	X	\$	
Other Reimbursements	#	X	\$	
Subtotal Breakfasts	#	-	\$	
LUNCHES:				
Administrative Reimbursements	#	X	\$	
Operating Reimbursements	#	X	\$	
Program Staff	#	X	\$	
Other Reimbursements	#	X	\$	
Subtotal Lunches	#	-	\$	
AM SNACKS:				
Administrative Reimbursements	#	X	\$	
Operating Reimbursements	#	X	\$	
Program Staff	#	X	\$	
Other Reimbursements	#	X	\$	
Subtotal AM Snacks	#	-	\$	
PM SNACKS:				
Administrative Reimbursements	#	X	\$	
Operating Reimbursements	#	X	\$	
Program Staff	#	X	\$	
Other Reimbursements	#	X	\$	
Subtotal PM Snacks	#	-	\$	
SUPPER:				
Administrative Reimbursements	#	X	\$	
Operating Reimbursements	#	X	\$	
Program Staff	#	X	\$	
Other Reimbursements	#	X	\$	
Subtotal Supper	#	-	\$	
Total Revenue from SFSP	#	-	\$	

EXPENSES:				
Food Cost-Including Commodities	\$	-		
Commodity Delivery Charges	\$	-		
Direct Labor and Fringe Benefits	\$	-		
Other Direct	\$	-		
Nonexpendable Expenses	\$	-		
FSMC Administrative Fee	\$	-		
FSMC Management Fee	\$	-		
Subtotal Expenses/Total Cost Per Meal	\$	-		
Less Rebates, Discounts and Applicable Credits	\$	-		
Less Commodity Usage @ \$ 0.0150 Per Reimbursable Lunches:	\$	0		
Total Expenses	\$	-		
SUMMARY:				
Total Revenue	\$	-		
Total Expenses	\$	-		
Guarantee to SFA	\$	-		
School Nutrition Program-Profit or (Loss)	\$	-		

CHILD AND ADULT CARE FOOD PROGRAM PRICING INFORMATION

Institution		☐ Unitized ☐ Family Style	
Contractor			
1. Meal Type	2. Estimated Servings Per day	3. Estimated # of Serving Days	4. Unit Price
Breakfast			\$ -
Lunch			\$ -
Supper			\$ -
Supplement			\$ -

Instructions:

Bidders are asked to submit prices on the following meal types meeting the contract specifications set forth in Schedule C for meals to be delivered to all of the sites stated in Schedule A.

1. The participating center indicates which meal types the contractor will be providing during the contract period. If unitized meals will be required, the institutions must indicate this by placing "unitized meal" in parenthesis under the meal type.

2. The participating center indicates the estimated number of meals that will be served each day, by meal type, during the contract period.

3. The participating center indicates the number of anticipated operating days that meals will be served during the contract period.

4. The contractor indicates the appropriate unit price for each meal type as indicated by the institution.

5. The participating center calculates the total price.

11/13/2008

YVONNE BROWN

IF OVER
MUST COMMENT

OK 5 YEAR
cycle for REVIEW
- LEAD OR SHEETS
- NUTRITION INTERVIEW
EXIT CONFERENCE
- OPERATIVE ACTION



Contracting with a Food Service Management Company Training

Given by Pennsylvania Department of Education, Division
of Food and Nutrition (DFN)

TEACHERS
PARENTS
STUDENTS
MENU
PLANNING

Look
on
PEARS
must HAVE
ADVISORY
BOARD
WHEN
USING
FSMC !!



Objectives

1. Understand the new Federal Rulings
1. Procurement Ruling effective October 2007
2. Commodities Ruling effective November 2008
2. Correctly complete the RFP process
3. Understand the responsibilities of the SFA
4. Understand the responsibilities of the FSMC
5. Understand when the bidding process must be completed
6. Know who to call for answers

Created November 17, 2008

Types of Contracts

- **Cost Reimbursable**
This type of contract is based on the total cost the FSMC incurs while performing the food service duties.
- This type of contract is to be paid on the basis of the direct cost incurred plus a fixed fee (this is the Management Fee).
- Expenses that represent overhead cost must be itemized. A management fee represents a profit to the FSMC.
- All program expenses not otherwise defined in the contract will be assumed by the FSMC under the Administrative Fee.
- **Fixed Price Contract**
This type of contract is based on one price per each meal served.
- This type of contract is to be bid in three parts:
 - Direct Cost of Operation
 - Administrative Fee
 - Management Fee
- The price cannot change no matter the direction/status of the economy.

Created November 17, 2008

APPROPRIATE
TRANSPARENT
TIMELINESS

21 DAY MENU. food used
MUST BE followed for 1st
21 OPERATING DAYS

By
PARENTS
PLANNING

FSMC'S
STAFFS /
ADMINISTRATIVE
PERSONNEL

Created November 17, 2008

Created November 17, 2008

Created November 17, 2008

received.

Created November 17, 2008

SGH002L Food AUTHORITY

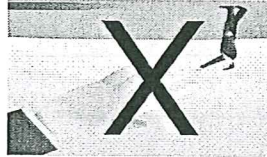
Created November 17, 2008

- Created November 17, 2008

Created November 17, 2008

- What does this mean to the S

Created November 17, 2008



Any violation of Free and Open Competition will make a proposal non-responsive.

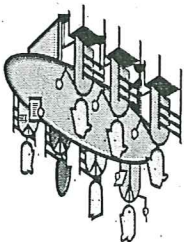
- If the contract was already awarded, the SFA must re-bid the contract
- If the violation occurred prior to the award of the contract, the FSMC's proposal will be considered ineligible

Created November 17, 2008

Factors that Restrict Open and Free Competition

- Accepting proposals from a FSMC after all of the bids were publicly read
- Adding programs after the proposal is awarded
- Collusion between firms
- Gifts from the FSMC to the SFA
- Insufficient submission time
- Not sharing the same information with all of the potential bidders
- Requirements for unnecessary experience or bonding
- Unreasonable requirements

Created November 17, 2008



SFA Must Guarantee Open and Free Competition

REQUIRES REBID
2 WEEKS MINIMUM AFTER QUESTIONS ANSWERED

Created November 17, 2008



How do I do an Initial Year Contract? (cont.)

- Open proposals on the designated date and time
- Evaluation Committee must review and score all proposals (a minimum of three people must be on the committee)
- Present the winning proposal to the school board
- RFP and winning proposal equals the contract
- Send the entire packet (RFP documents and the proposal submitted by the winning vendor) to DFN for approval
- While waiting for the contract to be returned, complete the FSMC Fact Sheet in PEARS
- DFN will approve the contract by stamping each page and returning the packet to the SFA to obtain original signatures

Created November 17, 2008

How do I do an Initial Year Contract?

- Download and complete the Initial Year Contract documents
- http://www.pde.state.pa.us/food_nutrition/cnpr/vreview.asp?O=138764&A=5
- Pears/Form Download/Forms/Contracting with FSMC
- Have DFN review your RFP
- Place your Bid Advertisements in 2 newspapers for 3 weeks at one day per week
- A sample of the wording can be found on either web site listed below.
- http://www.pde.state.pa.us/food_nutrition/cnpr/vreview.asp?O=138764&A=5
- Pears/Form Download/Forms/Contracting with FSMC
- Send at least five letters of solicitation (mailed or e-mailed) to possible vendors
- Conduct walk-through prior to the proposal submission deadline
- Ask all potential vendors to submit their questions at least one week prior to the walk-through so that adequate time is available to answer the questions

Created November 17, 2008

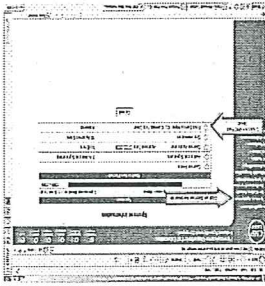
FSMC Management Fees

- ☺ Allowable Fee Structures
 - ☺ Cents per meal
 - ☺ Flat, fixed fee
 - ☺ Combination of above
- ☺ Prohibited Fee Structures
 - ☺ Cost plus a percentage of cost
 - ☺ Cost plus a percentage of revenue

SAVE TARGET AS TO WORK WITH
 ADVISE NEWSPAPER
 TRADE PAPER
 MUST SUBMIT COPY OF AD TO PDE
 SOLICIT @ LEAST 5 VENDORS
 ON WEB SITE - LIST OF VENDORS

SHARED EMPLOYEES
i.e. Dietrich
Food Service Director
FMC - NEED T/M & SHEET

Created November 17, 2008



How do I do an Initial Year Contract? (cont.)

- Stamped documents (one for the SFA and one for the FSMC)
- Prior to signing the contract, make 2 copies of the
- After the original signatures are obtained from the SFA and the FSMC, return one original copy to DFN
- DFN will verify the signatures are complete and no changes have been made
- DFN will verify the information in PEARs is correct and approve the Fact Sheet
- Your Sponsor Application cannot be approved in PEARs until the contract is approved
- The effective date of the contract is the date the Fact Sheet is approved by DFN in PEARs
- No work may begin prior to the approval date on the Fact Sheet

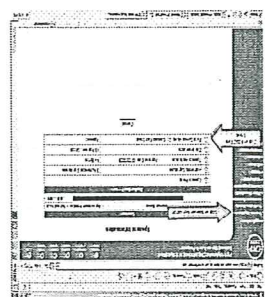
Created November 17, 2008



How do I do a Renewal Contract?

- Download and complete the Renewal Year Contract documents
- PEARs/Form Download/Forms/Contracting with FSMC
- http://www.pde.state.pa.us/food_nutrition/cwp/view.asp?Q=138764&A=3
- Have your FSMC complete the expenses on page two of the Projected Operating Costs worksheet
- Send the required documents to DFN for approval
- DFN will approve the contract by stamping each page and returning the packet to the SFA to obtain original signatures
- Prior to signing the contract, make 2 copies of the stamped documents (one for the SFA and one for the FSMC)

Created November 17, 2008



How do I do a Renewal Contract? (cont.)

- While waiting for the contract to be returned, complete the FSMC Fact Sheet in PEARs
- After the original signatures are obtained from the SFA and the FSMC, return one original copy to DFN
- DFN will verify the signatures are complete and no changes have been made
- DFN will verify the information in PEARs is correct and approve the Fact Sheet
- Your Sponsor Application cannot be approved in PEARs until the contract is approved
- The effective date of the contract is the date the Fact Sheet is approved by DFN in PEARs
- No work may begin prior to the approval date on the Fact Sheet

Completion of the Standard Terms and Conditions

1. The form is protected. Complete the blinking boxes.
2. Use the tab button to maneuver through the document.
3. The Effective Date cannot be prior to the date the contract was signed and the approval date on the Fact Sheet.
4. On page 22, letter B, this is an open field for additional information regarding additional items that were not included in the RFP. Be specific.
5. Additional information must be added as an addendum.
 - a. Cannot contradict, eliminate or replace the information in the Standard Terms and Conditions
 - b. Adding documents or language after the proposal is submitted to the SPA is not allowed
6. Use the Request for Proposal Checklist as your guide.



Created November 17, 2009

[illegible]

Created November 17, 2008

Services to be Expected from the FSMC

- Acceptable Counting & Accountability Methods
- Analysis of Trends & Participation Reports
- Appropriate Menu Components & Portion Sizes
- Participate in Advisory Committee
- Employee Training
- Nutrition Education
- Payroll
- Promotions
- Proper Collection Methods
- Regular Presentations to Board and PTA
- SMI Document Preparation
- Support Services (Dietitian or Chef)

Created November 17, 2008

SFA's Must Perform the Following Items (cannot delegate to the FSMC)

- Access and Utilize EARS and COMPASS (see Activity Calendar)
- Approve Eligibility Applications
- Create Bid Project Procedures
- Conduct On-Site Reviews in Each Building
- Conduct Direct Certification, obtain List of Homeless, Runaway, and Migrant Students
- Conduct Verification
- Develop a Charge Policy and Collection of Delinquent Charges
- Develop the RFP
- Distribute and process Free and Reduced Price Applications
- Enter the free/reduced eligibility information into the POS system
- Establish Advisory Committee and Conduct Meetings
- Establish Meal & A la Carte Prices
- Generate and maintain Master Eligibility List
- Implementing of the Local Wellness Policy
- Monitoring of the food service program
- Review and approve Menus
- Review credits, discounts, rebates to ensure the SFA is given the credits
- Review Edit Check Worksheets (validate and initial)
- Review, verify & certify Reimbursement Claim
- Validate the actual monthly invoice to the FSMC monthly billing

Created November 17, 2008

Worksheets and Other Documents

Other Required Documents

1. Budget Summary Detail
2. Clean Air and Water Certificate
3. Copy of Bid Advertisements
4. Copy of Letters of Solicitation
5. Copy of Proof of Insurance
6. Copy of Invoice from FSMC
7. Displaying the method of crediting
8. Disclosure of Lobbying Activities
9. Menus- for all participating programs
10. Suspension and Debarment

Certificate

10. Independent Price Determination

11. Site Listing

12. Projected Operating Costs

13. Labor and Fringe Benefits

14. Cost Responsibility Detail Sheet

15. Average Daily Participation (ADP)

WELLNESS Policy

DIETITIAN MEAL

CHARGE Policy

REPRESENTATIONS

of PARTICIPATION

RECONCILE ON MONTHLY BASIS

FSMC must pay 0630 11/13/2008

Created November 17, 2008

Do and Do Not

Do List

1. Send the documents to DFN in binders or portfolios
2. Paperclip each section separately
3. Pull the checklist items out of the contract sequence
4. Change any of the language that is in the Standard Terms and Conditions
5. Write addendum language to contract, eliminate or replace the information in the Standard Terms and Conditions
6. Sign the contract prior to receiving DFN's signature on each page
7. Forget to complete the Fact Sheet in PEARS
8. Forget that all addendum language is negotiable
9. a. Salary, Fringe and Workman's Compensation
- b. FNUC Employee Clause

Do Not

1. prior to signing the agreement page
2. adhere to
3. Plan accordingly- time lines must be
4. Send in only one copy of the RFP for approval. DFN will return the document with stamped approval
5. Make the amount of copies needed for the SFA and the FSMC from the stamped document
6. Ask Questions- DFN staff is here for you

Created November 17, 2008

The sponsor application will not be approved in PEARS

What happens if submission to PDE is late?

- Cannot submit a claim without an approved Sponsor Application
- Loss of reimbursement if the Sponsor Application is not approved by the 30th day of the following month
- Cannot pay for services of the FSMC from the school food service account prior to approval date on Fact Sheet




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What are the time-lines?

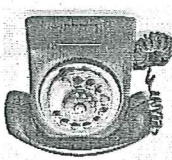



Month	Task
August-October	The documents should be completed and reviewed by the SFA
November-December	DFN needs the documents if you want approval prior to advertising the RFP
December-January	Publish in newspapers, solicit vendors
January-March	Conduct the walk-through, open the proposals and evaluate each proposal
March-April	Tentatively award the contract, draft of all final RFP documents are submitted to DFN for review and approval. These must be submitted to DFN prior to May 1 of each year. Enter the information into the Fact Sheet in PEARS.
May-June	DFN will return the contract for original signatures. Obtain the signatures and return one original contract to DFN. DFN will approve the Fact Sheet in PEARS.
July	Process must be completed by July 1!

DATA CHANGE
LAW SUITE

Who do I contact with Questions?

Yvonne Brown
Division of Food and Nutrition
Pennsylvania Department of Education
333 Market Street, 4th Floor
Harrisburg, PA 17126
Phone: 800.331.0129
Extension 2769698
Fax: 717.783.6566
yvbrown@state.pa.us



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