

Contracting with a Food Service Management Company (FSMC) e-Training

December 6, 2019



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Welcome to the Division of Food and Nutrition’s “Contracting with a Food Service Management Company” e-Training. Going forward, we’ll use the acronym FSMC.

This e-training focuses on the Request for Proposal, referred to as the RFP, and Renewal Contracts process. We’ll cover the process at a high level, and then delve into specific areas of the contracts and required worksheets.

Let’s begin with the pertinent regulations.

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- Federal Regulatory Requirements
 - General Procurement Requirements
 - Title 2 CFR parts 200
 - School Nutrition Programs (SNP)
 - Title 7 CFR parts 210, 215, 220, 245, and 250
 - Summer Food Service Program (SFSP)
 - Title 7 CFR part 225
 - Child and Adult Care Food Program (CACFP)
 - Title 7 CFR part 226



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These are the pertinent Federal regulations that govern the programs.

CFR stands for “Code of Federal Regulations.” The code contains the regulatory requirements for procurement and the Child Nutrition Programs, or CNPs for short. The electronic versions are located at www.ecfr.gov.

Title 2 – Grants and Agreements, is where you’ll find the regulations pertaining to general procurement, and Title 7 – Agriculture, is where you’ll find the regulations specific to the CNPs.

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- Types of Full-Service FSMC Contracts
 - Cost Reimbursable (CR)
 - Fixed Price (FP)



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There are two types of full-service FSMC contracts:

Cost Reimbursable, abbreviated as CR, and Fixed Price, abbreviated as FP.

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- **Cost-Reimbursable Contract**
 - The School Food Authority (SFA) is charged for:
 - Actual operational costs to run the program
 - Administrative and/or Management fees
 - Monthly invoice must be itemized by categories, such as food, labor, supplies, commodities, etc.
 - In renewal years, the Administrative and Management fees may only increase up to the Consumer Price Index for All Urban Consumers (CPI-U)



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In a Cost-Reimbursable contract, the FSMC charges the School Food Authority, also referred to as the SFA, for the actual operational costs to run the program plus administrative and/or management fees.

The monthly invoice must be itemized by categories, such as food, labor, supplies, etc. Administrative Fees must be itemized on the monthly bills as well.

In renewal years, the Administrative and Management fees may only increase up to the Consumer Price Index for All Urban Consumers, which is abbreviated as CPI-U.

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- Fixed Price Contract
 - The SFA is charged a set price per meal served
 - Price includes Direct Operational Costs plus Administrative and/or Management fees
 - The price per meal cannot change throughout the contract period even due to economic fluctuations
 - In renewal years, the Administrative and Management fees may only increase up to the Consumer Price Index for All Urban Consumers (CPI-U)



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The second standard contract is a Fixed Price contract.

In a Fixed Price Contract, the SFA is charged a set price per meal served, regardless of which meal is served whether it be for breakfast, lunch or snack. It's all the same price per meal.

The Fixed Price contract is calculated in three parts. The FSMC would incorporate what it costs to operate the program, the Administrative Fee, and/or a Management Fee to develop the price per meal.

The price per meal cannot change throughout the contract period even due to economic fluctuations.

In renewal years, the Administrative and Management fee portion may only increase up to the CPI-U.

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- Cost Components
 - Direct Operational Costs
 - Administrative Fees
 - Management Fees



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The cost components of the contracts are direct operational costs, administrative fees, and management fees.

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- Direct Operational Costs
 - The day to day costs to operate the program.
 - Labor
 - Food
 - Supplies
 - Other direct costs attributable to food service



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Direct Operational Costs are the direct day to day costs to operate the program. They would include costs for labor, food, supplies, and other direct costs attributable to food service.

Contracting with a FSMC Training

- Administrative Fee
 - The Administrative Fee is comprised of indirect and direct costs. Examples are:
 - Costs incurred by the FSMC's corporate office
 - Upper Management expenses
 - Legal expenses
 - General regional support
 - Etc.



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The Administrative Fee is comprised of indirect and direct costs.

Examples of costs you would find in the Administrative Fee are costs incurred by the FSMC's corporate office, upper management expenses, legal expenses, general regional support, etc.

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- **Management Fee**
 - The Management Fee represents the profit to the FSMC
 - **Allowable fee structures**
 - Cost Reimbursable: a flat fee, ex. \$10,000 and/or a price per meal fee, ex. \$0.50 per meal
 - Fixed Price: a price per meal fee, ex. \$0.50 per meal
 - **Prohibited fee structures**
 - Cost plus a percentage of cost or a cost plus a percentage of revenue.
 - For example, it cannot be \$1.50 per meal plus 10% of total costs or 10% of revenue.



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The Management Fee represents the profit to the FSMC.

For Cost Reimbursable contracts, it is a flat fee, such as \$10,000 and/or a price per meal fee, such as \$0.50 per meal.

For Fixed Price contracts, it is a per-meal fee, such as \$0.50 per meal.

It cannot be a cost plus a percentage of cost or a cost plus a percentage of revenue. For example, it cannot be \$1.50 per meal plus 10% of total costs or 10% of revenue.

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- Nonprofit School Food Service Account (NSFSA)
 - SFAs are required to have NSFSA
 - Restricted account
 - Retains all of the revenue from all food service operations
 - Funds are used only for the operation or improvement of the Nonprofit School Food Service



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Nonprofit School Food Service means all food service operations conducted by the SFA principally for the benefit of schoolchildren, all of the revenue from which is used solely for the operation or improvement of such food services.

The SFA is required to have a Nonprofit School Food Service Account, referred to as the NSFSA. This is a restricted account in which all of the revenue from all food service operations is retained and used only for the operation or improvement of the Nonprofit School Food Service. This account shall include, as appropriate, non-Federal funds used to support paid lunches, as well as proceeds from nonprogram foods.

The SFA doesn't necessarily need to have a separate bank account for the NSFSA, but they do need to keep a designated account on the General Ledger.

Contracting with a FSMC Training

- Nonprofit School Food Service Account
 - The Division of Food and Nutrition (DFN) must review and approve the contract before the SFA and FSMC sign it. Once both parties sign it (in blue ink), it is returned to DFN where it will be reviewed for final approval
 - A contract must be fully executed before the SFA can pay the FSMC with NSFSA funds



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The Division of Food and Nutrition, also known as DFN, must review and approve the contract before the SFA and FSMC sign it. Once both parties sign it (in blue ink), it is returned to DFN where it will be reviewed for final approval.

A contract must be in place before the SFA can use NSFSA funds to pay the FSMC.

Contracting with a FSMC Training

- Allowable and Unallowable Costs
 - Only allowable costs may be paid from the NSFSA
 - FSMC must identify on the monthly invoice
 - Allowable costs
 - Reimbursable meals
 - A la carte
 - School-Related Catering
 - Vending
 - Second meals
 - Non-reimbursable suppers (if applicable)



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Only allowable costs may be paid for from the NSFSA.

The FSMC must identify these on the monthly invoice.

Examples of allowable costs are reimbursable meals, a la carte, school-related catering, vending, second meals, and non-reimbursable suppers (if applicable).

Contracting with a FSMC Training

- Allowable and Unallowable Costs
 - Unallowable costs
 - Construction costs
 - Bad debts
 - Entertainment costs
 - Goods and services for personal use
 - Lobbying
 - Interest and late fees
 - Etc.



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Some examples of unallowable costs are construction costs, bad debts, entertainment costs, goods and services for personal use, lobbying, and interest and late fees. Additionally, unallowable costs would be foods that are not creditable for the School Nutrition Programs, also known as the SNPs, or allowable under Smart Snacks.

Contracting with a FSMC Training

- Program and Nonprogram Foods
 - Program foods are reimbursable meals
 - Nonprogram foods include any non-reimbursable foods and beverages purchased using funds from the NSFSA, including but not limited to:
 - A la carte
 - School-Related Catering
 - Vending
 - Second meals
 - Non-reimbursable suppers (if applicable)
 - Costs of reimbursable meals and nonprogram foods need to be identified on the monthly FSMC invoice



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Now let's talk about program and nonprogram foods.

Program foods are reimbursable meals.

Nonprogram foods include any non-reimbursable foods and beverages purchased using funds from the NSFSA, including but not limited to: A la carte, school-related catering, vending, second meals, and non-reimbursable suppers (if applicable).

The costs of reimbursable meals and nonprogram foods need to be identified on the monthly FSMC invoice.

Contracting with a FSMC Training

- Rebates, Discounts, and Credits
 - Costs paid with NSFSA funds must reflect all discounts, rebates, and applicable credits
 - Cost Reimbursable
 - discounts, rebates, and credits clearly reported on the monthly invoice
 - Fixed Price
 - discounts, rebates, and credits included when developing the price per meal



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All costs paid with NSFSA funds must reflect all discounts, rebates, and applicable credits.

For Cost Reimbursable contracts, the discounts, rebates, and credits must be clearly reported, in detail, on the monthly invoices from the FSMC.

For Fixed Price contracts, the expected discounts, rebates, and credits are included when developing the price per meal.

Contracting with a FSMC Training

- Crediting Donated Foods
 - The FSMC must credit the SFA for the value of all USDA donated foods (commodities) received for use in the SFA's meal service
 - Entitlement foods
 - Additional entitlement foods
 - Bonus foods (if applicable)



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The FSMC must credit the SFA for the value of all USDA donated food, also referred to as commodities, received for use in the SFA's meal service in the school year on the monthly invoice.

This includes entitlement foods, additional entitlement foods, and bonus foods, which are rare. Bonus foods have not been awarded in over a decade, but could be awarded in the future.

Contracting with a FSMC Training

- Crediting Donated Foods
 - The FSMC must credit the SFA when the raw or processed commodities are received at either the SFA or the FSMC storage facility, not when they are used in the meal service.
 - Credit must be on the monthly invoice.



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Once the raw or processed commodities are received at either the SFA or the FSMC storage facility, the FSMC must credit the SFA for the commodity at that time. The credit is not taken when the commodity is used in the meal service, but as soon as it is received by the FSMC.

The credit must be on the monthly invoice.

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- **Determining Donated Food Values**
 - To determine the value of the donated foods, the FSMC must use the USDA November Commodity Price list for the donated food value.



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To determine the value of the donated foods, the FSMC must use the USDA November Commodity Price list for the donated food value.

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- Donated Foods
 - The FSMC may substitute donated foods with commercially purchased foods of equal or better quality



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The FSMC may substitute foods donated to the SFA's food service with commercially purchased foods of equal or better quality.

For example, if the FSMC gets a donated food such as cheese, it can use the cheese it has purchased instead of the donated cheese if the cheese is of equal or better quality than the donated food.

Contracting with a FSMC Training

- Processed Donated Foods
 - The SFA may only procure processed end products from processors that have agreements with the Pennsylvania Department of Agriculture
 - The FSMC cannot enter into any agreement with a processor on behalf of the SFA



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The SFA may only procure processed end products from processors that have agreements with the Pennsylvania Department of Agriculture.

The FSMC cannot enter into any agreement with a processor on behalf of the SFA.

Contracting with a FSMC Training

- Inventory & Storage of Donated Foods
 - The FSMC must have an inventory system for donated foods
 - The FSMC may store donated foods with commercially purchased foods, but must be able to produce an inventory for the donated food upon request
 - The FSMC may use whatever type of inventory system desired, but must be able to prove that all donated meats and end products were used in the food service



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The FSMC must have an inventory system to account for donated foods.

Donated foods may be stored with commercially purchased foods, but the FSMC must be able to produce an inventory for the donated foods upon request.

The FSMC may use whatever type of inventory system desired but must be able to prove that all donated meats and end products were used in the food service.

Contracting with a FSMC Training

- Buy American
 - Purchase domestically grown and processed foods to the maximum extent possible
 - Applies to all food purchased for SNPs from the NSFSAs
 - Two exceptions
 - Not produced or manufactured domestically in sufficient quantities
 - Competitive bids reveal cost of domestic product is significantly higher



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SNP sponsors are required to purchase domestically grown and processed foods to the maximum extent possible.

Buy American applies to all food purchased from the NSFSAs.

There are two exceptions:

1. If the product is not produced or manufactured domestically in sufficient quantities, such as bananas; or
2. If competitive bids reveal the cost of the domestic product is significantly higher.

Contracting with a FSMC Training

- Buy American
 - Bid specifications for all foods and beverages should specifically state this requirement
 - The FSMC shall certify the percentage of U.S. content in the products purchased for the SFA
 - It is the SFA's responsibility to ensure that all vendors comply with this requirement
 - The SFA may review vendor purchase records to ensure compliance with Buy American
 - The SFA shall review and approve any exceptions prior to purchase



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The bid specifications for all foods and beverages should specifically state this requirement.

The FSMC shall certify the percentage of U.S. content in the products purchased for the SFA.

Since it is ultimately the SFA's responsibility to ensure that all vendors comply with this requirement, the SFA has the right to review vendor purchase records to ensure compliance with the Buy American provision.

The SFA and FSMC shall have a process in place for the SFA to review and approve the use of non-domestic products prior to purchase.

Contracting with a FSMC Training

- Advisory Board
 - The SFA must establish an advisory board composed of students, teachers, and parents
 - Oversight is provided by the SFA
 - Meet periodically
 - Assist in menu planning
 - FSMC may participate upon request of the SFA



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The SFA is responsible for establishing an advisory board composed of students, teachers, and parents.

Oversight of the advisory board is the SFA's responsibility.

The advisory board must meet periodically to assist in menu planning and other activities related to food service.

The FSMC may participate in these periodic meetings as deemed appropriate by the SFA.

Contracting with a FSMC Training

- Documentation & Record-Keeping
 - Retain all documentation for three (3) years plus the current school year
 - The detailed support for monthly invoices needs to be retained on-site by the SFA
 - Maintain a separate accounting for non-participating sites
 - Maintain records to document compliance related to donated foods



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Good record-keeping is essential in the CNPs.

Documentation must be retained for three (3) years plus the current school year.

The detailed support for monthly invoices needs to be retained on-site by the SFA.

If the SFA has sites that are not participating in the Programs, the revenue and expenses for those sites need to be accounted for separately. A typical example of this would be if the SFA's high school doesn't participate in the Program, but their elementary schools do.

Contracting with a FSMC Training

- Oversight
 - Onsite reviews may be performed by:
 - The Comptroller General
 - Pennsylvania Department of Agriculture (PDA)
 - United States Department of Agriculture (USDA)
 - PA Department of Education (PDE)
 - SFAs are required to monitor FSMCs to ensure compliance



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The Comptroller General, Pennsylvania Department of Agriculture, United States Department of Agriculture, and the Pennsylvania Department of Education, may perform onsite reviews of the FSMC's food service operation.

SFAs are also required to monitor FSMCs to ensure compliance by conducting on-site reviews.

Contracting with a FSMC Training

SFA Responsibilities



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What are the responsibilities of the SFA?

Contracting with a FSMC Training

- SFA must guarantee full and open competition
 - Every bidder must be afforded the same opportunity to bid on your contract
 - All bidders must receive the same information



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As with all contracts, the two parties involved have specific duties they are required to perform. This is true for the SFA and FSMC in this contracting process as well.

The most important thing to remember is as a SFA you must guarantee full and open competition for your food service contract. You need to make sure that every bidder is afforded the same opportunity to bid on your contract. All bidders need to receive the same information.

Contracting with a FSMC Training

- Factors restricting full and open competition
 - Accepting FSMC proposals after all bids were publicly read
 - Adding programs, services, etc., after the proposal is awarded
 - Collusion between firms
 - Gifts from the FSMC to the SFA



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SFAs must avoid the following circumstances that would restrict full and open competition:

A SFA may not accept proposals from FSMCs after all of the bids were publicly read or if the proposals were received after the official bid deadline.

Another violation would occur if the SFA added a program or service after a proposal was awarded that would constitute a material change to the contract.

Collusion among bidding firms is also prohibited.

Another practice that would interfere with full and open competition is if a FSMC influences a SFA to accept a bid by offering gifts. The federal procurement regulations prohibits soliciting or accepting for personal use or the use of another, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who conducts operations or activities.

Contracting with a FSMC Training

- Factors restricting full and open competition
 - Insufficient submission time
 - Lack of uniform information for all potential bidders
 - Requirement for unnecessary experience or bonding
 - Unreasonable requirements



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A SFA must avoid providing too little time between the walk-through with the FSMCs and the bid date. Unreasonable turnaround times for a proposal restricts full and open competition.

Additionally, full and open competition is not possible if a SFA does not provide the same information to all bidders. A FSMC cannot submit a competitive bid if they do not have the same information as other bidders.

Another instance of restricting full and open competition is when a SFA requires unnecessary experience or bonding. For example, a FSMC would not necessarily need to have 25 years of experience in order to provide quality services. A reasonable requirement would be 5 years experience. Requiring an unusually high bid bond would also jeopardize full and open competition. For example a 50% bid bond would be unacceptable. The normal bid bond is usually 5%.

Any unreasonable requirements can interfere with full and open competition. A SFA should not include any artificial requirements that would automatically eliminate a viable bidder.

Contracting with a FSMC Training

- Penalty for Violations
 - Any violation of full and open competition will make a proposal non-responsive
 - If the contract was already awarded, the SFA must rebid the contract
 - If the violation occurred prior to the award of the contract, the FSMCs proposal will be considered ineligible



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What happens if a SFA violates any of the requirements for full and open competition?

If the contract has already been awarded, the SFA must re-bid the contract.

If the contract has not yet been awarded, and it was a FSMC that violated full and open competition, that FSMC's contract will be considered ineligible.

Contracting with a FSMC Training

- SFA Responsibilities
 - Access and utilize the Pennsylvania Electronic Application and Reimbursement System (PEARS)
 - Access and utilize the Commonwealth of PA Access to Social Services System (COMPASS)
 - Distribute, process, and approve household applications for Free and Reduced Price Meals



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Even when a SFA chooses to contract with a FSMC, the SFA has a long list of critical duties that must be performed. And, the SFA must ensure that none of these responsibilities are delegated to the FSMC. The FSMC may be willing to assist with these tasks, but the SFA must ensure that the FSMC does not perform them. DFN will monitor who is performing these duties.

The SFA must access and utilize PEARS. The Pennsylvania Electronic Application and Reimbursement System, known as PEARS, allows SFAs to submit annual program applications, monthly claims for reimbursement, building data reports, verification reports, CNP financial reports, and other mandated data reports to DFN via the Internet. COMPASS, or the Commonwealth of PA Access to Social Services System, is an online application for citizens or community-based organizations to apply for many health and human services programs in Pennsylvania. The SFA must access and utilize COMPASS to retrieve electronic household applications, perform direct certification, and complete verification.

The SFA must also distribute, process, and approve household applications for the Free and Reduced Price meals.

Contracting with a FSMC Training

- SFA Responsibilities
 - Create bid protest procedures
 - Conduct on-site reviews in each building
 - Conduct direct certification
 - Obtain list of homeless, runaway, and migrant students
 - Conduct verification



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Additionally, the SFA must:

Create bid protest procedures;

Conduct on-site reviews in each building;

Conduct direct certification using COMPASS;

Obtain a list of homeless, runaway, and migrant students; and

Conduct verification.

Contracting with a FSMC Training

- SFA Responsibilities
 - Develop a charge policy and collection of delinquent charges
 - Develop the food service budget
 - Develop the RFP



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The SFA must also develop a charge policy and a collection of delinquent charges;

Develop the food service budget; and

Develop the RFP.

Contracting with a FSMC Training

- SFA Responsibilities
 - Enter and maintain the free/reduced eligibility information into the Point of Service (POS) system (paper or electronic system)
 - Establish advisory committee and conduct meetings
 - Establish meal and a la carte prices



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In addition, the SFA needs to enter and maintain the free and reduced eligibility information into the Point of Service, or POS, system, whether it's a paper or an electronic system.

The SFA is also responsible for:

Establishing the advisory committee and to conduct meetings of that committee; and

Establishing the meal and a la carte prices.

Contracting with a FSMC Training

- SFA Responsibilities
 - Generate and maintain master eligibility list
 - Develop and implement local wellness policy
 - Monitor food service program



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The SFA must also:

Generate and maintain a master eligibility list; and

Develop and implement a local wellness policy and generally monitor the food service program.

Contracting with a FSMC Training

- SFA Responsibilities
 - Review and approve menus
 - Review invoices for credits, discounts, rebates to ensure the SFA receives benefit
 - Review Edit Check Worksheet (validate and initial)



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The SFA must do the following:

Review and approve menu changes, if any.

Review the invoice for credits, discounts and rebates received by the FSMC from their vendors and ensure that those savings are passed on to the SFA; and

Review the monthly Edit Check Worksheet, validate, and initial it.

Contracting with a FSMC Training

- SFA Responsibilities
 - Review, verify and certify Reimbursement Claim
 - Review USDA commodity utilizations
 - Validate actual monthly invoice to FSMCs monthly billing



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The SFA must review, verify, and certify the Reimbursement Claim entered in PEARS.

Additionally, the SFA must review the USDA commodity utilizations and validate the actual monthly invoice to the FSMC's projected figures in the contract.

Remember, the SFA is ultimately responsible for its food service program. The FSMC is the entity hired to manage it for the SFA.

Contracting with a FSMC Training

FSMC Responsibilities



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Now we will discuss the responsibilities of the FSMC.

▶ Contracting with a FSMC Training

- FSMC Responsibilities
 - Provide acceptable meal counting and accountability methods
 - Develop and analyze meal trends and participation reports
 - Provide appropriate menu components and portion sizes
 - Make substitutions when necessary
 - May supply the support services of a dietitian or a chef



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The FSMC is expected to:

Provide acceptable meal counting and accountability methods;

Develop and provide an analysis of meal trends and participation reports as well as provide appropriate menu components and portion sizes; and

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. There will be no additional charge to the student for such substitutions.

The FSMC may supply the support services of a dietitian or a chef.

Contracting with a FSMC Training

- **FSMC Responsibilities**
 - Comply with the Local Wellness Policy
 - Participate in the Advisory Board meetings, upon request
 - Make presentations to the School Board and the PTA, as requested by the SFA
 - Provide employee training and nutrition education to the Food Service staff
 - Ensure employees are following code of conduct as written by the SFA



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The FSMC must comply with the Local Wellness Policy;

Should participate in the advisory board meetings if requested by the SFA;

Is expected to make presentations to the School Board and the PTA, as requested by the SFA;

Must provide employee training and nutrition education to the Food Service staff in order to be compliant with the professional standards requirements; and

Needs to ensure their employees are following the code of conduct as written by the SFA.

Contracting with a FSMC Training

- FSMC Responsibilities
 - Maintain production records
 - Provide proper monetary collection methods
 - Provide a detailed monthly invoice to the SFA
 - Should not provide services beyond what the SFA is requesting or what it cannot legally provide per the contract



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The FSMC must:

Maintain production records and supporting documentation to show how the meals provided meet the requirements of creditable meals;

Provide proper monetary collection methods; and

Provide a detailed monthly invoice to the SFA;

The FSMC should not provide services beyond what the SFA is requesting or legally allowed to provide per the contract.

Contracting with a FSMC Training

- The FSMC:
 - Cannot have access to PEARS or COMPASS
 - Cannot have signature authority
 - Cannot be involved in the completion, distribution, collection, or verification of the Household Application for Free & Reduced Price School Meals and Special Milk Program
 - Cannot determine the eligibility for free and reduced price meals
 - Cannot establish meal selling prices
 - Cannot help prepare the RFP, including menus



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The FSMC cannot:

Have access to PEARS or COMPASS;

Have signature authority;

Be involved in the completion, distribution, collection, or verification of Household Applications for Free & Reduced Price School Meals and Special Milk Program;

Determine the eligibility for free and reduced price meals;

Establish meal selling prices; or

Help prepare the RFP, including the 21-day menus.

The RFP outlines all of the responsibilities of the SFA and the FSMC, along with what responsibilities cannot be delegated from the SFA to the FSMC.

Contracting with a FSMC Training

Initial Year Contracts

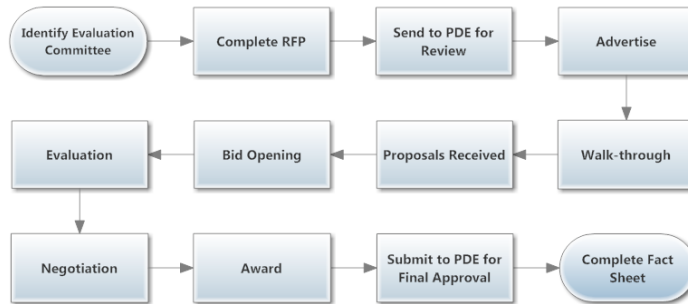


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Now we will discuss the initial year contracts.

Contracting with a FSMC Training

- Steps in FSMC Contract



Here are the steps involved in a contract from the SFA's perspective: Identify the evaluation committee, complete the RFP, send to PDE for review, advertise, hold a walk-through, receive proposals, have a public bid opening, evaluate the bid proposals, negotiate with bidders; award the contract, submit the contract to PDE for final approval, and complete the Fact Sheet and Checklist Summary in PEARS.

Contracting with a FSMC Training

- Establish Evaluation Committee
 - Develop evaluation plan
 - Size of team – at least three members
 - Scoring system
 - Scoring sheets with criteria, standards and place for comments



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The SFA needs to develop the evaluation plan prior to release of the RFP. The evaluation plan should cover:

The size of the evaluation team comprised of at least 3 members and the expertise needed on that team. These team members should have sufficient knowledge of the goals of the SFA, experience in school food service, financial management experience, and experience in evaluating proposals.

The scoring system to be used to evaluate the proposals, including standards to be applied, relative ranking and weight of each standard, and how the score will be evaluated, for example, the sum of the individual team scores or an average of the total team score.

The development of scoring sheets containing the evaluation criteria, standards to be applied, scoring columns, and a place for comments.

Contracting with a FSMC Training

Completion of the RFP



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Now we'll go over how to complete the RFP.

Contracting with a FSMC Training

- Download Forms
 - PEARS > Applications > Download Forms > Contracting with a Food Service Management Company (FSMC)



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The first thing you will need to do is download and electronically save all of the documents necessary to complete the initial year contract. You can do this by going to PEARS > Applications > Download Forms > Contracting with a Food Service Management Company (FSMC).

This location will simply be referred to as “Download Forms” for the rest of the presentation.

Contracting with a FSMC Training

- Download Request for Proposal (RFP) Documents from Download Forms
 - For Cost Reimbursable
 - PDE040-CR-Inst (Cost Reimbursable RFP Instructions and Checklist)
 - PDE040-CR (Cost Reimbursable RFP/Contract)
 - PDE040-CR (Cost Reimbursable RFP Attachments)
 - For Fixed Price
 - PDE040-FP-Inst (Fixed Price RFP Instructions and Checklist)
 - PDE040-FP (Fixed Price RFP/Contract)
 - PDE040-FP (Fixed Price RFP Attachments)



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For each RFP type, there is an Instructions and Checklist document (Word), the RFP/Contract (Word), and RFP Attachments (Excel).

Contracting with a FSMC Training

- Completion of Initial Year RFP/Contract
 - Complete gray boxes
 - Use tab to maneuver through document
 - Do not use Google Documents
 - Do not retype or change document



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The Initial Year Contract, which initially begins as the RFP, is a standard document that all SFAs must use to contract with a FSMC. The entire word document is protected. You will need to complete all the gray boxes. In the Attachments files, data can only be added to unprotected cells.

Use the tab button to maneuver through the document.

It is critical that these documents are not re-typed or changed in anyway. This RFP becomes the contract. After selection of the winning bid, the RFP becomes a legal, binding document.

Contracting with a FSMC Training

- RFP Instructions and Checklist
 - Provides guidance for completing the RFP
 - Lists all documents need for submission to the Division of Food & Nutrition (DFN)
 - All documents must be submitted BEFORE DFN can approve contract



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The Instructions and Checklist Document provides guidance that will assist in completing the RFP, Attachments, and the entire process.

Use the instructions and checklist document to ensure all the required components and documentation is submitted with the proposal to DFN.

Now lets cover some of the items from the RFP.

Contracting with a FSMC Training

- Section C – Pre-Bid Meeting, Bid Submission and Award
 - Indicate the location for the walk-through/pre-bid meeting
 - Walk-through is mandatory for all potential bidders



52

In Section C, enter the location for the pre-bid meeting, more commonly referred to as the walk-through.

Indicate the maximum number of representatives each FSMC may bring and whether or not pictures will be allowed.

The walk-through is mandatory for all potential bidders. This is the opportunity for the FSMCs to ask questions about the RFP. It ensures all potential bidders are hearing and seeing the same thing.

Contracting with a FSMC Training

- Section C – Pre-Bid Meeting, Bid Submission and Award
 - Address for bid submission
 - Public bid opening
 - No bids accepted after date
 - Bids received after date disqualified
 - Provide contact name and information



53

The bid opening must be public. Indicate time and date of the public bid opening. Bids should be submitted in a sealed envelope marked "CONFIDENTIAL – Food Service Management Bid."

Any bids submitted after the bid time would be considered non-responsive and would be disqualified.

Contracting with a FSMC Training

- Disqualified Bids
 - Bids submitted after the public bid opening
 - Bids that are overly or under responsive
 - Bids from FSMCs that did not attend walk-through
 - Bids from FSMCs that assisted in the RFP process
 - Bids from FSMCs that showed real or apparent conflicts of interest (soliciting)



54

Let's take a moment and look at what disqualifies bids.

SFAs cannot consider proposals that:

Are submitted after the public bid opening date and time;

Contain items or services that the SFA did not request – or doesn't contain the information the SFA requested;

Are received from FSMCs that did not attend the walk-through;

Are received from FSMCs that assisted in the development of the RFP, including the 21-day menus; or

Are received from FSMCs that have shown real or apparent conflicts of interests.

When bids are disqualified, keep documentation in case there is a bid protest.

Contracting with a FSMC Training

- Section D – Timeline
 - Pre-Bid Meeting
 - Last Date for Questions from FSMC
 - SFA provides Answers to FSMC Questions by
 - Public Bid Opening



55

In Section D, enter the dates and times for the timeline.

When selecting a pre-bid meeting date, allow for adequate advertising time. Advertising must be one time a week for three weeks in two different newspapers.

The “Last date for questions from the FSMC” can be the same as the pre-bid meeting date.

“The SFA provides answers to FSMC questions” date should be at least 2 weeks before the public bid opening to allow the FSMC to incorporate the responses into their proposals.

Contracting with a FSMC Training

- Section E – Award Criteria
 - Select a Scoring Method
 - Not all criteria required
 - Criteria amounts must equal 100



56

Section E is where the award criteria is established. Price is listed as the first criteria because it is the primary factor in the award of the contract when using the RFPs.

Obtaining the best product at the lowest price is the goal.

When using a RFP, the SFA may need to base its award on a comparative evaluation of price, quality, technical, and performance factors in order to determine the most advantageous offering. This can be accomplished in different ways which we will describe on the following slides.

The Award Criteria details the number of possible points assigned to each criterion. The SFA must provide an objective way of assigning points.

All the criteria must equal 100.

SFAs can add additional criteria, which must be specified in the “other criteria” line.

If presentations or taste testing are desired, describe how they are going to be factored into the evaluation. Be very specific on how the presentations are being judged, and if needed, include the detail in the additional information section of the RFP.

Contracting with a FSMC Training

- Section E – Award Criteria
 - Guarantee
 - If evaluating the proposed Guarantees, it must be listed in the scoring matrix
 - Consider all stipulations as described in the Methodology of Guarantee
 - Methodology remains consistent in renewal years



57

If the SFA wants to evaluate the guarantee, it should be listed as its own criteria in the RFP scoring matrix.

When evaluating the guarantee, consider all stipulations as described in the FSMC's proposal, which will be included on the Methodology of Guarantee attachment.

The methodology must remain consistent in renewal years.

Contracting with a FSMC Training

- Section F – Bid Protests
 - Bid protest procedures
 - Submitted to DFN
 - Notify DFN in the event of a protest
 - Samples on Download Forms: PDE-FSMC-REF-04 *“Sample of Bid Protest Procedures”*



58

Section F covers Bid Protests. The SFA needs to develop a bid protest procedure in order to handle and resolve disputes relating to their procurements. Also, the SFA must disclose all information regarding a bid protest to DFN.

You will need to submit the bid protest procedures to DFN.

Sample Bid Protest Procedures are available on Download Forms as form number PDE-FSMC-REF-04.

Contracting with a FSMC Training

- Section G – Bonding Requirement
 - Bid guarantee of 5% required with bid proposal
 - Bid Bond
 - Postal Money Order
 - Certified Check
 - Cashier’s Check
 - Irrevocable letter of credit
 - Bid guarantee returned to FSMCs



59

The standard contract language in Section G calls for the FSMC to submit with its proposal a bid guarantee for five percent (5%) of the total FSMC costs.

This bid guarantee can be in the form of a bid bond, postal money order, certified check, cashier’s check, or irrevocable letter of credit.

Bid guarantees will be returned to all unsuccessful FSMCs after the bid opening.

The successful FSMC’s bid guarantee will be returned upon execution of insurance coverage and bonds as required by the proposal.

Contracting with a FSMC Training

- Section Q – Additional Information
 - Alternate menus – Section Q.1
 - Selling meals to other sponsors – Section Q.2
 - Number of proposals – Section Q.3



60

Section Q – Additional Information, is the section where the SFA provides information to the FSMCs that is specific to their program.

If the SFA will be allowing the FSMC to propose alternate menus, the FSMC must submit those menus and projected operating costs worksheets for both the original and alternate menus. The projected operating costs would need to be evaluated separately.

If selling meals to other sponsors, list the names of the sponsors to whom meals are sold. Additionally, complete the CNP-PDE-3086 “Agreement to Sell or Purchase Meals from Sponsor to Sponsor.” If the other party is not a sponsor, then it is considered catering and a PDE-3086 is not required. Remember that PDE-3086 Agreements are only used when both parties are sponsors of CNPs.

Indicate the required number of paper and/or electronic copies of the proposals. Must have at least one paper copy (electronic copies can not be viewed prior to bid opening to maintain full and open competition).

Contracting with a FSMC Training

- Section Q.4 – Additional Information
 - Open text box for additional information not in standard contract
 - No length restrictions
 - SFA can stipulate exactly what it wants FSMC to provide
 - Proposals cannot provide more items/service than requested in the RFP
 - SFA can inform bidders of projected changes



61

Section Q.4 provides the SFA with an open text box. This is where the SFA will identify *all* of the requirements that the potential bidders must fulfill. The SFA will want to make sure everything is identified up front so that changes do not need to be made after the contract is awarded, potentially necessitating a re-bid.

There is no limit to the length of this section.

This is where the SFA needs to stipulate exactly what they want the FSMC to provide. For example, is the FSMC expected to supply specific equipment? If so, stipulate that in this section. The SFA would need to tell the FSMC exactly what they want, types of equipment, software capabilities, etc.

The SFA cannot consider proposals that contain items or services that they did not request in this section of the RFP. If a proposal provides more than requested, the bidder could be considered overly-responsive and be disqualified. For example, the bidder offers to renovate a kitchen and add a new walk-in refrigerator, but if the RFP did not request this in Section Q.4. – Additional Information, then the bidder would be considered overly-responsive and may be ineligible for evaluation.

It is important to note that if the SFA does not explain what it wants here (for example, the SFA decides it wants to start a breakfast program), the SFA may need to rebid the FSMC contract because it may be considered a material change.

The SFA may wish to list any potential change that may occur within the next five years

that could affect any potential bidders from submitting a bid.

Contracting with a FSMC Training

- Section Q.4 – Additional Information
 - Alternate Proposals
 - Add any alternative proposals in this section
 - Scored as two different groups



62

The SFA may ask for alternate proposals, but it must be identified in this section. The original and the alternate proposals will be evaluated separately.

For example, a charter school uncertain of the number of sites asked for the original proposal for three sites and an alternate proposal with four sites. These proposals would be evaluated separately.

Another example, a SFA is uncertain of changes to labor. One proposal would be for FSMC management only, one for FSMC providing management and labor, and one for SFA labor to transition to the FSMC through attrition.

Contracting with a FSMC Training

- Section Q.4 – Additional Information – Examples
 - Capital investment
 - Enrollment changes
 - Building changes
 - Potential programs to be added
 - Staffing changes



63

Here are some examples that could be included in Section Q.4. – Additional Information:

Capital investment;

Enrollment changes;

Building changes;

Potential programs to be added;

Staffing changes; etc.

Changes in programs or responsibilities could create a significant change in the contract that would require the contract to be rebid. A significant change, more commonly referred to as a “material change,” could cause FSMCs to bid differently had they known about it at the time of bid.

Contracting with a FSMC Training

- Section 1 - Scope and Purpose
 - Check all programs that are currently offered
 - Anticipated additions of programs should be included in the Additional Information section



64

In Section 1 – Scope and Purpose, the SFA will indicate what programs they offer now.

It is very important that all programs that are currently offered be checked. Any programs the SFA may anticipate implementing in the next five years should be listed in Section Q – Additional Information.

Contracting with a FSMC Training

- Section 4 – USDA Donated Foods
 - Read carefully to understand regulations
 - Check activities that the SFA expects the FSMC to perform
 - May check all activities
 - PDE040v *“USDA Memo SP05-2011 (FD-110); Crediting for and Use of, Donated Foods in Contracts with FSMC”*



65

Section 4, USDA Donated Foods; Section 5, Crediting For and Use of Donated Foods; and Section 6, Inventory, Storage, and Record Retention of USDA Donated Foods, all deal with the commodities.

Please read these sections carefully to ensure that you understand what is expected of the SFA and the FSMC.

In the USDA Donated Foods section, please check the activities that the SFA wants the FSMC to perform. You may check all the activities or as many as the SFA wants the FSMC to provide.

Reference the USDA memo regarding Donated Foods, which is located on Download Forms as Form Number PDE040v.

Contracting with a FSMC Training

- Section 7 – Renewal Assumptions
 - Projected number of full feeding days
 - Feeding days must be the same number used for Projected Operating Costs and SFA Site listing
 - If participating in Seamless Summer Option (SSO) include number of days



66

In Section 7 – Renewal Assumptions, indicate the projected number of full feeding days, which is the highest number of days that meals will be served.

The number of full feeding days entered here should be the same number of days used on the Projected Operating Costs and the SFA Site listing.

If the RFP commences in mid-year (for example, in January), then this is still a full school year; however, the Projected Operating Costs and the SFA Site listing would be based on the partial year.

If participating in Seamless Summer Option, referred to as SSO, enter the number of projected SSO serving days.

▶ Contracting with a FSMC Training

- Section 11 – Employees
 - Select employee retention option



67

In Section 11 – Employees, the SFA must choose what will happen to the current employees. Will the SFA retain them? Will the SFA require the FSMC to retain them? If the SFA does not have any employees (all current Food Service employees are FSMC employees) then select “there are no employees.”

Contracting with a FSMC Training

- Section 13 – Menus/Advisory Board
 - SFA develops 21-day menu independently of FSMC
 - FSMC must follow 21-day menu to receive payment from SFA food service account
 - Any FSMC that assisted the SFA in the development of the menu may not bid on the RFP



68

Section 13 covers Menus and the Advisory Board.

The SFA must develop a 21-day menu for all SNPs it participates in. This is the menu the FSMC must use during the first 21 days of the contract.

The SFA may not ask a bidding FSMC to develop a menu specifically for the RFP.

If the FSMC does not follow the menu on the first 21 days, the SFA may not pay the FSMC for these meals out of their NSFSA.

If participating in the Summer Food Service Program, referred to as SFSP, an 11-day menu needs to be developed. If participating in the Child and Adult Care Food Program, referred to as CACFP, a one-month menu needs to be developed.

DFN's acceptance of these menus as part of the RFP does not imply compliance with the Federal CNP regulations.

Contracting with a FSMC Training

- Section 13 – Menus/Advisory Board
 - SFAs are required to form and establish an advisory board
 - Assists in menu planning
 - Meets at a minimum of once a year
 - Maintain a sign-in sheet and agenda



69

The SFA is responsible for the formation and establishment of an advisory board composed of students, teachers, and parents. It is optional whether to require the FSMC to attend. Indicate the SFA position responsible for overseeing the advisory board and enter the frequency of meetings.

The Advisory board must meet at least once a year.

A sign-in sheet and agenda of each meeting must be maintained by the SFA.

Contracting with a FSMC Training

- Section 14 – Use of Facilities, Inventory, Equipment & Storage
 - Equipment Proposals
 - Approval of Capital Expenditure Request is required if over \$5,000
 - If allowing equipment proposals, enter maximum amount of investment that the SFA will consider
 - Repayment of investment if contract expires or is terminated prior to complete repayment of investment



70

In Section 14, the SFA needs to indicate whether it will allow the FSMC to propose equipment purchases.

If a SFA determines it is allowing the FSMC to propose equipment for implementation or enhancement of operation, the SFA must seek preapproval from DFN for each item of equipment costing \$5,000 or greater through the Capital Expenditure Request process if NSFSA funds are going to be used at any time for the purchase.

The SFA must determine the maximum amount of investment that it will consider. The SFA should also provide specifications in Section Q.4. – Additional Information.

The SFA needs to determine the repayment of the investment if the contract expires or is terminated prior to complete repayment of the investment.

Contracting with a FSMC Training

- **Section 17 – Payment Terms/Method**
 - Invoices
 - Choose if invoiced monthly or bi-monthly
 - Advance Payment
 - Indicate whether or not advance payment will be considered
 - Payment Incentives
 - Indicate whether or not payment incentives will be considered



71

In Section 17, the SFA will determine the payment terms/methods.

For Advance Payment, indicate whether or not advance payment will be considered. If allowing, determine how the advance will be paid.

For Payment Incentives, indicate whether or not payment incentives will be considered.

Contracting with a FSMC Training

- Section 24 – Nonperformance by the FSMC
 - A performance bond is maintained for the awarded FSMC for the life of the contract.
 - This provides the SFA with some leverage to ensure that the FSMC provides what is indicated in the proposal
 - Determine the amount
 - Recommend 10% of total contract cost



72

Section 24 covers Nonperformance by the FSMC.

A performance bond is maintained for the awarded FSMC for the life of the contract. This provides the SFA with some leverage to ensure that the FSMC provides what is indicated in the proposal.

DFN recommends 10% of the total contract cost.

Most FSMCs pass these costs on to the SFA, so the greater the bond, the greater expense.

Contracting with a FSMC Training

- Section 24 – Nonperformance by the FSMC
 - Performance Bonds are not required
 - If Summer Food Service Program (SFSP) is included in the RFP and total cost of SFSP is anticipated to be \$100,000 or more then a 10% Performance Bond is required.



73

Performance bonds are not required unless Summer Food Service Program (SFSP) is included in the RFP and total cost of SFSP is anticipated to be \$100,000 or more. Then a 10% Performance Bond is required on the entire contract or only the SFSP portion.

▶ Contracting with a FSMC Training

Attachments



74

Now lets discuss the attachments.

Contracting with a FSMC Training

- CR1/FP1 – Average Daily Participation (ADP)
 - Meals by days per site for lunch, breakfast, snacks
 - Corresponds with Federal Reimbursement on projected operating costs
 - Indicate selling prices for “actual in-school revenue”



75

One of the required attachments is the Average Daily Participation worksheet (ADP), which indicates participation for each meal type by site.

Contracting with a FSMC Training

- CR2/FP2 – Cost Responsibility Detail Sheet
 - Includes all costs for food service operation
 - Indicates personnel responsible for FSMC SFA, both, or neither
 - Check appropriate choice for each line on form



76

The next required attachment is the Cost Responsibility Detail Sheet.

Complete this worksheet to show who will be responsible for all the items listed, either the FSMC or the SFA, both or neither.

Regardless of whether or not there is SFA Labor, there will always be FSMC Labor; therefore, make sure to check the boxes under FSMC since the FSMC will have at least one employee. If there is SFA Labor, then check the boxes under both.

Contracting with a FSMC Training

- CR3/FP3 – Projected Operating Costs (POC)
 - Section 1 – Actual In-School Revenue
 - SFA completes
 - Developed by taking estimated meals multiplied by rates for paid, reduced-priced, adult, and a la carte meals
 - Paid and reduced-price meals match those entered on the sponsor application in PEARS “meal pricing information”



77

The next required worksheet in the RFP is the Projected Operating Costs worksheet, offered referred to as the POC.

The Projected Operating Costs worksheet is very detailed and essential to help the SFA manage the expenses incurred for the FSMC services and goods.

Section 1 is the Actual “In-School” Revenue. This is revenue that will be brought in by paid, reduced-priced, adult, and a la carte meal purchases.

Contracting with a FSMC Training

- CR3/FP3 – Projected Operating Costs
 - Section 2 – Federal Reimbursement
 - SFA completes
 - Expected revenue for meals projected to be claimed
 - Comparable to ADP and meals counts in prior year
 - Some variation due to changes in sites, programs, and participation



78

Section 2 is the Federal Reimbursement that the SFA expects to receive based on paid, reduced, and free priced meals projected to be claimed.

The reimbursement rates will populate from the Reimbursement Rates tab.

Contracting with a FSMC Training

- CR3/FP3 – Projected Operating Costs
 - Section 3 – State Reimbursement
 - SFA completes
 - Additional reimbursement for lunch based on breakfast participation



79

Section 3 is the State Reimbursement that the SFA expects to receive based on paid, reduced, and free priced meals projected to be claimed.

If the SFA participates in the School Breakfast Program, enter the meal counts based on site participation for the additional reimbursements for lunch.

The reimbursement rates will populate in from the Reimbursement Rates tab.

Contracting with a FSMC Training

- CR3/FP3 – Projected Operating Costs
 - Section 4 – Other Revenue
 - SFA completes
 - Catering
 - Sponsor to Sponsor
 - Interest Income



80

Section 4 is the section for Other Revenue.

Catering revenue is revenue from external sources. An example would be selling meals to a school that does not participate in CNPs.

Contracting with a FSMC Training

- CR3/FP3 – Projected Operating Costs
 - Section 5 – Meal Equivalents
 - Automatically calculates



81

Section 5 is the Section for Meal Equivalents.

The meal equivalency for adult meals and a la carte revenue automatically calculates based on federal and state reimbursements rates and commodity usage rate.

Contracting with a FSMC Training

- CR3/FP3 – Projected Operating Costs
 - Section 6 – SFA Expenses
 - SFA completes
 - Labor and Fringe
 - All costs related to food service



82

Section 6 is for SFA Expenses.

Include all costs the SFA will incur. List all costs related to food service other than FSMC costs.

Contracting with a FSMC Training

- CR3/FP3 – Projected Operating Costs
 - Section 7 – FSMC Expenses
 - Completed by FSMC in Bid proposal
 - Direct Costs (SSO needs to be included, if participating)
 - Administrative and Management Fees
 - Rebates, Discounts, and Credits
 - Guarantee



83

Section 7, FSMC Expenses, will be left blank in the proposed RFP. The potential bidders will be completing this as part of their bid proposal.

If the SFA participates in SSO, the FSMC needs to include the expenses related to SSO.

An Administrative fee, if charged by the FSMC, must include details documenting the methodology behind the Administrative Fee, including what is encompassed in this fee.

A guarantee, if offered by the FSMC, is to be supported by documentation outlining all formulas, methodologies, and contingencies.

Contracting with a FSMC Training

- CR3/FP3 – Projected Operating Costs
 - Section 8 – Contract Summary
 - Automatically Calculates
 - Fact Sheet Total listed here



84

Section 8, Contract Summary, is a summary of all revenue and expenses.

It automatically calculates the Profit (or Loss).

The Fact Sheet total is listed here and will be needed when completing the Fact Sheet in PEARS.

Contracting with a FSMC Training

- CR4-CR7/FP4-FP7 – Labor and Fringe Benefits
 - To be completed with the site name, position of staff member, hourly rate, daily hours, number of days paid and total wages for the regular school year.
 - The total from these attachment must match with Labor and Fringe Benefits on the Projected Operating Costs.



85

The next attachments are the Labor and Fringe Attachments. If the SFA has labor then SFA Labor and Fringe are completed.

If there is an incumbent FSMC, provide all potential bidding FSMCs with a copy of the 2018-2019 Labor and Fringe Attachments from the signed contract.

The potential bidders will be completing the FSMC Labor and Fringe as part of their bid proposal.

Contracting with a FSMC Training

- CR8/FP8 – SFA Site Listing
 - SFA completes
 - Indicates meal service times and services for each site
 - “Satellite” refers to meals cooked or prepared off-site
 - Indicate FSMC responsibility with an “X” in appropriate boxes



86

The next worksheet is the SFA Site Listing.

These are sites listed under the SFA's Sponsor Application under Site Information.

It details meal service times for each site and the services to be provided at each site by grade.

The word “satellite” used in this worksheet refers to meals cooked or prepared off site.

Contracting with a FSMC Training

- CR11/FP11 – Equipment Proposals and Payment Terms/Method
 - SFA selects responses in agreement with RFP (Word document)
 - FSMC complete any sections where the SFA response is yes



87

On the Equipment Proposals and Payment Terms/Method worksheet, the SFA selects the response in each section that agrees with the responses selected in the RFP (Word document).

The FSMC completes any sections where the SFA's response is "yes".

Contracting with a FSMC Training

- SFSP1 – SFSP Projected Operating Costs and CACFP1 – CACFP Projected Operating Costs
 - These are only completed by the SFA if they participate in either SFSP and/or CACFP.
 - The FSMC provides the price per meal.



88

If the SFA participates in SFSP and/or CACFP, then these projected operating costs worksheets are completed.

The SFSP worksheet is not used for SSO. SSO revenue and costs are included in the Projected Operating Costs (CR3/FP3).

The FSMC provides the price-per-meal in their proposal.

Contracting with a FSMC Training

After Completion of RFP



89

Now let's cover the steps remaining after the RFP has been completed.

Contracting with a FSMC Training

- RFP Submission and Approval
 - Email to DFN, RA-FSMC@pa.gov
 - Completed proposed RFP
 - Menus for all programs
 - Bid Protest Procedures
 - Attachments
 - Send three to four weeks prior to advertising



90

Once you have completed the RFP and all the required worksheets and documents, you are ready to send your proposal to DFN by emailing it to RA-FSMC@pa.gov. Original files are preferred.

DFN staff will review the proposal and will notify the SFA of any revisions or comments.

Please send in the required information for review at least three to four weeks prior to advertising for bid proposals.

DFN highly recommends that the RFP is submitted for approval prior to advertising to ensure compliance with federal regulations. By not submitting for prior approval, the SFA may be required to rebid the contract and incur additional advertising expenses and delays to the execution of the contract.

Contracting with a FSMC Training

- Bid Process

- Place bid advertisement in two (2) newspapers, one (1) day per week for three (3) weeks; Sample on Download Forms: PDE-FSMC-05 “*Prototype Legal Notice*”
- Send at least five (5) letters of solicitation
- Advertisement must include availability of RFP, mandatory requirement to attend walk-through, and submission deadline for proposal



91

After DFN approves the RFP, the SFA will advertise in at least two newspapers, one day per week for three weeks. The newspapers selected should be those with the largest circulation in the SFA's area.

Make sure the advertisement states where the potential bidder can receive a copy of the RFP. The advertisement should indicate that the walk-through is mandatory and should include the bid submission date.

Obtain confirmation that the newspaper has received your request for advertisement.

Copies of the newspaper proof of advertisement must be kept and submitted to DFN with the winning proposal.

A prototype of a Legal Notice is available on Download Forms as form number PDE-FSMC-REF-05.

DFN recommends that the SFA allow 60 days from the date the first ad is placed in the newspaper to the proposal due date.

In addition, the SFA must solicit at least 5 FSMCs. This can be done via mail or e-mail. If the solicitations are mailed, copies of the letters need to be submitted to DFN. If the solicitations are e-mailed, then a copy of the e-mail needs to be submitted. A list of

DFN-registered FSMCs is available on Download Forms: PDE-811 *“List of Registered FSMCs/Pre-Plated Vendors.”*

Contracting with a FSMC Training

- Walk-through
 - Conduct walk-through at least two weeks prior to bid due date
 - Provide questions and answers by the pre-determined date in the timeline
 - Mandatory for all potential bidders
 - Sign-in sheet required
 - Notify all potential bidders of any change in date



92

At least two weeks prior to the deadline for bid submissions, the SFA should conduct the walk-through of its facilities.

The SFA may ask all potential bidders to submit questions they may have prior to the walk-through. This will give the SFA time to get answers to those questions so they can distribute the question and answer list at the walk-through. However, the SFA can set a deadline for questions after the walk-through. If a deadline is after the walk-through, the SFA must provide answers to all FSMCs in a timely manner and by the date set in the timeline. All bidders must have the same information in order to comply with full and open competition. Maintain documentation of all questions and answers.

If a potential bidder does not attend the walk-through, that bid would be considered non-responsive. In other words, their bid would not be allowed to be considered.

Provide a sign-in sheet for attendees. The SFA must submit a copy of this sign-in sheet to DFN.

If circumstances beyond the SFA's control occurs, for example, a snow day, the SFA must notify all potential bidders and DFN of the date change to allow for full and open competition. It is helpful to plan for the possibility of a postponement.

Contracting with a FSMC Training

- Bid Opening
 - Time stamp and date bids upon receipt
 - Bids received after designated bid opening are considered non-responsive
 - Conduct public bid opening on designated date and time
 - Submit responsive bids to evaluation committee for review and scoring



93

The SFA should time-stamp and date each envelope upon receipt. Keep the bids in a secure box safe or file until the designated bid opening time.

Bids received after the designated time and date of the bid opening are not acceptable and are considered non-responsive.

On the advertised award date, the SFA will conduct a public bid opening at the designated location. FSMCs may attend the bid opening. The FSMC's name and contract price, at a minimum, are read at this opening.

The SFA should ensure that the bid opening and evaluations are conducted fairly. If not, a bid protest or legal action could result.

Contracting with a FSMC Training

- Evaluation
 - Evaluators score each proposal independently
 - Insures alternative proposals address basic guidelines
 - Eliminates proposals offering more or less than RFP requirements
 - Adheres to weighted criteria
 - Maintains confidentiality



94

Each member of the evaluation committee will score each proposal independently.

If the RFP asked for alternative proposals, each committee member needs to make sure the offeror's alternatives address the basic guidelines established in the RFP.

Each proposal must be evaluated by itself. It cannot be compared to another proposal.

If a proposal fails to address all the requirements of the RFP, it is considered non-responsive and cannot receive further consideration.

Likewise, a proposal that includes more than the RFP requirements is considered overly-responsive and may be ineligible for further consideration. Either the entire proposal can be disregarded or the SFA can choose to disregard only the overly-responsive portion.

Proposals must be evaluated on the weighted criteria stated in the RFP.

Evaluation Committee members may not discuss the proposals with any other committee members except in formal scheduled meetings.

Evaluations must be kept confidential.

Bidders should not be informed of their scores.

Documentation is essential. If a bid protest is filed, the documentation will help to determine whether the appropriate process was used.

Completed evaluation forms will need to be submitted to DFN.

Contracting with a FSMC Training

- Negotiation

- Proposals scoring the minimum percent designated in the RFP (i.e. 85%) are forwarded to negotiator(s)
- Bidders receiving less than 85% (for example) notified in writing
- Negotiator not involved in evaluation
- Bidders informed of terms and conditions
- The FSMC may not add anything during negotiations that was not part of the RFP
- If no successful bidder after negotiations, SFA determines most advantageous offer
- Awarded to lowest bidder unless compelling, documented reasons to reject



95

Proposals scoring the minimum percentage designated in the RFP, for example, 85%, are forwarded to the negotiator(s). This percentage is set by the SFA in the Award Criteria section of the RFP. 85% is just an example.

Bidders receiving less than 85% are notified in writing.

The negotiator cannot be involved in the evaluations.

Bidders are informed of terms and conditions.

If there is no successful bidder after negotiations, the SFA determines the most advantageous offer.

The contract is awarded to lowest bidder unless there are compelling, documented reasons to reject.

Contracting with a FSMC Training

- Proposed Contract Submission & Approval
 - Send proposed contract, attachments, and other required documents to DFN for final approval
 - DFN approves with initials on each page
 - DFN returns approved proposed contract with cover letter
 - SFA makes two copies
 - SFA obtains original signatures (in blue ink) on all three sets of documents
 - SFA returns one to DFN, one to the FSMC, keeps one for SFA files
 - Complete Fact Sheet and Checklist Summary per instructions on Download Forms: PDE-SNP-551 “FSMC Contract Fact Sheet Initial Year Guide”



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After the contract has been awarded to the successful bidder, it becomes the “proposed contract.” The proposed contract, associated worksheets, and all required documents are submitted to DFN for approval. Refer to the RFP Instructions and Checklist to be sure you have completed and included all necessary documents.

DFN will review and approve the proposed contract.

The approval of the proposed contract by DFN means that the SFA has submitted all the necessary documentation to satisfy USDA federal procurement regulations, but it does not imply compliance with USDA regulations pertaining to operating and administering the SNPs.

DFN will then return the approved proposed contract to the SFA with a cover letter.

The SFA will make two copies of the proposed contract approved by DFN. Do not copy, duplex, or staple.

The SFA will also obtain original signatures on the original and both copies of the proposed contract. The signatures must be in *blue* ink.

After obtaining all signatures, send the original signed copy of the proposed contract to DFN, one copy to the successful bidder, and retain one copy for the SFA’s files.

Complete the Fact Sheet and Checklist Summary. Instructions are available on Download Forms: PDE-SNP-551 *"FSMC Contract Fact Sheet Initial Year Guide."* Follow the Fact Sheet instructions to avoid the possibility of having to delete and re-enter the Fact Sheet.

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.

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Timeline

Now lets discuss the timeline for the RFP process.

Contracting with a FSMC Training

- Timeline
 - Timeline for initial year contract between SFA and FSMC posted on Download Forms: PDE-FSMC-REF-02 “*Timeline for Initial Year FSMC Contracts*”
 - Complete contract process by July 1 to pay FSMC from the NSFSA
 - SFSP



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DFN provides a timeline to help complete the initial year contract with a FSMC in a timely manner.

This process must be completed by July 1st for the upcoming school year. (If SFSP is included in the contract and starts before July 1, then the process must be completed before that date.)

The SFA cannot pay the FSMC for services performed prior to the approval of the Fact Sheet with funds from the NSFSA. The Fact Sheet and Checklist Summary need to be approved before the Sponsor Application can be approved.

If SFSP Operating Dates are before July 1, then the contract must be Fully Executed before the start of SFSP.

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- Late Submission
 - In the event of late submission, Sponsor Application will not be approved in PEARS
 - SFA cannot submit claim without approved Sponsor Application
 - SFA will lose reimbursement if not approved by last day of following month (i.e., last day of August to claim for July)
 - SFA cannot use school food service account funds to pay services of FSMC prior to DFN approval date on Fact Sheet



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In spite of the best intentions, sometimes a SFA does not complete the requirements for contract approval on time. If the contract has not been approved by DFN, the Sponsor Application cannot be approved in PEARS.

If the Sponsor Application is not approved, then a claim for reimbursement cannot be submitted.

The SFA will lose the reimbursement if not approved by the last day of the following month. For example, the Fact Sheet and Checklist Summary has to be approved by the last day of August in order to receive reimbursement for the month of July.

Therefore, it is very important that the timeline be followed so the contract can be approved and signed on time. Lateness can result in a loss of federal and state reimbursement and the inability to pay the FSMC out of the NSFSA.

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Do's and Don'ts



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These are some Dos and Don'ts for completing the RFP.

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- Do
 - Reference the Instructions and Checklist document
 - Use position titles instead of names
 - Send required documents and proposed contract to DFN for approval prior to signing agreement page
 - Plan ahead and adhere to the timelines



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You will be successful if you remember some things that you should do when completing your RFP.

Reference the Instructions and Checklist document.

Use position titles instead of individuals' names when designating responsibilities, since it is likely the position title will remain constant throughout the contract, but the person in that position could change.

Be sure to send the required documents to DFN for approval prior to signing the agreement page and appendices.

Plan ahead. Adhere to the timelines to ensure adequate time to complete the process.

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- Do
 - Send in only ONE copy for approval to DFN
 - Make copies for SFA and FSMC from approved document
 - Maintain thorough documentation
 - Ask questions – DFN staff is there to help you



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DFN asks that you send in only one copy of the proposed contract for approval. DFN will stamp the proposed contract when approved.

When making copies of the contract, make those copies from the document stamped for approval by DFN. Make two copies of the approved contract. Obtain signatures on the three copies in blue ink. Then send the original signed, approved, stamped contract to DFN, send one to the FSMC, and keep one for your records.

Keep very thorough documentation that properly justifies the award selection. SFAs and DFN are frequently asked to supply this information to the public.

Finally, do ask questions if you are confused or unsure of what to do. DFN staff is eager to help you successfully complete your RFP with the greatest chance for approval and help prevent any problems in the future.

Contracting with a FSMC Training

- Do Not
 - Send the documents to DFN in binders or portfolios
 - Change order of documents as listed in the instructions
 - Change any language in Standard Terms and Conditions
 - Write additional language to contradict, eliminate or replace information in Standard Terms and Conditions



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Also, you will benefit if you remember some things that should not be done.

Do not send documents to DFN in binders or portfolios. DFN only needs copies of the documents that are relevant to the proposed contract. DFN realizes the potential bidders will submit various documents and presentations to the SFA with their bids, but DFN only needs what is applicable to the proposed contract. Reference the RFP instructions and Checklist documents for the required items. For example, DFN does not need the sales materials from the FSMC or the Annual Report, even though these might be needed by the SFA to assist with their scoring of the bid.

Additionally, do not change the order of the documents from the sequence used in the RFP Instructions and Checklist document.

Do not change any language in the Standard Terms and Conditions.

Likewise, make sure that any additional language does not contradict, eliminate, or replace information in the Standard Terms and Conditions.

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- Do Not
 - Sign the proposed contract prior to receiving DFN's approval on each page
 - Staple
 - Duplex the copies
 - Forget to complete Fact Sheet and Checklist Summary in PEARS



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Also, do not sign the contract prior to receiving DFN's approval. You will need to make copies with DFN's approval signature on each page to make your official copies, signed in blue ink.

Do not staple or duplex the contract.

Do not forget to complete the Fact Sheet and Checklist Summary in PEARS.

Renewals

Let's briefly discuss the renewals.

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- Renewals
 - Each contract can have up to four (4) renewal years after the initial year
 - Administrative and Management Fees cannot be higher than last year's cost plus the CPI-U, which is available in January



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Each contract can have up to four (4) one-year renewal years after the initial year. Renewals are optional. For example, if the SFA is not satisfied with the FSMC or does not accept the proposed renewal financials, the SFA can decide to re-bid the contract.

Administrative and Management Fees cannot be higher than last year's cost plus the CPI-U, which is available in January.

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- Renewals
 - No new expense line items are permitted.
 - With justification, the costs associated with items such as food supplies and labor may increase at a rate higher than the CPI-U; however, the SFA must evaluate the justification to determine if it is acceptable



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No new expense line items are permitted.

With justification, the costs associated with items such as food, supplies, and labor may increase at a rate higher than the CPI-U; however, the SFA must evaluate the justification to determine if it is acceptable.

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- Renewals
 - The FSMC completes the same attachments for a Renewal Contract
 - Renewal financials should be presented to the SFA in February and March.
 - Renewal Contracts should be submitted to DFN by March 31
 - Signed Renewal Contracts should be received by DFN by June 15
 - Renewal Contracts must be fully executed by June 30



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The FSMC completes the same attachments for a Renewal Contract.

Renewal financials should be presented to the SFA in February and March.

SFA's are required to have their Renewal Contracts submitted to DFN by March 31.

Signed Renewal Contracts should be received by DFN by June 15.

Renewal Contracts must be fully executed by June 30.

Contracting with a FSMC Training

- Helpful Resources
 - Electronic Code of Federal Regulations
www.ecfr.gov
 - USDA Food & Nutrition Services
www.fns.usda.gov
 - PDE's site for FSMC Resources
www.education.pa.gov/fsmc
 - PA Electronic Application and Reimbursement System
www.pears.ed.state.pa.us
Applications > Download Forms > SNP – Contracting
with a Food Service Management Company (FSMC)



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Here are the paths to websites you may find to be helpful.

▶ Contracting with a FSMC Training

Contact Information

RA-FSMC@pa.gov



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In the future, if you have any questions or need guidance, please feel free to reach out to us.