

**FOOD SERVICE MANAGEMENT COMPANY (FSMC)
REQUEST FOR PROPOSAL (RFP) AND SUBSEQUENT CONTRACT**

SCHOOL NUTRITION PROGRAMS

RFP NO. _____ (Insert RFP Number)

School Food Authority (SFA) _____ (Insert name of SFA)

Address: _____

City/State: _____ Zip: _____

REQUEST FOR PROPOSAL TIMELINE

Proposal Issue Date	
Final Date for Written Questions	
Proposal Due Date and Time	
Proposal Due Location	
Proposal Opening Date and Time	
Proposal Opening Location	
Award Date (per award letter)	
Start Date	
Name of Awardee (completed after contract is awarded)	

SFA will consider (**Must choose one**):

Cost-reimbursable Proposal

Fixed meal price Proposal

INTRODUCTION

This document contains a Request for Proposal (RFP) for providing food service management services for **(Insert school name)**. This RFP sets forth the terms and conditions applicable to the proposed procurement.

School Food Authorities (SFAs) are encouraged to use the sample FSMC (Food Service Management Company) RFP and Contract. For solicitation approval, an SFA must complete the required procurement procedures for participation in the reimbursement programs. SFAs not complying with required procurement procedures will not be approved for reimbursement of meals for USDA Child Nutrition programs.

REQUEST FOR PROPOSAL

A. Legal Notice

Notice is hereby given that **(insert school name)**, hereinafter referred to as the SFA, intends to examine alternatives to its present food service program. The offeror to this RFP will be referred to as the FSMC.

No intent should be construed from this legal notice that the SFA intends to enter into a contract with any party for alternative food service unless, in the sole opinion of the SFA, it is in the SFA's best interest to do so.

All costs involved in submitting a response to this Request for Proposal (RFP) shall be borne in full by the party incurring said cost. Offerors 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 offeror's own risk, and it cannot secure relief on plea of error. The SFA is not liable for any cost incurred by the offeror in submitting a proposal.

SFA reserves the right to accept any proposal which it determines most favorable to the interest of SFA and to reject any or all proposals or any portion of any proposal submitted which, in SFA's opinion, is not in the best interest of SFA.

Any contract that may arise from this RFP will be between the FSMC and the SFA and upon acceptance, this document shall constitute the Contract between the offeror and the school food authority. The Alabama Department of Education (ALSDE) is not and will not be a party to any contract between an SFA and a Food Service Management Company (FSMC). The SFA has full responsibility for ensuring that the terms of the Contract are fulfilled. However, ALSDE can deny payment to the SFA if the SFA fails to ensure that all parts of the Contract are followed.

Any changes to the terms or conditions of this Contract, which are required by Federal or State law or rule, or changes to Federal or State laws, rules, or citations are automatically incorporated herein, effective as of the date specified in such law, rule and/or USDA Memo.

In accordance with Federal law and U.S. Department of Education policy, SFAs and FSMCs are prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

B. Procurement Method

Procurement Method will be the Competitive Sealed Proposals method (commonly known as a Request for Proposals or RFP). The Competitive Sealed Proposals method differs from the traditional sealed bid method in the following ways:

- Competitive sealed proposals allow discussions with competing offerors and adjustments to the initial proposal.
- Comparative judgmental evaluations may be made when selecting among acceptable proposals for award of the Contract.

All procurement transactions shall be conducted in a manner that provides maximum full and open competition consistent with applicable regulations: 7 CFR 210.16, 210.21, 250 Sub D, 7 CFR 200.318-326, Appendix II to Part 200 Title 2.

Procurement must be conducted so that there is no apparent or real conflict of interest.

C. Pre-Proposal Meeting

A meeting with interested offerors to review the specifications, to clarify any questions, and for a walkthrough or a virtual walkthrough of the facilities with school officials will be on _____ (**Date-mm/dd/yyyy**) at _____ (**Time A.M./P.M.**). **Location:** _____

The following link is provided for the virtual walkthrough:_____.

Attendance is (**required/optional**). (Note: If SFA makes attendance by offerors mandatory, then SFA may not waive requirement).

Meeting will be documented with a sign in sheet. A summary of all information shared, questions asked, and answers will be provided as a numbered addendum(s) to this RFP to all interested parties. The addendum(s) must be signed by FSMCs and returned as part of the RFP/Contract.

Vendor presentations will not be scheduled at this time.

D. Request for Proposal Submission

Proposals will be received until _____ (**Time- A.M./P.M.**) on _____ (**Due Date- mm/dd/yyyy**) at _____ (**Location**), for supplying the SFA with food service management services during the school year of (_____). All proposals will be time-stamped and dated upon receipt. Any proposal submitted after the time specified for receipt will not be considered and will be returned unopened.

All proposals must be submitted in a sealed envelope marked as **Food Service Management Proposal**, # _____ and also marked on the envelope with the offeror's complete return address.
Email or facsimile (fax) submissions are not allowed.

Two copies of Competitive Sealed Proposals are to be submitted by US Postal Service (USPS), in person or by courier service to:

Name of SFA School Nutrition Director: _____

Mailing Address: _____

City: _____

State/Zip: _____

To be considered, each offeror must submit a complete response to this solicitation using the forms provided, along with any other documents submitted as a part of the Proposal and considered responsive to this RFP. No other documents submitted with the RFP and Contract will affect the Contract provisions, and there may be no modifications to the RFP and Contract language. If offeror modifies, revises, or changes the RFP and/or Contract in any manner, SFA may reject the offer as non-responsive.

Qualification data shall be submitted by each offeror along with the sealed Proposal. Failure to furnish such records and evidence, or the inclusion of any false or misleading information therein, shall be sufficient cause for rejection of the Proposal or termination of any subsequent Contract. Include the following data:

- Offeror must be incorporated or licensed to do business in the State of Alabama and must be on or willing to be on the utilized list of FSMC vendors with the School Nutrition Division of the Alabama Department of Education (ALSDE). Provide any documents that indicate this listing.
- Annual reports or financial statements for the past fiscal year in the format of an accountant's review including notes to the financial statements and provided by a certified public accountant.
- Information that the offeror is doing business with like school systems and is familiar with the regulations pertaining to operations in such environments, must be provided.
- Information that the offeror is presently operating a comparable, successful National School Lunch Program (NSLP) and School Breakfast Program (SBP) in a school setting, must be provided.
- Offeror shall submit for consideration such records of work and further evidence that may be required and requested by the SFA's Board of Education.

As provided herein, under state law and, or regulations and the SFA's local policy, discussions may be conducted with responsible offerors who submit proposals determined to be considered for award selection. Discussions will be for the purpose of clarification, to assure full understanding of all terms and conditions of the response to this RFP and the Contract's requirements. In conducting these discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

If additional information is requested to adequately respond to this RFP, please contact **(Director's Name)**_____ in writing at **(Director's email address)**_____. Any additional information provided to one offeror will be available to all.

Competitive sealed proposals are subject to all the conditions and specifications attached hereto.

D.1-Opening of Proposal:

Opening will be at _____ **(Insert Time-A.M./P.M.)** on _____ **(Insert Date-mm/dd/yyyy)** at _____ **(Location)**. Proposals will not be accepted after the date and time as indicated in the RFP Timeline as the proposal due date. A State Agency (SA) representative shall accompany the opening of the

proposals by means of virtual or in person avenues. No proposal may be altered, amended, or withdrawn after the specified time for opening proposals.

E. Proposal Award Criteria

Award will be made only to a qualified and responsible offeror whose Proposal is responsive to this solicitation. A responsible offeror is one who's financial, technical, and other resources indicate an ability to perform the services required. All proposals are to be safeguarded by the SFA. Proposals will be evaluated by an SFA committee based on the offer per meal/meal equivalent and the criteria, categories and assigned weights as stated below (to the extent applicable). Each SFA committee member will score the proposals independently before the committee identifies the most advantageous response. Committee members must consist of SFA employees familiar with the regulations and requirements of the child nutrition programs, parents, teachers and/or administrators. If a committee member is an agent for, employee of or in any manner associated with a FSMC, that FSMC may not participate in the RFP and subsequent contract. Once a potential awardee is selected, the SFA will notify the SA for approval before Contract is awarded.

The offerors will be notified after all responses have been scored as to the status of their proposals. No information is released until after the award is made.

Weighted Evaluation Criteria

The SFA must determine in advance of issuing the RFP what percentage each category below will be given when comparing proposals. SFA may amend, delete or add additional categories if needed with an overall 100 points total. However, SFA may not include a category of prior experience with an SFA as it would violate USDA's free and open competition regulation for procurement. A cut-off score must be pre-set by the SFA. Proposals that score under the cut-off score will not be considered for a contract and will be notified in writing. Only offerors that meet or exceed the cut-off score will enter into negotiations for a contract. The RFP must establish a level playing field for all offerors that submit proposals. Review the Criteria Award Table for the weighted percentages.

Criteria Award Table

(____) points Cost & Financial Proposal (**must be the highest points**)

(____) points Service Capability Plan (Identifies proposed food service team such as Food Service Director and demonstrates FSMC's ability to provide services as stated in the RFP/Contract)

(____) points Experience, References

(____) points Doing business with like school systems and familiarity with regulations pertaining to such operations/References

(____) points Financial Condition/Stability, Business Practices

(____) points Accounting and Reporting Systems

(____) points Personnel Management

(____) points Innovation

(____) points Promotion of the School Food Service Program (Ex: Alabama Grown, Farm to School)

(____) points Involvement of Students, Staff, and Patrons

(____) Other (SFA may add additional categories)

100 points TOTAL

F. Proposal Protest Procedures

Any protest shall be in writing and shall be delivered to the SFA's **designated Protest official at the designated County/City Board of Education.**(insert name of official)_____. A protest of a solicitation shall be received by the named individual before the offer due date. The protest shall be filed within ten (10) days from the award notice and shall include:

1. The name, address, and telephone number of the protestor;
2. The signature of the protestor or an authorized representative of the protestor;
3. Identification of the purchasing agency and the solicitation or contract number;
4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents;
5. The form of relief requested.

A written response to the protest will be made within 30 days from receipt of the protest and all items indicated above.

The **County/City** Board of Education shall in all instances disclose information regarding protests to the State Agency.

G. Firm Offer

By submitting a response to this RFP, and if such response is not withdrawn prior to the time for opening of proposals, offeror understands and agrees that they are making a firm offer to enter into a Contract, which may be accepted by the SFA, and which will result in a binding Contract.

Such proposal is irrevocable for a period of ninety (90) days after the time for opening of proposal has passed. _____ . **(FSMC must initial and date here to show agreement)**

H. 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 in writing by both parties (i.e., worksheets, attachments, and operating cost sheets).

Paying the FSMC from School Nutrition Program funds is prohibited until the Contract is signed by the SFA, awarded vendor, and approved in writing by the State Agency (SA). Also, any renewals, amendments or addendums to the Contract must receive SA written approval before executing these modifications. 2 CFR 200.324(a) states that the SFA must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (small purchases) including *contract modifications*. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the SFA must make independent estimates before receiving any modifications. After written approval is received all signed renewals, amendments and addendums will be sent to the SA and maintained on file by the SFA and FSMC.

Approved and signed contract by both parties will be sent to the SA and posted on the ALSDE's Online Application System.

DEFINITIONS AND TERMS

The following definitions shall apply within this document and its attachments:

1. **Accounting Period:** a specific period of time (e.g., each month)
2. **Allowable Cost:** costs that are allowable under 2 CFR Part 200 Subpart E Cost Principles. All costs must be necessary and reasonable to be allowable.
3. **Applicable Credit:** the meaning established in 2 CFR Part 200 Subpart E Cost Principles and 2 CFR 200.406, respectively.
4. **Calculation of Time:** periods of time, stated as a “number of days”, shall be calendar days.
5. **Charge:** any charge for an Allowable Cost that is: (i) incurred by FSMC in providing the goods and services that are identified in SFA’s Food Service Budget (ii) not provided for in the General and Administrative Expense Fee; and (iii) established and reasonably allocated to SFA in accordance with the Methodology for Allocated Costs, which is attached under the cost reimbursable section, and fully incorporated herein by reference.
6. **Contract:** this RFP and Contract, the exhibits attached to this RFP and Contract, and FSMC’s Proposal, as accepted by SFA in its sole discretion.
7. **Cost-reimbursable contract:** a contract that provides for payment of incurred costs to the extent prescribed in the Contract, with or without a fixed fee.
8. **Direct Cost:** any Allowable Cost that is: (i) incurred by FSMC in providing the goods and services that are identified in SFA’s Food Service Budget; and (ii) reasonably necessary in order for FSMC to perform the Services hereunder. The term Direct Cost does not include any cost allocated to SFA as Charges, the General and Administrative Expense Fee, or any Management Fees.
9. **Effective Date:** July 1, _____.
10. **Fixed Meal Price:** an agreed upon amount that is fixed at the inception of the Contract and is guaranteed for a specific period of time.

Fixed Fee: an agreed upon amount that is fixed at the inception of the Contract. In a cost reimbursable contract, the fixed fee includes the contractor’s direct and indirect administrative costs and profit allocable to the Contract.

The fixed-price and fixed-fee contracts may include an economic price adjustment provision tied to a standard index.
11. **FSMC’s Proposal:** Food Service Management Company’s response to the RFP and Contract.

12. **Meal Equivalent for a fixed -price contract:** Used to determine payment to the FSMC for non-program food such as adult meals, milk sales, a la carte, catering, etc., as well as other reimbursable (SBP, SFSP, ACS, SMP) meals when a separate price is **not** proposed for meals other than NSLP. The other meals and non-program sales are converted into Meal Equivalents using the meal equivalency formula. The meal equivalency factor and meal equivalency formula shall remain fixed for the term of the Contract and all renewals. A la carte revenue should include all sales to adults and a la carte sales to students. (*FSMC Guidance for SFA's, 2016 edition*)
13. **Non-profit School Food Service Account :** the restricted account in which all of the revenue from all food service operations conducted by the SFA principally for the benefit of school children is retained and used only for the operation or improvement of the nonprofit school food service.
14. **Program(s) or Child Nutrition Program(s) :** the USDA Child Nutrition Programs in which the SFA participates.
15. **Program Funds :** all funds that are required to be deposited into the Non-profit School Food Service Account.
16. **Proposal :** Food Service Management Company's response to the RFP and Contract.
17. **RFP :** SFA's Request for Proposal and Contract, and all of its attachments.
18. **SA:** State Agency of the Alabama Department of Education School Nutrition Division
19. **Services :** the services and responsibilities of FSMC as described in this Contract, including any additional services described in Section O of this Contract.
20. **SFA or School Food Authority :** the school food authority as defined in 7 CFR § 210.2.
21. **SFA's Food Service Budget :** the Food Service Budget for the Current School Year, which is attached to this Contract as Exhibit C and fully incorporated herein.
22. **SFA's Food Service Facilities :** the areas, improvements, personal property and facilities made available by SFA to FSMC for the provision of the food services as more fully described herein.
23. **SFA's Food Service Program :** the preparation and service of food to the SFA's students, staff, employees and authorized visitors, for the following programs as identified in the SFA's RFP and Contract, which may include the National School Lunch Program (NSLP), the School Breakfast Program (SBP), the After School Care Program, the Fresh Fruit and Vegetable Program (FFVP), Seamless Summer Option (SSO), Summer Food Service Program (SFSP) and a la carte food service.
24. **SFA's Food Service Location(s) :** the schools or other locations where Program meals are served to SFA's schoolchildren.
25. **Summer Program :** either the Summer Food Service Program (SFSP) or the Seamless Summer Option (SSO) identified herein below, and in which SFA participates.

26. **ALSDE**: Alabama Department of Education

27. **USDA FNS** : United States Department of Agriculture , Food and Nutrition Service.

STANDARD TERMS AND CONDITIONS

A. Scope and Purpose

1. Duration of Contract. Unless it is terminated, this Contract will be in effect for a period of one year commencing on **July 1, _____, and terminating on June 30, _____**, and may be renewed for four (4) additional terms of one year each upon mutual written agreement between SFA and FSMC.

Extension Option -The Contract may be extended up to three (3) months at the same proposed pricing provided mutual written agreement by both parties and **only** due to an unprecedented natural disaster or occurrence or other waivers issued by USDA regarding an extension for FSMC contracts.

2. During the term of this Contract, FSMC shall operate SFA's Food Service Program in conformance with SFA's agreement with the Alabama Department of Education's (ALSDE) School Nutrition Division (SND). Both SFA and FSMC will follow Federal regulations in 7 CFR 210.16, 210.21, 250 and 2 CFR 200.
3. FSMC shall have the exclusive right to operate the programs checked below at the sites specified by SFA in the Schedule of Food Service Locations and Services Provided, which is attached to this Contract as Exhibit A and fully incorporated herein. (**Check only the programs SFA operates. If SFA anticipates operating any other programs in the foreseeable future, SFA should check the box marked other and identify the programs and year in which SFA reasonably foresees it may operate the program.**) If a program is added later (i.e., a breakfast program) which is beyond the scope or original intent of this RFP/Contract, or if a material change is made to the RFP/Contract, the appropriate procurement procedures must be followed. (Reference 97SP-30, FNS Policy Memo, July 2005 Procurement Questions; and 2016 FSMC Manual; SP 28-2009; SP 02-2010; and SP 17-2012.) Any change to the scope of services to be provided by FSMC that is beyond the scope or original intent of this RFP/Contract, including the addition of a program such as breakfast (SBP) or summer food (SFSP), may be considered a material change. The SFA must evaluate the total cost and scope of the change to the existing contract and determine if a material change would occur. A key factor in determining whether a change is material is whether other offerors knowing of the change would have offered differently The SA must be notified of the determination, provided documentation, and give final written approval before the change may be implemented. If the change to the contract is considered a material change, a new solicitation must be issued. (Reference, FNS policy memo: July 2005 Procurement Questions)

SFA Programs:

- National School Lunch Program (NSLP)
 - School Breakfast Program (SBP)
 - Breakfast in the Classroom
 - Universal Breakfast
 - After-School Care Program (ASCP—NSLP)
 - Seamless Summer Option (SSO-NSLP)
 - Special Milk Program (SMP)
 - Fresh Fruit and Vegetable Program (FFVP)
 - À la Carte
 - Adult Meals
 - Catering
 - Contract Meals
 - Vending (applies only to FSMC supplied vending machines)
 - Concessions (applies only to concessions operated by FSMC)
 - Other:
-

4. FSMC shall

- a. be an independent contractor and not an employee of the SFA. The employees of the FSMC are not employees of the SFA.
- b. implement an accurate point of service count using the counting system provided by SFA in its application to participate in the Child Nutrition Programs and approved by ALSDE for the sites listed in Exhibit A: Site Information and the programs listed above, herein, as required under USDA regulations. Counting system must eliminate the potential for the overt identification of free and reduced-price eligible students under USDA Regulation 7 CFR §245.8.
- c. operate SFA's Food Service Program and shall include performance by FSMC of all the Services, described in this Contract, for the benefit of SFA's students, faculty and staff.
- d. maintains all records necessary, in accordance with applicable regulations, for SFA, ALSDE and USDA to complete required monitoring activities and must make said records available to SFA, ALSDE,

and USDA upon request for the purpose of auditing, examination and review. 7 CFR § 210.16(c)(1).

- e. cooperate with SFA in promoting nutrition education, health and wellness policies and coordinating SFA's Food Service Program with classroom instruction and must comply with SFA's local wellness policy.
 - f. comply with applicable federal, state and local laws, rules and regulations, policies, and instructions of ALSDE and USDA and any additions or amendments thereto, including USDA Regulation 7 CFR Parts 210, 220, 245, 250, 7 CFR 200.317-200.326; 7 CFR Part 215 (SMP), if applicable; and 7 CFR Part 225 (SFSP), if applicable; Section 19 of the NSLP Act (FFVP); and OMB Circulars, and the other laws described in the "Schedule of Applicable Laws," and fully incorporated herein by reference.
 - g. comply with all SFA building rules and regulations.
 - h. provide additional food service such as banquets, parties, and refreshments for meetings as requested by SFA. SFA or requesting organization will be billed for the actual cost of food, supplies, labor, and FSMC's overhead and administrative expenses if applicable for providing such service. USDA commodities shall not be used for these special functions unless SFA's students will be primary beneficiaries. (Reference All State Directors' Memo 99-SNP-14.)
 - i. agree to operate the Program according to federal, state, and local regulations in the event that the RFP requires FSMC to provide management services for SFA's SFSP or Seamless Summer option (SSO).
 - j. agree to operate the FFVP in accordance with the requirements of Section 19 of the National School Lunch Act, all applicable regulations and policies, and the FFVP Handbook for Schools, as well as USDA guidance issued via memorandum and the Administrative Review Manual (ARM) in the event that FSMC provides management services for the Fresh Fruit and Vegetable Program (FFVP). FSMC further agree that no more than 10% of the total funds awarded to the school and/or schools for operation of the FFVP may be used for administrative expenses.
 - k. obtain and post all licenses and permits that it is required to hold under federal, state, or local law.
 - l. 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 United States Department of Agriculture (USDA) Regulations 7 CFR §210.16(c) and 2 CFR 200.324(d).
 - m. agree that no child who participates in the NSLP, SBP, SMP, ASCP, CACFP, SSO, or SFSP will be discriminated against on the basis of race, color, national origin, sex, age, or disability.
5. SFA shall be responsible for:
- a. signature authority for the application/contract, free and reduced-price policy statement, and programs, herein, and the monthly claim for reimbursement. 7 CFR §210.9(a) and (b) and 7 CFR §210.16(a)(5).
 - b. development and distribution of the parent letter and Application for Free and Reduced Price Meals and/or Free Milk and participating in Direct Certification.

- c. implementation of eligibility for free or reduced-price policy for meals and free milk, as applicable, in accordance with 7 CFR Part 245.
- d. conducting any hearings related to determinations.
- e. verification of applications for Free and Reduced-Price Meals as required by USDA regulations.
- f. establishment and maintenance of the free and reduced-price meals' eligibility roster. 7 CFR § 210.7(c), 7 CFR § 210.9(b) (18) and 7 CFR § 245.6(e.)
- g. ensuring the FSMC conducts the SFA's Child Nutrition Programs' operations in accordance with regulations.
- h. supervision of the food service operations in such manner as will ensure compliance with all applicable statutes, regulations, rules and policies including regulations, rules, and policies of Ga DOE and USDA regarding the Child Nutrition Programs.
- i. establishing all selling prices, including price adjustments, for all reimbursable and non-reimbursable meals/milk and a la 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. control of the Non-profit School Food Service Account and overall financial responsibility for SFA's Food Service Program.
- k. ensuring the resolution of Program reviews and audit findings. FSMC shall fully cooperate with SFA in resolving review and audit issues. FSMC shall indemnify SFA for any fiscal action, claims, losses or damages, fault, fraud, required repayment or restoration of funds, including reasonable attorney's fees incurred in defending or resolving such issues, that results from FSMC's intentional or negligent acts.
- l. monitoring the food service operation of FSMC through periodic on-site visits to ensure that the food service is in conformance with USDA program regulations. 7 CFR § 210.16(a)(3).
- m. conducting an on-site review of the counting and claiming system at each SFA Food Service location no later than February 1 of each year *if* there is more than one SFA Food Service location.
- n. the counting and claiming system. 7 CFR § 210.8(a)(1).
- o. retaining control of the quality, extent, and general nature of the food service.
- p. requesting additional food service programs of the FSMC; however, 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 Child Nutrition Programs. Any food and beverages must meet the USDA Smart Snacks.
- q. agreeing to operate the Program according to federal, state, and local regulations, in the event that the RFP requires FSMC to provide management services for SFA's SFSP or Seamless Summer option (SSO).

- r. agreeing that in the event the FSMC provides management services for the Fresh Fruit and Vegetable Program (FFVP) at any of SFA's Food Service Locations, the FSMC will operate the FFVP in accordance with the requirements of Section 19 of the National School Lunch Act, all applicable regulations and policies, and the FFVP Handbook for Schools, as well as USDA guidance issued via memorandum and the Administrative Review Manual (ARM). SFA and FSMC further agree that not more than 10% of the total funds awarded to the school and/or schools for operation of the FFVP may be used for administrative expenses.
- s. obtaining and posting all licenses and permits that it is required to hold under federal, state, or local law.
- t. ensuring that its officers, employees, or agents shall neither solicit nor accept gratuities, favors, nor anything of monetary value from contractors nor potential contractors in accordance with all laws, regulations, and policies. To the extent permissible under federal, state, or local laws, rules, or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards. (See SP 09-2015; and 2 CFR Parts 200.112 & 318).
- u. agreeing that this Contract is neither a *cost-plus-a-percentage-of-income* nor a *cost-plus-a-percentage-of-cost contract* as required under United States Department of Agriculture (USDA) Regulations 7 CFR §210.16(c) and 2 CFR 200.324(d).
- v. ensuring that any additional payments to the SFA or any foundations or organizations associated with the SFA that are unrelated to food service, such as money or rebates for school improvements and student scholarships are not allowable.
- w. ensuring that payments on any claim shall not prevent SFA from making a claim for adjustment on any item found not to have been in accordance with the provisions of this RFP and Contract and proposed specifications.
- x. agreeing that no child who participates in the NSLP, SBP, SMP, ASCP, CACFP, SSO, or SFSP will be discriminated against on the basis of race, color, national origin, sex, age, or disability.

B. Food Service

FSMC shall:

1. serve meals on such days and at such times as requested by SFA.
2. offer free, reduced-price, and full-price reimbursable meals to all eligible children participating in SFA's Food Service Programs.
3. offer free, reduced-price, and paid reimbursable meals to all eligible children, in order to offer a la carte food service.
4. provide meals that meet the meal pattern set by USDA.
5. promote maximum participation in the Programs.
6. provide the specified types of service in the schools/sites listed in Exhibit A.

7. sell on the premises only those foods and beverages authorized by SFA and only at the times and places designated by SFA, and that meet School Nutrition Program requirements.
8. make substitutions in the food components of the meal pattern for students with disabilities when their disability restricts their diet as stated in the students' Individual Educational Plans (IEPs) or 504 Plans and when the need for the substitution is certified by an appropriately licensed medical practitioner. Substitutions for disability reasons must be made on a case-by-case basis only when supported by a written statement of the need for substitutions that includes recommended alternate foods, unless otherwise exempted by FNS. Such statement must be signed by an appropriately licensed medical practitioner (reference: 7 CFR §210.10(g)(1); and SP 30-2015). The FSMC may make substitution for those nondisabled students who are unable to consume regular breakfast or lunch because of medical or other special dietary needs. Substitutions for students without disabilities who cannot consume the regular lunch or afterschool snacks because of non-disabling medical or other special dietary needs must be made on a case-by-case basis only when supported by a statement from a licensed medical authority except in the case of fluid milk substitutions (reference: 7 CFR §210.10(g)(2)). There will be no additional charge to the student for such substitutions. (USDA, *Accommodating Children with Special Dietary Needs in the School Nutrition Programs Guidance for School Food Service Staff.*)
9. make substitutions for fluid milk for non-disabled students who cannot consume fluid milk due to medical or special dietary needs. Substitutions shall be made when a medical authority or student's parent or legal guardian submits a written request for a fluid milk substitute identifying the medical or other special dietary need that restricts the student's diet. Approval for fluid milk substitutions shall remain in effect until the medical authority or the student's parent or legal guardian revokes such request in writing, or SFA changes its substitution policy for non-disabled students. Fluid milk substitutes shall provide nutrients as required by federal and state regulations. There will be no additional charge to the student for such substitutions. 7 CFR § 210.10(g) and 7 CFR § 220.8
10. not directly or indirectly restrict the sale or marketing of fluid milk at any time or in any place on school premises or at any school sponsored event. 7 CFR 210.21(e)
11. must comply with all state and local laws that affect school meal preparation and/or service.

C. Use of Advisory Group/ 21-day Cycle Menus

1. SFA shall establish and the FSMC shall participate in the formation, establishment, and periodic meetings of SFA advisory board composed of students, teachers, and parents to assist in menu planning. 7 CFR § 210.16(a) (8)
2. SFAs with no capability to prepare a cycle menu may, with ALSDE approval, require that each FSMC include a 21-day cycle menu, developed in accordance with the provisions of 7 CFR 210.10, with its proposal. The FSMC must adhere to the cycle for the first 21 days of meal service. Source of cycle menu must be noted on the RFP cycle menu. 7 CFR 210.16(b)(1).
3. FSMC shall serve meals that follow the 21-day menu cycles that meet the food specifications contained in Food Specifications, which is attached to this Contract as Exhibit E and fully incorporated herein, and that meet School Nutrition Program requirements. Additionally, SFA

- and FSMC shall agree to detailed Meal Specifications for each meal included in the 21-day cycle menus in Program Cycle Menus, which are attached to this Contract as Exhibit B and fully incorporated herein. At a minimum, such Meal Specifications shall include: (i) a recipe for each menu item that includes the total yield, portion size, ingredients and all USDA-required nutrient information; (ii) the identity of all branded or equivalent items that may be used in the meal; and (iii) whenever possible, the grade, style and condition of each food item and other information that indicates the acceptable level of quality for each food item. FSMC shall provide a detailed recipe for each Meal Specification identified in the NSLP menu cycle. A hard copy of these recipes shall be kept on file with SFA.
4. FSMC must follow: (i) the 21-day menu cycle and Meal Specifications developed by SFA for the NSLP; (ii) the 21-day menu cycle and Meal Specifications developed by SFA for the SBP; (iii) the 21-day menu cycle and Meal Specifications developed by SFA for the After School Snack Program; and (iv) the 21-day menu cycle and Meal Specifications developed by SFA for the Summer Program. 21-day menu cycle, can be furnished by the FSMC as part of this proposal, if approved by the SFA and menu meets all state and federal requirements.
 5. FSMC shall serve a la carte items that follow a 21-day menu cycle contained in Exhibit B and that meet all state and federal School Nutrition Program requirements. Additionally, SFA and FSMC shall agree to detailed a la carte specifications for each a la carte item included in the 21-day cycle menu; at a minimum, such specifications shall include:
 - (i) a recipe for each menu item that includes the total yield, portion size, ingredients and all USDA required nutrient information;
 - (ii) the identity of all branded or equivalent items that may be used in the meal; and
 - (iii) whenever possible, the grade, style and condition of each food item and other information that indicates the acceptable level of quality for each food item. FSMC shall provide a detailed recipe for each Meal Specification identified in the a la Carte menu cycle. A hard copy of these recipes shall be kept on file with SFA.
 6. FSMC may not change or vary the menus after the first menu cycle for the NSLP, SBP, ASCP, Summer Program or the a la carte items without written approval of SFA. SFA shall approve the menus no later than two weeks prior to service. (Reference 7 CFR §210.16 (b)(1) and 7 CFR §210.10) Any changes or variances requested by FSMC for substitutions to SFA menu of lower quality food items shall be justified and documented in writing by FSMC and approved by the SFA. FSMC must maintain documentation for substitutions and justification of lower quality food items for the records retention period that is applicable to food production records and shall make such documentation available to SFA, ALSDE and USDA for review upon request. (7 CFR 210.16(c) (1) and 7 CFR §210.23)
 7. FSMC must submit a FFVP (Fresh Fruits and Vegetable Program) cycle menu, if applicable based on the information contained in the 2004 Resource, *Fruits and Vegetables Galore: Helping Kids Eat More*, available from the FNS website, and as described in current guidance from USDA and ALSDE.

D. Purchases

1. Whether SFA conducts its own procurement or whether FSMC procures products on behalf of SFA, FSMC may not require any additional liability coverage, regardless of dollar value, beyond that which

SFA would require under procurements not involving FSMC.

2. FSMC shall document and track all FFVP expenses separately and make this documentation easily accessible for SFA or ALSDE review. Cost should be broken into two categories, operational cost and administrative cost.
 - a. Operational cost should cover the primary cost to run the FFVP to include purchase of fruits and vegetables, including the cost of pre-cut produce and delivery of charges; non-food items or supplies that are used in serving and cleaning; and salaries and fringe benefits for employees engaged in preparing and distributing fresh fruits and vegetables, and in maintaining a sanitary environment.
 - b. Administrative costs are used principally to support planning and managing the program. Administrative costs cannot exceed ten (10%) percent of SFA's FFVP costs. SFA is required to strictly scrutinize all requests for reimbursement of FFVP costs, to ensure that those costs are: (i) allowable; (ii) actual costs; (iii) fully documented; (iv) utilized to purchase fresh fruits and vegetables in accordance with applicable law and regulations; and (v) do not request reimbursement for more than 10% for administrative costs. ALSDE will monitor SFA and FSMC to ensure strict compliance with this provision.
3. SFA must check one of the purchasing options stated herein below:
(Note: SFA may not change the purchasing option once it has issued its RFP. Any change would be considered material and require SFA to either begin its procurement process again so that all offerors have the same opportunity or require SFA to pay FSMC using funds other than School Nutrition funds.):
 - a. SFA will do all purchasing for School Nutrition Program (SNP).
 - b. Except for Section P, Optional Requirements, Paragraph 2, SFA will do all purchasing for SNP.
 - c. For Fixed-Price Per Meal Contracts: FSMC will buy the beginning inventory, exclusive of commodities, from SFA.
4. SFA and FSMC acknowledge that, to the extent required by 7 CFR § 210.21 (d) and 2 CFR Part 200.322, SFA must the maximum extent practicable purchase only domestic foods and food products that are processed in the United States using over 51% domestic foods. FSMC must document, and SFA approve, the use of non-domestic food when competition reveals the cost of domestic food is significantly higher than non-domestic food and/or when food is not produced or manufactured in sufficient quantities domestically to be available in satisfactory quantities.
5. SFA and FSMC acknowledge that to the extent required by Alabama Education Code § 44.042(a), unless preempted by federal law or regulations, SFA or FSMC, if box c or d has been checked in paragraph 3 herein above, will use best efforts to purchase agricultural products produced, processed or grown in Alabama if the cost and quality are equal. The availability of Alabama products is expected by SFA. The Farm to School relationship should be enhanced, encouraged, and supported by any vendor supplying goods to SFA. Therefore, SFA will always give preference to items that can be delivered within 24 hours of harvest or production. It is encouraged that the FSMC

submit a list of locally grown, processed, and manufactured items available through them for consideration on a regular basis. The products must be labeled, and a good faith effort put forward by FSMC to purchase local first when available. In keeping with our mission of establishing relationships, we advocate for a fair price be paid to farmers to help make this important segment of our business sustainable. The evaluation and scoring of how these preferences will be calculated will be outlined in the proposal award criteria table.

E. USDA Foods

SFA shall:

1. retain title to all USDA Foods.
2. ensure that FSMC has credited the SFA for the value of all USDA Foods received for use in SFA's meal service in the school year. 7 CFR § 250.51(a) USDA Department of Defense (DoD) fresh fruit and vegetable program is considered USDA foods.
3. maintain responsibility for procuring processing agreements, private storage facilities, or any aspect of financial management relating to USDA Foods. 7 CFR 250.15
4. assure that the maximum amount of USDA Foods are received and utilized by FSMC. 7 CFR § 210.9(b)(15)
5. consult with the FSMC in the selection of USDA Foods; however, the final determination as to the acceptance of USDA Foods must be made by the SFA.

FSMC:

1. will conduct all activities relating to USDA foods for which it is responsible in accordance with 7 CFR Parts 250, 210, 220, 225 and 226, as applicable. Shall ensure that all federally USDA foods received by SFA and made available to the FSMC accrue only to the benefit of the school food authority's nonprofit school food service and are fully utilized therein (7 CFR § 210.16(a)(6)).
2. shall accept and use all USDA Foods ground beef and ground pork products, and all processed end products, without substitution, in SFA's Food Service Program. Upon termination of this Contract, or if this Contract is not extended or renewed, FSMC must return all unused USDA ground beef, pork and processed end products to SFA. 7 CFR § 250.53.
3. agrees to accept and use all other USDA foods in SFA's food service. FSMC **(insert may or may not) (insert use or substitute)** commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA foods, in SFA's Food Service Program. Upon termination of this Contract, FSMC must, at SFA's discretion, return other unused USDA foods to SFA. . The value of other unused USDA Foods shall be based on the market value based on the value in USDA's WBSCM (Web Based Supply Chain Management or current system) at the time the USDA Foods were received by the SFA. 7 CFR 250.51(a).
4. is prohibited from entering into any processing contracts utilizing USDA foods on behalf of SFA. FSMC agrees that any procurement of end products by FSMC on behalf of SFA will be in compliance with the requirements in subpart C of 7 CFR Part 250 and with the provisions of SFA's processing agreements. All refunds received from processors must be credited to SFA's Nonprofit School Food

Service Account. (7 CFR § 250.53). Will comply, as applicable, with 7 CFR 250.51 and 250.52 concerning payment of processing fees or submittal of refund requests to a processor on behalf of SFA, or remittance of refunds for the value of USDA foods in processed in products to SFA, in accordance with requirements in 7 CFR, part 250 subpart C.

5. shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA foods.
6. shall credit SFA for the value of all USDA foods received for the use in SFA's meal service in the school year, including both entitlement and bonus foods, and including the value of USDA foods contained in processed end products. The manner in which FSMC shall account for the value of USDA foods is as follows: (7 CFR § 250.51)

 Fixed-meal rate: FSMC must subtract from SFA's monthly bill/invoice the market value of all USDA foods received for use in SFA's food service. The market value is based on the allocated value provided to SFA through ALSDE's food distribution program, and/or through the current data entry location, WBSCM (Web Based Supply Chain Management) at the time the USDA Foods are received by the SFA.
7. will comply with 7 CFR 250.14(b) and 250.52 concerning storage and inventory management of USDA foods in accordance with 7 CFR 250.52. FSMC will maintain accurate and complete records with respect to the receipt; use/disposition, storage, and inventory of USDA foods and ensure that its system of inventory management will not result in SFA being charged for USDA foods. Failure by FSMC to maintain the required records under this Contract shall be considered prima facie evidence of improper distribution or loss of USDA foods. At the discretion of the SFA, a monthly inventory report or velocity report may be required to show the usage of the USDA Foods.
8. shall allow SFA and/or any state or federal representative or auditor, including the Comptroller General and USDA, or their duly authorized representatives, to perform onsite reviews of FSMC's food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA foods. (7 CFR § 250.53(a) (10))
9. shall maintain records to document its compliance with requirements relating to USDA foods in accordance with 7 CFR § 250.54(b). (7 CFR § 250.53(a) (11))
10. acknowledges that renewal of this Contract is contingent upon the fulfillment of all contract provisions herein relating to USDA foods. (7 CFR § 250.53(a) (12))
11. acknowledges that in a Fixed-meal rate contract, the proposed rate per meal must be calculated as if no USDA foods were available.
12. is prohibited from cashing out USDA Foods and providing a credit to the SFA for USDA Foods (7CFR 250.13)

F. Employees

1. FSMC shall provide and pay a staff of qualified management (and operational) employees assigned to duty on SFA's premises for efficient operation of the Programs.
2. SFA must designate if current SFA employees, including site and area managers as well as any other staff, will be retained by SFA or be subject to employment by the FSMC. This must agree with the information reported in the List of Charts and Other Attachments, Chart 4, which is attached to this Contract as Exhibit D and fully incorporated herein and the Schedule of FSMC Employees, which is attached to this Contract as Exhibit G and fully incorporated herein.

Employees retained by:

- SFA (See Exhibit D, Chart 4)
- FSMC (See Exhibit G)
- Both SFA and FSMC (See Exhibit D, Chart 4 and Exhibit G)

(If SFA is transitioning employees to FSMC payroll, each position to be transitioned and date of anticipated transition shall be identified in Section O, *Optional Requirements to Be Included* herein)

For any employees retained by FSMC, SFA shall provide in Exhibit G a list of each FSMC food service position and the minimum qualifications acceptable to SFA for each position.

3. Any food service position not identified in the above-stated Exhibits shall be an employee of SFA. Such employees shall be supervised on SFA's behalf by FSMC management employees; provided, however, that SFA shall retain the exclusive right to control the terms and conditions of the employment of such supervisory and non-supervisory employees, including, but not limited to, control over their hiring, firing, promotion, discipline, levels of compensation and work duties.
4. If SFA is sharing FSMC employees with other SFAs, SFA shall identify in Chart 9 of the List of Charts and Other Attachments, which is attached to this Contract as Exhibit D and fully incorporated herein, each SFA with whom the FSMC employee is to be shared and state the percentage of time each employee will spend with each SFA.
5. SFA shall have final approval regarding the hiring of _____ (*insert title* of the highest ranking FSMC employee assigned to SFA's Food Service Program) (Example: The Food Service Director). If the program director/Food Service Director is an employee of the FSMC, then the SFA must also designate an employee of the SFA as program director. The SFA program director is responsible for maintaining oversight and responsibility for planning, administering, implementing, monitoring, and evaluating school meal programs. Both the FSMC director and the SFA director must meet hiring standards and training standards as indicated at http://www.fns.usda.gov/school-meals/professional_standards. The hours of annual required training for directors applies to both FSMC director and SFA director. The FSMC director must provide SFA with documentation of training and subject matter of each training.
6. FSMC shall comply with all wage and hours of employment requirements of federal and state laws. 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 Food Service Director. FSMC shall also be responsible for the hiring and termination of non-management staff who are employees of FSMC.

7. If provided for in the Proposal, SFA and FSMC may transition SFA's food service employees to FSMC's payroll. If transition occurs, FSMC shall give first consideration to current employees of SFA or incumbent contractor when hiring employees to provide services pursuant to this Contract, but FSMC shall not be obligated to hire such employees. SFA shall not pay cost of transferring SFA employees to FSMC payroll.
8. FSMC shall provide Workers' Compensation coverage for its employees, as required by law.
9. FSMC shall instruct its employees to abide by the policies, rules, and regulations with respect to use of SFA's premises as established by SFA and which are furnished in writing to FSMC.
10. FSMC shall maintain its own personnel and fringe benefits policies for its employees, subject to review by SFA.
11. FSMC shall assign to duty on SFA's premises only employees acceptable to SFA.
12. Staffing patterns, except for the Food Service Director, shall be mutually agreed upon.
13. FSMC will remove any employee who violates health requirements or conducts himself or herself in a manner that is detrimental to the well-being of the students, provided such request is not in violation of any federal, state or local employment laws. In the event of the removal or suspension of any such employee, FSMC shall immediately restructure the food service staff to avoid disruption of service.
14. FSMC shall cause all its employees assigned to duty on SFA's premises to submit satisfactory evidence of compliance with all health regulations to SFA upon request.
15. To the extent and in the manner required by state law, FSMC shall perform a security (background) check on any FSMC employee that will be working at the SFA's location.
16. FSMC shall not blacklist or require a letter of relinquishment or publish or cause to be published or blacklisted any employee of FSMC or SFA discharged from or voluntarily leaving the service of FSMC or SFA with intent of and for the purpose of preventing such employee from engaging in or securing similar or other employment from any other corporation, company, or individual.
17. Both SFA and FSMC shall ensure that their employees adhere to the professional standards and continuing education training requirements as required by federal regulations, codified at 7 CFR Part 210.30, throughout the initial term and all renewals of this Contract. School food authorities that operate the National School Lunch Program, or the School Breakfast Program (7 CFR Part 220), must establish and implement professional standards for school nutrition program directors, managers, and staff, as defined in 7 CFR Part 210.2. Both SFA and FSMC shall establish and implement the foregoing standards and requirements under this Contract. The FSMC must provide the SFA with documentation of training hours and subject matter of trainings for all employees.
18. ***(Optional Clause – Addition determined by SFA. Delete if not applicable. Before SFA includes***

this clause in its RFP and Contract, SFA should determine whether it may return to a self-operated food service. Presence of this clause may prevent SFA from hiring food service directors or other employees if it returns to a self-operated program.)

Neither SFA nor FSMC shall during the Term of this Contract or for one (1) year thereafter solicit to hire, hire or contract with the other's employees who manage any of the Programs or any other employees or who are highly compensated employees. In the event of such breach of this clause, the breaching party shall pay, and the injured party shall accept as liquidated damages, an amount equal to twice the annual salary of the subject employee. Such liquidated damages may not be paid from the Program funds. This provision shall survive the termination of this Contract.

G. Use of Facilities, Inventory, Equipment, and Storage

1. SFA will make available, without any cost or charge to FSMC, area(s) of the premises in which FSMC shall render its services. SFA shall have full access to the food service facilities at all times and for any reason, including inspection and audit.
2. Non-expendable supplies and capital equipment: At the commencement, termination or expiration of this Contract, FSMC and SFA shall take a physical inventory of all non-expendable supplies and capital equipment owned by SFA, including, but not limited to, silverware, trays, chinaware, glassware and kitchen utensils and all furniture, fixtures, and dining room equipment utilized in SFA's Food Service Program. FSMC and SFA shall mutually agree on the usability of such supplies and equipment and, at the expiration or termination of this Contract, FSMC shall surrender to SFA all non-expendable supplies and capital equipment in the condition in which it was received except for ordinary wear and tear, damage by the elements and except to the extent that said premises or equipment may have been lost or damaged by vandalism, fire, flood or other acts of God, or theft by persons other than employees of FSMC except through the negligence of FSMC or its employees, or for any other reason beyond the control of FSMC. FSMC and SFA will sign a summary of the beginning inventory at the commencement and at the expiration or termination of this Contract and keep a copy of each on file with this Contract.
3. Food and Supplies: At the commencement and at the expiration or termination of this Contract, FSMC and SFA shall jointly undertake a beginning and closing inventory of all food and supplies. Commodities shall also be inventoried by a separate inventory. FSMC and SFA shall determine whether any portion of the beginning inventory is not suitable for SFA's continued use. Such inventory, when completed, shall become a part of this Contract by incorporation. FSMC shall be responsible for accounting for any difference between the beginning inventory and the ending inventory and shall compensate SFA for any shortfall in inventory not arising from:
(1) normal wear and tear; or (2) theft, fire or other casualty loss beyond the control of FSMC and not arising from the negligence of FSMC or its agents. The value of the inventories, except for commodities inventories, shall be determined by invoice cost. The value of commodities inventories shall be the market value, which is the value at the time the USDA-donated foods are received by SFA.
4. FSMC shall:
 - a. maintain the inventory of silverware, chinaware, kitchen utensils and other operating items necessary for the food service operation and at the inventory level specified by SFA. Notify

SFA of any equipment belonging to FSMC on SFA premises within ten days of its placement on SFA premises.

- b. maintain adequate storage procedures, inventory and control of USDA Foods in conformance with SFA's agreement with ALSDE.
- c. provide SFA with keys for all food service areas secured with locks.
- d. not remove any SFA owned equipment from SFA's premises.
- e. comply with all SFA building rules and regulations.
- f. surrender to SFA all of SFA's equipment and furnishings in good repair and condition, reasonable wear and tear excepted upon termination of this Contract
- g. not use SFA's facilities to produce food, meals or services for third parties without the approval of SFA.
 - a. If such usage is mutually acceptable, there shall be a written ,signed and dated agreement that stipulates the fees to be paid by FSMC to SFA for such facility usage.
 - b. Such usage may not result in a cost to the Non-profit Food Service Account.
- h. surrender to SFA all of SFA's equipment and furnishings used in SFA's Food Service Program in good repair and condition, with reasonable wear and tear expected, upon termination or expiration of this Contract.

5. SFA shall:

- a. replace expendable equipment and replace, repair and maintain nonexpendable equipment except when damages result from careless use by the employees of FSMC.
- b. provide FSMC with local landline telephone service, water, gas and electric service for the food service program.
- c. furnish and install any equipment and/or make any structural changes to the facilities needed to comply with federal, state, or local laws, ordinances, rules and regulations.
- d. be responsible for any losses, including USDA Foods, which may arise due to equipment malfunction or loss of electrical power not within control of FSMC.
- e. is not responsible for loss or damage to equipment owned by FSMC and located on SFA premises.
- f. shall retain title to all SFA food and supplies in SFA during the course of this Contract.
- g. conduct a physical inventory of all equipment, food and supplies owned by the SFA upon the termination or expiration of this Contract.

H. Health Certifications/Food Safety/Sanitation

1. FSMC shall:

- a. maintain, in the storage preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations and comply with the food safety inspection requirement of § 210.13(b). 7 CFR § 210.9(b)(14)
- b. maintain all State of Alabama and local health certification for any facility outside the school in which it proposes to prepare meals and shall maintain this health certification for the duration of this Contract. 7 CFR § 210.16(c)(2)
- c. obtain and post all licenses and permits as required by federal, state, and/or local law.

- d. comply with all State of Alabama and local and sanitation requirements applicable to the preparation of food. 7 CFR 210.16(a)(7)
 - e. adhere to the food safety program implemented by the SFA for all preparation and service of school meals, using a Hazard Analysis and Critical Control Point (HACCP) system as required by the Child Nutrition by 42 U.S.C. § 1758(h)(5)(A).
 - f. allow at least two health inspections to be conducted by the Health Department at every site involved in school meal preparation and/or service. Provide the SFA with a copy of the health inspection report within 5 days after each health department visit.
2. SFA shall:
- a. maintain applicable health certification.
 - b. ensure that FSMC complies with all applicable state and local regulations pertaining to sanitation, preparing or serving meals at a SFA facility. 7 CFR § 210.16(a)(7)
 - c. provide sanitary toilet and hand washing facilities for the employees of FSMC as required by state and local sanitation requirements.
3. SFA and FSMC will follow the responsibility for tasks as designated in Exhibit D, Chart 2, Designation of Program Responsibilities.
- a. Any cleaning or sanitation that is not specifically assigned herein shall be the responsibility of SFA.

I. Financial Terms

1. 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, catering, à la carte, vending, concessions, contract meals, grants and loans shall be credited to the Non-profit School Food Service Fund on a daily basis. Any profit or guaranteed return shall remain in SFA's Non-profit School Food Service Fund.
2. All facilities, equipment, and services to be provided by SFA shall be provided at SFA's expense.
3. Computation of Meal Equivalency Rate (as applicable in fixed-price contracts):

Meal Equivalency Rate : the sum of the total reimbursement received for each lunch meal served and claimed. The equivalency factor shall remain fixed for the term of the Contract and all renewals.

MEAL EQUIVALENCY RATE

Lunch Meal Equivalency Rate:

Current Year Federal Free Rate of Reimbursement: \$ _____

Current Year Additional Reimbursement Rate: (6-cent or 7-cent),if applicable \$ _____

Current Year Value of USDA Entitlement Donated Foods: \$ _____

Current Year Value of USDA Bonus Donated Foods (If Applicable): \$ _____

Total Meal Equivalent Rate: \$ _____

4. Payment Terms/Method

SFA must select the following option for a fixed price contract :

- a. (Sealed Proposals) Fixed-meal Rate—the FSMC must propose and will be paid at a fixed rate per meal/Meal Equivalent. The proposed amount should be based on assumption that no donated commodities will be available for use. The method by which FSMC will use and account for USDA-donated foods shall be in accordance with the Federal regulations and Section E as stated above.

To be completed by the FSMC:

Fixed Price Per Meal/Meal Equivalent:

Breakfast \$ _____

Lunch \$ _____

Snack \$ _____

A la Carte \$ _____

5. The fixed price per meal/meal equivalent may be increased on an annual basis by the Yearly Percentage Change in the Consumer Price Index for All Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Food Eaten Away from Home (CPI).

6. Such increases shall be effective on a prospective basis on each anniversary date of this Contract and will be allowed only if approved in advance by the SA and SFA. CPI Fee increases for the upcoming Contract renewal year must be submitted to SFA through the renewal letter received from the SFA of each year. No other fee increases will be allowed. A renewal letter will be sent to the vendor by the SFA, and vendor may note the price increase on the signed renewal letter and return it to the SFA. The SFA must then send it to the SA for written approval before execution of the renewal.
7. For the purpose of computing the foregoing meal counts, the number of National School Lunch Program, School Breakfast Program, Afterschool Care Snack Program and Summer Program meals served to children shall be determined by the Meal Equivalency Formula based on actual meal counts. Any meal not covered by the prices indicated in #3 above will be determined by using the following formula:
 - All student reimbursable lunches are counted as one meal equivalent for each lunch served.
Number of reimbursable x 1
 - Full second student lunches can be counted as a la carte income or as an adult lunch served.
 - Lunches eaten by school food service employees at no charge for the meal are considered in kind and should not be counted as a meal equivalent.
 - Three breakfasts are the equivalent of two lunches.
Breakfast Meal Equivalent = Number of breakfasts served x .66 (conversion factor)
 - Three snacks are the equivalent of one lunch.
Snack Meal Equivalent = Number of snacks served divided by 3
 - All other food sales, a la carte income, catered income and vending income will be divided by the Meal Equivalency Rate.
8. No payment will be made to FSMC for meals that (7 CFR 210.10, 210.16, and 220.8):
 - a. are spoiled or unwholesome at the time of delivery;
 - b. do not meet detailed specifications as developed by SFA for each food component in the meal pattern; or
 - c. do not otherwise meet the requirements of this Contract.
9. Payment Terms/Method: FSMC shall invoice SFA within ____ (**insert # of days**) days after the end of each Accounting Period for the total amount of SFA's financial obligation for that Accounting Period.
10. No interest or finance charges that may accrue under this Contract may be paid from SFA's Nonprofit School Food Service Account.
11. FSMC must:
 - a. 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.
 - b. indemnify and hold SFA harmless for all claims arising from payment of such taxes and fees.
12. SFA shall not be responsible for any expenditure incurred by FSMC before execution of this Contract and approved in writing by ALSDE.
13. Insert **IF** guaranty is included in RFP: (**Delete if not applicable**)

- a. SFA and FSMC shall cooperate to ensure that SFA's Food Service Program is operated in accordance with SFA's Food Service Budget.
- b. In the event that FSMC's operation of SFA's Food Service Program results in a deficit greater than the projected deficit stated in SFA's Food Service Budget or a return that is less than the projected return stated in the Food Service Budget, FSMC shall within 30 days pay SFA a guaranty payment as provided for by exhibit H "Schedule of SFA Terms for FSMC Guaranty."
- c. In the event that FSMC pays a guaranty, FSMC may not recover the guaranty from SFA in subsequent Contract years.

J. Books and Records

1. FSMC shall maintain such records (supported by invoices, receipts, or other evidence) as 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 _____ (***insert day of the month determined by the SFA***) day following the month in which services were rendered. Participation records, including claim information by eligibility category, shall be submitted no later than the _____ (***insert day of the month determined by the SFA***) day following the month in which services were rendered. SFA shall perform edit checks on the participation records provided by the FSMC prior to the preparation and submission of the claim for reimbursement.
2. FSMC shall maintain records at SFA's premises to support all allowable expenses appearing on the monthly operating statement. These records shall be kept in an orderly fashion according to expense categories.
3. FSMC shall provide SFA with a year-end statement.
4. FSMC shall make its books and records pertaining to the Contract available, upon demand, in an easily accessible manner for a period of five years after the final claim for reimbursement for the fiscal year to which they pertain. The books and records shall be made available for audit, examination, excerpts, and transcriptions by SFA and/or any state or federal representatives and auditors. If audit findings regarding FSMC's records have not been resolved within the five-year record retention period, the records must be retained beyond the five-year period for as long as required for the resolution of the issues raised by the audit. (Reference 7 CFR §210.9(b)(17) and 2 CFR §200.333).
5. Authorized representatives of SFA, ALSDE, USDA and USDA's Office of the Inspector General (OIG) shall have the right to conduct on-site or off-site administrative reviews and procurement reviews of the food service operation.
6. FSMC shall not remove federally required records from SFA premises upon the expiration or termination of this Contract.

K. Term and Termination

1. If, at any time, SFA shall make a reasonable decision that adequate funding from federal, state or local sources shall not be available to enable SFA to carry out its financial obligation to FSMC, then SFA shall have the option to terminate this Contract by giving 30 days written notice to FSMC.

2. In the event either party commits material breach of this Contract, the non-breaching party shall give the breaching party written notice specifying the default, and the breaching party shall have 30 days within which to cure the default. If the default is not cured within that time, the non-breaching party shall have the right to then terminate this Contract for cause by giving 30 days written notice to the breaching party. If the breach is remedied prior to the proposed termination date, the non-breaching party may elect to continue this Contract. Notwithstanding the foregoing termination clause, in the event that the breach concerns sanitation problems, the failure to maintain insurance coverage as required by this Contract, failure to provide required periodic information or statements or failure to maintain quality of service at a level satisfactory to SFA, SFA may terminate this Contract immediately.
3. If either party is prevented from performing its obligations under this Contract by war, acts of public enemies, fire, flood or acts of God (individually each known as a Force Majeure Event), or an unprecedented national disaster or pandemic, that party shall be excused from performance for the period of such Force Majeure Event exists.
4. In the event of FSMC's nonperformance under this Contract or the violation or breach of the terms of this Contract, SFA shall have the right to pursue all available administrative, contractual, and legal remedies against FSMC.
5. FSMC shall promptly pay SFA the full amount of any meal over claims, disallowed costs or other fiscal actions which are attributable to FSMC's actions hereunder, including those overclaims based on review or audit findings that occurred during the Effective Dates of original and renewal Contracts.
6. SFA is the responsible authority without recourse to USDA or ALSDE for the settlement and satisfaction of all contractual and administrative issues arising in any way from this Contract. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims or other matters of a contractual nature.
7. Upon service ending by either Contract expiration or termination, it shall be incumbent upon the FSMC to cooperate fully with the replacement FSMC or SFA if SFA is returning to a self-operated food service and with ALSDE to ensure a smooth and timely transition to the replacement FSMC or SFA.
8. Either party may terminate this Contract for cause by providing sixty(60) days prior written notice to the other party. &CFR 210.16(d)

L. Insurance

(SFA MUST evaluate and determine acceptable insurance limits for this section.)

1. FSMC shall maintain the insurance coverage set forth below for each accident provided by insurance companies authorized to do business in the state of Alabama .
A Certificate of Insurance of FSMC's insurance coverage indicating these amounts must be submitted at the time of *award*.

2. **The information below must be completed by SFA:**

a. Comprehensive General Liability—includes coverage for:

- 1) Premises—Operations
- 2) Products—Completed Operations
- 3) Contractual Insurance
- 4) Broad Form Property Damage
- 5) Independent Contractors
- 6) Personal Injury

\$ _____ Combined Single Limit.

b. Automobile Liability coverage \$ _____ Combined Single Limit.

c. Workers' Compensation—Statutory; Employer's Liability with a combined single limit of \$ _____

d. Excess Umbrella Liability with a combined single limit of \$ _____

3. SFA shall be included as additional insured on General Liability, Automobile, and Excess Umbrella policies.
4. The contract of insurance shall provide for notice to SFA of cancellation of insurance policies 30 days before such cancellation is to take effect.
5. Notwithstanding any other provision of this Contract, SFA shall not be liable to FSMC for any indemnity.

M. Trade Secrets and Proprietary Information

1. During the term of this Contract, FSMC may grant to SFA a nonexclusive right to access certain proprietary materials of FSMC, including menus, recipes, signage, food service surveys and studies, management guidelines and procedures, operating manuals, software (both owned by and licensed by FSMC) and similar compilations regularly used in FSMC business operations (Trade Secrets).
 - a. SFA shall not disclose any of FSMC's Trade Secrets or other confidential information, directly or indirectly, during or after the term of this Contract.
 - b. SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of FSMC.
 - c. All trade secrets and other confidential information shall remain the exclusive property of FSMC and shall be returned to FSMC immediately upon termination of this Contract.
 - d. SFA shall not use any confusingly similar names, marks, systems, insignia, symbols, procedures, and methods.
 - e. Without limiting the foregoing and except for software provided by SFA, 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 FSMC and not SFA.
- f. Furthermore, SFA's access or use of such software shall not create any right, title, interest, or copyright in such software and SFA shall not retain such software beyond the termination of this Contract.
 - g. In the event of any breach of this provision, FSMC shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available.
 - h. All of SFA's obligations under this section are subject to SFA's obligations under the Alabama Public Information Act and any other law that may require SFA to use, reproduce or disclose FSMC confidential information.
 - i. This provision shall survive termination of this Contract.
2. Any discovery, invention, software or program, the development of which is paid for by SFA, shall be the property of SFA to which ALSDE and USDA shall have unrestricted rights.
 3. During the term of this Contract, FSMC may have access to SFA confidential information (SFA Confidential Information), including student identifiable confidential information that is protected from disclosure by federal law (42 U.S.C. §1758(b)(6)).
 - a. FSMC agrees to hold any SFA Confidential Information in confidence during the term of this Contract and thereafter.
 - b. FSMC further agrees that FSMC has no independent rights to this information and will not make any SFA Confidential Information available in any form to any third party or use Confidential Information for any purpose other than the performance of FSMC's obligations under this Contract.
 - c. FSMC will use reasonable security measures to protect SFA's Confidential Information from unauthorized access, use or disclosure and ensure that SFA's Confidential Information is not disclosed or distributed in violation of the terms of this Contract.
 - d. Immediately upon the termination or expiration of this Contract, FSMC shall return to SFA any copies of SFA's Confidential Information provided to FSMC by SFA, and FSMC will destroy all other copies of SFA's Confidential Information in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials.

N. Certifications

FSMC shall execute and comply with the following Certifications:

- Debarment certification shall be provided by:
 - a. the SFA providing the page from www.sam.gov and maintaining such record with other supporting documentation to demonstrate that the SFA had referenced *The System for Award Management*; or
 - b. signing this Agreement, the FSMC certifies that neither it nor any principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal department or agency or by the State of Alabama ; or

c. submitting the Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts form (Exhibit N);

- Anti-collusion Affidavit, which is attached to this Contract as Exhibit J and fully incorporated herein;
- Certification Regarding Lobbying, which is attached to this Contract as Exhibit K and fully incorporated herein; and Standard Form-LLL, Disclosure Form to Report Lobbying, when applicable, which is attached to this Contract as Exhibit L and fully incorporated herein;
- Discount and Rebate Certification, which is attached to this Contract as Exhibit M and fully incorporated herein.

O. Miscellaneous

1. EMERGENCY NOTIFICATIONS.

- a. SFA shall notify FSMC of any interruption in utility service of which it has knowledge. Notification will be provided to:

Name (FSMC information): _____

Title: _____

Telephone number: _____

Alternate telephone number: _____

- b. SFA shall notify FSMC of any delay in the beginning of the school day or the closing of school(s) due to snow or other emergency situations. Notification will be provided to:

Name (FSMC information): _____

Title: _____

Telephone: _____

Alternate telephone number: _____

2. **GOVERNING LAW.** This Contract is governed by and shall be construed in accordance with Alabama and federal law.

3. **HEADINGS.** All headings contained in this Contract are for convenience of reference only, do not form a part of this Contract, and shall not affect in any way the meaning or interpretation of this Contract.

4. INCORPORATION/AMENDMENTS.

This Request for Proposal and Contract, which includes the attached Exhibits A – M and FSMC's proposal documents (collectively the Contract Documents), contain the entire agreement between the parties with relation to the transaction contemplated hereby, and there have been and are no covenants, agreements, representations, warranties or restrictions between the parties with regard thereto other than those specifically set forth in this Contract.

In the event of a conflict between or among any of the terms of the Contract Documents, such conflicts shall be resolved by referring to the Contract Documents in the following order of priority:

- (i) SFA's Request for Proposal Solicitation
- (ii) FSMC proposal documents.
- (iii) SFA/FSMC final RFP/Contract

The SFA alone must be responsible, in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements. 2 CFR 200.318(k)

No modification or amendment to this Contract shall become valid until a contract cost analysis is performed when exceeding the simplified acquisition threshold per 2 CFR 200.324(a) and approved in writing by ALSDE prior to execution and signed by both parties.

5. **INDEMNITY.** Except as otherwise expressly provided in this Contract, FSMC shall defend, indemnify, and hold SFA harmless from and against all claims, liability, loss and expenses, including reasonable collection expenses, attorneys' fees and court costs that may arise because of the actions of FSMC, its agents or employees in the performance of its obligations under this Contract, except to the extent any such claims or actions result from the negligence of SFA, its employees or agents. This clause shall survive termination or expiration of this Contract.
6. **NOTICES.** All notices, consents, waivers or other communications which are required or permitted hereunder, except those required under Emergency Notification herein above, shall be sufficient if given in writing and delivered personally, or by sending a copy thereof by first class or express mail, postage prepaid, courier service, charges prepaid or, as follows (or to such other addressee or address as shall be set forth in a notice given in the same manner):
- To SFA: _____
- To FSMC: _____
- If such notice is sent by mail or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or courier service for delivery to that person and when received. All notices will be time and date stamped when received and kept on file.
7. **SEVERABILITY.** If one or more provisions of this Contract, or the application of any provision to either party or circumstance is held invalid, unenforceable or illegal in any respect, the remainder of this Contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.
8. **SILENCE, ABSENCE OR OMISSION.** 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 SFA are to be used.
9. **SUBCONTRACT/ASSIGNMENT.** No provision of this Contract shall be assigned or subcontracted without prior written consent of SFA, except that FSMC may, after notice to SFA, assign this Contract in its entirety to

an affiliated company or wholly owned subsidiary without prior written consent and without being released from any of its responsibilities hereunder.

10. **WAIVER.** The failure of FSMC or SFA to exercise any right or remedy available under this Contract upon the other party's breach of the terms, covenants or conditions of this Contract or the failure to demand prompt performance of any obligation under this Contract shall not be deemed a waiver of such right or remedy; of the requirement of punctual performance; or of any subsequent breach or default on the part of the other party.
11. **ALSDE REVIEW.** This Contract along with any amendments, addendums or renewals is not effective until it is approved, in writing, by ALSDE. Contract cost and price analysis may be applicable (subject to simplified acquisition threshold) with any contract modifications in 2 CFR 200.324(a).

P. *Optional Requirements to Be Included, if applicable: (delete if not applicable)*

(To be completed by SFA)

(Note: if SFA is seeking improvements to its food service equipment, SFA must state an amount in #1. SFA and FSMC will not be able to incorporate into their agreement by any method, including an additional exhibit or guaranty terms that FSMC will provide items without SFA stating what they are seeking in the RFP. Also, please note that inserting \$4,999.00 to avoid the \$5,000.00 limit will not allow SFA to later increase that amount.) The scope of this Contract shall include these additional services.

Check options that apply.

1. Financing of Certain Equipment

(a) FSMC may finance equipment for SFA's Food Service Program in an amount not to exceed \$_____ annually. The SFA will follow its usual procurement procedures for any transaction that is financed by FSMC; FSMC cannot be the vendor for any procurement that it finances for SFA. SFA shall repay any financing provided by FSMC at the rate specified when the equipment was purchased, which sum shall be charged to SFA as a Direct Cost to the food service program. Ownership of the equipment shall at all times remain with SFA. Any equipment costing \$5,000 or more must be approved in writing in advance by ALSDE.

(b) If the Contract expires or is terminated prior to the complete repayment of the investment, SFA shall, on the expiration date, or within five days after receipt by either party of any notice of termination under this Contract, either **(SFA must check appropriate box)**:

1) Deliver the equipment or other items funded by the investment to the FSMC in full release of the unpaid balance.

OR

2) Retain the property and continue to make payments in accordance with the amortization schedule. (Reference. Contracting with Food Service Management Companies: Guidance for School Food Authorities, May 2016)

- 2. (b). Information Technology Systems (All fees must be part of the fixed-meal rate.) FSMC shall provide, install, deploy into production, operate, and maintain and support an information technology system (the IT System) (which may include, but not be limited to, hardware, owned and licensed software and systems support) necessary for the operation of SFA's Food Service Programs. SFA shall provide, at its expense, a suitable environment, including such heat, air conditioning, phone (landline) and utility service as may be reasonably required for the installation, implementation, operation and maintenance of the IT System. FSMC's IT System shall provide the following services: _____.
(SFA must insert functions SFA desires the IT System to perform for SFA and FSMC should insert functions their IT System will perform.)

- 3. SFA Transition Employee Positions and Dates of Transition. (SFA shall identify each employee position to be transitioned to FSMC's payroll, anticipated date of transition, and manner in which transition shall occur).

- 4. Other (To be identified by SFA before issuing RFP)

Cost-Reimbursable Contract

Use this section in *addition* to the other sections of the RFP, if applicable.
(Delete this section if not applicable.)

Section D: Purchases

1. If FSMC is procuring goods or services that are being charged to SFA under a ***cost-reimbursable*** contract:
 - a. FSMC may not serve as a vendor.
 - b. SFA shall ensure that FSMC fully discloses all discounts, rebates, Applicable Credits, allowances, and incentives received by the FSMC. Allowable costs will be paid from the nonprofit school food service account to the FSMC net of all discounts, rebates and other applicable credits accruing to or received by the FSMC or any assignee under the Contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority.
 - c. If FSMC receives a discount, rebate, applicable credit, allowance, or incentive, FSMC must disclose and return to the SFA nonprofit school food service account the full amount of the discount, rebate, or Applicable Credit that is received based on the purchases made on behalf of SFA, and appropriate records to ensure compliance must be maintained by FSMC. 7 CFR Part 210.21(f)(l)(i).
 - d. FSMC's determination of its allowable costs must be made in compliance with the applicable Department and Programs regulations (Reference 2 CFR Part 200).
 - e. FSMC must (1) separately identify, for each cost submitted for payment to the school food authority, the amount of an Allowable Cost and the amount that is unallowable, or (2) FSMC must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and that records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for Contract cost determination and verification. In a cost-reimbursable contract, the costs for a la carte are allowed to be reimbursed.
 - a. f. FSMC shall identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to SFA for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit.
 - f. The method by which FSMC shall report discounts, rebates and other Applicable Credits allocable to
 - i. the Contract that is not reported before the conclusion of the Contract is
 - ii. _____ (FSMC must state method and frequency (preferably monthly) of reporting here).
 - g. All discounts, rebates, allowances, and incentives must be returned to SFA by _____
 - a. (insert timeframe that is beneficial to SFA, however, time frame may be no less than on the program year, which runs from July 1 through June 30).

- h. Under a cost-reimbursable contract, FSMC shall maintain documentation of costs and discounts, rebates and other Applicable Credits consistent with federal, state and local regulations, and shall furnish such documentation upon request to the SFA, or state or federal representatives or auditors.

2. SFA must check the purchasing option stated herein below:

For *Cost-Reimbursable* Contracts: FSMC bills SFA for foods when purchased. At the option of SFA, FSMC will purchase back unused supplies from SFA at the termination of the Contract in order to prevent overbuying (if FSMC bills SFA for supplies as purchased, rather than as used).

Section E: USDA Foods

1. FSMC shall credit SFA for the value of all USDA foods received for the use in SFA's meal service in the school year, including both entitlement and bonus foods, and including the value of USDA foods contained in processed end products. The manner in which FSMC shall account for the value of USDA foods is (SFA must check box for type of contract it is seeking) (7 CFR § 250.51):

Cost-reimbursable: FSMC must itemize, in a separate line item in the regular monthly billing to SFA, the savings resulting from use of USDA foods based on the market value of all USDA foods received for use in SFA's food service. The market value is based on the allocated value provided to the SFA through either ALSDE's food distribution program, through the current data entry location such as WBSCM (Web Based Supply Chain Management).

2. FSMC will comply with 7 CFR 250.14(b) and 250.52 concerning storage and inventory management of USDA foods in accordance with 7 CFR 250.52. FSMC will maintain accurate and complete records with respect to the receipt; use/disposition, storage, and inventory of USDA foods and as part of the **cost-reimbursable contract the FSMC** will ensure that its system of inventory management will not result in SFA being charged for USDA foods. Failure by FSMC to maintain the required records under this Contract shall be considered prima facie evidence of improper distribution or loss of USDA foods.

Section I: Financial Terms

Payment Terms/Method. SFA must select the following option for a cost reimbursable contract:

Cost-Reimbursable contract—the FSMC will be paid based on the Direct Cost incurred plus any fixed fees. The value of commodities used must be itemized in the regular monthly billing to the SFA to document savings resulting from commodity usage. The values are to be determined in accordance with section F of the Standard Terms and Conditions herein above.

(1) All program expenses not otherwise defined in the Contract will be assumed to be covered by the FSMC under the General and Administrative Expense Fee. All indirect and overhead costs must be included in the General and Administrative Expense Fee.

(2) The following must be included in the General and Administrative Expense Fee and may not be charged in any other expenses. Also, any travel relating to the following must be covered by the

General and Administrative Expense Fee.

- Personnel and Labor Relations Services and Visitation
- Legal Department Services
- Purchasing and Quality Control
- Technical Research
- Cost Incurred in Hiring and Relocating FSMC Management Personnel
- Dietetic Services (Administrative and Nutritional)
- Test Kitchens
- Accounting and Accounting Procedures
- Tax Administration
- Technical Supervision
- Supervisory Personnel and Regular Inspections or Audit Personnel
- Teaching and Training Programs
- General Regional Support
- General National Headquarters Support
- Design Services
- Menu Development
- Information Technology and Support
- Payroll Documentation and Administrative Cost
- Sanitation
- Personnel Advice

(3) SFA must determine whether a Retroactive Incentive Fee will be considered by SFA for the General and Administrative Expense Fee. Please check one:

- SFA will entertain a proposal that includes a Retroactive Incentive Fee per meal served for entire school year for FSMC's General and Administrative Expense Fee. FSMC shall include Retroactive Incentive Fee scale in box herein below.
- SFA will not entertain a proposal that includes a Retroactive Incentive Fee per meal served for entire school year for FSMC's General and Administrative Expense Fee.

The General and Administrative Expense and Management Fees may be increased on an annual basis by the Yearly Percentage Change in the Consumer Price Index for All Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Food Eaten Away from Home (insert one CPI regional index: South-Size Class A (population of metropolitan area over 1.5 million), South-Size Class B/C (Mid-sized and small population metropolitan area with fewer than 1.5 million), or South-Size D (all nonmetropolitan areas)) (CPI). Such increases shall be effective on a prospective basis on each anniversary date of this Contract and will be allowed only if approved in advance by SFA. CPI Fee increases for the upcoming Contract renewal year must be submitted to SFA by April 1 of each year. No other fee increases will be allowed.

If neither box is checked, it is assumed that SFA will not entertain a proposal with a Retroactive Incentive Fee per meal served for FSMC's General and Administrative Expense Fee.

**To be completed by the FSMC- if a cost reimbursable contract
(Complete One):**

Flat Fee: \$ _____
*** will allow an economic price adjustment tied to a standard index annually

OR

General and Administrative Expense Fee Per
Meal/Meal Equivalent: \$ _____

(4) The Management Fee represents a profit to the FSMC. SFA must determine whether a Retroactive Incentive Fee will be considered by SFA. Please check one:

- SFA will entertain a proposal that includes a Retroactive Incentive Fee per meal served for entire school year for FSMC's Management Fee. FSMC shall include Retroactive Incentive Fee scale in box herein below.
- SFA will not entertain a proposal that includes a Retroactive Incentive Fee per meal served for entire school year for FSMC's Management Fee.

If neither box is checked, it is assumed that SFA will not entertain a proposal with a Retroactive Incentive Fee per meal served for FSMC's Management Fee.

**To be completed by the FSMC-if a cost reimbursable contract
(Complete One):**

Flat Fee: \$ _____
*** will allow an economic price adjustment tied to a standard index annually

OR

Management Fee Per
Meal/Meal Equivalent: \$ _____

(5) Management and General and Administrative Expense Fees shall be paid by the SFA.

Award Criteria

Proposals will be evaluated by an SFA committee based on the offers as set out above and the criteria, categories and assigned weights as stated herein below (to the extent applicable). Committee members must consist of SFA employees familiar with the regulations and requirements of the child nutrition programs. If a committee member is an agent for, employee of or in any other manner associated with a FSMC, that FSMC will be precluded from participating in the RFP and subsequent contract. Each area of the award criteria must be addressed in detail in the Proposal.

Weighted Evaluation Criteria

SFA must determine in advance what percentage (total of 100 points which equals 100%) each category below will be given when comparing proposals. (SFA may insert additional categories if needed.

- (____) points Cost & Financial Proposal (highest points)
- (____) points Service Capability Plan (Identifies proposed food service team such as Food Service Director and demonstrates FSMC's ability to provide services as stated in the RFP/Contract)
- (____) points Experience, References
- (____) points Doing business with like school systems and familiarity with regulations pertaining to such operations/References
- (____) points Financial Condition/Stability, Business Practices
- (____) points Accounting and Reporting Systems
- (____) points Personnel Management
- (____) points Innovation
- (____) points Promotion of the School Food Service Program (Ex. Alabama Grown, Farm to School)
- (____) points Involvement of Students, Staff, and Patrons

100 points TOTAL

With this *cost-reimbursable* contract, FSMC must submit detailed cost documentation for each Accounting Period 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 ALSDE. Upon termination of the Contract, all outstanding amounts shall immediately become due and payable. Each invoice submitted by FSMC will include reconciliation for any overpayment or underpayment from prior Accounting Periods and shall identify and account for donated food as stated herein above.

With this *cost-reimbursable* contract, FSMC shall not pay any bonuses under this Contract that are not specifically provided for in the Budget and within the scope or original intent of this RFP/Contract and FSMC's Proposal. Bonuses, if any, shall be awarded, in part, on the basis of criteria mutually established by SFA and FSMC.

Such criteria, at a minimum, shall reflect measurable and substantive improvements in operating efficiencies, such as unit costs for food, labor and direct items or specific and identifiable increase in such areas as the total

numbers of students and staff participating in food service programs and the total number of identified students for free and reduced meal reimbursements.

With this *cost-reimbursable* contract, SFA _____ (insert shall or shall not) reimburse for reasonable cellular telephone expense incurred by the Director for communications related to the Contract. Reasonable cellular telephone expenses shall be charged as an expense by FSMC. Reasonable expenses (shall/shall not) per 2 CFR 200.320(a), as applicable, include additional services such as paging, e-mail or voice mail. (Include the following if paging services are allowed. Paging, email or voice mail services will be reimbursed at the same rate as received by SFA employees and must be charged as an expense by the FSMC).

With this *cost-reimbursable* contract, SFA _____ (insert shall or shall not) reimburse for travel expenses. (If SFA is reimbursing for travel expenses) Reimbursement shall be for on-site FSMC staff only, that are Direct Costs related to the Contract and which are provided for in the budget. Reasonable expenses per 2 CFR 200.320(a), as applicable, shall include mileage reimbursement, lodging (at the lowest available room rate) and reasonable meal expenses. Mileage, lodging and meal expenses will be reimbursed at the same rate as received by SFA employees.

Section J: Books and Records

With this *cost-reimbursable* contract, SFA may conduct an internal audit of food, labor, and other expense items as needed to conduct SFA's single audit. For auditing FSMC expenses charged on invoices, the SFA will ensure costs are necessary, reasonable, and allocable, and discounts, rebates, and credits are credited on invoices submitted for payment using the nonprofit food service account.

Section O

When SFAs operate SFSP and/or CACFP, 7 CFR 225.6(h)(2)(ii) and 7 CFR 226.21(e) is applicable prohibiting sub-contracting. All meals prepared by a food service management company shall be unitized, with or without milk or juice, unless the State agency has approved, a request for exceptions to the unitizing requirement for certain components of a meal. and 7 CFR 226.6(i)(11).

Section P: Optional Requirements

If SFA is seeking improvements to its food service equipment, SFA must state an amount in #1. SFA and FSMC will not be able to incorporate into their agreement by any method, including an additional exhibit or guaranty terms that FSMC will provide items without SFA stating what they are seeking in the RFP. Also, please note that inserting \$4,999.00 to avoid the \$5,000.00 limit will not allow SFA to later increase that amount.) The scope of this Contract shall include these additional services.

Check option that applies.

Information Technology Systems (*Cost reimbursable contracts only*)_ FSMC shall provide, install, deploy into production, operate and maintain and support an information technology system (the IT System) (which may include, but not be limited to, hardware, owned and licensed software and systems support) necessary for the operation of SFA's Food Service Programs. SFA shall receive a Charge for the use of the IT System. The cost methodology utilized in determining such Charge shall be kept on file by SFA on SFA's premises. SFA shall provide, at its expense, a suitable environment,

including such heat, air conditioning, phone and utility service as may be reasonably required for the installation, implementation, operation, and maintenance of the IT System. FSMC's IT System shall provide the following services: _____. (SFA must insert functions SFA desires the IT System to perform for SFA and FSMC should insert functions their IT System will perform.)

- SFA Transition Employee Positions and Dates of Transition. (SFA shall identify each employee position to be transitioned to FSMC's payroll, anticipated date of transition, and manner in which transition shall occur).

Under a cost-reimbursable contract, fringe benefits, as well as the basis for any salary increases, must be specified in the Proposal and approved by the SFA in order for these to be Allowable Costs. Salary increases, if any, shall be awarded, in part, on the basis of criteria mutually established by the SFA and FSMC. Such criteria, at a minimum, shall reflect measurable and substantive improvements in operating efficiencies, such as unit costs for food, labor and direct items or specific and identifiable increase in such areas as the total numbers of students and staff participating in food service programs, and the total number of identified students for free and reduced meal reimbursements.

The SFA shall not pay cost of transferring the SFA employees to FSMC payroll. Under a cost-reimbursable contract, after transition occurs, FSMC may charge the cost of transitioned employees to the SFA as Direct Costs.

Cost Reimbursable Exhibits

Exhibit C: Cost reimbursable Budget

**FOOD SERVICE BUDGET – COST-REIMBURSABLE
(To be completed by SFA)**

(If SFA does not have a school board approved Budget, please submit a draft)

(School) SFA

School Year 20__ - 20__

Revenues:

Cash Sales:

Student Breakfast Sales	_____
Student Lunch Sales	_____
Student Snack Sales	_____
Student a la carte Sales	_____
Adult Sales	_____
Catering Sales	_____
Interest Income	_____
Concession Sales	_____
Vended Meal Sales	_____
Total Cash	_____

State and Federal Reimbursement/Funding

NSLP	_____
SBP	_____
ASCP	_____
SSO	_____
SFSP	_____
State Matching Fund	_____
Commodities Received	_____
Other Funding	_____
Total Reimbursements	_____

Total Revenues: = All Cash Sales + All Reimbursements _____

Expenses:

Gross Food Costs	_____
Food Delivery Costs	_____
Commodities Used (Call ALSDE	_____
Commodity Division for annual Usage amount for the SFA)	_____
Commodity Delivery	_____

Commodity Processing _____

Total Food Costs _____

Labor Costs (#FTE / PTE)

FSMC Salaried Employees: FTE _____ PTE _____

(Completed by the FSMC)

Summarize Here (Attach an individual categorical breakdown for each FSMC salaried employee. For each shared FSMC employee, SFA and FSMC must identify other SFAs with whom the employee is shared and the salary and benefit allocations for FSMC employee.)

Base Gross Salary _____

Educational Assistance _____

Bonus _____

Merit Increase _____

Retirement / IRA _____

401K, 403(b)(7) _____

Fringe Benefits _____

Payroll Taxes _____

FSMC Hourly Staff FTE _____ PTE _____

Gross Salaries _____

Fringe Benefits _____

Payroll Taxes _____

SFA Hourly Staff FTE _____ PTE _____

Gross Salaries _____

Fringe Benefits _____

Payroll Taxes _____

Other Payroll Costs (FSMC)

Worker's Comp. _____

Other _____

Other Payroll Costs (SFA)

Worker's Comp. _____

Other _____

Total Labor Costs _____

FSMC Fees

Administrative Fees Cost _____

Management Fee Costs _____

Total Fees _____

FSMC Direct Costs – Subcategory Examples:

- Paper & Disposable Goods _____
- Replacements / Small wares _____
- Contracted Labor – Specify _____
- Auto Expenses _____
- Insurance Expense _____
- Telephone _____
- Office Supplies _____
- Postage _____
- Bank Deposit Services _____
- Uniforms & Laundry _____
- Other Delivery & Freight/Nonfood _____
- Advertising, Promotions & Menus _____
- Marketing/Franchise & Decor _____
- Equipment Repair _____
- Licenses _____
- Employee Travel _____
- Security background check _____
- Miscellaneous - Specify _____

Total FSMC Direct Costs _____

SFA Direct Costs – Use same subcategory
Examples as in FSMC Direct Costs _____

Total SFA Direct Costs _____

Total Direct Costs _____

FSMC Indirect Costs – Subcategory examples include:

- FSMC Charges
- Technology Expense _____
 - a. Technology Allocated Charge _____
 - b. Other Technology Charge _____
- Insurance Allocated Charge
(Worker's Comp. Excluded) _____
- Other Allocated Charges _____
- Franchise Charges _____
- Trademark Charges _____
- Other Indirect Cost Categories _____

Total FSMC Indirect Costs _____

**Total Discounts, Rebates, Applicable
Credits, allowances from FSMC
Suppliers credited to SFA** _____

Total Expenses = All Food Costs + All Labor Costs
+ All Fees + All Direct Costs + All Indirect Costs –
Total Discounts, Rebates, Applicable
Credits, allowances from FSMC
Suppliers credited to SFA _____

Surplus / Subsidy = Total Revenues – Total Expenses _____

FSMC Guaranteed Return, for first year _____
FSMC Guaranteed Return, year of renewal _____
FSMC Guaranteed Break Even _____
FSMC Guaranteed Subsidy _____

School SFA Employee Responsible for submission of this budget data:

Name: _____

Telephone: _____

OR

FSMC Employee responsible for submission for this budget data: (if applicable)

Name: _____

Telephone: _____

Exhibit C-1: Methodology for Allocated Costs

**PROVIDE METHODOLOGY FOR ALLOCATED COSTS –
(APPLIES TO COST REIMBURSABLE CONTRACTS ONLY)**

All costs must be necessary, reasonable and allocable when paid with Federal funds.

**(NOTE: ALLOCATED COSTS MAY NOT BE INCLUDED IN THE GENERAL AND ADMINISTRATIVE
EXPENSE FEE.)**

Exhibit D: List of Charts

<p>**Cellular Phones (See optional requirements to be included) (Applicable to <i>cost reimbursable contract only</i>)</p>			
<p>**Mileage (See optional requirements to be included) (Applicable to <i>cost reimbursable contract only</i>)</p>			
<p>**Lodging (See optional requirements to be included) (Applicable to <i>cost reimbursable contract only</i>)</p>			
<p>**Per Diem (See optional requirements to be included) (Applicable to <i>cost reimbursable contract only</i>)</p>			

Exhibit N: Purchase Discounts, Rebates and Value of USDA Foods

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

(School) (hereinafter SFA) has and will undertake all necessary oversight and monitoring measures to assure that the school SFA receive the full value of purchase discounts, rebates, credits and value of USDA foods. These measures shall include but are not limited to:

All **cost reimbursable** contracts must contain the following provisions, pursuant to 7 CFR Part 210.21 (f)(1)(i), (iv), (v), (vi):

- The mandatory return of all credits, discounts and rebates to the SFA's nonprofit food service account;
- The frequency and method Food Service Management Company's (hereinafter FSMC) will use for reporting credits, discounts and rebates on invoices and billing statements, (i.e., monthly, quarterly, annually);
- All credits, discounts and rebates must be clearly identified on billing statements and invoices submitted by FSMCs to the SFA;
- All records of credits, discounts and rebates must be maintained by FSMCs, and made available to SFAs and State agencies upon request;
- The reporting of credits, discounts and rebates by FSMCs is required no less frequently than annually.
- An audit provision for SFAs to audit FSMC supplier invoices to ensure the costs charged on the FSMC invoices are supported by purchases made on their behalf and that discounts, rebates, and credits have been credited

Upon execution of this contract, SFA must strictly monitor the agreement throughout the year to ensure that they receive the full value of credits, discounts and rebates and are in compliance with Federal Regulations. Monitoring activities shall include but are not limited to:

- Identify the person within the SFA that will be responsible for oversight;
- Designate the position that will monitor the credits, discounts and rebates;
- Examine the invoices and other documentation provided by the FSMC as agreed to in the contract;
- Determine the percentage of credits, discounts and rebates reported in relation to the value of food purchased early in the contract year as a benchmark for future comparison;
- Calculate the average credit-purchase proportion received, or as applicable discount or rebate;
- Examine products to ensure that to the maximum extent practicable, domestic commodities and domestic food products processed in the United States using over 51% domestic foods are purchased. Visit storage facilities to observe the origin of purchased food printed on food labels and case units.

In the event of discrepancies during monitoring activities, follow up with FSMC to resolve the issues, and if necessary, request additional documentation from the FSMC to substantiate discrepancies. Potential discrepancies to consider may include:

- Frequency of reporting that does not agree with contract provision;
- Labels identifying countries other than the U.S;
- Credit-purchase proportions that fall below the average credit-purchase proportion established early in the year.

For both **fixed price** and **cost-reimbursable** contracts, SFA shall ensure that FSMC has credited it for the value of all USDA foods received for use in SFA's meal service in the school year. (7 CFR § 250.51(a))

Summer Food Service Program (SFSP)

**Include this section as part of the RFP, if applicable
(Delete this section, if not applicable.)**

1. SFA shall be responsible for determining eligibility of all SFSP sites.
2. SFA, as sponsor, shall be responsible for all management responsibilities of the SFSP, as described in 7 CFR § 225.15 (a)(3).
3. SFAs operating SFSP and CACFP are subject to no subcontracting– see 7 CFR 225.6(h)(2)(ii) and 7 CFR 226.21(e) and unitized meal requirements in 7 CFR 225.6(h)(2)(i) and 226.6(i)(11).
4. Bonding requirements.
SFAs operating SFSP are subject to a bond required in 7 CFR 225.15(m)(5)-7) and based on the “aggregate” value of all contracts.
 - Proposal guarantee (when the SFSP portion of the proposal exceeds \$50,000):
Offeror shall submit with proposal a proposal guarantee in the amount of \$_____ (not less than 5 percent or more than 10 percent of the total proposed price), which shall be in the form of a firm commitment such as bond, postal money order, certified check, cashier’s check, or irrevocable letter of credit. (SFSP Memorandum 13-2014: Procurement Thresholds in the Summer Food Service Program, January 10, 2014).
Proposal guarantees that bonds will be returned (a) to unsuccessful Offerors as soon as practicable after the opening of proposals and (b) to the successful Offeror upon execution of such further contractual documents (i.e., insurance coverage) and bonds as may be required by the proposal.
 - Performance guarantee (when the SFSP portion of the Contract exceeds \$50,000):
FSMC must obtain a performance bond in the amount of \$_____ (10 percent of the value of the Contract) which shall be in the form of a firm commitment such as bond, postal money order, certified check, cashier’s check, or irrevocable letter of credit. (SFSP Memorandum 13-2014: Procurement Thresholds in the Summer Food Service Program, January 10, 2014). Proposal guarantees that bonds will be returned to unsuccessful Offerors as soon as practicable after the opening of proposals. Performance bonds for the successful Offeror shall be held for the duration of the Contract.
5. SFA shall immediately correct any problems found as a result of a health inspection and shall submit written documentation of the corrective action implemented within two weeks of the citation.
6. FSMC must comply with the 21-day menu cycle developed by SFA for the SFSP (Exhibit B) and include it in the RFP. SFA shall approve any changes in the menus no later than two weeks prior to service after the initial cycle has been used. The SFA shall inform ALSDE of menu changes for the SFSP.

7. SFA, as an SFSP sponsor, is responsible for conducting and documenting the required SFSP site visits of all sites for pre-approval and during operation of the program.
8. SFA will make the final determination of the opening and closing dates of all SFSP sites, if applicable.
9. FSMC may use donated foods to conduct SFSP in accordance with the Standard Terms and Conditions herein above and 7 CFR Part 225 and 2 CFR Part 200.

**Exhibit B
PROGRAM MENU CYCLES**

MENU CYCLE FOR NATIONAL SCHOOL LUNCH PROGRAM

Attach a sample 21-day cycle lunch menu prepared by the SFA or FSMC. (*highlight which one*)
This menu must be used for the first 21-day cycle of the new school year.

20__ - 20__ School Year (Insert applicable school year)

Campus Level: _____ (Insert one: High School, Junior High/Middle School or Elementary School)

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

Exhibit B

MENU CYCLE FOR A LA CARTE PROGRAM

Attach a sample 21-day cycle a la Carte menu prepared by the SFA or FSMC. (*highlight which one*)
This menu must be used for the first 21-day cycle of the new school year.

20__ - 20__ School Year (Insert applicable school year)

Campus Level:_____(Insert one: High School, Junior High/Middle School or Elementary School)

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

Exhibit B

MENU CYCLE FOR SCHOOL BREAKFAST PROGRAM

Attach a sample 21-day cycle breakfast menu prepared by the SFA or FSMC. (*highlight which one*)
This menu must be used for the first 21-day cycle of the new school year.

20__ - 20__ School Year (Insert applicable school year)

Campus Level: _____ (Insert one: High School, Junior High/Middle School or Elementary School)

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

Exhibit B

MENU CYCLE FOR AFTER SCHOOL CARE PROGRAM

Attach a sample 21-day cycle after school care menu prepared by the SFA or FSMC. (*highlight which one*)
This menu must be used for the first 21-day cycle of the new school year.

20__ - 20__ School Year (Insert applicable school year)

Campus Level:_____(Insert one: High School, Junior High/Middle School or Elementary School)

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

Exhibit B

**MENU CYCLE FOR SEAMLESS SUMMER OPTION (SSO) OR
SUMMER FOOD SERVICE PROGRAM (SFSP)**

Attach a sample 21-day cycle SSO or SFSP menu prepared by the SFA or FSMC. (*highlight which one*)
This menu must be used for the first 21-day cycle of the new school year.

20__ - 20__ School Year (Insert applicable school year)

Campus Level: _____ (Insert one: High School, Junior High/Middle School or Elementary School)

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

Exhibit C

(SFA must choose either cost-reimbursable or fixed meal rate budget form, depending on which RFP SFA is issuing. See Cost reimbursable section for budget form.)

FOOD SERVICE BUDGET – FIXED-MEAL RATE

An economic price adjustment tied to a standard index will be allowed. NSLP reimbursement rates use the CPI, applicable to FSMC meal rates.

(To be completed by SFA)

(If SFA does not have a school board approved Budget, please submit a draft)

(School) SFA

School Year 20___ - 20___

Revenues:

Cash Sales:

- Student Breakfast Sales _____
- Student Lunch Sales _____
- Student Snack Sales _____
- Student a la carte Sales _____
- Adult Sales _____
- Catering Sales _____
- Interest Income _____
- Concession Sales _____
- Vended Meal Sales _____
- Vending Machine Sales _____

Total Cash _____

State and Federal Reimbursement/Funding

- NSLP _____
- SBP _____
- ASCP _____
- SSO _____
- SFSP _____
- State Matching Fund _____
- Commodities Received _____
- Other Funding _____

Total Reimbursements _____

Total Revenues: = All Cash Sales + All Reimbursements _____

(School) SFA Food Service Budget (cont.)

Expenses:

Reimbursable Breakfast Meal Rate Fee _____
Reimbursable Lunch Meal Rate Fee _____
A la Carte Equivalent Meal Rate Fee _____
SFA Direct Expense _____

Total Expenses _____

Commodities

Commodities Used (SFA may
call ALSDE for amount _____
Commodity Division for annual
Usage amount for the SFA)

Commodity Delivery _____
Commodity Processing _____

Surplus / Subsidy =

Total Revenues – Total Expenses _____

FSMC Guaranteed Return, first year _____

FSMC Guaranteed Return, renewal year (s) _____

FSMC Guaranteed Break Even _____

FSMC Guaranteed Subsidy _____

SFA Employee responsible for submission of this budget data:

Name: _____

Telephone: _____

OR

FSMC Employee responsible for submission for this budget data: (if applicable)

Name: _____

Telephone: _____

Exhibit D

LIST OF CHARTS
(SFA must complete Charts 1-10 and include in the RFP/Contract)

Chart 1: Enrollment Chart (By Campus)

Chart 2: Designation of Program Expenses and Responsibilities

DESIGNATION OF PROGRAM EXPENSES/RESPONSIBILITIES

The SFA has deemed the following Program Expense/Responsibility schedule to be a necessary part of this proposal specification as an indicator of who will bear ultimate responsibility for the cost. 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 and included in the RFP. The column selected by the SFA for each expense represents whether the SFA or FSMC is ULTIMATELY responsible for that cost and/or duties.

DESCRIPTION	FSMC	SFA	N/A (not applicable)
FOOD:			
Food Purchases			
Commodity Processing Charges			
Processing and Payment of Invoices			
LABOR:			
FSMC EMPLOYEES:			
Salaries/Wages			
Fringe Benefits and Insurance			
Retirement			
Payroll Taxes			
Workers' Compensation			
Unemployment Compensation			
SFA EMPLOYEES:			
Salaries/Wages			
Fringe Benefits and Insurance			
Retirement			
Payroll Taxes			
Workers' Compensation			
Unemployment Compensation			

The items listed below with two asterisks (**) are Direct Cost items that may or may not apply to the SFA. At local discretion, based upon actual practice and need, the SFA should assign cost responsibility for those items applicable to its operation or designate them as not applicable.

DESCRIPTION	FSMC	SFA	N/A*
OTHER EXPENSES:			
**Paper/Disposable Supplies			
Cleaning/Janitorial Supplies			
**Tickets/Tokens			
China/Silverware/Glassware:			
Initial Inventory			
Replacement during Operation			
Telephone:			
Local			
Long Distance			
Uniforms			
**Linens			
Laundry			
Trash Removal:			
From Kitchen			
From Dining Area			
From Premises			
Pest Control			
Equipment Replacement:			
Nonexpendable			
Expendable			
Equipment Repair			
**Car/Truck Rental (Include Explanation in RFP)			
**Vehicle Maintenance			
**Courier Service (i.e., Bank Deposits, School Deliveries)			
**Storage Costs:			
Food			
Supplies			
**Office Supplies			
**Printing			
**Promotional Materials			

**Taxes			
Sales			
Other			
**License Fees			
Other (Add other expenses charged to food service. Overhead expenses incurred by FSMC cannot be included)			

Cleaning responsibilities are listed below:

Food Preparation Areas (Include Equipment)			
Serving Areas			
Kitchen Areas			
Dining Room Floors			
Periodic Waxing and Buffing of Dining Room Floors			
Restrooms for Food Service Employees			
Grease Traps			
Daily Routine Cleaning of Dining Room Tables and Chairs			
Thorough Cleaning of Dining Room Tables and Chairs			
Cafeteria Walls			
Kitchen Walls			
Light Fixtures			
Windows			
Window Coverings			
Hoods			
Grease Filters			
Duct Work			
Exhaust Fans			
Other: (List Below)			

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

- Chart 3:** Projected Enrollment Chart (By Campus) – Projected new campuses and dates of anticipated opening must be included
- Chart 4:** Staffing Chart (Identifying whether each position is SFA or FSMC personnel):
- A - Cafeteria Staffing (Elementary)
 - B - Cafeteria Staffing (Secondary)
 - Chart identifying: (1) each FSMC position that will be *shared with other* SFAs; (2) the SFAs with whom FSMC employee will be shared; and (3) the percentage of time FSMC employee will work at each SFA, if applicable.
- Chart 5:** Participation Data for free, reduced-price and paid meals Chart
- Chart 6:** Chart stating Campus Serving Times
- Chart 7:** Chart stating Meal Prices
- Chart 8:** Chart/copies of Reimbursement Claims for Current and Prior School Years (obtain this information from SNO)
- Chart 9.** Indicate which type of service you need:
- Full service on-site food prep (cook, serve on-site at school location)
 - Off-site food prep and deliver to SFA (hot and cold meals in servable pans) and SFA serves
 - Off-site food prep and deliver to SFA (hot and cold meals in servable pans) and FSMC serves
 - Off-site food prep and deliver to SFA (hot and cold meals pre-packaged (unitized)) and SFA serves
 - Off-site food prep and deliver to SFA (hot and cold meals pre-packaged (unitized)) and FSMC serves
 - Other: (indicate what that would be)
- Chart 10:** School Calendar for solicitation year. If SFA does not have an approved school calendar, please submit projected school calendar with RFP.

Exhibit E

FOOD SPECIFICATIONS

All Food Specifications must meet requirements of the United States Department of Agriculture (USDA) *Food Buying Guide* (FBG), 7 CFR Part 210, USDA Guidance Memos, other applicable federal regulations.

- All USDA Foods offered to the SFA and made available to FSMC are acceptable and should be utilized in as large a quantity as may be efficiently utilized.
- Compliance with Buy American Provision stating that all foods must be domestic and that food products processed in the United States use over 51% domestic foods.

For all other food components, specifications shall be as follows:

- Breads, bread alternates, and grains must be made from domestic whole-grain or enriched meal or flour. All breads and grains must be fresh (or frozen, if applicable) and must meet the minimum weight per serving as listed in the FBG. If applicable, product should be in moisture-proof wrapping and pack code date provided.
- All meat and poultry must be domestic and have been inspected by USDA and must be free from off color or odor.
 - Beef must be at least 70:30 lean to fat, preferably 80:20 lean to fat.
 - Poultry should be U.S. Grade A when applicable and should meet the recommendations outlined in *Specifications for Poultry Products, A Guide for Food Service Operators* from USDA.
 - For breaded and battered items, all flours must be domestic whole grain or enriched for breads/grains credit and breading/batter must not exceed 30% of the weight of the finished product.
 - For sausage patties, the maximum fat allowed is 50% by weight; industry standard of 38% to 42% fat preferred.
- All cured processed meats (bologna, frankfurters, luncheon meat, salami, others) must be domestic and shall be made from beef and/or poultry. No variety meats, fillers, extenders, non-fat milk solids, or cereal will be allowed. Meats must not show evidence of greening, streaking, or other discoloration.
- All cheese must be domestic and should be firm, compact, and free from gas holes; free of mold; free of undesirable flavor and odors; pasteurized when applicable; and preferably reduced or low-fat. All cheese should also have a bright, uniform, and attractive appearance; and have a pleasing flavor; demonstrate satisfactory meltability; and contain proper moisture and salt content.
- All fish must be domestic and have been inspected by the United States Department of Commerce (USDC) and meet minimum flesh and batter/breading required for USDC Grade A product or product packed under federal inspection (PUFI) by the USDC. Section 4207 of the Agriculture Improvement Act of 2018 specifies that, in order to be compliant with the Buy American requirements, agricultural commodities and the products of agricultural commodities shall be processed in the United States and substantially contain meats, vegetables, fruits, fish, and other agricultural commodities produced in the United States or any

territory or possession of the United States. The Act provides clarification on the treatment of harvested fish under the Buy American requirements. In order to be compliant:

- Farmed fish must be harvested within the United States or any territory or possession of the United States.
 - Wild caught fish must be harvested within the Exclusive Economic Zone of the United States or by a United States flagged vessel.
-
- All fresh fruits must be domestic and ripe and in good condition when delivered and must be ready for consumption per the USDA FBG. Fruits must at a minimum meet the food distributors' second quality level. Fruits should have characteristic color and good flavor and be well-shaped and free from scars and bruises. Size must produce a yield equal to or greater than the attached 21-day cycle menu requirements.
 - All fresh vegetables must be domestic and ripe and in good condition when delivered and must be ready for consumption per the USDA FBG. Vegetables must at a minimum meet the food distributors' second quality level. Vegetables should have characteristic color and good flavor and be well-shaped and free from discoloration, blemishes, and decay. Size must produce a yield equal to or greater than the attached 21-day cycle menu requirements.
 - All canned vegetables must be domestic and meet the food distributors' first quality level (extra fancy and fancy) and canned fruits (standard) must meet the second quality level. Vegetables should have characteristic color and good fresh flavor and be free from discoloration, blemishes, and decay.
 - Eggs must be domestic and inspected and passed by the state or federal Department of Agriculture and used within 30 days of date on carton. Eggs should be grade A, uniform in size, clean, sound-shelled, and free of foreign odors or flavors.
 - Sauces, such as gravy, spaghetti sauce, pizza sauce, etc., must be smooth and uniform in color with no foreign substance, flavor, odor, or off color.
 - If applicable, for processed food products, processing must occur in the United States, therefore, the food production facility, manufacturing plant, and products must meet all sanitary and other requirements of the Food, Drug, and Cosmetic Act and other regulations that support the wholesomeness of products.
 - Meals and food items must be stored and prepared under properly controlled temperatures and in accordance with all applicable health and sanitation regulations.
 - Fluid milk must be domestic and offered in a variety of at least two different fat contents. The milk must contain vitamins A and D at levels specified by the Food and Drug Administration and must be consistent with State and local standards. A school participating in the Program, or a person approved by a school participating in the Program, must not directly or indirectly restrict the sale or marketing of fluid milk at any time or in any place on school premises or at any school-sponsored event.

Exhibit F

SCHEDULE OF APPLICABLE LAWS

- 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, 89 Stat. 871).
- FSMC shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (the Act), 40 U.S.C. § 327-330, as supplemented by Department of Labor regulations, 29 CFR Part 5. Under Section 103 of the Act, FSMC shall be required to compute the wages of every laborer on the basis of a standard workweek of 40 hours. Work in excess of the 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 40 hours in any workweek. Section 107 of the Act provides that no laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor.
- FSMC shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations, 41 CFR Part 60.
- FSMC shall comply with the following civil rights laws, as amended: Title VI 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; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities.
- BUY AMERICAN STATEMENT (Food only) 7 CFR 210.21(d)
Contractor must comply with the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Buy American Act -7 CFR 210.21(d)) which requires schools and institutions participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) in the contiguous United States to purchase, to maximum extent practicable, domestic commodities or products for use in meals served under the NSLP and SBP.
Buy American:
(1) Definition of domestic commodity or product. In this paragraph, the term 'domestic commodity or product' means—
 - (i) An agricultural commodity that is produced in the United States; and
 - (ii) A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. Substantial means over 51% of the final processed product consists of agricultural commodities that were grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards SFAs must comply with when purchasing commercial food products served in the school meals programs.

Documentation must be received that requests:

- (1) Consideration on the use of domestic alternative foods before approving an exception;
- (2) The use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food and
- (3) The use of a non-domestic alternative food due to the domestic good not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality.

- FSMC has signed the Anti-Collusion Affidavit, Exhibit I, which is attached herein and is incorporated by reference and made a part of this Contract.
- 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 Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15).
- FSMC shall comply with the Lobbying Certification, Exhibit J, which is attached herein and is incorporated and made a part of this Contract. If applicable, FSMC has also completed and submitted Standard Form-LLL, Disclosure Form to Report Lobbying, Exhibit K herein, or will complete and submit as required in accordance with its instructions included in Exhibit K-1.
- Food Recalls and Biosecurity: Vendor shall be expected to comply with all federal, state, and local mandates regarding the identification and recall of foods from the commercial and consumer marketplace. Vendor shall have a process in place to effectively respond to a food recall. The process must include accurate and timely communications to the SFA and assurance that unsafe products are identified and removed from SFA sites in an expedient, effective, and efficient manner. Selected Vendor will be expected to maintain all paperwork required for immediate and proper notification of recalls for full and split cases. Vendor will define their policy and procedures for handling food recalls on a separate document to be submitted along with proposal. Vendor will provide the contact person and the backup person's contact information, who will handle food recalls, to the school nutrition director or designee. Are the food recall procedures in compliance with 7 CFR 250 (NOTE: SFA responsibilities include: Implementing the recall procedures upon notification of a recall of USDA Foods;"&"Assigning a food safety coordinator and alternate, and provide the names, titles, email addresses, and telephone and fax numbers of the coordinator and alternate "&"; Maintaining a contact list for SFA serving sites, distributors, and other recipients. This list should have two recall contacts per site and be verified annually; Notifying all sites re: recall immediately – 24 hours or less, and ensure that the affected products are isolated and labeled "Do Not Use" to avoid accidental use; Identifying the locations of the affected products, and verify that the products have the correct product identification codes; Contacting further processors to track redirected food affected by the recall; Conducting an inventory assessment – 48 hours or less, of affected product: Served; Remaining in-stock at schools, warehouses, and distributors; Further distributed to program participants; Redirected for further processing; Submit the inventory assessment information to the SA Food Distribution Unit; and follow applicable destruction/disposal instructions provided by the SA).

Company Name	
Contact Name	
Phone Number	
E-mail address	
Back-Up Contact Name	
Phone Number	
E-mail address	
School System	
School Nutrition Contact Name	
Phone Number	
E-mail address	
Back-Up School Nutrition Contact Name	
Phone Number	
E-mail address	

- Biosecurity: Vendor must have a written policy regarding biosecurity and the food supply, in accordance with the Bioterrorism Act 2002 under the U.S. Department of Health and Human Services, FDA and under the USDA, Food Safety, and Inspection Service. Vendor will define their biosecurity policy and procedures on a separate document to be submitted along with proposal.
- Davis Bacon Act: (for construction contracts in excess of \$2,000) (if applicable) [Appendix II to Part 2 CFR 200 Title 2 (D)]. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each

solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- i. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- Rights to Inventions Made Under a Contract or Agreement (if applicable) [Appendix II to Part 2 CFR 200 Title 2 (F)]. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
 - Procurement of Recovered Materials: (2 CFR 200.323) (if applicable)
An SFA and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
 - Force Majeure:
If the School Nutrition Program, in its reasonable discretion, determines that the Force Majeure Event is likely to delay Contractor’s performance for more than thirty (30) days, the School Nutrition Program reserves the right to cancel the agreement between the parties. In that event, neither party shall have any further liability to the other, subject only to the School Nutrition Program’s obligation to pay the Contractor for work already completed by the Contractor and the Contractor’s warranty for work already completed.
 - HACCP Requirements (N/A to Equipment):
The School Nutrition Program expects a Hazard Analysis Critical Control Point (HACCP) plan to be in place by potential vendors and their manufacturers. Prior to awarding the proposal, the School Nutrition Program may require documentation verifying that a written HACCP plan is followed.
The successful offeror must have Hazard Analysis Critical Control Point (HACCP) plan on file for recall/hold control procedures including but not limited to:

- traceability systems in place from receipt of commodity product to delivery of processed items to designated delivery site.
- provision of 24/7 accessibility to successful offeror(s) staff in the event of a food/USDA Hold/Recall
- public notification capability on website to provide updates on food/USDA Hold and Recall data for customers.

Offeror shall provide ability to District of conducting a mock recall for product once per year. Offeror will be responsible for all costs associated with replacement product(s), including but not limited to labor, shipping charges and product credit.

- HUB (Historically Underutilized Businesses) Statement:
It is the intent of the _____ **County/City** Board of Education to provide maximum practicable opportunities in its solicitations to contract with small and minority businesses, women's business enterprises and labor surplus area firms. (2 CFR 200.321) Small businesses, woman and minority-owned businesses and labor surplus firms will not be given unfair advantage when evaluating competitive purchases i.e., small purchases, sealed bids, proposals or noncompetitive procurement.

Positive efforts include:

- Placing qualified small and minority businesses, women's business enterprises and labor surplus firms on solicitation lists;
- Assuring that small and minority businesses, women's business enterprises and labor surplus firms are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, women's business enterprises and labor surplus firms ;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, women's business enterprises and labor surplus firms ;
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

Exhibit G

SCHEDULE OF FSMC EMPLOYEES

**SFA must state in detail minimum qualifications for each FSMC position that will work with SFA
on or off-site.**

(To be completed by SFA)

Exhibit H

**SCHEDULE OF SFA TERMS FOR FSMC GUARANTY
(Mark N/A if not applicable)**

Exhibit I

ANTI-COLLUSION AFFIDAVIT

STATE OF:

COUNTY OF:

_____, of lawful age, being first sworn on oath say, that he/she is the agent authorized by the offeror to submit the attached proposal. Affiant further states that the offeror has not been a party to any collusion among offerors in restraint of freedom of competition by agreement to propose at a fixed price or to refrain from proposing; or with any state official of employees to quantity, quality, or price in the prospective contract, or any other terms of said prospective official concerning exchange of money or other thing of value for special consideration in the letting of contract; that the offeror/contractor had not paid, given or donated, or agreed to pay, give or donate to any officer or employee either directly or indirectly in the procuring of the award of a contract pursuant to this proposal.

Signed

Subscribed and sworn before me this _____ day of _____, 20____.

Notary Public (or Clerk or Judge) _____

My commission expires:

Exhibit J

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 Congress, an employee of a Member of Congress, or any Board Member, officer, or employee of **(School) SFA** in connection with the awarding 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 Congress, an employee of a Member of Congress, or any Board Member, officer, or employee of **(School) SFA** in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL (SF-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 sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

Name/Address of Organization

Name/Title of Submitting Official

Signature

Date

Exhibit K

Disclosure of Lobbying Activities

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

(See next page for public burden disclosure.)

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. proposal/offer/application
- b. initial award
- c. post-award

3. Report Type:

- a. initial offering
- b. material change

For Material Change Only:

Year _____ Quarter _____ Date of last report _____

4. Name and Address of Reporting Entity:

_____ Prime _____ Sub-awardee
Tier _____, *if known:*

Congressional SFA, *if known:*

5. If Reporting Entity in No. 4 is Sub-awardee, Enter Name & Address Of Prime:

Congressional SFA, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable:* _____

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*

\$ _____

Exhibit K (Continued)

<p>10. a. Name and Address of Lobbying Entity <i>(If individual, last name, first name, MI):</i></p> <p>(Attach continuation sheet(s) if necessary)</p>	<p>b. Individuals Performing Services</p> <p><i>(Incl. Address if different from No. 10a)</i> <i>(last name, first name, MI):</i></p>
<p>11. Amount of Payment <i>(check all that apply):</i></p> <p>\$ _____</p> <p>Actual _____ Planned _____</p>	
<p>12. Form of Payment <i>(check all that apply):</i></p> <p>____ a. cash</p> <p>____ b. in-kind; specify nature</p> <p>_____</p> <p>value _____</p>	
<p>13. Type of Payment <i>(check all that apply):</i></p> <p>____ a. retainer</p> <p>____ b. one-time fee</p> <p>____ c. commission</p> <p>____ d. contingent fee</p> <p>____ e. deferred</p> <p>____ f. other; specify</p>	
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted for Payment Indicated in Item 11:</p> <p align="center">(Attach continuation sheet(s) if necessary)</p>	
	<p>15. Continuation Sheet(s) attached:</p> <p>____ Yes ____ No</p>

Exhibit K (Continued)

<p>16. Information requested through this form is authorized by article 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 civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No: _____</p> <p>Date: _____</p>
<p><i>Federal Use Only:</i> <i>Authorized for Local Reproduction of:</i></p>	<p>Standard Form – LLL</p>

Exhibit K-1

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether sub-awardee 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 the 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 appropriate State office. 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.

1. Identify the status of the covered Federal Action.
2. 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.
3. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional SFA, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, subgrants, and contract awards under grants.
4. If the organization filing the report in item 4 checks sub-awardee, then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional SFA, if known.
5. 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.
6. 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.

7. 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.
8. 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.
 - 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)
 - c) 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).
9. 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 boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
10. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
11. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
12. 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.
13. Check whether or not a SF-LLL-A continuation sheet(s) is attached.
14. 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 (0348-0046), Washington, D.C. 20503.

Exhibit L

PURCHASE DISCOUNTS, REBATES AND VALUE OF USDA FOODS

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

(School) (hereinafter SFA) has and will undertake all necessary oversight and monitoring measures to assure that the school SFA receive the full value of purchase discounts, rebates, credits and value of USDA foods.

These measures shall include but are not limited to:

Upon execution of this contract, SFA must strictly monitor the agreement throughout the year to ensure that they receive the full value of credits, discounts and rebates and are in compliance with Federal Regulations.

Monitoring activities shall include but are not limited to:

- Identify the person within the SFA that will be responsible for oversight;
- Designate the position that will monitor the credits, discounts and rebates;
- Examine the invoices and other documentation provided by the FSMC as agreed to in the contract;
- Determine the percentage of credits, discounts and rebates reported in relation to the value of food purchased early in the contract year as a benchmark for future comparison;
- Calculate the average credit-purchase proportion received, or as applicable discount or rebate;
- Examine products to ensure that to the maximum extent practicable, domestic commodities and domestic food products processed in the United States using over 51% domestic foods are purchased. Visit storage facilities to observe the origin of purchased food printed on food labels and case units.

In the event of discrepancies during monitoring activities, follow up with FSMC to resolve the issues, and if necessary, request additional documentation from the FSMC to substantiate discrepancies. Potential discrepancies to consider may include:

- Frequency of reporting that does not agree with contract provision;
- Labels identifying countries other than the U.S;
- Credit-purchase proportions that fall below the average credit-purchase proportion established early in the year.

For both **fixed price** and **cost-reimbursable** contracts, SFA shall ensure that FSMC has credited it for the value of all USDA foods received for use in SFA's meal service in the school year. (7 CFR § 250.51(a))

Exhibit M

DEBARRED, SUSPENDED, AND INELIGIBLE STATUS

AD-1047

OMB No. 0505-0027
Expiration Date: 09/30/2025



Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 CFR § 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal or civil fraud, privacy, and other statutes may be applicable to the information provided.

(Read instructions on page two before completing certification.)

- A. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
1. Are not presently debarred, suspended, or proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 2. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (A.2.) of this certification; and
 4. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- B. Where the prospective primary 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
NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S)	
SIGNATURE	DATE

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity. In any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Instructions for Certification

- (1) By signing and submitting this form, the prospective primary participant is providing the certification set out on page 1 in accordance with these instructions.
- (2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant must submit an explanation of why it cannot provide the certification set out on this form. The certification or explanation will be considered in connection with the Department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation will disqualify such person from participation in this transaction.
- (3) The certification in this clause is a material representation of fact upon which reliance was placed when the Department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department or agency may terminate this transaction for cause or default.
- (4) The prospective primary participant must provide immediate written notice to the Department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (5) 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 the rules implementing Executive Order 12549, at 2 CFR Parts 180 and 417. You may contact the Department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (6) The prospective primary participant agrees by submitting this form that, should the proposed covered transaction be entered into, it may 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 entering into this transaction.
- (7) The prospective primary participant further agrees by submitting this form that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by the Department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that 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 General Services Administration's System for Award Management Exclusions database.
- (9) 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 is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (10) Except for transactions authorized under paragraph (6) 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 may terminate this transaction for cause or default.

THE CIVIL RIGHTS ASSURANCE

The **SCHOOL DISTRICT** hereby agrees that it will comply with:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);
- ii. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);
- iii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);
- iv. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- v. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189);
- vi. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000);
- vii. All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.);
- viii. Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3);
- ix. Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement.
- x. The USDA non-discrimination statement that in accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA (not all bases apply to all programs). This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

By accepting this assurance, the **SCHOOL DISTRICT** agrees to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the **SCHOOL DISTRICT**, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the **SCHOOL DISTRICT**.

Signature of SN Director or Designee: _____

Printed Name: _____

Title: _____

AGREEMENT

Offeror certifies that the FSMC shall operate in accordance with all applicable state and federal regulations. Offeror certifies that all terms and conditions within the Proposal shall be considered a part of this Contract as if incorporated therein.

This Contract shall be in effect for one year and may be renewed by mutual written agreement for four additional one-year terms.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and dated by their duly authorized representatives.

ATTEST:

SCHOOL FOOD AUTHORITY:

Name of SFA

Signature of Authorized Representative

Typed Name of Authorized Representative

Title

Date Signed

ATTEST:

FOOD SERVICE MANAGEMENT COMPANY:

Name of FSMC

Signature of Authorized Representative

Typed Name of Authorized Representative

Title

Date Signed