



Office of Elementary, Middle, Secondary and Continuing Education
Charles A. Szuberla, Jr., Coordinator
Office of Facilities, Management and Information Services
Child Nutrition Program Administration
Room 55 Albany, NY 12234-0055
Tel. (518) 473-8781 Fax (518) 473-0018

May 2002

TO: SCHOOL BUSINESS ADMINISTRATORS CONTRACTING WITH MANAGEMENT COMPANIES

FROM: SHARON M. SMITH, ASSISTANT

SUBJECT: 2002-03 FOOD SERVICE CONTRACT- BIDS OR EXTENSIONS

School food authorities (SFAs) with a food service management company (FSMC) contract from 1997-98 must let bids for the 2002-2003 school year. The contract term is for a one-year period. The contract may be extended each year for up to four years. Typically, the year runs from July 1, through June 30, of the following year. SFAs with contracts that commenced on or after 1998-99 may extend the contract with the FSMC for the 2002-2003 school year. The business official should review the food service program to decide if the FSMC has fulfilled the terms of the contract. If the program operation meets with the SFA's approval, the contract should be extended. If the board of education, staff or students are not satisfied with the FSMC, or the SFA wants to make material changes to the food service operation, the contract should be re-bid. In the event this should occur, approval is still required from our office. Changing FSMCs without proper approval will result in withholding reimbursement funds.

Enclosed are the contract, extension forms and appropriate fact sheets to be used for the 2002-2003 contract term. The contract conforms to all State and federal laws and regulations. Note the new look of our contracts! The contracts have been revised to conform to State contracts that put the agreement first and bid specifications afterwards. All parts of the bid specifications are made part of the contract. Specific changes to the contract are discussed in detail on the Update page. Please review the contract before completing the bid specifications to familiarize yourself with the document.

The extension form for the upcoming school year has been adjusted to accommodate an SFA that used the two-tier bid last year. SFAs that have one bid price for breakfast and lunch should put all bid price information in the section for lunch.

The percentage of increase in the bid price for breakfast and/or lunch **cannot exceed** the CPI-U for the twelve-month period immediately proceeding the month in which the contract ends. For contracts ending in June, the May CPI-U must be used. The CPI-U is available during the second week in the following month; therefore, the May CPI-U will be available the second week of June. Please check your math when applying the CPI-U to your current bid price. Most delays in processing extensions are the result of mathematical errors. Call the U.S. Department of Labor, Bureau of Labor Statistics, for the Consumer Price Index for Urban Consumers in the New York-Northeastern, New Jersey area at (212) 337-2400. You will hear a recording listing the percentage of increase in the index. You may also get that

information on the World Wide Web at <http://www.bls.gov/ro2>. Click on New York regional economy, scroll down to Consumer Price Index and review New York-Northeastern New Jersey-Long Island All Urban Consumers (U). See the “percentage change from year ago” column for current CPI-U information.

The debarment statement and lobbying certification forms must be completed and signed by the FSMC and submitted with the extension form. This form must be completed each year upon renewal of the contract. Please return the original and two copies of the extension form and the accompanying certification forms for approval.

SFAs may contract with persons and companies in order to obtain information from as many sources as possible to assist them in drafting procurement documents. However, a contractor or other interested party may not participate in the procurement process by way of drafting the procurement specifications, procedures or documents, such as requests for proposals, invitations for bids and contracts if they intend to be a potential candidate for providing the service or product. This provision is intended to ensure that program operators have sufficient flexibility in contracting matters while maintaining maximum open and free competition.

Submit one (1) document with original signatures, plus two (2) copies to the address below for approval. Use the enclosed 2002-2003 management company contract checklist to make sure your contract is complete. This office should receive all completed contracts or extensions no later than ten (10) days prior to the first day of operation. **If a contract or extension is not received by October 1, 2002 reimbursement for those meals served will be withheld until an approved document is on file in this office.**

If you have any questions regarding this matter, or food service management contracting in general, please contact me at:

**Sharon M. Smith, Assistant
New York State Education Department
Child Nutrition Program Administration
Room 55
Albany, New York 12234-0055
Telephone - (518) 473-1525
Fax - (518) 473-0018**

2002-03 UPDATES TO THE CONTRACT AND EXTENSION FORMS

- 1. NEW! -- The conversion rate for a la carte sales in the Type II contract will be \$2.15 for all 2002-03 contracts.**

The conversion rate has been established to ensure a fair level of reimbursement to the FSMC, while simultaneously guaranteeing that child nutrition revenues are not subsidizing adult and a la carte items. The conversion rate is also in place to avoid the situation in which the marketing of a la carte items will provide a FSMC a greater return than the marketing of reimbursable meals. A lower conversion rate generates more equivalent meals and is more advantageous for a FSMC to promote a la carte sales, instead of reimbursable meals. The Department believes the purpose of the Child Nutrition Programs is to provide students with nutritious breakfasts and lunches.

- 2. Reimbursement for Snacks in After School Care Programs through the National School Lunch Program.**

Public Law 105-336, the William F. Goodling Child Nutrition Reauthorization Act of 1998, expanded the United States Department of Agriculture's National School Lunch Program (NSLP) in order to enhance nutrition benefits for children by providing reimbursement for snacks served to children in after school care programs through age 18. The intent is to assist schools to operate organized programs of care that include educational or enrichment activities known to help reduce or prevent children's involvement in juvenile crime or other high-risk behavior.

If the school food authority (SFA) administers the after school programs or retains the authority for the program; the snacks may be claimed by the SFA under the NSLP. Districts participating only in the Special Milk Program are not eligible. If a public or nonprofit organization other than the SFA administers the after school program, that sponsor may be eligible to claim the snacks under the Child and Adult Care Food Program (CACFP) through the Department of Health (DOH). SFAs that currently participate in the supper program under CACFP may find that they need to remain in CACFP to continue claiming supper; others may find that serving and claiming the snacks in the NSLP eliminates the need to be in the CACFP. See the memorandum dated June 2001, concerning reimbursement for snacks served to children in after school care programs through the lunch program that addresses NSLP issues, as administered by this office. For information on the CACFP, call DOH at 1-800-942-3858.

Only SFAs participating in the NSLP and interested in receiving reimbursement for snacks served to children in after school care programs through the NSLP should refer to Appendix H (Appendix E in the Type IV contract), if letting bids for **2002-2003**. SFAs must include the names of sites and times where snacks will be served on that appendix. SFAs using the Type II contract can use Bid Option 3 to receive separate bid prices for the breakfast, lunch and the snacks served to children in after school care programs through the NSLP. For SFAs with the Type II contract, using Bid Option 3 will enable you to require bidders to provide separate bid prices for snacks, breakfast and lunch with a solid means for determining the lowest responsible bidder. SFAs using Type I and IV contracts will not need to use a different bid option or form because the cost of providing snacks will be included in the annual financial budget projection prepared by the FSMC. However, SFAs using those contracts must complete Appendix H in Type I and II contracts, Appendix E in Type IV, indicating which schools are receiving reimbursement for snacks. SFAs using the Type III contract do not participate in the NSLP and are not eligible to receive reimbursement for snacks.

It appears that existing contracts can be modified to include the receipt of reimbursement for snacks served to children in after school care. Neither USDA nor the Department considers reimbursement for snacks served in an after school program, a new program. The estimated cost to an SFA for providing snacks to children in after school care would be a small percentage of the total cost of the existing lunch program and therefore not considered a material change to the contract. Existing contracts should be modified to include an estimate of the number of snacks to be served for the current school year and a bid price should be negotiated between the SFA and the FSMC to provide the required items. Check with your school attorney on the proper language for the amendment.

Bid Option 3 requires the SFA to estimate the total number of lunches, breakfasts and snacks to be served for the year. The FSMC bids a direct cost plus administrative fee for each meal. The per meal amounts are usually not the same. The number of estimated meals (supplied by the SFA) are multiplied by the bid price for each item to get the total district cost for breakfast, lunch and snack. These subtotals are added to determine the grand total district cost. The grand total is transferred to the appropriate column on the bid form. (See sample on following page.) **Do not** average the bid prices and transfer that amount to the bid form. The SFA will not pay the FSMC an average of the bids. All companies will be bidding on the same number of meals in order to provide fair comparisons. It is to the advantage of FSMC that wins the bid to increase participation because increased participation means increased administrative fees.

BID OPTION 3 FOR SEPARATE BIDS FOR THE BREAKFAST, LUNCH AND SNACKS SERVED TO CHILDREN IN AFTER SCHOOL CARE PROGRAMS THROUGH THE NSLP.

The contract will be awarded based on the lowest responsible bid proposal for the combined grand total of breakfast, lunch and snack cost reimbursement. Amounts shall reflect a maximum per meal cost for administrative fee and direct cost of operations (labor, food and miscellaneous expenses) for the different programs as defined herein.

▼ **SAMPLE** ▼

	Administrative Fee	+	Direct Cost	=	Total Per Meal	X	SFA Estimate of Meals and Equivalent Meals	=	Total District Cost
Breakfast	\$.15	+	.90	=	\$ 1.05	X	43,000	=	\$ 45,150.00
Lunch	\$.15	+	1.15	=	\$ 1.30	X	338,000	=	\$439,000.00
Snack	\$.05	+	.35	=	\$.40	X	30,600	=	\$ 12,240.00
Grand Total								=	<u>\$496,390.00</u>

Grand Total must be written on the bid form, in the appropriate column.

Bid Option 3
Grand Total
\$496,390.00

3. Summer Food Service Program

Effective October 1, 1998, the New York State Education Department, Child Nutrition Program Administration assumed responsibility for administering the Summer Food Service Program (SFSP) for all public schools, private schools and all State, local and county government entities serving as SFSP sponsors. The United States Department of Agriculture (USDA) currently retains responsibility for all private nonprofit sponsors and residential camps.

In an effort to increase participation and feed more children in low-income areas during the summer months, The United States Department of Agriculture (USDA) is offering SFAs a new waiver option – The Seamless Summer Feeding Waiver (SSFW) beginning this summer. This waiver omits

several of the SFSP specific regulations and follows more of the SBP and the NSLP regulations to promote a seamless transition from the school year programs to the summer program. Under the SSFW:

- ✓ SFAs can apply to operate the SSFW through 2004.
- ✓ Schools are reimbursed at the NSLP/SBP free rates and follow most of the NSLP rules for meal service.
 - ✓ Up to two meals per day (three for migrant sites) may be served to children, 18 and under, free of charge.

For more information contact a representative of the Summer Food Service Program unit (SFSP) at (518) 432-5068.

SFAs contracting with a FSMC are not permitted to addend or change the SFSP participation to the existing contract because the addition constitutes a substantive change to the contract. There are important programmatic differences between the NSLP and the SFSP and it is impossible for a contract designed to apply solely to the NSLP to adequately specify the contractual rights and responsibilities of a sponsor and a FSMC in the SFSP.

SFAs letting bids for the **2002-2003** school year are required to go out to bid separately for the SFSP unless the bid specifications and contract provisions for the SFA contract includes certain terms. SFAs that use the Type IV contract should call the SFSP unit at (518) 432-5068 for information on participation in the SFSP before going out to bid. These terms and conditions are applicable to both the SFA and the FSMC, which provide for the operation of the SFSP in compliance with 7CFR Part 225 of the federal regulations. Additional provisions, general terms and conditions as required for compliance with federal regulations 7CFR Part 225 are included in Appendix G. A SFSP menu should be included in the bid specification. Complete Appendix G 1 indicating all the sites where the SFSP will operate along with other pertinent data. If meals are pre-packaged and delivered to areas without refrigeration, a quality control plan, as described in Appendix G 2, must be in place.

Several provisions in the Child Nutrition Reauthorization Act of 1998 affect the administration of the National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Special Milk program (SMP) and the Summer Food Service Program (SFSP). The following provisions are included in the contract in Appendix D.

4. Food safety inspections

Schools participating in the NSLP or the SBP are required to obtain food safety inspections conducted by a State or local governmental agency responsible for such inspections at least once a year. The SFA is responsible for informing their state or local health department that they are due for an inspection if the annual inspection does not occur routinely. If an SFA participates in the SFSP, the SFA must notify DOH of approved SFSP sites each year. The FSMC providing meals to SFSP sites must periodically submit meals to the local health department or an independent agency to determine bacteria levels in the meals being served. Such levels shall conform to the standards, which are applied by the local health authority with respect to the level of bacteria, which may be present in meals served by other establishments in the locality. The results of the inspections must be submitted promptly to the sponsor and State agency.

5. Criminal penalties

Criminal penalties are increased to \$25,000 which is the maximum fine for embezzling, willfully misapplying, stealing or obtaining by fraud funds, assets or property acquired under the National School Lunch Act or the Child Nutrition Act.

6. Breakfast Program

Remember that all public schools with a severe need designation are required to start a breakfast program. A severe need school is one that served 40 percent or more of its lunches to free and reduced price eligible students in the second preceding year. All other public elementary schools that participated in the lunch program on or after January 1, 1993 are required to start a breakfast program. Your district may have received an exemption from starting a breakfast program. Exemptions are granted on a yearly basis. If your SFA will be starting a breakfast program in 2002-2003, you must include menus for the breakfast program in the bid and indicate which schools will be starting a breakfast program. This is a multiple year contract, and specifications should be prepared with that in mind.

As noted earlier the contracts have been modified to conform to New York State's standard contract and bid specifications with the agreement first and the bid specification following. Several other changes and additions have been made to the contract to help clarify the responsibility of the SFA and the FSMC. The adjustments are as follows :

1. In the Agreement section under Scope and Purpose we added, "Any prompt payment discounts, rebates obtained from local vendors or through national or regional purchasing arrangements will be retained by the SFA." The FSMC's source of profit is a fixed fee submitted as the bid to provide services.

2. Buy American

SFAs participating in the NSLP and SBP are required to purchase for those programs, to the maximum extent practicable, domestic commodities or products. For purposes of this provision, the term "domestic food commodity or product" means agricultural commodities produced in the U.S. and food products processed in the U.S. substantially using agricultural commodities that are produced in the U.S. (over 51 percent of the processed food comes from American produced products). This information has been added to the bid specifications under "Purchase Specifications" and the inserted product specification page.

3. Maximum Student Selling Prices for Breakfast and Lunch

We will not be establishing maximum selling prices for reimbursable breakfast and lunches served to students for the 2002-03 school year. However, when you establish your pricing structure, keep in mind that it is easier to make gradual increases in the meal charge than to raise prices dramatically:

- Significant price increases will often result in a decrease in participation levels;
- If you raise lunch prices, you should also raise a la carte prices accordingly so that the combined price of an entrée plus milk equals the lunch price;

- Reduce expenses and generate revenues from other sources instead of relying solely on increasing the lunch charge to cover your program expenses.
- The maximum charge for a reduced price lunch and breakfast is \$0.25.
- Adults must be charged, at a minimum, the reimbursement you receive for a free lunch meal plus \$0.1550 (the current rate for government commodities) plus tax. This charge is for the same meal and portion sizes as served to a child. Increased portion sizes, more costly food items and special services should be reflected in increased charges. The selling price for a student meal should not exceed what is charged to an adult.

4. Addition to Special and General Conditions

There is an addition to Section 14 D that deals with equipment repair. If the SFA does not repair or replace equipment that the FSMC has informed the SFA poses a safety threat to employees or hampers the FSMC's ability to provide services the FSMC can repair or replace that equipment and bill the SFA.

5. Late payment charges and the Child Nutrition Program

The USDA recently published a memo concerning late payment charges for school food authorities (SFAs) using a Food Service Management Company (FSMC). Late payment charges are unallowable costs according to the Office of Management and Budget Circular A-87. SFAs subject to late payment charges cannot charge these costs to the nonprofit school food service account. This prohibition extends to all federal and nonfederal funds contained within the nonprofit school food service account, not just federal reimbursement payments. The SFA must use other sources of funds to pay late charges.

Management Company Listing for 2002-03

Aladdin Food Management Services, Inc.

President
21 Armory Drive
Wheeling, WV 26003
(304) 242-6200

All Seasons Food Services, Inc.

Dominic F. Spano
Food Service Specialist
Mount Pleasant Road
Canastota, NY 13032
(315) 697-3914

ARAMARK, Corp.

Denice Mitrousis
Regional Vice President
School Support Services
1101 Market Street 12th Floor
Philadelphia, PA 19107-2988
(215) 238-6269

Chartwells for counties of: Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, Westchester and New York City

Joseph Grattan
Regional Sales Director
84 Susquehanna Avenue
Lincoln Park, NJ 07035
(973) 628-1340

Chartwells

For all other counties in NYS

Vincent "Ozzie" Orsillo
Regional Sales Director
12 Avis Drive
Latham, NY 12110
(518) 786-8656

Culinary Management Corp.

Edward R. Bowers
President
P. O. Box 401
Woodbury, NY 11797-0401
Phone (631) 692-0363

CulinArt, Inc

Steve Dawson
1979 Marcus Avenue Suite E 110
Lake Success, NY 11042
(516) 437-2700

Culinary Ventures, Inc

Cathie M. Allen
Vice President School Foodservice
320 Murray Street
Newark, NJ 07114
(973) 624-3200

Fine Host Corporation

Joseph Tavilla
Sales Director
85-7 Airpark Drive
Ronkonkoma, NY 11779
(631) 588-0341

Fine Host Corporation

Steve Trowbridge
Sales Director
Northeast Regional Sales Director
80 Etna Lane
Freeville, NY 13068
(607) 347-6712 ext. 358

Flik International/Compass Group

Rick Emery
Regional Director
3 International Drive
Rye Brook, NY 10573
(914) 935-5300

Frontier Foods

Arthur Christy
President
P.O. Box 903
West Seneca, NY 14224
(716) 674-4455

Hallmark Management Co.

President
2375 East Main Street
Columbus, OH 43209

Lackman Food Service

Thomas F. Lackman
President
303 Crossways Park Drive
Woodbury, NY 11797
(516) 364-2300

Northstar Food Service Management Co.

Mark Cramer
Vice President
47 Hanson Road
Basking Ridge, NY 07920

Nutrition, Inc

Gerald P. Moore,
Vice President
202 South Third Street
West Newton, PA 15089
(412) 872-7887

Personal Touch Food Service, Inc.

David A. Cervi
Vice President
1180 Delaware Avenue
Buffalo, NY 14209
(716) 883-1998

Prestige Services, Inc.

J. E. "Eddie" Hicks
President
743 Pierce Road
Clifton Park, NY 12065
(518) 877-7426 Ext. 11

Quality in House Catering, Inc.

John Seier
President
371 Sproutbrook Road
Garrison, NY 10524
(914) 737-1253

Sodexo School Services

Christine Mangio
P. O. Box 983
Amherst, NY 14226
(716) 832-3996

Taher, Inc.

Sylvia Evenson
Director of Marketing
5570 Smetana Drive
Minnetonka, MN 55343
(612) 965-0505

Watson Services, Inc

Ronald G. Ward
Vice President
75 Pierce's Road P.O. Box 2428
Newburgh, NY 12550
(845) 561-3000

Whitson's Food Service, Corp.

Doug Whitcomb
379 Oakwood Road
Huntington Station, NY 11746
(800) 813-5833

BID SUMMARY 2002-2003

School Food Authority: _____

Completed by: _____

Title: _____

Basis of Award (Check One)

- Maximum Per Meal Annual Administrative Fee Per Meal Administrative Fee

List the names of all companies submitting a sealed bid and the bid amount. Check off the basis of award. Submit this form with signed contract.

Name of Company	Amount of Bid	Contract Awarded to (Check)

If the bid was awarded to a company that did not submit the lowest bid, please attach a signed copy of the Board of Education resolution awarding the contract.