



Office of Elementary, Middle, Secondary and Continuing Education
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Child Nutrition Program Administration
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**CONTRACTING FOR SCHOOL FOOD SERVICE
FACT SHEET 1
PROCEDURE**

Any public school that will use a Food Service Management Company (FSMC) to run their food service operation must competitively bid for services. Any non-public school or residential child care institution participating in the National School Lunch Program (NSLP), the School Breakfast Program (SBP), or Special Milk Program (SMP) that will use a FSMC to manage their food service operation in whole or in part must competitively bid for those services. There is a procedure, required by New York State Law, which school food authorities (SFAs) must follow. The Department must approve all FSMC contracts.

Please follow the steps outlined below:

I For a copy of the standard bid specification and contract form which contain the requirements for contracting contact:

Sharon M. Smith, Assistant
New York State Education Department
Child Nutrition Program Administration
Room 55
Albany, New York 12234 -0055

Note: *A public school district considering contracting with a FSMC should review the possible implications in employee-employer relations under the Taylor Law with the public school district's legal counsel.*

II Upon receipt of the sample contract, the District readies the contract for bidding by including those specifications appropriate to its program needs. (See Fact Sheet 2 # I)

The bid specifications should be reviewed prior to advertising for bids.

III The bid is let in accordance with New York State Education Law § 305 and New York State General Municipal Law § 103.

A. The SFA must advertise in the official newspaper, or one having general circulation in the district. The published advertisement must state that bid proposals are being accepted, and the date, place and time when the proposals will be publicly opened.

(1) A minimum of five (5) days must elapse between the first publication of the advertisement and the formal opening and reading of bids.

Note: *The Department recommends that the bid opening be four (4) weeks from the date of publication to allow bidders the opportunity to develop an accurate bid.*

B. Bid proposals are opened. The bid is awarded by the District's Board of Education to the lowest responsible bidder. Bidders are notified of the award.

Note: *The District has the right to reject any or all bids (with reason), or waive any technical defect so long as it is done universally and without prejudice. SFAs are strongly advised to confer with their legal counsel when rejecting a low bidder.*

IV The bid specification, completed agreement with original signatures, and two (2) additional copies must be submitted to the Department for approval. Send to address in I.

- A. The previously mentioned documents (one with original signatures, plus two copies of the bid specification and agreement form) must be accompanied by a summary of the bids received, an affidavit of publication from the newspaper publishing the bid advertisement and FSMC signed debarment and lobbying certificates.
- B. The contract will be approved if it complies with all State and federal regulations. The Department retains two (2) copies of the contract. The document with original signatures is returned to the District. A copy should be sent to the FSMC.
- C. If the provided contract can not be approved, communication between the Department and the District will continue until all problems are resolved.

Note: *An approved contract must be on file with the Department before a District may begin earning federal and State reimbursement and donated commodities for that contract term. Failure to do so will result in withholding of reimbursement and/or potential loss of funds.*

For further information or clarification, contact Sharon M. Smith at (518) 473-8781.