

2002-03 Management Company Contract Checklist

Fill out this form completely and return it with contract.

School Food Authority _____
Contact Person _____
Title _____
Telephone Number () _____

Management Company _____

Contract Type _____ Bid Price _____

LEA code # _____ Program _____

Does the contract contain the following? Yes

Agreement Section

Agreement Completed with name of SFA and FSMC _____
Performance Security, must be listed _____
Term of Contract – month, date and year _____
60 Day Termination Clause _____
Original Signature of Board member _____
Original Signature of Contractor _____
Original Corporate Affidavit _____
Original Debarment Statement _____
Original Certificate Regarding Lobbying _____
Affidavit Of Publication _____
Bid Summary _____

Bid Specifications Section

Adult Selling price higher than \$ 2.31 plus tax _____
A la Carte Pricing _____
Complete 21 day cycle menus _____
Procurement Specifications _____
Original Bid Form _____
Financial Budget Projection _____
Original Non Collusive Statement _____

Accurate completion of this checklist will assist in the speedy processing and approval of your contract. Please take a few minutes to make certain that each item is correctly completed. Omissions and inaccuracies in the contract or extension will cause delays in approval and possible delays in your receipt of reimbursement.

If a contract is not received by October 1, 2002, reimbursement for those meals served will be withheld until the contract has been submitted to this office.

Before mailing your contract or extension of contract, review and check each item listed below to assure the item is completed.

**TYPE I
ADMINISTRATIVE SERVICE FEE**

**SPECIFICATIONS AND BID FORM FOR
FOOD SERVICE MANAGEMENT PROGRAM OPERATIONS
BID NUMBER _____**

FOR:

School Food Authority Name _____
Address _____
Telephone No. _____

SUBMITTED BY:

Management Company Name _____
Address _____

In accordance with the provisions of Section 305 of the New York State Education Law, an advertisement for bids was published in the _____ on _____, 20____. As stated in such notice, bids will be publicly opened and read in the office of _____ on _____, 20____ at ____ (a.m.) (p.m.).

CHILD NUTRITION PROGRAM

Management Company Contract

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CHILD NUTRITION PROGRAM

Management Company Contract

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AGREEMENT

THIS AGREEMENT, made this _____ day of _____ by and between the
(Month, Year)
_____ in the city of _____, New York, hereinafter
(School Food Authority)
referred to as SFA and _____ hereinafter referred as FSMC.
(Food Service Management Company)

WITNESSETH

WHEREAS, the SFA has advertised for sealed bids for Food Service Management to the facilities listed in Appendix B in accordance with the specifications attached hereto and made a part hereof as if same were set forth in full, and

WHEREAS, the FSMC submitted a proposal for Food Service Management to the said facilities dated _____ and has been awarded a contract.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter expressed, it is mutually covenanted and agreed by and between the parties hereto as follows:

1. SCOPE AND PURPOSE

- A. The SFA shall retain control of the quality, extent and general nature of the food service program and the prices to be charged.
- B. The SFA shall be responsible for the cost of the food service program as indicated in the bid specifications and entitled to all receipts generated pursuant to this contract.
- C. The FSMC shall receive for its services a reasonable fixed fee. Any prompt payment discounts, rebates obtained from local vendors or through national or regional purchasing arrangements will be retained by the SFA.
- D. All net income accruing to the SFA from the food service program shall remain in the program.
- E. The FSMC shall be an independent contractor and not an employee of the SFA nor are the employees of the Contractor employees of the SFA, except _____.
- F. The FSMC, as independent contractor, shall have the exclusive right to operate the school lunch program and/or breakfast program, and/or special milk program.
- G. The food service provided shall be operated and maintained as a benefit to the SFA students, faculty and staff and not as a source of profit to the contractor.
- H. The SFA shall be legally responsible for the conduct of the food service program, and shall supervise the food service operations in such manner as will insure compliance with the rules and regulations of the New York State Department of Education and the United States Department of Agriculture regarding school food service program.
- I. The FSMC shall promote nutrition-health education as required by the local County, State or Federal Governments.
- J. The FSMC shall comply with the rules and regulations of the Commissioner of Education and the United States Department of Agriculture, and any additions or amendments thereto.

2. FREE AND REDUCED MEAL POLICY

- A. The SFA free and reduced meal policy for the reimbursed school lunch and/or breakfast and/or special milk and/or commodity distribution programs is defined in Appendix A and hereby in all respects made a part of this contract.
- B. The written policy of the SFA requiring feeding of needy children free or at reduced price shall apply to the FSMC's food service operation.
- C. The SFA shall be responsible for the implementation of this policy.
- D. The SFA shall be responsible for the review and certification of free and reduced price applications, verification of certified applications and maintenance of the eligibility roster.
- E. Meals shall be served and proper accurate pupil participation records shall be maintained by the FSMC.

3. MEALS

- A. The FSMC shall serve reimbursable meal pattern lunches pursuant the National School Lunch Program regulations 7 CFR Part 210.10(c) and (d). and shall meet the Dietary Guidelines for Americans.
- B. The FSMC should offer a choice of reimbursable meal pattern lunches, subject to approval of the SFA.
- C. The FSMC shall serve reimbursable breakfasts pursuant to the School Breakfast Program regulations 7 CFR Part 220.8 (b) and (c), where indicated in Appendix B of this agreement, and shall meet the Dietary Guidelines for Americans.
- D. The FSMC shall serve reimbursable milk pursuant to the Special Milk Program where indicated in Appendix B.
- E. The FSMC shall serve reimbursable meal pattern snacks pursuant the National School Lunch Program regulations 7 CFR Part 210.10(n) and 210.10a(j).
- F. The FSMC shall promote maximum participation in the Child Nutrition Programs.
- G. The FSMC shall provide condiments and utensils as needed.
- H. The FSMC shall provide specified types of service in the locations listed in Appendix B and hereby in all respects made a part of this contract.
- I. The FSMC shall use the SFA facilities for the preparation of food to be served in the designated attendance units.
- J. All a la carte items served by the FSMC shall be approved by the SFA in advance of sale.
- K. All a la carte prices charged by the FSMC shall be approved by the SFA in advance of sales.
- L. The FSMC shall sell on the premises only those foods and beverages authorized by the SFA and only at the times and places designated by the SFA.
- M. The FSMC shall not sell, dispense, or cause to be on premises, the items listed in Appendix C and hereby in all respects made a part of the contract.
- N. The FSMC may use fillers or extenders, such as "textured vegetable protein," in foods served upon approval of the SFA and as regulated by USDA.
- O. Neither the SFA nor the FSMC shall authorize the distribution of non-nutritious foods pursuant to State and federal laws and regulations.
- P. The FSMC shall make substitutions in the minimum food components of the meal pattern if individually participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority that includes recommended alternate foods and should be approved by the State Education Department. The SFA shall notify the Contractor of any special dietary needs.
- Q. The SFA and FSMC employees may purchase meals at the option and direction of the SFA at prices approved by the SFA. The Contractor shall not count these meals for reimbursement under the National School Lunch Program and/or Special Milk and/or School Breakfast Program.

4. MENUS

- A. The SFA shall establish an advisory board comprised of students, teachers, and parents to assist in menu planning.
- B. Menus shall be reviewed and approved by the SFA and available for distribution _____ days prior to actual preparation and service of foods.
- C. Nutrient analysis of breakfast and lunch menus shall be conducted with every new menu cycle (if NSMP or ANSMP menu system is selected), or 15 days from written request (if Food Based or the Traditional Menu Pattern is used).

5. FEDERALLY DONATED COMMODITIES

- A. Any federally donated commodities received by the SFA and made available to the FSMC shall accrue only to the benefit of the SFA's nonprofit school food service program and shall be used therein.
- B. The FSMC shall have records available to substantiate the use of federally donated commodities in reimbursable meal pattern lunches.
- C. The FSMC shall select, accept and use in as large quantities as may be efficiently used in SFA's nonprofit school service, the type and quantities of available federally donated commodities, subject to the approval of the SFA.
- D. The FSMC/SFA shall be responsible for transportation and storage charges for federally donated commodities, if any.
- E. The FSMC shall account for all federally donated commodities separately from purchased commodities.

- F. Title of products purchased or processed using federally donated commodities must remain with the SFA. Any charges incurred by the FSMC when processing or purchasing products containing government commodities shall be paid by the FSMC and charged back to the SFA as a food cost.

6. PURCHASES

- A. The Governing Board shall purchase all food and non-food commodities in compliance with General Municipal Law Section 103 and Part 114 of the Regulations of the Commissioner of Education (8 NYCRR Part 114). Such purchases shall be made by the FSMC.
- B. Legal title to all commodities purchased by the FSMC shall remain with the FSMC.
- C. The FSMC may submit bids for the purpose of supplying commodities to the food service program pursuant to (A).
- D. Purchases exempt from competitive bidding pursuant to General Municipal Law section 103(9) shall be made in compliance with section 114.3 of the Regulations of the Commissioner of Education (8 NYCRR 114.3).

7. USE OF FACILITIES

- A. The SFA shall furnish at its expense, space, light, heat, power, hot and cold water and other utilities as are necessary for the operation of the food services to be furnished hereunder.
- B. The SFA shall make available without any cost or charge to the FSMC Contractor area or areas of the premises agreeable to both parties in which the FSMC shall render its services; such area or areas reasonably necessary for providing efficient food service.
- C. The SFA may request of the FSMC, additional food service programs; however, the SFA reserves the right, at its sole discretion, to sell or dispense any food or beverage before or after the SFA regularly scheduled lunch or breakfast periods provided such use does not interfere with the operation of the School Lunch and/or Breakfast and/or Special Milk Programs.
- D. If the SFA uses the facilities for extracurricular activities before or after the SFA regularly scheduled lunch or breakfast period, the SFA shall return facilities and equipment to the FSMC in the same condition as received, normal wear and tear excepted.

8. INVENTORY, EQUIPMENT, STORAGE

- A. The FSMC and the SFA shall inventory the equipment and commodities owned by the SFA at the beginning of the school year, including but not limited to silverware, trays, chinaware, glassware, kitchen utensils, food commodities.
- B. The FSMC shall maintain the inventory of silverware, chinaware, glassware, kitchen utensils, and other operating items necessary for the food service operation.
- C. The SFA shall replace expendable equipment and replace, repair and maintain equipment except when damages result from the use of less than reasonable care by the employees of the FSMC.
- D. The FSMC shall maintain adequate storage practices, inventory, and control of federally donated foods in conformance with SFA's agreement with the Office of General Services.
- E. The FSMC shall provide locks for food storage areas under its direct supervision. One set of keys to those locks shall be provided by the FSMC to the SFA.
- F. The SFA shall provide the FSMC with local telephone service.
- G. The SFA shall furnish and install any equipment or make any structural changes needed to comply with Federal, State and local laws, ordinances, rules and regulations.
- H. The SFA shall be responsible for any losses including federally donated commodities, which may arise due to equipment malfunction or loss of electrical power not within the control of the FSMC.
- I. All food preparation and serving equipment owned by SFA shall remain on the premises of the SFA.
- J. The SFA shall not be responsible for loss or damage to equipment owned by the FSMC and located on the SFA premises.
- K. The FSMC shall notify the SFA of any equipment belonging to the Contractor on SFA premises within ten (10) days of its placement on the SFA premises.
- L. The FSMC/SFA shall pay for oil and gas used by its owned, hired, or other vehicles under its supervision used for delivering food or non-food commodities.
- M. The FSMC/SFA shall provide its own drivers for owned, hired, or other vehicles under its supervision used for delivering food or non-food commodities.

9. SANITATION

- A. The FSMC shall place garbage and trash in plastic bags and place in designated areas.

- B. The SFA shall remove all garbage and trash from the designated areas.
- C. The FSMC shall clean the kitchen area, including but not limited to sinks, counters, grease traps, tables, chairs, silverware, and utensils.
- D. The FSMC shall operate and care for all equipment and food service areas (walls, windows, lights, excepted) in a clean, safe, and healthy condition in accordance with standards acceptable to the SFA and comply with all applicable laws, ordinances, regulations and rules of Federal, State, and local authorities.
- E. The SFA shall be responsible for cleaning of ducts and hoods above the filter line and will provide extermination services as needed.
- F. The SFA shall be responsible for painting and/or decorating within the kitchen and dining areas.
- G. The FSMC shall comply with all local and state sanitation requirements in the preparation of food.

10. EMPLOYEES

- A. The FSMC shall comply with all wage and hours of employment requirements of Federal and State Law.
- B. All employees of the FSMC shall be paid in accordance with the Fair Labor Standard Act, as amended, and any other applicable statutes.
- C. The FSMC shall comply with Titles VI and VII of the Civil Rights Act of 1964 and the implementing regulations of the United States Department of Agriculture issued thereunder and any additions or amendments thereto.
- D. The FSMC shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 41 CFR Part 60.
- E. The FSMC shall provide Workman's Compensation for its employees.
- F. The FSMC shall instruct its employees to abide by the policies, rules and regulations, with respect to use of SFA premises as established by SFA from time to time and which are furnished in writing to the FSMC.
- G. The FSMC shall maintain its own personnel policies and fringe benefits for its employees, subject to review by the SFA.
- H. The FSMC shall provide the SFA with a list of its personnel policies.
- I. Staffing patterns shall be mutually agreed upon.
- J. Any employee who is continued as an employee of the FSMC shall be subject to the personnel policies and termination rules of the FSMC.
- K. The FSMC shall not be responsible for hiring employees in excess of the number required for efficient operation.
- L. The FSMC shall provide the SFA with a schedule of employees, positions, assigned locations, salaries (and hours to be worked) two full calendar weeks prior to the commencement of operation.
- M. The SFA shall provide sanitary toilet facilities for the employees of the FSMC.
- N. The SFA may request in writing the removal of an employee of the FSMC who violates health requirements or conducts himself/herself in a manner which is detrimental to the physical, mental, or moral well-being of students.
- O. In the event of the removal or suspension of any such employee, the FSMC shall immediately restructure its staff without disruption in service.
- P. All FSMC personnel assigned to each school shall be instructed on the use of all emergency valves, switches, fire and safety devices in the kitchen and cafeteria areas.

11. EMERGENCY CLOSING

The SFA shall notify the FSMC of any interruption in utilities of which it has knowledge.

12. LICENSES, FEES, TAXES

- A. The FSMC shall be responsible for paying all applicable taxes and fees, including but not limited to excise tax, State and local income taxes, payroll, and withholding taxes and hold the SFA harmless for all claims arising under such taxes and fees.
- B. The SFA shall be responsible for paying sales tax collected on any receipts deposited in the SFA's name.
- C. The FSMC shall obtain and post all licenses, permits and food handler's cards as required by Federal, State, or local law.
- D. The FSMC shall comply with all health and safety regulations required by Federal, State, or local law.

- E. The FSMC and the SFA shall comply with all building rules and regulations.
- F. The FSMC shall maintain applicable health certification.
- G. The FSMC shall have State or local health certification for any facility outside the SFA in which it proposes to prepare meals and the FSMC shall maintain this health certification for the duration of the contract.

13. INCOME, REIMBURSEMENT

- A. The SFA shall receive all income from the program(s) and deposit it in the school cafeteria fund accounts.
- B. Authority to sign claims for reimbursement shall remain with the SFA.
- C. The SFA shall be responsible for establishing all program and non-program meal and a la carte prices.
- D. If reimbursement is denied as a direct result of the failure of the FSMC to comply with the provisions of this contract, the FSMC shall assume responsibility for the amount denied.

14. FINANCIAL ACCOUNTING, BOOKS AND RECORDS

- A. Financial accounting by the FSMC shall be in accordance with New York State Department of Education rules and regulations and applicable State Laws.
- B. The administrative/service fee is \$ _____.
- C.
 1. The FSMC reimbursement shall not exceed the contract terms (eligible direct cost of operation plus administrative fee) and will be reimbursed only as approved and audited by (title) _____ or his/her authorized representative.
 2. Under the provision of a per meal administrative fee, reimbursement due to the FSMC shall equal meals claimed for reimbursement plus equivalent meals multiplied by the bid price.
 3. SFA shall designate by name and title the employee whose responsibility shall be to supervise and audit all financially related operations of the FSMC.

(CHOOSE ONE)

- 4. The FSMC shall bill the SFA for the eligible direct costs of operation incurred at the close of each week of program operation.
- OR**
- 5. The FSMC shall bill the SFA for the eligible direct costs of operation incurred at the close of each month of program operation.
 - D. The FSMC's cost reimbursement shall not exceed contract terms (eligible direct cost of operation plus administrative fee as bid), is contingent upon the direct cost of operations as audited and approved, and limited to the extent of program income.
 - E. The SFA shall make payment within 15 days to the FSMC for the direct costs of operation after the submission of a valid claim in accordance with Section C above for each week of program operation to the extent of the school cafeteria fund account balance. Normal credit terms will be 15 days from billing date.
 - F. In the event estimated direct costs of operation do not equal actual costs of operations, adjustments shall be made within ten working days following the close of the month of operation.
 - G. The FSMC shall maintain such records (supported by invoices, receipts, or other evidence) as the SFA will need to meet monthly reporting responsibilities and shall submit monthly operating statements in a format approved by the SFA no later than the tenth calendar day succeeding the month in which services were rendered; participation records shall be submitted no later than the fifth working day succeeding the month in which services were rendered.
 - H. The FSMC shall maintain records at the SFA to support all allowable expenses appearing on the monthly operating statement. These records shall be kept in an orderly fashion according to expense categories.
 - I. The FSMC shall provide the SFA with a year end statement.
 - J. The SFA will audit food, labor, and other large expense items quarterly as well as performing random audits on smaller expense categories.
 - K. The SFA shall audit the FSMC's operations as part of its year end audit.
 - L. Books and records of the FSMC pertaining to the school feeding operations shall be available, for a period of three (3) years from the end of the contract term (including extensions) to which they pertain, for inspection and audit by either State or Federal representatives and auditors.
 - M. No payment shall be made for meals that are spoiled or unwholesome at time of delivery, or do not meet the detailed specifications for each food component in the meal pattern or do not otherwise meet the requirements of the contract [of the NSLP, SBP or the contract](#).

15. PERFORMANCE SECURITY, INSURANCE

- A. The FSMC shall provide security form as authorized prior to the commencement of food service operations.
- B. The performance security shall be in a form acceptable to the SFA, and shall be in the amount of \$ _____.
- C. The FSMC shall submit the performance security to the SFA prior to the commencement of program operations.
- D. The SFA shall be named an additional insured on all required insurance policies.
- E. The contract of insurance shall provide for notice to the SFA of cancellation of insurance policies sixty (60) days before such cancellation is to take effect.
- F. The FSMC shall provide a certificate of insurance for all required policies; the certificate of insurance shall contain: 1) names and addresses of insured, 2) titles and locations of the operations to which the insurance applies, 3) number of the policy and type or types of insurance in force thereunder on the date of the certificate, 4) expiration date of the policy and the type and types of insurance in force thereunder on the date of the certificate, 5) statement that the insurance of the type afforded by the policy applies to all of the operations and activities on and at the site of the project or incidental thereto, which are undertaken by the Contractor during the performance of the contract.

16. TERM, TERMINATION

- A. This contract shall become effective on _____, 20 ____ and terminate on _____, 20 ____.
- B. This contract may be extended by the SFA, and the FSMC under the rules and regulations prescribed by the Commissioner of Education; however, pursuant to federal regulations, such extensions shall be executed prior to termination of the preceding contract period and shall not extend the original contract period beyond five years.
- C. If the FSMC violates or breaches the terms of and conditions of this Contract, the SFA shall give the FSMC written notice and an opportunity to cure the violation/breach. Should the FSMC fail to make reasonable progress to effect such cure, or correct the violation/breach, the SFA may assess the following penalties against the FSMC:

First written notification violation/breach.
Correction or reasonable progress to effect such cure must be made within five (5) operating days.

Failure to comply will result in loss of management fee for one (1) day

Second written notification for the same violation/breach.
Correction or reasonable progress to effect such cure must be made within five (5) operating days.

Failure to comply will result in loss of management fee for five (5) days.

Third written notification for the same violation/breach.
Correction or reasonable progress to effect such cure must be made within five (5) operating days.

Failure to comply will result in loss of management fee for ten (10) days.

Failure to comply with these notices will be considered cause for termination of the contract in accordance with the sixty-(60) day termination clause below.

- D. The SFA or the FSMC may terminate the contract, for cause, by giving sixty (60) days written notice, except: If the FSMC makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of bidders insolvency. In the event the SFA experiences a defeat of the budget the program shall operate in accordance with Education Law 1709 Subdivision 22. See item 17 below. If anticipated revenues or commodity assistance from federal and State reimbursements are reduced and, the FSMC submits in writing a proposal of recommended changes necessary to maintain program solvency and the SFA repeatedly refuses or fails to take appropriate action to maintain program solvency within thirty (30) days of receipt of said notice, the FSMC may, without prejudice and within seven (7) days written notice, terminate the contract.
- E. Neither the FSMC nor the SFA shall be responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any acts not within the control of either the FSMC or the SFA, respectively, and which by the exercise of due diligence it is unable to prevent.
- F. Contract Cost Increase: The SFA may negotiate at the end of each one year contract period for a cost increase not to exceed the annual percentage increase of the New York - Northeastern New Jersey Consumer Price Index for all Urban Consumers for the preceding year provided it has been satisfactorily established by the FSMC that there has been at least an equivalent increase in the amount of its cost of operation during the period of the contract.

17. CONTINGENCY BUDGET

Education Law Section 1709 Subdivision 22 now provides for the operation of a school food service program without "voter approval" providing two conditions are met: a. The program was operated during the preceding school year, and b. no "tax levy" is required for the operation of the program. The latter is interpreted as a budgetary appropriation.

In the event that a SFA had awarded its contract under Bid Option C (General Fund Subsidy) and has experienced a defeat of its budget and must operate the school food service program(s) under contingency budget conditions; the SFA shall exercise one of the following options in its sole discretion:

1. Amend the contract to operate the school food service program(s) without a General Fund Subsidy.

OR

2. Terminate the contract with written notice to the contractor, and discontinue operation of the school food service program(s) in conformance with applicable federal and State guidelines.

OR

3. Terminate the contract with written notice to the contractor, and re-bid the operation of the program under Bid Option B (Break Even).

18. GENERAL

- A. This contract shall be construed under the laws of the State of New York. Any action or proceeding arising out of this contract shall be brought in the appropriate courts of the State of New York.
- B. The FSMC shall comply with the provisions of the bid specifications and hereby in all respects made a part of this contract.
- C. No provision of this contract shall be assigned or subcontracted without prior written consent of the SFA.
- D. This contract constitutes the entire contract between the SFA and the FSMC and may not be changed, terminated or extended orally or by course of conduct.
- E. No waiver of any default shall be construed to be or constitute a waiver of any subsequent default.
- F. Payments on any claim shall not preclude the SFA from making claim for adjustment on any item found not to have been in accordance with the provisions of this contract and bid specifications.
- G. This contract shall not be renegotiated.
- H. The terms and conditions of this contract are subject to review and approval by the New York State Education Department, Child Nutrition Program Administration..
- I. It is further agreed between the SFA and the FSMC that the clauses attached hereto and designated as Appendices A - H are hereby in all respects made a part of this contract.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

Signature _____
President, Board of Education

Name of School Food Authority

Date _____

Authorized Signature _____
Food Service Management Company Representative

Title _____

Name of Food Service Management Company

Date _____

CORPORATE AFFIDAVIT

STATE OF _____

COUNTY OF _____

CITY OF _____

On this _____ day of _____, 20 _____, before me, the subscriber, personally came _____
_____ to me known, who being by me duly sworn, did depose and say that she/he resides in the town/city of _____
_ State of _____, that she/he is the _____ of _____ the corporation described
in and which executed the above instrument; that she/he knows the seal of said corporation, that the seal affixed to said
instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that she/he
signed her/his name thereto by like order.

Company Official

Affix Corporate Seal Here:

Notary Public

APPENDIX A

The SFA's Free and Reduced Meal Policy is as follows: Policy Statement LEA Code _____ on file, dated _____, 20 ____.

APPENDIX B

Breakfast, lunch, milk and snack food will be provided in accordance with the terms and conditions of the food services specifications at the following locations:

<u>Building Name</u>	<u>Lunch</u>	<u>Breakfast</u>	<u>A La Carte/ Adult Meals</u>	<u>After School Snacks</u>	<u>Special Milk</u>	<u>Split Session Kindergarten Special Milk</u>
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

APPENDIX C

The following items shall not be sold or dispensed:

- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

APPENDIX D

Standard Clauses for All New York State School Food Authority - Food Service Management Company Contracts

The parties of the attached contract, license, lease, amendment or other agreement or any kind (hereinafter, the contract or this contract”) agree to be bound by the following clauses which are hereby made a part of the contract (the word Contractor herein refers to any party other than the SFA, whether a contractor, licensor, licensee, lessor, lessee, or any other party):

1. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
2. **CONFLICTING TERMS.** In case of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix D, the terms of this Appendix D shall control.
3. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

Grantor agencies are permitted to require changes, remedies, changed conditions, access and record retention and suspension of work clauses approved by the Office of Federal Procurement Policy.

4. **HOLD HARMLESS.** The FSMC shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the **intentionally negligent or negligent** acts, errors or omissions of its employees providing the services rendered by the FSMC pursuant to this AGREEMENT. The FSMC shall defend and indemnify and hold harmless the SFA and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the **intentionally negligent or negligent** provision of services pursuant to this AGREEMENT.
5. Where applicable, all contracts awarded by grantees and subgrantees in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and 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. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence.
6. All contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
7. Contracts, subcontracts, and subgrants of amounts in excess of \$100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR, Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the EPA Assistant Administrator for Enforcement (EN-329).
8. **Criminal penalties**
Section 104(b) amended section 12(g) of the NSLA (42 U.S.C. 1760(g)) to increase to \$25,000 the maximum fine for embezzling, willfully misapplying, stealing or obtaining by fraud funds, assets or property acquired under the NSLA or CNA.
9. **Buy American**
Section 104(d) amended section 12 of the NSLA (42 U.S.C. 1760) to require SFAs participating in the NSLP and SBP 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).

10. **Procurement contracts**

Section 104(e) amended section 12 of the NSLA (42 U.S.C. 1760) to stipulate that, when acquiring goods and services for programs under the Child Nutrition Programs SFAs may contract with persons and companies which have provided specification information to SFA for use in drafting procurement specifications. This provision is intended to encourage program administrators to obtain information from as many sources as possible to assist them in drafting procurement documents. A potential 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. This provision is intended to ensure that program operators have sufficient flexibility in contracting matters while maintaining maximum open and free competition.

11. **Food safety inspections**

Section 102(c) amended section 9 of the NSLA (42 U.S.C. 1758) by adding subsection (h) to require schools participating in the NSLP or the SBP to obtain food safety inspections conducted by a State or local governmental agency responsible for such inspections at least once a year if a State or local governmental agency does not otherwise require inspections.

APPENDIX E

Debarment, Suspension

All Food Service Management Companies must complete the Debarment, Suspension certificate.

Executive Order 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government wide system for non-procurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and non-financial assistance and benefits under Federal programs and activities. Debarment or suspension of a participant in a program by one agency shall have government wide effect. A copy of the form is provided, as Appendix E.

APPENDIX F

Disclosure of Lobbying Activities

Food Service Management Companies who bid for an award exceeding \$100,000 must disclose lobbying activities in connection with school nutrition programs. SFAs should contact the Department's Child Nutrition Program Administration office for further information regarding disclosure or lobbying activities. A copy of the disclosure form is provided, as Appendix F.

**INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

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

U. S. DEPARTMENT OF AGRICULTURE

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

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

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

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

Organization Name

PR/Award Number or Project Name

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)

Date

CERTIFICATION REGARDING LOBBYING

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

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

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

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress 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, in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with it instructions.
(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100, 000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Name/Address of Organization

Name/Title of Submitting Official

Signature

Date

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

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks “Subawardee”, then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., “RFP-DE-90-001.”
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different.
11. 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.
12. 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.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. 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.

Approved by
OMB
0348-0046
APPENDIX F

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/applications <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change for Material Change only: year _____ quarter _____ date of last report _____
4. Name and address of Reporting Entity: <input checked="" type="checkbox"/> Prime <input checked="" type="checkbox"/> Subawardee Tier _____ if known: Congressional District, if known:		5. If Reporting Entity in #4 is Subawardee, Enter Name and Address of Prime: Congressional District, 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: \$	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):	b. Individuals Performing Services (including address if different from #10a.) (last name, first name, MI):	
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input checked="" type="checkbox"/> a. retainer <input checked="" type="checkbox"/> b. one-time fee <input checked="" type="checkbox"/> c. commission <input checked="" type="checkbox"/> d. contingent fee <input checked="" type="checkbox"/> e. deferred <input checked="" type="checkbox"/> f. other; specify: _____	
12. Form of Payment (check all that apply): <input checked="" type="checkbox"/> a. cash <input checked="" type="checkbox"/> b. in-kind: specify: nature _____ value _____	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:	
15. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty not less than 10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone #: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

APPENDIX G

SUMMER FOOD SERVICE PROGRAM

School Food Authorities (SFAs) which contract with a Food Service Management Company (FSMC) for food service operations during the school year are required to go out to bid separately for the Summer Food Service Program (SFSP) unless the contract includes provisions to operate the SFSP. The bid specifications and contract provisions for the "year round" contract must include terms and conditions 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. In addition to the general terms and conditions contained in the contract agreement form, the following provisions are herein made part of this bid specification/contract form:

1. The SFA shall specify estimated participation in the SFSP, by meal type, and other site information as detailed on Appendix G 1 attached.
2. The SFA shall maintain responsibility for the administration and management of the SFSP and sign all agreements, claims for federal reimbursement and/or other program documents.
3. The FSMC shall serve reimbursable meals pursuant to the SFSP regulations 7 CFR part 225 and the menu planning option used by the SFA, as specified in the SFSP Annual Application Agreement Form and in accordance with the attached menu (Schedule A 3).
4. The FSMC shall prepare, store and serve food items in accordance with State and local health standards. The contractor shall provide for meals, which it prepares to be periodically inspected by the local health department or an independent agency to determine bacterial 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. The requirements of the attached Quality Control Plan must be met.
5. The FSMC shall provide food services, meal counting systems and record-keeping in compliance with 7 CFR Part 225 and 7CFR Part 3016.
6. The FSMC shall maintain records supported by invoices, receipts, purchase orders, production records, payroll records or other evidence for inspection and reference, to support the operating costs listed on monthly claims for reimbursement.
7. The FSMC and SFA shall maintain separate expenditure and revenue records for the SFSP for both operating and administrative costs.
8. The FSMC shall bill the SFA separately for expenses incurred in the SFSP under this contract

Appendix G 1

SUMMER FOOD SERVICE PROGRAM
SITES WHERE PROGRAM WILL OPERATE

SPONSOR NAME	ADDRESS	CONTACT PERSON/PHONE #	Food Service Management Co. Name
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Name of Site/Address & Phone	Authorized Designee	Holding Facilities		Dates		Days of Week	Total Days Op. (3)	Types of Meals (4)	Estimated Aver. Number of Meals/Day (5)	Total Number of Meals (6)	Delivery Time for Each Meal Type (7)
		Yes	No	Begin (1)	End (2)						
								BREAKFAST			
								AM SUPPLEMENT			
								LUNCH			
								PM SUPPLEMENT			
								BREAKFAST			
								AM SUPPLEMENT			
								LUNCH			
								PM SUPPLEMENT			
								BREAKFAST			
								AM SUPPLEMENT			
								LUNCH			
								PM SUPPLEMENT			
								BREAKFAST			
								AM SUPPLEMENT			
								LUNCH			
								PM SUPPLEMENT			

APPENDIX G 2

Quality Control Plan

Providing children with safe, nutritious and appetizing meals is one of the primary objectives of the Summer Food Service Program. Quality control in food production involves each stage of processing from procurement to service.

To ensure that health and sanitation requirements are met at all times in the preparation and delivery of the summer meals; each FSMC must submit the following documents with the bid:

1. A copy of the FSMC's quality control assurance plan that provides complete details on quality assurance procedures for meal preparation, packaging of food items, transportation and delivery schedules.
2. Quality assurance procedures shall identify the food production monitoring methods used to ensure that all foods are handled in a safe and sanitary manner. Quality assurance procedures will include but shall not be limited to the following:
 - a. The production/handling procedures for food (meal assembly) shall identify specific measures designed to monitor and assure the maintenance of personnel hygiene, sanitary conditions of the facility and the length of time associated with meal production periods.
 - b. Food product temperature monitoring procedures must provide a description of the procedures utilized to assure maintenance of safe food temperatures during all phases of handling, production, storage and shipment of meals. A log must be used for monitoring and recording food temperatures.
3. After the contract has been awarded and the program is in operation, the FSMC is responsible for submitting a copy of a log used for monitoring and recording food temperature during handling, production, storage, and delivery of the meals.
4. The SFA is also responsible for submitting samples of weights taken during program operations.
5. It is the responsibility of the SFA to ensure that the Quality Control Plan is in place before the contract begins.

APPENDIX H

Complete only if receiving Reimbursement for Snacks Served to Children in After School Care Programs.

The parties of the attached contract, license, lease, amendment or other agreement or any kind (hereinafter, "The contract" or "This contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word Contractor herein refers to any party other than the School Food Authority, whether a contractor, licensor, licensee, lessor, lessee, or any other party):

1. The SFA shall specify estimated participation in the after school care program(s) in the table below.

Estimated Participation in the After School Care Program

Participation in the after school care program for the 20____ - 20____ school year was

<u>School</u>	<u>Student Enrollment</u>	<u>Free Participation</u>	<u>Red.</u>	<u>Paid</u>
_____	_____	_____	_____	_____ -
_____	_____	_____	_____	_____ -
_____	_____	_____	_____	_____ -
_____	_____	_____	_____	_____ -
_____	_____	_____	_____	_____ -

2. Menu Cycle

The 21-day cycle menu, see Schedule A, shall be used as a standard for the purpose of basing bids or estimating average cost per meal. The FSMC must adhere to the cycle for the first 21 days of meal service. Menu standard as presented in the 21-day cycle menu must be maintained as to type and quality of meal service.

Snacks served must consist of at least two different components, in at least the minimum portion requirements, as set forth in 7 CFR sections 210.10(n) and 210.10a (j):

3. The FSMC shall maintain the following records to provide the SFA with information to submit proper claims for reimbursement:
 - a. Daily meal counts by category
 - b. Daily attendance records, such as sign in sheets, for the after school program
 - c. Written snack menus
 - d. All records must be maintained for three years plus the current year.

Bid Specifications

1. PURPOSE

The purpose of this solicitation is to provide for the operation of a food service program. The FSMC will assume responsibility for the efficient management of the food service program including purchasing, receiving, storing, setting up cafeteria lines, counter service, dining room service, clean-up, sanitation, training, hiring and supervising personnel, and presenting food in a way to create optimum student participation. The program will include the use of federally donated commodities.

The Bidder under these specifications will be referred to as the Food Service Management Company (FSMC) and the contract will be between the FSMC and the school food authority (SFA).

2. DEFINITIONS

School food authority (SFA) is a public school district, non-public school, residential child care institution, county jail or correctional facility participating in the National School Lunch, School Breakfast or Special Milk program.

Board is the Governing Board of the SFA.

Bidding Documents include but are not limited to the Advertisement or "Notice to Bidders," "Instructions to Bidders" all "Conditions and Specifications," the bid proposal forms, including any "Addenda" issued prior to the opening of bids, and the "Contract."

Instructions to Bidders all "Conditions and Specifications," the bid proposal forms, including any "Addenda" issued prior to the opening of bids, and the "Contract."

Notice to Bidders is the formal statement issued by the SFA inviting bids on all the services, materials, supplies or equipment described in the Bidding Documents.

Addenda are written instruments issued by the SFA prior to the opening of bids which modify or interpret the Bidding Documents by addition, deletions, clarifications or corrections.

Bid is a complete and properly signed proposal on the forms provided herein to provide the food service program management services, equipment, supplies or materials required for the sum stipulated therein supported by data called for by the Bidding Documents.

Bidder is any individual, company or corporation submitting a bid.

Successful Bidder is a Bidder to whom an award is made by the Board.

Food Service Management Company (FSMC) is a Bidder with whom a Contract is executed by the SFA.

Conditions and Specifications constitute any description in the Bidding Documents of Services, materials, supplies, and/or equipment required for the performance of the obligations under the Contract or the circumstances under which such services, materials, supplies, and/or equipment are to be provided.

Contract or Agreement is a formal agreement duly executed by the authorized representatives of the SFA and the FSMC which calls for the provision of all services, materials, supplies or equipment by the FSMC in accordance with all Conditions and Specifications in the Bidding Documents, for a price to be paid by the SFA.

Allowable Direct Costs are those costs that are incurred solely for the SFA's on-site operation as defined herein:

-**Labor** is defined as and limited to on-site employees responsible for the management, preparation, service, and clean up of meals.

-**Food** is defined as and limited to those items purchased for use in the preparation and service of student, a la carte and adult meals, as specified herein.

-**Miscellaneous expenses** are defined as paper supplies (including decorations), equipment rental, cleaning materials, commodity handling and warehousing charges, travel as required for effective program management and agreed upon by SFA, uniforms, menu paper and printing, taxes and licenses, laundry, and insurance and other costs as contractually obligated herein.

Note: Allowable direct cost of operations is defined as labor, food and miscellaneous expenses. All program expenses not otherwise defined in the contract will be assumed by the FSMC under the Administrative Service Fee.

Administrative Service Fee is defined as all other costs except labor, food and miscellaneous costs as defined herein.

All additional definitions set forth in the Conditions and Specifications are generally applicable to the Bidding Documents.

3. BIDDER RESPONSIBILITY

The bidder is responsible for personally examining the job sites where work under the bidding document is to be performed as they relate to the conditions existing at each job site. No pleas of ignorance relating to any data, conditions or requirements that exist or that may be encountered under this contract will be accepted as a result of failure or omission on the part of the FSMC to fulfill in every respect all the requirements, nor will the same be accepted as a basis for any claim whatsoever for extra charges for food services. Such visits will be scheduled through _____.

(Name of Official)

4. PRIOR YEARS PARTICIPATION

A. Participation in meal pattern lunches for the 20____ - 20____ school year was:

<u>School</u>	<u>Selling Price</u>		<u>Student Enrollment</u>	<u>Average Daily Participation</u>			<u>Total Adults/ Faculty Staff</u>
	<u>Student</u>	<u>Adult</u>		<u>Free</u>	<u>Red.</u>	<u>Paid</u>	
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____

The requirements of Meal Pattern lunches are found in 7 CFR 210.10. The FSMC will comply with any and all amendments hereto.

B. Participation in School Breakfast Program for the 20____ - 20____ school year was:

<u>School</u>	<u>Selling Price</u>		<u>Student Enrollment</u>	<u>Average Daily Participation</u>			<u>Total Adults/ Faculty Staff</u>
	<u>Student</u>	<u>Adult</u>		<u>Free</u>	<u>Red.</u>	<u>Paid</u>	
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____

The requirements of School Breakfast Program are found in 7 CFR 220.8. The FSMC will comply with any and all amendments thereto.

- C. Ala Carte Sales for the 20____ - 20____ school year totaled:_____.
- D. Sales in the Special Milk Program for the 20____ - 20____ school year totaled:_____.
- E. Child Nutrition revenues (breakfast, lunch and snacks) for the 20____ - 20____ year totaled:_____.

5. PRICES

A. The prices to be charged for the 20____ - 20____ (upcoming) school year are as follows:

<u>School</u>	<u>Student Meal Pattern Lunch</u>	<u>Adult Lunch*</u>	<u>Student Milk</u>	<u>Adult Milk</u>	<u>Student Breakfast</u>	<u>Adult Breakfast</u>
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

*The price of an adult lunch should be based on the over 60% reimbursement rate for free lunch, plus the donated commodity entitlement rate, plus sales tax. These prices may be changed only after approval by the Board of Education of the SFA. The FSMC shall be notified of such approval thirty (30) days before new prices are effective.

6. SUBMISSION OF BIDS

- A. Bids shall be submitted on the forms provided by the SFA. Bids may not be faxed or sent by electronic mail.
- B. Bidders requiring clarification or interpretation of the Bidding Documents shall make a request to the SFA prior to the date fixed for the opening of bids.
- C. Any clarification, interpretation, correction or change of this Document shall be made by Addendum to all prospective bidders prior to the opening of bids.

7. REJECTION OF BIDS

The SFA reserves the right to reject any and all bids.

8. AWARD OF BID

- A. The award of the Contract shall be to the lowest responsible Bidder, which responsibility shall be determined by the board.
- B. If the SFA allows Bidders to bid under more than one option on page 35 of BID FORM, the SFA will consider bids in the following consecutive order to determine the lowest responsible Bidder: Option A, Option B, Option C.

9. SPECIAL and GENERAL CONDITIONS

The Bidder will comply with the Special and General Conditions attached hereto and in all respects made a part of this bid specification.

10. CONTRACT

The successful bidder shall enter the SFA-FOOD SERVICE MANAGEMENT COMPANY CONTRACT attached hereto and in all respects made a part of this bid specification. By submitting a bid, the bidder agrees to all the terms and conditions contained herein.

11. CONTINGENCY BUDGET

In any SFA operating under a contingency budget and conducting food service operations, the following conditions must be adhered to:

- A. The program at all times must be self sustaining;
- B. There can be no transfer of funds from the General Fund.

NOTE: Refer to Contingency Budget #17 on page 7

12. MENU CYCLE

The 21-day cycle menu, see Schedule A1, A2, and A3 for the SFSP, shall be used as a standard for the purpose of basing bids or estimating average cost per meal. The FSMC must adhere to the cycle for the first 21 days of meal service. Menu standard as presented in the 21-day cycle menu must be maintained as to type and quality of meal service.

Meals must comply with the Dietary Guidelines for Americans. To accomplish this the SFA will be using the following menu planning system in the following schools:

Menu Planning Option

School(s)

Nutrient Standard Menu Plan (NSMP)

Assisted Nutrient Standard Menu Plan (ANSMP)

Food Based Menu Plan

Traditional Menu Plan

Regardless of the menu planning option used the analysis of menus shall comply with nutrient, caloric and fat levels as outlined in 7 CFR Part 210.10 (c). The analysis will be conducted as described in 7 CFR 210.10 (I) (3). Analysis must be conducted using a USDA approved software program.

If the SFA has opted for NSMP or ANSMP the FSMC must use a USDA approved software program to conduct the nutrient analysis. Indicate the name of the software package here: _____.

The SFA may request the successful bidder to provide the SFA with an analysis of five days lunch menus included in this bid specification, within 10 days of award of bid. In order to accomplish this the SFA must provide production records (must include anticipated number of students served and serving sizes for each offering), recipes used (USDA and/or local) and the nutrient analysis of processed brand name products, only when the products are not already in the CN database.

If using the Food Based Menu Plan or the Traditional Menu Plan the FSMC must demonstrate that menus are planned to meet the Dietary Guidelines for Americans and comply with nutrient, caloric and fat levels as outlined in 7 CFR Part 210.10 (c). The SFA may request the FSMC conduct a nutrient analysis of five days lunch menus. Also, the SFA may request information such as menus, production records (must include anticipated number of students to be served and serving sizes for each offering), recipes used (USDA and/or local) and the nutrient analysis of processed brand name products only when the products are not already in the CN database, to conduct an independent analysis of the menu. The SFA is responsible for serving meals that meet requirements and an accurate analysis of the menu for all menu-planning options when the State Agency as part of a School Meals Initiative Review conducts the nutritional analysis or the FSMC provides the analysis.

13. PURCHASE SPECIFICATIONS

The grade, purchase unit, style, weight, ingredients, formulation, etc. as set forth by the SFA, shall be followed by the FSMC. See Schedule B.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 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 the maximum extent practicable, domestic commodities or products for use in meals served under the NSLP and SBP. The legislation defines “domestic commodity or product” as one that is produced in the United States and is processed in the United States substantially using agricultural commodities that are produced in the United States. “Substantially” means that over 51 percent of the final processed product consist of agricultural commodities that were grown domestically. These provisions now apply to all funds in the food service account and not just to federal reimbursement.

Insert Breakfast Menu Here

Insert Lunch Menu Here, Include Snacks if Receiving Reimbursement

If Participating, Insert Summer Food Service Menu Here.

INSERT FOOD AND BEVERAGE PROCUREMENT SPECIFICATIONS HERE

To be developed by SFA based on individual SFA preferences and requirements. A nutrient analysis from the manufacturer must be available for processed brand name products, only when the products are not already in the CN database.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 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 the maximum extent practicable, domestic commodities or products for use in meals served under the NSLP and SBP. The legislation defines “domestic commodity or product” as one that is produced in the United States and is processed in the United States substantially using agricultural commodities that are produced in the United States. “Substantially” means that over 51 percent of the final processed product consist of agricultural commodities that were grown domestically. These provisions now apply to all funds in the food service account and not just to federal reimbursement

14. SPECIAL AND GENERAL CONDITIONS

- A. Bids will be received as stated on the cover sheet, for the privilege and right to conduct/operate food service within facilities listed in Appendix B.
- B. The SFA shall furnish all electricity, gas, water, heat and light to the FSMC for its operation as in the judgment of the SFA is reasonably needed and necessary.
- C. The SFA shall furnish all necessary equipment to operate the personal food programs. At the time of contract signing, an itemized inventory (to be certified by representatives of both parties) of all items furnished or to be furnished by the SFA, including miscellaneous kitchen items, will be made a part of this contract.
- D. As a direct cost of operation the FSMC will maintain the initial adequate inventory of chinaware, glassware, and silverware furnished by the SFA. Regarding all equipment, furnishings and small wares used for the services hereunder, the FSMC agrees that it will use the SFA equipment, machinery, paraphernalia in good and proper manner and shall keep the same free from damages, in proper condition and in a state of cleanliness to assure STRICT COMPLIANCE WITH HEALTH REGULATIONS AS PROVIDED AND REQUIRED BY THE STATE OF NEW YORK, dealing with SFA facilities, as with all other health laws.
 - 1. Repairs necessary due to the negligence of the FSMC, its employees or agents shall be the sole responsibility and the sole expense of the FSMC.
 - 2. The SFA agrees to at its sole option to repair or replace any equipment not functioning properly or which is missing upon proper written notification by the FSMC or the need for such repair or replacement and the availability of normal repair or replacement facilities. If the SFA, at its discretion, determines not to repair and/or replace equipment that the FSMC has expressly advised the SFA in writing (a) poses a safety risk to FSMC's employees, or (b) hinders FSMC's ability to perform its services under the agreement, then FSMC shall have the right to effectuate such repair and /or replacement at the expense of SFA.
 - 3. No alterations, changes, or improvements shall be made to the areas granted to the FSMC without obtaining prior written permission of the SFA with the final decision as to alterations, changes, or improvements reserved solely for the SFA.
- E. The SFA will provide for the removal of all trash and garbage with the FSMC being responsible for proper sanitary storage and placement of said trash and garbage until its removal.
- F. The SFA shall be responsible for repairs to all permanent fixtures such as faucets, lights, sewers, air conditioning, heating and all other electrical work NOT considered to be food equipment, since such food equipment is dealt with in Item d above.
- G. Upon termination of this contract the FSMC will surrender to the SFA all equipment and furnishings located in the food services facilities and/or as listed on the certified inventory list of all SFA owned property (both capital and/or expendable) as referred to in Paragraph C hereunder. Such property and equipment or its equal quality replacement must be returned to the SFA in the same good order and condition as when received by the FSMC, reasonable wear and tear, damage from casualty fire and hazards covered by insurance alone excepted. Another inventory shall be taken upon termination to determine the status of all equipment hereunder. Discrepancies shall be corrected at the FSMC's sole expense with said replacement based on a comparison with the original inventory.
- H. The SFA shall have unlimited access, with or without notice to the FSMC, to all areas used by the FSMC for purposes of inspections and audits.
- I. The FSMC shall adhere strictly to all applicable Pure Food Laws, ordinances as well as all related regulations as adopted and promulgated by the Federal Government, the State of New York, the local Departments of Health and said FSMC will otherwise fully comply at all times with the rules and regulations as set up by the SFA as well as with any change in the State and/or County Laws, etc., covering and controlling food services at the facilities.
- J. The FSMC shall have the sole responsibility to compensate its employees, including all applicable taxes and insurance

and shall be solely responsible for any losses incurred by the SFA resulting from dishonest, fraudulent or negligent acts on the part of its employees or agents. All food service employees shall comply with all rules of the SFA for cleanliness and courtesy.

- K. The FSMC will maintain all employees on its payroll with the exception of _____.
- L. The FSMC shall be solely responsible for the purchase and payment of all foods and beverages necessary for it to render proper performance of the food service program as stated herein. Such purchases and performance shall apply to all items in addition to food and beverage that will be necessary for compliance with and of this agreement.
- M. FSMC shall comply with all rules, regulations and other directives of County, State of New York and the United States concerning the operation of food services required in SFA facilities.
- N. The FSMC shall at all times serve only good, wholesome and palatable food and beverages in compliance with all applicable health laws.
- O. The FSMC will prepare separate monthly OPERATING STATEMENTS which will reflect all true operating costs, including, but not limited to:
 - 1) ALL direct labor assigned to the respective units.
 - 2) ALL direct food costs.
 - 3) ALL direct expenses and supplies.
 - 4) ALL earned trade discounts and rebates on purchases.
- P. The FSMC MUST AGREE to submit to an open book accounting policy which will enable the SFA and/or the State of New York and/or the Federal Government to audit the accounts for the facility. Said audits will be made at the direction of SFA and/or the State of New York and/or the Federal Government as frequently as deemed necessary. All such records shall be kept by and be available to the SFA for at least three (3) years after termination of this agreement or at such later date as may be required by any local, State or Federal laws.
- Q. The FSMC will meet periodically with the SFA official to review the following:
 - 1) Compliance with standards recommended by the State of New York regarding food specifications for facility.
 - 2) Special diets that may be required from time to time.
 - 3) The previous month's monthly OPERATING REPORT OR STATEMENT.
 - 4) Inspection reports submitted by dietitian, or the Consultant.
 - 5) Physical inspection of the kitchen, storage areas and dining rooms and other space assigned to the FSMC.
- R. The FSMC will procure, post and maintain for the life of this agreement in places designated by the SFA or by the laws of the State of New York, all licenses or permits required by law for its business and/or merchandise, all costs of which are to be paid by the FSMC.
- S. The FSMC will provide fire and theft insurance at its own expense to cover any risk by fire and/or theft to its property located on the premises of the food service. The FSMC further agrees to provide all necessary theft and/or other insurance to cover clothes, garments and other articles owned by their employees. In case of fire damage or any unforeseen casualty, this contract may be unconditionally terminated without payment of any claims for damage or any other nature by the SFA.

15. BONDS AND INSURANCE:

The FSMC shall procure and maintain at its own expense a general liability policy listing the SFA as one of the insured, including products liability in the amounts of at least \$_____ for injury and death, and property damage with a limit of \$_____ for each accident provided by insurance companies authorized to do business in the State of New York.

The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the SFA and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.

16. PERFORMANCE SECURITY:

The FSMC shall be required to:

A. Submit with the bid an assurance by a surety authorized to conduct business within New York State, that if selected as the successful bidder, and upon award of the contract, a performance bond will be issued in the amount of \$ _____ (10% of annual projected operating costs). Simultaneously with delivery of the executed contract, the successful vendor must provide to the SFA the executed surety company bond as required, to be held as security by the SFA for the faithful performance by FSMC of all terms of the contract.

OR

B. Submit with the bid an authorization for the SFA to hold in a reserve fund the amount of _____ (10% of annual projected operating costs) out of the initial revenues produced by the school lunch program and earned by the management company.

The SFA shall retain such reserve fund until the FSMC has faithfully performed all terms of the contract.

OR

C. Submit with the bid a letter of intent which states that a certified check, payable to the SFA in the amount of \$ _____ (10% of annual projected operating costs) will be issued upon award of the bid. Simultaneously, with delivery of the executed contract, the successful bidder must provide to the SFA, the certified check as required, to be held as security by the SFA for the faithful performance by the FSMC of all terms of the contract.

It is recommended and encouraged that all security options be left open to the bidder. However, the SFA may choose to eliminate one or more options.

17. SUBMITTAL

Bidders will provide, along with their completed bids, evidence demonstrating an ability to administer school food service programs, including, if applicable, a list of any and all SFAs which they have served during the past three years, a summary of their past experience over at least three years of successfully operating a complex food service program requiring nutritional meals and in compliance with the applicable regulations of the State of New York. In lieu of organizational experience, staff expertise must be demonstrated.

BID FORM

We, the undersigned agree to operate the food service program as described in the bid specifications for the 20__ -20__ school year.

This proposal is subject to all the attached definitions, terms, conditions, and specifications and we hereby agree to enter into the attached agreement following the award of the bid.

**Bid Amount
Annual or Per Meal

Option A Guaranteed Return to SFA

TOTAL ADMINISTRATIVE/SERVICE FEE for the operation of the program wherein all operating costs, the administrative/service fee and program costs incurred by the SFA of \$_____ will accrue from program income including all cash receipts from the sale of meal pattern lunches, a la carte items, special milk program, adult lunches, breakfast program and federal and State reimbursements. Any deficit will be assumed by the FSMC.

Option B Break Even

TOTAL ADMINISTRATIVE/SERVICE FEE for the operation of the program wherein all operating costs and the administrative/service fee will accrue from program income including all cash receipts from the sale of meal pattern lunches, a la carte items, special milk program, adult lunches, breakfast program, and federal and State reimbursements. Any deficit will be assumed by the FSMC.

Option C General Fund Subsidy

TOTAL ADMINISTRATIVE/SERVICE FEE for the operation of the program requiring a General Fund subsidy of *\$_____ to cover reimbursement, the administrative/service fee and operating costs which exceed cash receipts from the sale of meal pattern lunches, a la carte items, special milk program, adult lunches, breakfast program, and federal and State reimbursements. The SFA shall not be liable from the General Fund over and above this subsidy.

Per Meal Bids

If the bid is to be awarded upon a per meal basis, the bidder must complete Section C on the following page. The conversion factor to be used to convert a la carte sales is **\$2.15** (The conversion factor is the most current rate issued by the State Education Department at the time of advertisement.)

***To be completed by the SFA**

****The SFA must choose the basis of the bid award--either annual fee or per meal fee--prior to the advertisement/bid process.**

Submitted by:

Company

Authorized Signature

Address:

Title

Date

ANNUAL FINANCIAL BUDGET PROJECTION

The bid proposal must include a proposed financial budget. It should contain the following information:

A. Projected Gross Receipts

- 1. CASH SALES
 - a. Student Meal Pattern Lunches _____
 - b. Adult Lunches _____
 - c. A la carte _____
 - d. Special Milk _____
 - e. Breakfast Program _____
 - f. Snacks _____
- 2. FEDERAL AND STATE REIMBURSEMENTS _____
- 3. GENERAL FUND SUBSIDY (where applicable) _____
- 3. TOTAL RECEIPTS _____

B. Projected Expenses

- 1. FOOD COSTS _____
- 2. LABOR-SALARIES/FRINGE BENEFITS _____
- 3. MISCELLANEOUS (as defined herein) _____
- 4. ADMINISTRATIVE SERVICE FEE _____
- 5. TOTAL EXPENSES _____
- 6. SFA RETURN/FUND BALANCE
(Item A.4 minus Item B.5) this amount
must equal or exceed the guaranteed
return specified under bid option A
(page 35), if applicable. _____

C. Projected Meals

- 1. STUDENT MEAL PATTERN
 - Breakfast _____
 - Lunch _____
 - Total _____
- 2. A LA CARTE SALES _____
 - divided by
 - Conversion Factor \$2.15
 - Equivalent Meals _____
- 3. Total Projected Meals _____

COST RESPONSIBILITY DETAIL SHEET

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

		FSMC	SFA
<u>Food:</u>	Food Purchases	X	
	Commodity Processing Charges	X	
	Processing & Payment of Invoices	X	
<u>Labor:</u>	Wages	X	
	Fringe Benefits & Insurance	X	
	Payroll Taxes	X	
	Preparation & Processing of Payroll	X	
<u>Miscellaneous/ Additional Items</u>	Paper and Cleaning Supplies	X	
	China/Silverware/Glassware - initial inventory replacement		
	- during operation		X
	Telephone - local		X
	- long distance	X	
	Uniforms/Laundry*		
	Sanitation of Cafeteria Tables and Floors*		
	Trash Removal* - from kitchen		
	- from dining area		
	- from premises		
	Equipment Replacement & Repair* - non-expendable		X
	- expendable		
	Products and Public Liability Insurance*		
	Equipment Rental (explain)*		
	Car/Truck Rental (explain)*		
	Storage Costs (food and non-food supplies)*		
	Courier Services (bank deposits, school deliveries, etc.)*		
	Employee Recruitment - initial replacement*	X	
	Sales Tax		X
	Other* (cannot include overhead expenses incurred by FSMC Contractor)		

*These direct cost items may or may not apply to each SFA. At local discretion, based upon actual practice and need, the SFA should assign cost responsibility for these items, applicable to their operation, or designate them as N/A.

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, in the case of a joint bid each party thereto certified as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit to bid for the purpose of restricting competition.

(Name of Company/Bidder)

(Name of Company Official – See * below)

(Date)

*Article IX, Section 139-d of NYS Finance Law provides that any bid made to the State or any public department, agency, or official thereof by a corporate bidder, where competitive bidding is required by statute, rule or regulation, and where such bid contains a signed certification of non-collusive bidding is deemed to have been authorized by the board of directors of the bidder, and is deemed to include the signing and submission of the bid and the certificate as to non-collusion as the act and deed of the corporation.