

**FOOD SERVICE MANAGEMENT COMPANY
REQUEST FOR PROPOSAL
AND SUBSEQUENT CONTRACTS
SY 2023-2024**

**Opportunity 180
NEVADA FOODSERVICE CONSORTIUM**

Bid Opening May 5, 2023, 2:00 PM PST

SECTION I GENERAL INFORMATION

A. Intent

1. **The SFAs are a consortium of Nevada Charter Schools** located in Clark County and are collectively accepting competitive proposals for a single Food Service Management Company (FSMC) to operate the Child Nutrition Program for a twelve-month period beginning **July 1, 2023 and ending June 30, 2024**. There will be options for renewal of the Contract for up to four (4) additional terms of one year each. The completed procurement will result in separate FSMC contracts with each of the SFAs listed in the consortium. Additional SFAs may be added in the next five years of the contracts.
2. This request should be clearly understood as a “Request for Competitive Proposals” hereinafter referred to as the “RFP,” and not an “Invitation for Sealed Bids” as those terms are used and described in the United States Department of Agriculture’s publication, *Contracting with Food Service Management Companies, Guidance for School Food Authorities*, dated July 2016.
3. This RFP is for the purpose of obtaining proposals and ultimately entering a **firm fixed-price contract to provide vended meal and management services for each SFA’s nonprofit Child Nutrition Program**, hereinafter referred to as the “School Food Authority” (SFA). All participating sites listed in Appendix A detailing facility capability.
4. The offeror or Food Service Management Company will be referred to as the “FSMC,” and the contract will be between the FSMC and each SFA. The FSMC shall offer assurances that all operations addressed in the RFP will be conducted in a manner that is consistent with the goal of the SFA’s Child Nutrition Program which is to provide nutritionally balanced meals of high quality to students at an economical price in an attractive, appealing, and friendly environment and comply with all laws, regulations, statutes, and policies that govern the Child Nutrition Program.

B. Procurement Method

The SFA shall comply with all procurement standards specified in 7 CFR § 210.16, 7 CFR § 210.21, and 2 CFR § 200.318-326 when contracting with a FSMC. A competitive proposals process will be used to procure services from the FSMC. All procurement transactions shall be conducted in a manner that provides maximum, open and free competition consistent with Federal regulations as defined in 2 CFR § 200.

C. Pre-Proposal Meeting

Interested offerors may meet to review the specifications, to clarify any questions, and for a walk-through of the facilities with site officials. The pre-proposal meeting will be conducted on **April 20, 2023 at 8:30 a.m.** PDT at the TEACH LAS VEGAS CHARTER SCHOOL, 4660 N. Rancho Drive, Las Vegas, NV 89130 Attendance is preferred but not required. A virtual option for the informational portion only will be offered. Interested vendors should R.S.V.P. to clare@sfgwgroup.org and emily@sfgwgroup.org. FSMCs will have the opportunity to ask questions relating to the Child Nutrition Program and clarify any information contained in the RFP. Following the pre-bid meeting school visits will take place. Any questions not addressed at the pre-proposal meeting must be submitted in writing to the SFA no later than April 21, 2023 by 12:00 p.m. Written responses will be distributed by 4/28 electronically to all FSMCs that attend the pre-proposal meeting.

D. Proposal Submission and Award

1. Sealed proposals are to be submitted electronically to:

The opening of the sealed proposals will be on **May 5, 2023 at 2:00pm PST**. Proposals will not be accepted after this time. One (1) electronic copy of the proposal shall be emailed to clare@sfwgroup.org. Each proposal must include all required responses and documents at the time of proposal opening.

2. The SFAs reserve the right to reject any or all proposals if deemed to be in the best interest of the SFAs. The SFAs reserve the right to reissue the RFP.
3. To be considered, each offeror must submit a complete response to this solicitation using the required format and forms provided. All proposals should be carefully worded and must convey all the information requested to be considered responsive. Proposals that do not contain all required documents will be considered unresponsive and will be eliminated from consideration. Modification of RFP documents and/or required forms will disqualify the proposal. Any time prior to the proposal opening, the FSMC may withdraw a submitted proposal by submitting a request in writing.
4. The FSMC is required to respond to this RFP in the format as described in this document. The FSMC may provide collateral documents that further display the company's products and services including notebooks, brochures, pictures, and marketing materials, however, the final written proposal presented to the SFA must be presented exactly as stated, outlined, and required in this RFP. Proposals should not include descriptions or highlights of any programs or promotions that will not be implemented in SFA consortium schools.
5. The RFP is composed of eight sections:
Section I. General Information
Section II. Required Qualifications of FSMCs
Section III. Definitions Applicable to All RFP/Contract Sections
Section IV. Responsibilities of FSMC
Section V. Responsibilities of SFA
Section VI. Nutrition Standards Requirements
Section VII. Standard Terms and Conditions
Section VIII. Required Format for FSMC's Response to the RFP
6. The award shall be made to the qualified responsive and responsible offeror whose proposal is most responsive to this solicitation. A responsible offeror is an FSMC whose financial, technical, and other resource indicate an ability to perform the services established by the SFA, as well as those required by this solicitation, and whose responses best meet the criteria contained throughout the RFP. The award may be made to other than the lowest monetary proposal. An evaluation committee will review and evaluate all written proposals based on pre-established criteria. This committee will also observe presentations from highest ranking offerors and make final recommendations to the SFA's Administration.
7. Offerors, or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting proposals and to seek clarification on any items contained in the RFP; failure to do so will be at the offeror's own risk, and he or she cannot secure relief on the plea of error. The SFA is not liable for any cost incurred by the offeror prior to the approval of the contract by the SFA and the signing of a contract by all parties. **Paying the FSMC from Child Nutrition funds is strictly prohibited until the contract is signed.**

8. Additional SFAs that join the consortium, not to exceed 25 SFAs over the next five years may piggyback off the language and provisions specified in this RFP. SFAs will sign a separate contract authorization form between them and FSMC to piggyback off the language in this contract. Each SFA will use this RFP as their contract but sign a separate form/agreement and separate subsequent renewals.
9. If further clarification is needed, address a written request to:

clare@sfwgroup.org and emily@sfwgroup.org

Any additional information provided to one offeror will be available to all offerors.

E. Late Proposals

Any proposal received after the exact time specified for receipt will not be considered.

F. Pre-Award Clarification

The SFA reserves the right to conduct final discussions and negotiations with the FSMC recommended by the evaluation committee prior to awarding the Contract. The purpose of these discussions shall be to clarify and assure full understanding of any issue contained in the proposal. In the conducting of these discussions, there shall be no disclosure of any information derived from proposals by competing FSMCs.

G. Final Contract

The submitted RFP, including all attachments and all documents submitted by the offeror, will become the official Contract when approved, awarded, and signed **for each of the participating SFAs for SY24 and any additional consortium schools added in SY25-SY28 up to 25 total schools**. The final contract must be approved by the State Agency prior to obtaining signatures from the SFA or FSMC.

H. Conflict of Interest

The SFA's officers, employees or agents shall neither solicit nor accept gratuities, favors, (including gifts, incentives, paid trips, and fees) nor anything of monetary value from contractors or potential contractors. To the extent permissible under State law, rules or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards.

I. Protest Procedure

Protests of awards exceeding \$10,000.00 in value shall be submitted to the SFA's Board Chair within fifteen (15) calendar days from the date of the Contract award. The protest shall be in writing and shall address specific areas of concern or dispute. Documentation shall be provided to support the dispute. Address protests to:

SECTION II.
REQUIRED QUALIFICATIONS OF FOOD SERVICE MANAGEMENT COMPANIES

FSMCs must meet the following qualifications for the proposal to be considered responsive. Each FSMC must submit for consideration such records of work and further evidence as may be required by the SFA regarding experience, financial standing, and assurance that they have suitable resources (financial, personnel, management experience, etc.) to satisfactorily complete the work specified. Failure to furnish such record of work and/or evidence of capacity to perform the duties as defined in the RFP shall be enough cause for the proposal to be disqualified. Any false or misleading statements therein shall be enough cause for the proposal to be disqualified. The qualification data shall be submitted by each FSMC along with the sealed proposal and shall include the information listed below:

1. The FSMC must be incorporated or licensed to do business in the State of Nevada prior to the start of the contract.
2. The FSMC must be familiar with Federal and State regulations pertaining to the operation of a Non-profit Child Nutrition program (minimum of three years experience).
3. Annual reports for financial statements must be certified by a Certified Public Accountant for the past year and must be included in the pre-qualification data.
4. An authorized representative of the FSMC must certify acceptance of the criteria and the basis for selection of an FSMC.

EVALUATION CRITERIA

1. The Per Meal Charge Guarantee- Lowest per meal fixed price for each breakfast, lunch and snack offered by any FSMC divided by the fixed price per meal offered by this FSMC, **the result of the division shall be multiplied by (30) to obtain the maximum points to be awarded this potential FSMC. (30 points)**
2. Service Capability Plan: FSMC must be able to meet all food safety laws and provide meals in the manner and frequency requested with required serving products. FSMC must have the capacity to expand operations to all schools submitted in their proposal for SY24. A description of where meals will be produced, transportation, service style, staffing, and all other items needed to show full understanding of the scope of work is required. **(20) points**
3. Menus/Product Description Documents/Nutrition Analyses for all meal platforms and age/grade groups as submitted in response to the RFP menu. Ability to provide nutrient analysis for all menus as well as accommodation for all dietary needs. Must submit currently used menus across all platforms reflecting the month of March 2023 in addition to the proposed 21 day menu to service each grade group. Menus will be graded on variety with attention to fresh produce and minimally processed meals. **(20) points.**
4. Marketing Strategies/Training Plans to be implemented. Must provide documentation of program marketing strategies geared for increasing student participation and engaging with school stakeholders. Must provide a detailed staff training plan including onboarding new staff during turnover, procedures for hiring, staff retention plans. **Maximum ten (10) points.**
5. Experience with the **National School Lunch/Breakfast Programs** of at least three years. Documentation supporting operating programs in NSLP with a list of all States and number of clients in similar scope and size. **(10) points.**
6. Financial Conditions/Stability. FSMC must have three years of profitable financial performance; no petitions for bankruptcy by contractor or principals of contractor. **Maximum five (5) points**
7. References- Vendor must provide at least five customer references: must have satisfactory rating of at least 80%. Vendor must provide documentation of all K-12 organizations they have had contracts with in the past five years. Points will be awarded based on the recommendations provided by other SFA's in which the vendor has operated within the past five (5) years. **Maximum five (5) points**
8. Vendors must submit all required documents for proposal to be considered.

SECTION III

DEFINITIONS APPLICABLE TO ALL RFP/CONTRACT SECTIONS

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

- 1. Buy American** means the “*Buy American*” provision (in section 12(n) of the *National School Lunch Act*) which requires schools to purchase, to the maximum extent practicable, domestic commodities and products. A domestic commodity or product means an agricultural commodity that is processed in the United States, and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. Purchases made in accordance with the *Buy American* provision must still follow the applicable procurement rules calling for free and open competition. Any entity that purchases food or food products on behalf of the SFA must follow the same “*Buy American*” provisions that the SFA is required to follow.
- 2. Code of Federal Regulations (CFR)** means the codification of the general and permanent rules published in the *Federal Register* by the Executive departments and agencies of the Federal government.
- 3. Competitive Proposals (previously known as Competitive Negotiation), i.e., a request for proposals solicitation**, means a method of procurement whereby a technical proposal is solicited that explains how the prospective offeror will meet the objectives of the solicitation and a cost element that identifies the costs to accomplish the technical proposal. While price alone is not the sole basis for award, price remains the primary consideration when awarding a contract under the competitive proposal method.
- 4. Contract** means a formal, legally enforceable agreement between a buyer (client) and a seller (contractor) that establishes a legally binding obligation for the seller to furnish goods and/or services and for the buyer to compensate the seller. A contract must clearly and accurately describe the goods and/or services to be delivered or performed and the terms and conditions of the agreement. In the case of School Meal Programs, a contract is executed by the authorized representatives of the SFA and the contractor that offers to provide services, materials, supplies or equipment in accordance with all conditions and specifications in the proposal documents, for a price to be paid by the SFA prior to execution.
- 5. Contract Documents** means the procurement specifications, requirements, RFP, and the resulting contract.
- 6. Equipment** means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more. State law or policy may set stricter capitalization thresholds for equipment than the one set by Federal standards. Any SFA may use its own definition of equipment if its definition would at least include all items of equipment as defined here. State agency prior approval is required for all capital equipment items with an acquisition cost of \$5,000 or more unless the item is identified on the State agency approved list, if applicable.
- 7. Execution of Contracts** means to complete and formally sign the legal document. For school meal purposes, it is the official signing of the contract by the SFA and the contractor, which

indicates that the contract has begun (or has been renewed). Before any contract or amendment to an existing FSMC contract is executed, a state agency must review and approve the contract terms and ensure that the SFA has incorporated all state agency required changes into the contract or contract amendment.

8. **Fixed-Price Contract** means a price that is fixed at the inception of a contract and is guaranteed for a specific period of time. A fixed-price contract may also contain an economic cost adjustment provision tied to a standard index.
9. **FNS** means the Food and Nutrition Service of the United States Department of Agriculture. FNS administers the nutrition assistance programs of USDA. The mission of FNS is to work with partners to provide food and nutrition education to people in need in a way that inspires public confidence and supports American agriculture.
10. **Food Service Management Company (FSMC)** means a commercial enterprise or a nonprofit organization that is or may be contracted with by the SFA to manage any aspect of the school food service. [7 CFR § 210.2] Under the Summer Food Service Program, FSMC means any commercial enterprise or nonprofit organization with which a sponsor may contract for preparing unitized meals, with or without milk, for use in the Program, or for managing a sponsor's food service operations in accordance with the limitations set forth in §225.15. Food Service Management Companies may be: (a) public agencies or entities; (b) private, nonprofit organizations; or (c) private, for-profit companies. [See 7 CFR § 225.2] Under the Child and Adult Care Food Program an FSMC means an organization other than a public or private nonprofit school, with which an institution may contract for preparing and, unless otherwise provided for, delivering meals, with or without milk for use in the Program. [See 7 CFR § 226.2]
11. **Meal Equivalency Factor (MEF)** is a statistical tool that is used to convert *a la carte* sales into a standard of measure, in this case a “meal.” The MEF is often used to convert *a la carte* sales into meal equivalent
12. s for billing purposes in fixed-price contracts.
13. **Noncompetitive Proposal** –refers to procurement through solicitation of a proposal from only one source [See 2 CFR § 200.320(f)] and may be used only when one or more of the following circumstances apply:
 - a. The item is available only from a single source.
 - b. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation.
 - c. The awarding agency authorizes noncompetitive proposals; or
 - d. After solicitation of several sources, competition is determined inadequate.

Proposals must include both price and terms using the same procedures that would be followed for competitive proposals.

14. **Non-Federal Entity** means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient.

- 15. Nonprofit School Food Service** means all food service operations conducted by the SFA, principally for the benefit of schoolchildren, in which all the revenue obtained is used solely for the operation or improvement of such food services. Per 7 CFR § 210.16(a)(4) & (5) school food authorities (SFA) must retain signature authority on the State agency-school food authority agreement, free and reduced-price policy statement, and claims for reimbursement; in addition, SFAs must retain control of the quality, extent, and general nature of its food service, and the prices to be charged the children for meals.
- 16. Offeror** means the entity that provides an offer in response to a solicitation of a request for proposals (RFP), for the purpose of providing a product or service and the price/cost of providing such.
- 17. Processor** means, as defined in 7 CFR § 250.3, “any commercial facility which processes or repackages USDA Foods. However, commercial enterprises which handle, prepare, and/or serve products or meals containing USDA Foods on-site solely for the individual recipient agency under contract are exempt under this definition.”
- 18. Procurement** means the process of obtaining goods and/or services in accordance with applicable rules and regulations.
- 19. Request for Proposals (RFP)** means a type of solicitation document used for the formal procurement method of competitive proposals. The RFP identifies the goods and services needed and all significant evaluation factors. The RFP is publicized and is used to solicit proposals from several sources. Negotiations are conducted with more than one of the sources submitting proposals, and a fixed-price type contract is awarded, as appropriate.
- 20. Responsible Offeror** means an entity capable of performing successfully under the Terms and Conditions of the solicitation and contract.
- 21. Responsive Proposal** is one which conforms to all the material Terms and Conditions of the solicitation.
- 22. School Food Authority (SFA)** means the governing body, which is responsible for the administration of one or more schools, and has legal authority to operate the National School Lunch Program or School Breakfast Program therein *or* be otherwise approved by FNS to operate the Program(s). The school system superintendent is typically the person authorized by the governing body to sign legal documents for the SFA.
- 23. Simplified Acquisition Threshold** means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures to expedite the purchase of items costing less than the Simplified Acquisition Threshold. The Simplified Acquisition Threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this guidance, the Simplified Acquisition Threshold is \$250,000, but this threshold is periodically adjusted for inflation. [2 CFR § 200.88]

- 24. Sole Source Procurement** refers to one type of noncompetitive proposal found in 2 CFR § 200.320(f) (see Noncompetitive proposal, above); in the Child Nutrition Programs, this occurs only when the goods or services are available from only one manufacturer through only one distributor or supplier. Sole source describes a condition of the procurement environment. In a true sole source situation, conducting a traditional solicitation (sealed bid, competitive negotiation, or small purchase) is a meaningless act, because the element of competition will not exist. When faced with an actual sole source situation, an SFA must first obtain State agency approval, and then go directly to the one source of supply to negotiate terms, conditions, and prices.
- 25. Solicitation** means a document used by the SFA to acquire goods and/or services. Solicitations must incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Solicitations must also identify all contract provisions required by Federal procurement regulations, requirements, terms, and conditions which the offerors must fulfill and all other factors to be used in evaluating the proposals.
- 26. USDA Foods (formerly USDA Commodities)** means foods purchased by the United States Department of Agriculture. USDA Food Programs support domestic nutrition programs and American agricultural producers through purchases of domestic agricultural products for use in schools and institutions.
- 27. Vendor** means a merchandiser of complete meals, meal components, or raw materials.

SECTION IV
RESPONSIBILITIES OF FOOD SERVICE MANAGEMENT COMPANY

A. The FSMC shall provide the following services:

1. The preparation and service of food to students at each of the SFA campuses and any new campuses up to a total of 25 SFAs, SFA employees and guests of the SFA, in accordance with the description of the menu style described in this RFP/Contract.
2. The maintenance of all records as needed by the SFA to support its claim for reimbursement; at a minimum, the FSMC shall report claim-related data to the SFA, promptly at the end of each month,
3. The retention of all records for a period of three years after the submission of the final Claim for Reimbursement for the fiscal year; if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the issues raised by the audit.
4. Shall comply with all regulations governing the uses of USDA Foods as prescribed in 7 CFR § 250; shall record and report the value of USDA Foods to be used in crediting, or the actual values assigned, using the format and requirements prescribed by the SA.
5. Shall utilize the maximum amount of USDA Foods to the benefit of the nonprofit Child Nutrition program. The FSMC must respond to USDA food orders, as necessary, to take full advantage of the USDA Foods offered and shall ensure that all Foods received for use in the non-profit Child Nutrition Program, for the period specified in the Agreement between the SFA and the SA are used within the period specified by the SFA as either the school year or fiscal year.
6. Shall report the value of USDA Foods, including processed USDA Foods, to the SFA monthly. The USDA Foods values are to be based on the values as reported by the SA at the time the SFA receives the USDA Foods. No value or benefit of USDA Foods shall accrue in any manner to the FSMC.
7. Daily temperature records must be maintained in all sites on all refrigerated equipment.
8. Maintenance of high standards of sanitation and shall be responsible for routine cleaning and housekeeping in the food preparation and service areas, including food service equipment and surrounding areas. The washing of dishes, trays, flatware, pots, pans, utensils, the cleaning and sanitation of food equipment, counters, serving lines, routine cleaning in the kitchen and storage areas used by the contractor.
9. Placement of all garbage and trash in appropriate containers and place in the area designated by the SFA for later removal.

B. The FSMC will be paid on a per meal rate- which includes the management fee. The per meal rate will be reflected in the Total Cost of the Contract. All program expenses not otherwise defined in the contract will be assumed to be covered by the FSMC under the fixed meal rate. The same travel, lodging and expense reimbursement regulations, that apply to SFA personnel, shall apply to FSMC personnel.

The following must be included in the fixed meal rate and may not be charged to any other expenses:

1. Personnel and Labor Relations and Services Visitation
2. Legal Department Services
3. Purchasing and Quality Control
4. Technical Research
5. Cost incurred in Hiring and Relocating FSMC Management Personnel
6. Dietetic Services (Administrative and Nutritional)
7. Recipe development, modification, and the use of Test Kitchens
8. Accounting and Accounting Procedures
9. Tax Administration
10. Technical Supervision
11. FSMC Regional/Supervisory Personnel and Regular Inspections or Audit Personnel
12. Teaching and Training Programs
13. General Regional Support
14. General National Headquarters Support
15. Design Services and Program Marketing.
16. Menu Development and promotional menu document.
17. Nutrition and allergy information as required for special diets
18. Information Technology and Support
19. Payroll Documentation and Administrative Cost
20. Personnel Advice
21. All travel related to all the above items
22. Other as determined by the SFA.

SECTION V
OUTLINED RESPONSIBILITIES OF SCHOOL FOOD AUTHORITY

A. The following are responsibilities that shall not be delegated when an SFA enters a contract with a FSMC:

1. The SFA remains responsible for Program operations and cannot, therefore, relinquish control of the Program to the FSMC. The SFA shall be legally responsible for the SFA's nonprofit Child Nutrition Program and shall supervise the food management operations in such manner as will ensure compliance with the Terms and Conditions of this Contract.
2. The SFA must monitor the food service operation through periodic on-site visits in all schools operating the Programs, per 7 CFR 210.16(a)(3), including USDA Foods in accordance with 7 CFR 250.51(d).
3. The SFA must retain control of the quality, extent, and general nature of the food service and the prices to be charged to the children for meals. This includes retaining control of the nonprofit school food service account and overall financial responsibility for the Programs operated; establishing all prices for all meals served under the nonprofit school food service account (e.g., pricing for reimbursable meals and non-program foods and meals, i.e., *a la carte* food services, adult meals, and other food service Programs operated, as applicable).
4. The SFA must retain signature authority on the agreement between the SFA and the State agency to participate in the Programs operated, including the SFA's free and reduced-price policy statement and the Claim for Reimbursement.
5. The SFA must maintain responsibility for the implementation of free and reduced-price policy in accordance with 7 CFR 245. Such responsibilities include conducting hearings related to such determinations and verification of applications for free and reduced-price meals.
6. The SFA must retain title to all USDA Foods and ensure that all USDA Foods received by the SFA are made available to the FSMC, including processed USDA Foods and that the value of the USDA Foods in processed end products accrue only to the benefit of the SFA's nonprofit school food service and are fully utilized therein. This provision also applies to any refunds, rebates, discounts, and credits received from processors. The SFA must ensure that the FSMC has credited it for the value of all USDA Foods received for use in the meal service in the school year, in accordance with 7 CFR 250.51(a-d).
7. The SFA must ensure the FSMC maintains applicable health certification(s) and assures that all State and local regulations are being met by an FSMC in preparing or serving meals at an SFA facility.
8. The SFA must develop all solicitation documents including all specifications for products and services required, terms and conditions, contract provisions, evaluation criteria and scoring to be used to determine contract award (price as the primary criteria), award

procedures and pertinent attachments which clearly define the scope of services, as well as products and/or services required as part of the solicitation.

9. The SFA must ensure that the State agency approves the SFA-FSMC contract prior to execution and annually reviews the contract (including all supporting documentation) between any SFA and FSMC prior to execution of the contract, as well as the contract renewal, to ensure compliance with all the provisions and standards set forth in 7 CFR 210 and 250, Subpart D; 2 CFR 200.318-326; as well as regulations for other Programs operated.
10. Development of the 21-day cycle menus for the FSMC (RFP) proposal, as well as developing the 21-day cycle menu in accordance with the meal pattern requirements for all Programs operated; conveying menu adjustment requirements to the FSMC; and monitoring implementation of those adjustments.
11. The SFA must establish and maintain an advisory board composed of parents, teachers, and students to assist in menu planning.
12. The SFA must determine the general extent or scope of work to be performed by the FSMC. This includes Identifying which Federally reimbursable meal program(s) or nonprofit food service activities the FSMC will be involved in, identifying what role, if any, the FSMC will play in procuring products and services on behalf of the SFA, deciding if the operation of any SFA vending machines will be serviced by the FSMC, deciding if the FSMC will cater any special activities and/or be involved in any food service activity outside the nonprofit food service, and deciding what specific activities relating to USDA Foods the FSMC will be required to perform, in accordance with 7 CFR 250.50(d).
13. The SFA must identify SFA personnel responsible for managing the SFA-FSMC contract and meeting the SFA's responsibilities, including the existing responsibilities that cannot be delegated to the FSMC and the new responsibilities that will occur under the SFA-FSMC contract.
14. The SFA must decide the method of competitive procurement to be used (i.e., sealed bid using an IFB, or competitive proposals, using an RFP) and the type of contract: fixed-price, fixed-price with cost adjustment provisions, or a cost reimbursable with fixed fee. The procurement methods used must be in accordance with Federal, State, and local requirements and fully specify the SFA's needs.
15. The SFA must monitor the billing invoices to ensure the number of meals served is reported correctly, the value of USDA Foods received is credited to the SFA for both "brown box" foods and processed end-products, and that USDA Foods are used in meals served.
16. The SFA must also ensure the value of discounts, rebates, and credits received by the FSMC are reported and credited to the SFA nonprofit food service account.

17. The SFA must maintain documentation of its monitoring and crediting of the value of USDA Foods for both fixed-price and cost-reimbursable type contracts and the value of discounts, rebates, and credits for commercially purchased foods and supplies for cost-reimbursable type contracts.
18. When findings of noncompliance with the contract are identified, the SFA must also document actions taken. SFAs must resolve findings resulting from Program reviews and audits.
19. The SFA's contract monitoring responsibilities include, but are not limited to, evaluating:
 - a. Cycle Menu—adherence to the cycle menu and any and all deviations allowed under the contract
 - b. Meal Pattern—adherence to the meal pattern requirements specified in 7 CFR 210 and/or 220 and regulations for all programs operated.
 - c. Cost Records—cost records, including source documentation supporting charges for contractually approved costs for cost-based contracts, e.g., time and attendance records for staff hours charged.
 - d. Meal Count Records—meal count records for meals not covered by the Claim for Reimbursement, e.g., adult meals
 - e. Revenue Records—revenue records broken down by source, type and category of meal or food service, e.g., a la carte sales, reduced price and full price NSLP and SBP meals, vending machine sales, etc.
 - f. Outside Activities & Preparation Facilities—outside food service activities and FSMC 59 FSMC Guidance for SFAs – May 2016 meal preparation facilities
 - g. USDA Foods—that they have conducted a reconciliation at least annually (and upon termination of the contract) to ensure that the FSMC has credited it for the value of all USDA Foods received for use in the SFA's food service in the school year, including, in accordance with requirements in 7 CFR 250.51(a), the value of USDA Foods contained in processed end products.
20. If the FSMC is in charge of the meal counting and claiming system, refer to the regulations at 210.8(a)(1) which state that every school year an SFA with more than one school must perform at least one on-site review of the lunch counting and claiming system employed by each school under its jurisdiction. Therefore, if the FSMC is, in fact, in charge of the meal counting and claiming system, the SFA would be monitoring that portion of their services every school year.
21. The SFA must conduct on-site school reviews and must monitor through these reviews and by other means:
 - a. Civil Rights—compliance with civil rights requirements. In addition to monitoring compliance, the SFA must ensure the FSMC complies with the procedures established by the SFA for referring any civil rights complaints to the SFA.
 - b. Free and Reduced-Price Policy—adherence to the SFA's approved free and reduced-price meal policy statement
 - c. Offer versus Serve—compliance with offer versus serve requirements.

- d. Competitive Foods—compliance with the Smart Snacks requirements of the NSLP regulations in all schools by all parties.
 - i. Reporting of non-program food and meal expenditures and revenue and the proportion of costs to revenues must also be reported by SFAs.
 - ii. If the FSMC is to report this information on behalf of the SFA, this must be specified in the original solicitation and contract.
- e. SFA Policies—compliance with all policies established by the SFA.

22. The SFA must maintain any books, papers, and records directly pertinent to: the solicitation, award or extension of any given contract and the implementation of that contract. Such records must be maintained for a period of 3 years, as specified in 7 CFR 210.23(c).

23. The SFA must ensure that the contract/solicitation for the FSMC includes a provision outlining the recordkeeping responsibilities.

24. Any silence, absence or omission from the contract specification concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and that only materials (food, supplies, etc.) and workmanship of quality that would normally be specified by the SFA are to be used.

25. Revenue, including rebate and credits issued from the processing of USDA Foods can be used only for the SFA's nonprofit Child Nutrition Program and cannot accrue to the FSMC. All revenue and any expenses which are charged to an SFA must flow through the SFA's chart of accounts. FSMC expenses which are not reflected as allowable in this contract and not billed to the SFA cannot be recorded as expenses to the Child Nutrition Program account. Control over the Child Nutrition Program account must be retained by the SFA.

SECTION VI NUTRITION STANDARDS REQUIREMENTS

A. Menu System for Reimbursable School Breakfast

The FSMC and SFA will make all reasonable efforts to encourage participation in the School Breakfast Program. Each day the site operates, the FSMC shall make readily available to all students throughout the serving periods, designated by the SFA, the following:

School Breakfast Program Meal Pattern

	Grades K-5	Grades 6-8	Grades 9-12
Food Components	Amount of Food ^a per Week		
	(minimum per day)		
Fruits (cups) ^{b c}	5 (1)	5 (1)	5 (1)
Vegetables (cups) ^{b c}	0	0	0
Dark green	0	0	0
Red/Orange	0	0	0
Beans and peas (legumes)	0	0	0
Starchy	0	0	0
Other	0	0	0
Grains (oz eq) ^d	7-10 (1)	8-10 (1)	9-10 (1)
Meats/Meat Alternates (oz eq) ^e	0	0	0
Fluid milk ^f (cups)	5 (1)	5 (1)	5 (1)
Other Specifications: Daily Amount Based on the Average for a 5-Day Week			
Min-max calories (kcal) ^{g h}	350-500	400-550	450-600
Saturated fat (% of total calories) ^h	<10	<10	<10
Sodium Target 1 (mg)	≤ 540	≤ 600	≤ 640
<i>Trans</i> fat ^h	Nutrition label or manufacturer specifications must indicate zero grams of <i>trans</i> fat per serving.		

^a Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is 1/8 cup.

^b One-quarter cup of dried fruit counts as 1/2 cup of fruit; 1 cup of leafy greens counts as 1/2 cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

^c Schools must offer 1 cup of fruit daily and 5 cups of fruit weekly. Vegetables may be substituted for fruits, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans/peas (legumes), or "Other vegetables" subgroups, as defined in §210.10(c)(2)(iii) of this chapter.

^d At least 80 percent of grains offered weekly must meet the whole grain-rich criteria specified in FNS guidance, and the remaining grain items offered must be enriched. Schools may substitute 1 oz. eq. of meat/meat alternate for 1 oz. eq. of grains after the minimum daily grains requirement is met.

^e There is no meat/meat alternate requirement.

^f All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk may be unflavored or flavored, provided that unflavored milk is offered at each meal service.

^g The average daily calories for a 5-day school week must be within the range (at least the minimum and no more than the maximum values).

^h Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans* fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent milk fat are not allowed.

B. Additional SBP Requirements

1. Breakfast must be priced as a unit to be claimed for reimbursement. The FSMC must implement the Offer versus Serve (OvS) provision in accordance with the SFA's annual agreement with the SA. For breakfast, students are required to select a minimum of ½ cup serving of fruit (or vegetable if substituted). However, the FSMC must offer the full component amount of 1 cup. Under OvS, the FSMC must serve four food items (i.e., additional grain item or a meat/meat alternate) and the student may decline one item.
2. To offer *a la carte* meal service, all eligible children must be offered free, reduced-price, and full price reimbursable meals. Students may select additional servings of the food offered and pay for them at the *A la Carte* (Supplemental Sales) price schedule established by the SFA. *A la Carte* items must comply with applicable Federal and State regulations.
3. Menus must be planned to use the food-based menu planning system and must comply with the grade groupings described above. Menus as planned must be offered and served to students. Substitutions of food items must be approved, in advance, by the SFA. The FSMC must provide written documentation to the SFA for any substitutions. Menus planned, offered, and served must meet student preferences as determined by student surveys and/or advisory board. Menus planned for students other than those living in this geographic region are not acceptable.
4. Sodium Target 1 (shown) is effective for SY 2022-2023. Food products and ingredients must contain zero grams of trans fat (less than 0.5 grams) per serving.
5. **Daily nutrition analyses must be provided by the FSMC** to document that all reimbursable meals are planned, offered, and served to students meet USDA requirements which are based on the **2005 Dietary Guidelines for Americans**. The nutrition analysis of all reimbursable meals must be completed for duration of contract period.

C. Menu System for Reimbursable School Lunch

Each day the site operates, the FSMC shall make readily available to all students throughout the serving periods, designated by the SFA, meals priced as a unit, which meet the meal component requirements prescribed by USDA. The SFA and FSMC shall actively promote and encourage maximum participation in the National School Lunch Program. Approved meals shall be offered throughout the serving periods as defined by the following:

National School Lunch Program Meal Pattern

	Grades K-5	Grades 6-8	Grades 9-12
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additional amounts from the dark green, red/orange, and beans/peas (legumes) vegetable subgroups as defined in paragraph (c)(2)(iii) of this section.

^c Any vegetable subgroup may be offered to meet the total weekly vegetable requirement.

^f At least 80 percent of grains offered weekly must meet the whole grain-rich criteria specified in FNS guidance, and the remaining grain items offered must be enriched.

^g All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk may be flavored or flavored, provided that unflavored milk is offered at each meal service.

^h Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans* fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent are not allowed.

ⁱ Sodium Interim Target 1A must be met no later than July 1, 2023 (SY 2023-2024).

(legumes) ^r			
Starchy ^c	½	½	½
Other ^{c d}	½	½	¾
Additional Vegetables to Reach Total ^f	1	1	1½
Grains (oz eq) ^f	8-9 (1)	8-10 (1)	10-12 (2)
Meats/Meat Alternates (oz eq)	8-10 (1)	9-10 (1)	10-12 (2)
Fluid milk (cups) ^g	5 (1)	5 (1)	5 (1)
Other Specifications: Daily Amount Based on the Average for a 5-Day Week			
Min-max calories (kcal) ^h	550-650	600-700	750-850
Saturated fat (% of total calories) ^h	<10	<10	<10
Sodium Interim Target 1 (mg) ^h	≤ 1,230	≤ 1,360	≤ 1,420
Sodium Interim Target 1A (mg) ^h	≤ 1,110	≤ 1,225	≤ 1,280
<i>Trans</i> fat ^h	Nutrition label or manufacturer specifications must indicate zero grams of <i>trans</i> fat per serving.		

^a Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is ⅛ cup.

^b One-quarter cup of dried fruit counts as ½ cup of fruit; 1 cup of leafy greens counts as ½ cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

^c Larger amounts of these vegetables may be served.

^d This category consists of “Other vegetables” as defined in paragraph (c)(2)(iii)(E) of this section. For the purposes of the NSLP, the “Other vegetables” requirement may be met with any

D.

Additional NSLP Requirements

1. All five meal components (fruits, vegetables, grains, meat/meat alternate, and milk) must be offered at lunch. Lunch must be priced as a unit to be claimed for reimbursement.
2. The FSMC must implement the Offer versus Serve (OvS) provision in accordance with the SFA’s annual agreement with the SA. For lunch, students are required to select a minimum of ½ cup serving of fruit or vegetable. However, the FSMC must offer the full component amount. Under OvS, the FSMC must serve five food components and the student may decline up to two components.
3. To offer *a la carte* meal service, all eligible children must be offered free, reduced-price,

and full price reimbursable meals. Students may select additional servings of the food offered and pay for them at the *A la Carte* (Supplemental Sales) price schedule established by the SFA. *A la Carte* items must comply with applicable Federal and State regulations.

4. Menus must be planned to use the food-based menu planning system and must comply with the grade groupings described above. Menus as planned must be offered and served to students. Substitutions of food items must be approved, in advance, by the SFA. The FMSC must provide written documentation to the SFA for any substitutions. Menus planned, offered, and served must meet student preferences as determined by student surveys and/or advisory board. Menus planned for students other than those living in this geographic region are not acceptable.
5. Water must be available to students at no charge in the area where lunch meals are served and during the lunch period. Water must be available to students at no charge at breakfast, if served in the cafeteria, but encouraged regardless of service location.
6. Sodium Target 1A (shown) is effective for SY 2023-2024. Food products and ingredients must contain zero grams of *trans_fat* (less than 0.5 grams) per serving.

E. Meal System for Reimbursable After-School Snack Program

On days, that students are on campus after-school, the FSMC shall make the following readily available to all students participating in the after-school snack program:

Milk, Fluid	1 cup (8 ounces)
Meat or meat alternate	1 ounce
Fruit or vegetable or full strength juice	3/4 cup
Grains/Breads	1 serving

1. A minimum of two items must be offered from the following four food components. Any combination of two of the four items listed is acceptable, except for milk served with juice:
2. The quantities of food served shall be in accordance with the Federal Meal Pattern requirements and the recommendations for the specific age groups as found in 7 CFR § 210.
3. Detailed product description documents (i.e., nutrition fact labels/ingredient lists, Child Nutrition (CN) labels, standardized recipes, manufacturer’s product formulation statements, and the USDA Food Buying Guide) shall be the basis for determining crediting, quality, and adequacy of yield for all food items.

SECTION VII. STANDARD TERMS AND CONDITIONS

A. Scope and Purpose

1. The FSMC shall operate the SFA’s Child Nutrition Programs for the benefit of the students, faculty, staff, and guests associated with each SFA. The FSMC shall operate the Child Nutrition Program in accordance with State and Federal laws governing the operation of a

non-profit Child Nutrition Program. FSMC operations must comply with federal regulations found in 7 CFR § 210, 220, 245, 250 and 2 CFR §200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, FNS instructions and policy memoranda issued by the USDA, FNS; and policies of the SA.

2. The FSMC, as an independent contractor, shall have exclusive right to provide food services for the sites designated by the SFA in this RFP (Appendix A) for the *National School Lunch Program*, *School Breakfast Program*, and *After School Snack Program*, if applicable.
3. All income accrued from payments by children and adults, federal and state reimbursements, and USDA Foods shall be deposited in the SFA's nonprofit Child Nutrition Program account. This includes all other income from sources such as donations, special functions, *a la carte* sales, contract or catered meals, proceeds from the sale of food service equipment, interest payments and other sources related to the Child Nutrition Program. Any profit or guaranteed return shall remain in the SFA's nonprofit Child Nutrition Program account. **The SFA and the FSMC agree that this contract is neither a *cost-plus-a-percentage-of-income* nor a *cost-plus-a-percentage-of-cost* contract as required under the USDA Regulations 7 CFR § 210.16 (c) and 2 CFR § 200.323(a).**
4. The SFA shall retain control of the SFA's nonprofit Child Nutrition Program account, assuming overall financial responsibility for the Child Nutrition Program.
5. The SFA shall monitor the Child Nutrition Program to ensure that both parties (FSMC and SFA) comply with the Contract. **Periodic on-site reviews shall be conducted by the SFA to ensure that the program is in conformance with all federal, state, and local regulations, laws, and procedures.** The SFA will conduct an on-site review of each site to observe the counting and claiming system no later than February 1 of each year as required by 7 CFR § 210.8(a)(1). Authorized representatives of the SFA, the SA, and USDA shall have the right to conduct unannounced, on-site administrative reviews of the Child Nutrition Program, including the inspection of all records and any supporting documentation associated with the Child Nutrition Program.

B. Signature and Approval Authority

1. The SFA shall retain signature authority for the application/agreement, free and reduced-price policy statement, and monthly claim for reimbursement.
2. The preparation of the annual application for Federal/State funds and the Agreement with the SA, for operation of the National School Lunch Program, School Breakfast Program, and After School Snack Program shall be the responsibility of the SFA.
3. The preparation of the application to receive USDA Foods shall be the responsibility of the SFA. The agreement signed between the SA, Food Distribution Division, and the SFA to receive USDA Foods shall become part of the contract.
4. Any agreement between the SFA and a State or local Social Services Agency for the purpose of sharing confidential information about a student's ability to participate in any other federally funded food assistance program shall be approved and signed by an official

of the SFA.

C. Free and Reduced-Price Meal Policy

1. The preparation of the annual Free/Reduced Price Meal Policy shall be the responsibility of the SFA and is not open for amendment by the FSMC. The SFA shall ensure that the nonprofit Child Nutrition Program is in conformance with the SFA's approved Free and Reduced-Price Policy. The FSMC shall operate in compliance with the approved Free and Reduced-Price Meal Policy.
2. The SFA shall be responsible for the development, distribution and collection of parent letters and application for free and reduced-price meals. The SFA shall also be responsible for ensuring that students' confidential meal eligibility statuses are disclosed only to individuals eligible under the law to receive them.
3. Approval of Free/Reduced Price Meal Applications shall be the responsibility of the SFA. The SFA shall be responsible for the establishment and maintenance of the free and reduced-price meals eligibility roster, verifying applications for free and reduced-price meals as required by USDA, and directly certifying students for the program.
4. The SFA shall be responsible for appointing a qualified hearings officer to conduct any hearings related to determinations regarding eligibility for free or reduced-price meals.
5. The FSMC shall implement an accurate point of service (POS) system to accurately record reimbursable meals served to students and to file claims for reimbursement in accordance with the Agreement to participate in the NSLP and SBP. Such a POS system must eliminate the potential for the overt identification of free and reduced-price eligible students and must be approved by the SA.

D. USDA Foods ("Formerly known as "Commodities")

1. Any USDA Foods received by the SFA and made available to the FSMC shall be utilized solely for the purpose of providing benefits for the SFA's nonprofit Child Nutrition Program.
2. The SFA must always retain the title to all USDA Foods, and at no time, shall the ownership of USDA Foods be transferred to the FSMC or other entity. The SFA shall assure the maximum amount of USDA Foods are received and utilized by the FSMC.
3. The FSMC will use all USDA Foods issued to the SFA, as well as any commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality when USDA Foods are not available, in the SFA's Child Nutrition Program.
4. The FSMC shall maintain adequate storage, inventory, and control of such USDA Foods to ensure that its use is in conformance with the SFA's agreement with the Food Distribution Division.
5. The FSMC shall comply with all provisions of 7 CFR § 250.50 concerning the FSMC's

responsibilities in the crediting, receipt, storage, use, reporting, and if instructed by the SFA, the disposal of USDA Foods.

6. The SFA shall ensure that all activities relating to USDA Foods, for which the FSMC shall be responsible, are consistent with the provisions of & 7 CFR §250.50(d),
7. The FSMC shall report and/or credit the value of USDA Foods received, monthly, and annually, to the SFA. **The FSMC must give credit to the SFA monthly for all USDA Foods received in the previous month by way of an invoice reduction. The invoice reduction must be clearly documented by a separate line-item entry on invoices. The value of these USDA Foods will be determined by the Food Distribution Division of the SA.**
8. The FSMC must provide adequate documentation to the participating SFAs to ensure that USDA Foods, including entitlement and bonus USDA Foods, and USDA Foods contained in processed end products, received for use in the SFA's Child Nutrition Program from the period of July 1, 2022-June 30, 2023, for those eligible were specifically used in the SFA's Child Nutrition Program during this period. These dates will be advanced upon each renewal to reflect the appropriate dates for the length of renewal and will be added to new SFA contracts upon the first renewal, July 1, 2023-June 30, 2024.
9. All activities related to USDA Foods for which the FSMC will be responsible, shall be in accordance with 7 CFR § 250 Subpart D – Donated Foods in Contracts with Food Service Management Companies, and written assurance that such activities are being performed in accordance with the applicable requirements in 7 CFR § 250 will be provided to the SFA on an annual basis.
10. The FSMC must use all USDA Foods and processed end products in inventory carried over from any previous contract in the SFA's Child Nutrition Program, unless the SFA determines, and documents, in writing to the SA, that such foods are out-of-condition, in which case they must not be used.
11. The SFA must ensure that the FSMC reports the value of any additional credit for any USDA Foods not accounted for in the fixed price per meal contract, and any USDA Foods that are not made available until later in the school year.
12. The liability for the proper use of the USDA Foods will be the responsibility of the FSMC. The FSMC shall maintain accurate and complete records with respect to the receipt, use/disposition, storage, and inventory of USDA Foods. Failure by the FSMC to maintain records under the Contract shall be considered factual evidence of improper use or loss of USDA Foods.
13. The SFA is responsible for obtaining restitution from the FSMC in connection with any claim for improper use or loss of, or damage to USDA Foods. The FSMC will maintain all records to document its compliance with requirements relating to USDA Foods, in accordance with 7 CFR § 250.54(b).
14. The FSMC must guarantee, in writing to the SFA, that USDA Foods ground beef, ground pork, and processed end products are used in the SFA's Child Nutrition Program without substitution. the FSMC must further document, in writing to the SFA, that any items substituted for USDA Foods issued by the Nevada Department of Agriculture(excluding ground beef and ground pork) and commercial substitutes are of the same generic identity, of U.S. origin, and of equal or better quality than the USDA Foods issued to the SFA. Upon termination of the contract, the FSMC must return all unused USDA Foods ground beef,

ground pork, and processed end products, and other unused donated foods to the SFA.

15. The FSMC shall not enter processing contracts with a processor on behalf of the SFA; only the SFA may enter USDA Foods processing contracts. If the FSMC acts as an intermediary between the processor and the SFA in receiving processed products from the processor, the FSMC must report and/or be accountable to the SFA for the value of processed products upon receipt; specifically, the FSMC must account for and report the USDA Foods value in end products procured by the SFA in accordance with the processing requirements in Subpart C of Part 250. The procurement of processed end products will comply with subpart C of 7 CFR § 250 and with the provisions of Nevada Department of Agriculture, Food Distribution Division's processing agreements, and will ensure reporting and/or crediting of the SFA's Child Nutrition Program for the value of USDA Foods contained in such end products at the processing agreement value.
16. The FSMC and SFA will maintain records to document its compliance with requirements related to USDA Foods, in accordance with 7 CFR § 250.54(b).
17. The SFA, SA, USDA, the Comptroller General, or their duly authorized representatives may perform onsite reviews of the FSMC's Child Nutrition Program, including a review of facilities and records to ensure compliance with the requirements for the management and use of USDA Foods. The FSMC shall have all records available to substantiate that the full value of all USDA Foods is used solely for the benefit of the SFA.
18. Extensions or renewals of the Contract, if applicable, shall be contingent upon the fulfillment of all statutory provisions, including those related to USDA Foods.

E. School Nutrition Operations

1. The FSMC, as agent for the SFA, shall serve on such days and at such times as requested by the SFA:
 - a. Meals, priced as a unit, which meet the meal component requirements prescribed by USDA.
 - b. Such other food as may be agreed upon by FSMC and SFA.
 - c. To offer a la carte meal service, all eligible children must be offered free, reduced price and full price reimbursable meals. A la carte offerings will comply with applicable Federal and State regulations.
2. For the first 21 days of meal service, FSMC shall adhere to the 21-day cycle menu submitted with the proposal and developed in accordance with the provisions of 210.10. Thereafter, changes in the menu may be made with the approval of the SFA and must follow similar standards as RFP menu, such as: minimally processed, limited artificial colors and flavors, fresh or frozen fruits and vegetables with limited canned foods.
3. The FSMC shall make recommendations to the SFA regarding the Child Nutrition Program and the prices to be charged for meals and snacks; however, the SFA will retain control over the quality, extent, and general nature of its Child Nutrition Program.
4. The FSMC shall not be reimbursed for any meals which are not served to students, are

spoiled or unwholesome at the time of service; that do not meet the specifications developed by the SFA or that do not otherwise meet the requirements of this Contract. However, no deduction shall be made, unless the SFA shall give the FSMC written notification within 48 hours of the meal service for which the deduction is to be made, specifying the number of meals for which the SFA intends to deduct payment and setting forth the reasons for the deductions. In addition, meals dropped by the students shall be replaced at no cost to the students.

5. The FSMC shall supply special diets to any students with disabilities, as required, for medical reasons when prescribed and approved in writing by a medical doctor or by a recognized medical authority for non-disabled students.
6. FSMC shall make substitutions in the food components of the meal pattern for disabled students whose disability restricts their diet and those non-disabled students who are unable to consume regular meals or snacks because of medical or other special dietary needs. Substitutions shall be made on a case-by-case basis only when supported by a statement of the need for substitutes that includes recommended alternate foods, unless otherwise exempted by the FNS and USDA.
7. A record of special diets planned and served daily shall be maintained as required.
8. Should reimbursement for a meal be denied or a claim for loss of USDA Foods be established against the SFA, because of an Administrative Review, the amount of the denied reimbursement (**food loss, overclaim, or questioned cost**) shall be subtracted from the funds due the FSMC. In the event, the reimbursement is denied after the termination of the contract, the FSMC shall refund the amount of the denied reimbursement to the SFA's nonprofit school food service account.
9. The FSMC will not be responsible for an overclaim due to the determining official's incorrect classification of a free and reduced-price meal application.
10. The SFA and FSMC will follow USDA Smart Snacks in School Standards and Nevada's School Wellness Policy regarding competitive food sales.
11. Should the SFA require food service for special functions, such as banquets, etc. a firm price per meal shall be negotiated and confirmed in writing with the SFA official requesting the service.
12. The FSMC shall serve free and reduced-price meals to all eligible children approved by the SFA and shall protect the anonymity of such children.
13. All Contract revisions after signing shall be provided in writing to the SA by the SFA. Any additions or changes to the contract that change or negate the mandatory portions of the contract as written will automatically invalidate the contract.

F. Facilities, Equipment, and Inventory

1. The SFA shall make available to the FSMC, suitable facilities, completely equipped and ready-to-operate, together with such utilities as heat, fuel, refrigeration, and other utilities, that may be reasonably required for the FSMC for the efficient performance of this Contract.
2. The FSMC agrees to utilize the SFA-owned equipment and facilities in good and proper manner and shall keep the same in a state of cleanliness to assure strict compliance with

State health regulations.

3. Records of equipment depreciation will be maintained and recorded in the appropriate reporting system.
4. The SFA shall always have full access to the food service facilities. Principals or other SFA officials will inform the FSMC prior to use of the facilities during any serving periods.
5. The FSMC shall not use SFA facilities or equipment for preparation of food to be served at any other function unless approved by the SFA.
6. The SFA shall furnish building maintenance services for the food service facilities, promptly making all equipment repairs and replacements, making sure all is compliant with all federal, state, and local safety and health laws and regulations, with respect to the food service facilities. Repairs to expendable and non-expendable equipment or physical facilities due to the negligence of the FSMC, its employees or agents shall be the sole responsibility and expense of the FSMC.
7. The SFA shall provide and maintain an adequate inventory of small wares, expendable equipment, and cash registers. All small wares, small expendable equipment, and cash registers shall remain the property of the SFA.
8. The FSMC shall invest no more than \$0 dollars in equipment to operate the nonprofit Child Nutrition Program. All equipment purchased pursuant to this provision will be titled to and remain the property of the SFA. The equipment purchased and titled to the SFA by the FSMC shall be financed on a straight-line basis over five (5) years. Such financing shall be billed outside of the term of this contract and any subsequent renewal terms between these parties until fully paid.
9. If the Contract expires prior to the full payment of the equipment purchased pursuant to the preceding paragraph, the SFA shall reimburse the FSMC for the unpaid portion not to exceed the total amount of equipment less depreciation. The remaining will be for proprietary equipment, signage and small wares that will remain with the FSMC. The FSMC will provide the SFA with actual receipts for the purchase of all equipment subject to financing and a payment table will be added to the contract containing the actual price of all equipment at purchase and the date of purchase. The SFA will reimburse FSMC for the remaining unpaid portion of the equipment within 60 days of the expiration of the Contract. This provision shall survive expiration of the Contract.
10. All equipment and/or fixtures added by the FSMC during the term of the Contract will become the property of the SFA. Fixtures for the purpose of this Contract include goods that have become so related to the real property that an interest in them arises under real property law (examples include, but are not limited to, counters, islands, stoves, ovens, sinks, service stations, and other items which cannot be removed without damaging the floor).
11. The SFA shall retain the right to rent any SFA-owned food service facility to outside groups during non-school hours or weekends, provided that such rental does not interfere with the normal food service operation. When such activities are agreed upon by the FSMC and SFA,

the SFA may require that a member(s) of the Child Nutrition Program staff, designated by the on-site manager, be on the premises during such activities. The SFA budget will be reimbursed for related personnel costs associated with the rental.

12. At the time of Contract signing, the SFA and FSMC shall jointly inventory all equipment, USDA Foods, food, and non-food related supplies to be utilized in the SFA's nonprofit Child Nutrition Program (*Appendix E*). A summary of such inventory shall become part of the Contract. The SFA represents and warrants that all SFA food and supplies inventories, including USDA Foods, existing at the commencement of operations, hereunder, are usable and shall meet the FSMC's menu requirements. In addition, at the commencement of operations, the FSMC and SFA shall mutually agree on the usability of such existing inventory and shall make an appropriate adjustment, if necessary, to the value of such existing inventory.
13. During this Contract, the title to all SFA food, equipment, and supplies shall be retained by the SFA. At the termination of this Contract, the FSMC and SFA shall jointly undertake a closing inventory of all food, equipment, and supplies. The value of the opening inventory shall be offset against the value of the closing inventory, determined by invoice cost. In the event, the opening inventory is greater than the closing inventory, the difference shall be credited against the FSMC's final billing. In the event, the closing inventory is greater than the opening inventory, the difference shall be added to the FSMC's final billing as a direct cost.

G. Regulatory Compliance

1. The FSMC and SFA mutually agree to comply with all applicable standards, orders or requirements issued pursuant to Section 306 of the Clean Air Act (42 USC 1857 [h]), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 117389 and Environmental Protection Agency regulations (40 § CFR 15). Any violations thereof shall be reported to the Administrator for Enforcement or other appropriate authority. Each party shall not be responsible to the other for acts beyond its control or acts caused by the negligence of the other party.
2. The FSMC agrees to comply with all mandatory standards and policies relating to energy efficiency as cited in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94 – 163).
3. The FSMC shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act, 40. U.S.C. §§ 327-330, as supplemented by Department of Labor regulations, 29 CFR 5. Under Section 103 of the Act, the FSMC shall be required to compute the wages of every laborer based on a standard workday of eight hours and a standard workweek of 40 hours. Work more than the standard workday or standard workweek is permissible, provided that the worker is compensated at a rate not less than 1 ½ times the base rate of pay for all hours worked, more than 40 hours in any workweek. In addition, the FSMC shall comply with all provisions of any other applicable Federal, State, or local law or regulation with respect to its personnel providing services hereunder.
4. The FSMC shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as

supplemented in Department of Labor regulations, 41 CFR 60.

5. The FSMC shall comply with the following civil rights laws as amended: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-6, “Civil Rights Compliance and Enforcement in School Nutrition Programs”.
6. The FSMC shall comply with the “Buy American” provision for contracts that involve the purchase of food as per USDA Regulation 7 CFR § 220.21(d) and FNS Policy Memo SP 38-2017.
7. The FSMC shall complete and sign the *Certification of Independent Price Determination* form, *Certification Regarding Debarment*, *Certification Regarding Drug-free Workplace, Suspension, Ineligibility, and Voluntary Exclusion* form and *Disclosure Form to Report Lobbying* and shall include these documents as part of the contract. (See Attachments O-S)
8. The FSMC acknowledges that under, no adult sex offender, after having been convicted of a sex offense involving a minor, shall enter onto the property of a K-12 school while school is in session or attend any K-12 school activity unless the adult sex offender does all of the following: a.) notifies the principal of the school, or his or her designee, before entering onto the property or attending the K-12 school activity b.) immediately reports to the principal of the school, or his or her designee, upon entering the property or arriving at the K-12 school activity c.) complies with any procedures established by the school to monitor the whereabouts of the sex offender for the duration of his or her presence on the school property or attendance at the K-12 school activity. For a public K-12 school, the local school board shall adopt a policy to effectuate this section. **The FSMC shall conduct criminal background checks on each of its employees who, pursuant to this Agreement, engage in any services on SFA property or at SFA events.** The FSMC shall provide documentation that criminal background checks were conducted on each of its employees prior to hiring and shall refuse employment to any person convicted of a felony or any other crime, whether misdemeanor or felony, that indicates the person poses a threat to the physical safety of students, school personnel or others. Such check shall include an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. Provider shall not assign any employee or agent to provide services pursuant to this contract if (1) said worker appears on any of the listed registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any crime, whether misdemeanor or felony, involving sex, violence, or drugs; or (4) said worker has engaged in any crime or conduct indicating that the worker may pose a threat to the safety or well-being of student or school personnel. SFA reserves the right to prohibit any individual employee of Provider from providing services on SFA property or at SFA events if SFA determines, in its sole discretion, that such employee poses a threat to the safety or well-being of students, school personnel or others.
9. The FSMC shall abide by all applicable State and Federal laws when providing services under this contract.

H. Records and Record-Keeping

1. The FSMC shall maintain such records, supported by invoices, receipts, or other evidence showing the daily number of meals served by category, that the SFA will need to support its Claim for Reimbursement and meet monthly reporting responsibilities. The FSMC must report daily meal counts, maintain all additional records and reports required under the National School Lunch, Breakfast, and After School Snack Programs, and shall submit monthly operating statements in a format approved by the SFA within ten (10) days following the end of each month of operation.
2. The FSMC must retain revenue records broken down by source, type, and category of all meal service, including, but not limited to, *a la carte* sales, reduced-price and full price meals, snacks, and vending machine sales, etc. as required by the NSLP and SBP. All records maintained to report the value of USDA Foods and processed end products received from, or on behalf of, the SFA for use in the SFA's Child Nutrition Program must be maintained; further documentation that the FSMC has accurately and regularly credited the SFA for the value of all USDA Foods received in the fiscal year and the value of USDA Foods contained in processed end products must be maintained. All such records shall be kept on file for three (3) years after the end of the school year to which they pertain.
3. In the event of any unresolved audit findings, records shall be retained beyond the three-year period for as long as required for resolution of the issues raised by the audit.
4. The FSMC must supply and maintain all records required for operation of the National School Lunch Program, School Breakfast Program and After-School Snack Program, including but not limited to: Daily Production Records, Daily Temperature Logs, required signage and annual Training Records. All records of the FSMC pertaining to the SFA's Child Nutrition Program shall be made available to representatives of the SFA, the SA, USDA, the U.S. Comptroller General, and the U.S. General Accounting Office, upon request, at the FSMC's offices during regular business hours.
5. The FSMC shall not remove federally required records from SFA premises upon Contract termination.
6. The SFA and FSMC must provide all documents as necessary for the independent auditor to conduct the SFA's single audit. The SFA will contract to have the single audit conducted as a regular, direct expense to the SFA's nonprofit Child Nutrition Program.

I. Personnel

1. The SFA shall have final approval regarding the employment of the FSMC's site manager for the for efficient management and operation of the SFA's Child Nutrition Program. Salary, benefit, and tax allocations must be provided in the RFP. The SFA shall furnish an office and any standard office equipment to support the Child Nutrition management position.
2. All FSMC personnel **will** be subject to rules and regulations of the SFA while on the SFA's premises.

3. The SFA will retain all employees currently on the SFA's payroll. Employees of the SFA assigned to Child Nutrition Program duties will be entitled to all salary and benefits applicable to State employees in their respective positions as determined by the SFA.
4. Employees of the SFA who leave employment or are reassigned may be replaced with employees of the FSMC. Employees hired by the FSMC to replace SFA employees who leave employment or are reassigned to non-Child Nutrition Program duties, are subject to such salary and benefits as the FSMC provides. The SFA shall employ enough staff to complete all non-delegable duties as an expense to the SFA's nonprofit Child Nutrition Program budget.
5. The FSMC shall also be responsible for the hiring and termination of non-supervisory staff that are employees of the FSMC.
6. The FSMC shall be responsible for supervising personnel, including SFA-employed supervisory and non-supervisory Child Nutrition Program employees; provided, however, the SFA shall retain the exclusive right to control the terms and conditions of the employment of such supervisory and non-supervisory employees, including, but not limited to, control over their hiring, termination, promotion, discipline, levels of compensation and work duties. Supervision activities include employee and labor relations, personnel development, and hiring and termination of FSMC management staff, except the site manager.
7. All SFA and FSMC personnel assigned to the Child Nutrition Program in each site shall be instructed in the use of all emergency valves, switches, and fire and safety devices in the kitchen and cafeteria use.
8. The FSMC shall be responsible for training personnel, including SFA-employed supervisory and non-supervisory Child Nutrition Program employees. Appropriate training shall be provided to conduct the effective and efficient operations of each site's Child Nutrition Program. The FSMC shall compensate employees for time spent in required in-service training and/or monthly meetings. Training must be provided and documented in accordance with USDA Professional Standards requirements 7 CFR § 210.30 for CNP employees on a yearly basis.
9. The SFA shall maintain accurate, timely and detailed records of personnel and other payroll costs for employees assigned to the Child Nutrition Program, and shall grant FSMC access, during regular business hours, to such books and records, except as protected by State law.
10. The FSMC shall comply with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by labor regulations (41 CFR § 60). Neither the SFA nor the FSMC shall discriminate because of race, color, religion, sex, age, national origin, disability, or status as a Vietnam veteran, as defined and prohibited by applicable law, in the recruitment, selection, training, utilization, promotion, termination, or other employment-related activities concerning employees assigned to duty in the SFA's Child Nutrition Program. The FSMC affirms that it is an equal opportunity and affirmative action employer

and shall comply with all applicable Federal, State, and local laws. The FSMC shall retain present SFA employees without a reduction in salary, hours worked, or benefits.

11. The FSMC shall comply with provisions of the Fair Labor Standards Act; provisions of the Occupational Safety and Health Act, and the standards and regulations issued thereafter. The FSMC shall comply with applicable Federal, State, and local laws and regulations pertaining to wages, hours, and conditions of employment. The FSMC shall employ a substitute Child Nutrition Program employee when an employee is absent to manage the flow of work and prevent violations of existing labor laws.
12. The FSMC shall provide Worker's Compensation coverage for its employees.
13. The SFA may request, in writing, the removal of an FSMC employee who conducts himself/herself in a manner that is detrimental to the physical, mental, or moral well-being of students or site personnel. In the event of an employee removal, the FSMC shall immediately restructure staff to avoid a disruption of service. The SFA shall not be liable for the personnel actions of the FSMC.
14. Both the SFA and the FSMC shall be solely responsible for all personnel actions and all claims arising out of injuries occurring on the job regarding employees on each entity's respective payroll. Each party shall withhold all applicable Federal, State, and local employment taxes, and payroll insurance with respect to its employees, insurance premiums, contributions to benefit and deferred compensation plans, licensing fees and worker's compensation costs and shall file all required documents and forms.
15. The FSMC shall provide the SFA with a schedule of employees, positions, assigned locations, salaries, and hours to be worked as part of the RFP. Specific locations and assignments will be provided to the SFA two full calendar weeks prior to the commencement of operation.
16. The FSMC shall require all employees assigned to duty on the SFA's premises to submit to periodic health examinations as required by law and shall submit satisfactory evidence of compliance with all health regulations to the SFA's Human Resources Department upon request. The cost of such examinations shall be incurred solely by FSMC. The FSMC will test its employees for drugs and alcohol as required by the RFP. The FSMC will not place in any SFA-owned site any employee of the FSMC who has tested positive for controlled substances in violation of SFA's Drug Free Workplace policy or any employee that has been convicted of, pled guilty or no contest to or received a prayer for judgment continued for any felony or for any misdemeanor involving drugs, crimes of moral turpitude, or violent behavior of any kind.
17. The FSMC must conduct criminal background checks on any employee of the FSMC who will work at any SFA site. The background checks must extend back at least 10 years. If the individuals have lived outside of Nevada during the last 10 years, the criminal record checks shall extend beyond NV to include each county/state the person has lived in for the last 10 years. All criminal record checks must be provided to the SFA upon request.
18. The FSMC must conduct drug testing prior to hiring employees who will perform services at

SFA sites. Applicants that fail the drug test may not be hired to perform services at SFA sites. The results of drug tests must be available to the SFA upon request.

J. Procurement

1. **All food purchases shall be made by the FSMC and shall be used solely in the SFA's nonprofit Child Nutrition Program.** All food and related supplies purchased by the FSMC shall be kept separate and apart and the title thereto shall always remain in the FSMC. The FSMC will credit all rebates, bonuses, trade discounts and other procurement benefits to the SFA's nonprofit Child Nutrition Program.
2. The FSMC must follow the procurement regulations as described in 2 CFR §§ 200.323(a). The FSMC shall maintain a written Procurement Plan that describes the FSMC's procedures for the acquisition of food, supplies, services, and equipment in accordance with Federal, State, and local laws. The Procurement Plan must include a system that enables each site to confirm that food, supplies, services, and equipment that are procured are identical to those received. The FSMC may not serve as the vendor unless the SFA's Contract Official approves an appropriate process to be followed to assure free and open competition according to 2 CFR § 200.323(a).
3. The FSMC shall not assign or subcontract in whole or in part its rights or obligations under any contract resulting from response to this RFP without prior written consent of the SFA. Any attempted assignment without said consent shall be void and of no effect.
4. If the effective dates of any procurement contract that should be signed as a result of this RFP extend beyond the current State or Federal fiscal year, the contract will be conditional upon the availability and receipt of Federal, State and/or local funds.
5. All procurement records and supporting documentation shall remain on the premises and shall be made available to representatives of the SFA, the State Agency, the State Attorney General, USDA, the U.S. Comptroller General, and the U.S. General Accounting Office, upon request. In the event of termination of the Contract prior to the expiration of the records retention period specified in this RFP, copies of the procurement records supporting documentation shall be provided to the SFA.

K. Accounting Practices, Revenues and Receipts

1. All Federal and State reimbursements and cash receipts shall be utilized solely in the SFA's nonprofit Child Nutrition Program or for the improvement of such Child Nutrition Program. All cash receipts shall be turned over to the SFA for deposit in the SFA's nonprofit Child Nutrition Program account. The SFA represents and warrants that all financial and operating information provided by the SFA to the FSMC is true, complete, correct, and presents in a fair and accurate manner, all items of revenue and expense of the SFA's non-profit Child Nutrition Program to be managed by the FSMC.
2. The FSMC shall submit operating statements to the SFA each month. Within thirty (30) days following the end of the school year, the FSMC shall submit to the SFA an operating statement for the school year and shall pay to the SFA the amount, if any, due or shall

submit an invoice to the SFA. The SFA, at its own expense, shall have the right to audit all operating statements. All books and records relating to the operation of the Child Nutrition Program shall be made available, as required by State and Federal Regulations, for inspection and audit by the SFA, State or Federal auditors.

3. The FSMC must credit the SFA for the value of donated foods, including those contained in end products that the FSMC procures from a processor on behalf of the SFA. Such credits will be applied monthly, if applicable, to the invoice submitted by the FSMC to the SFA. The USDA Foods value credited on the monthly invoice should match the USDA Foods value provided by the SA. The credit shall be in the form of an invoice reduction to reflect the total value of USDA Foods used by the SFA during the invoice period.
4. Within fifteen (15) days after the end of each Accounting Period, the FSMC will submit to the SFA an invoice for the SFA's financial obligation for such accounting period. All invoices for services shall be paid thirty (30) days after the receipt of the correct invoice. The invoices shall cover all services for the previous calendar month.
5. All invoices presented for payment that are not paid within 30 days of the date of the invoice shall be subject to a late fee with terms outlined in the contract. Any late fees or other penalties must be paid from the SFA's General Fund. Payment of late fees or other penalties, from the SFA's nonprofit Child Nutrition Program account are not allowable.
6. The FSMC must have an audit performed by an independent audit firm engaged by the FSMC. The audit must report on the FSMC's control, structure, policies, and procedures. A copy of the current audit must be retained on file by the SFA. Failure of the FSMC to provide the required audit will result in non-renewal of the Contract between the SFA and FSMC.

L. Guarantees

The SFA and the FSMC shall work together to ensure a financially sound operation. The FSMC will provide a guarantee and must describe in detail the guarantee conditions, forecasting of cost, and settlement of losses and/or surpluses in this offer. Options include:

Guaranteed No Loss: FSMC guarantees the SFA no loss for the operation of the food service program; or

Guaranteed Minimum Return: FSMC guarantees the SFA a return no less than a certain dollar amount for the operation of the food service program.

(a) Guaranteed conditions not clearly defined shall be the sole responsibility of the FSMC. If the contract is renewed, the guarantee conditions shall apply to subsequent years. The FSMC cannot recover any deficits in subsequent years if contract is renewed. In the event the guarantee conditions stated are not met, the FSMC and SFA must mutually agree upon the new guarantee minimum amount for the Contract.

M. Licenses, Fees and Taxes

1. The FSMC shall obtain and post all Federal, State, and local licenses, permits, and other documents required by Federal, State, or local law to operate a nonprofit Child Nutrition

Program.

2. The FSMC shall be responsible for paying all applicable taxes and fees, including, but not limited to excise tax, state and local income tax, and payroll and withholding taxes for FSMC employees; the FSMC shall hold the SFA harmless for all claims arising from payment of such taxes and fees. The extent of responsibility is designated in the Cost Responsibility Detail Sheet shown in Appendix G.

N. Insurance

1. The FSMC is required to be insured adequately to support the terms of the Contract. The FSMC shall maintain the insurance coverage set forth in this Contract provided by insurance companies authorized to do business in the State of Nevada. A Certificate of Insurance of the FSMC's insurance coverage, indicating the specified amounts, must be submitted at the time of award. The FSMC shall provide the SFA copies of all applicable insurance policies at the time of award.
2. The FSMC shall have the following insurance coverage in effect during all times under this contract:
 - a. Comprehensive General Liability – includes coverage for:
 - 1) Premises – Operations
 - 2) Products – Completed Operations
 - 3) Contractual Insurance
 - 4) Broad Form Property Damage
 - 5) Independent Contractors
 - 6) Personal Injury**\$ 1,000,000** Combined Single Limit.
 - b. Automobile Liability, if applicable: **\$ 1,000,000** Combined Single Limit
 - c. Workers' Compensation: Statutory
 - 1) Employee Liability: up to **\$ 1,000,000**
 - d. Excess Umbrella Liability: **\$ 1,000,000** Combined Single Limit
3. In addition to the above, the FSMC shall provide fire and theft insurance at its own expense to cover any risk created by fire and/or theft to its property located on the premises of the SFA. The FSMC further agrees to provide all necessary fire and/or theft insurance to cover clothes, garments, and other articles owned by their employees.
4. The FSMC agrees to name the SFA as an additional insured for services performed under the terms and conditions of the contract.
5. A Certificate of Insurance evidencing all coverage requested is required before work commences under the terms of this contract. All insurance required because of a response to this RFP shall provide for notice of cancellation directly to the SFA thirty (30) days before such cancellation occurs.

O. Proprietary Information

1. During the term of the Contract, the FSMC may grant to the SFA a nonexclusive right to access certain proprietary materials of the FSMC, including, but not limited to, signage, operating or other manuals, recipes, menus and meal plans, and computer programs relative to or utilized in the FSMC's business or the business of any affiliate of FSMC. These materials shall remain the property of the FSMC.
2. The SFA shall not disclose any of the FSMC's proprietary information or other confidential information, directly or indirectly, during or after the term of the Contract. The SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of the FSMC. All trade secrets and other confidential information shall remain the exclusive property of the FSMC and shall be returned to the FSMC immediately upon termination of the Contract.
3. The SFA agrees that all proprietary computer software programs, marketing and promotional literature, and materials used by the FSMC on the SFA's premises in connection with the Child Nutrition Program provided by FSMC under this Contract shall remain the property of FSMC, notwithstanding the fact that the SFA may have received a charge for the use of such proprietary materials in connection with the SFA's Child Nutrition Program.
4. Upon termination of the Contract, all use of trademarks, service marks, and logos owned by the FSMC or licensed to FSMC by third parties shall be discontinued by the SFA, and the SFA shall immediately return to the FSMC all proprietary materials.
5. The FSMC acknowledges that during this Contract, it shall have access to business systems, techniques, and methods of operation developed at great expense by the SFA to be unique assets of the SFA's business. The FSMC agrees to keep such information confidential and shall not disclose such information directly or indirectly during or after the term of this Contract.

P. Term and Termination

1. This Contract between the FSMC and SFA shall remain enforced for one (1) year unless sooner terminated as herein provided. The Contract may be canceled by either party for cause or for convenience with up to 60-day written notice by the party terminating the Contract.
2. The Fixed Price Cost for All Meals and Services (see Attachment B), which includes the charge per meal and the management fee, may be reconsidered on an annual basis.
3. Should the decision to renew be mutually agreeable to both parties, the FSMC may petition SFA for an increase in the fixed price per meal and/or the Management Fee per meal annually at the time of the Contract renewal. The amount of the increase requested by FSMC shall reflect the costs of goods and services over time as reflected in the Consumer Price Index. **The FSMC may petition the SFA for an increase in the fixed price per meal charge and/or the**

Management Fee per meal annually at the time of the Contract renewal. The amount of the increase may not exceed the index to which the Federal reimbursement rates are tied, based on the *Food Away from Home Series of the Consumer Price Index or CPI-U* for the month of December. The Yearly Percentage Change in the Consumer Price Index for All Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Food Eaten Away from Home (CPI). Such increases shall be effective on a prospective basis on each anniversary date of this Contract and will be allowed only if approved in advance by the SFA. The proposed increase shall be based on the previously agreed-upon fixed-price (per meal) from the base solicitation and initial Contract and any subsequent amended Contracts. CPI fee increases for the upcoming Contract renewal year must be submitted to the SFA through the renewal letter received from the SFA each year. No other fee increases will be allowed. A renewal letter will be sent to the vendor by the SFA, and vendor may note the price increase on the signed renewal letter and return it to the SFA. The SFA must forward all documentation to the SA, for review and approval. **No price increase may be implemented under this provision without prior approval of the SA.** The SFA may petition the FSMC for a decrease in the fixed price per meal charge; using the same methods an FSMC may use to request a price increase.

4. If either party shall fail or be unable to perform or observe any of the terms or conditions of this agreement for any reason, other than excused performance reasons stated, the party claiming such failure shall give the other party a written notice of such breach. If, within thirty (30) days from such notice the failure has not been corrected, the injured party may cancel the agreement by giving thirty (30) days written notice, or, in the case of the SFA, effect such other arrangements as the SFA deems desirable during the continuation of the FSMC's inability or failure to perform.
5. Neither the FSMC nor the SFA shall be responsible for any losses resulting from the failure to perform any terms or provisions of the Agreement, except for payments of monies owed, if the party's failure to perform is attributable to any such occurrences referred to as a "Force Majeure," which includes war, riot, acts of public enemies, fire, flood, delay or work stoppage, or any other act not within the control of the party whose performance is interfered with, and which, by reasonable diligence, such party is unable to prevent.
6. In the event of a Force Majeure, which interferes with the operation of the SFA's Child Nutrition Program, upon request, the FSMC will take all reasonable steps to continue to provide service upon the terms and conditions of the Contract in a manner that is satisfactory to both the FSMC and SFA. Any guarantee provided therein shall be adjusted to account for lost gross receipts and any increase in the SFA's total Child Nutrition Program costs.
7. In the event that the FSMC is not able to perform under this contract due to a Force Majeure event, the SFA may, at its option, terminate this Contract and assume control of the facilities, equipment, food, supplies, expendables, etc. necessary for the continued operation of the SFA's Child Nutrition Program.
10. Notwithstanding any other provision of this Agreement, both parties shall be deemed to have retained all administrative, contractual, and legal rights and remedies to which they may be entitled.
11. The SFA agrees that if upon being advised in writing by the FSMC that its services are not

returning a fair and equitable profit, the school district and management fail to effectuate new financial arrangements within thirty (30) days rectifying this problem, this agreement may thereupon be terminated by the FSMC by giving sixty (60) days written notice to the SFA.

12. In the event of a change in the funding from Federal and/or State sources, the SFA reserves the right to cancel the contract in total or modify the terms and conditions, as necessary.

13. The SFA may terminate this contract for breach/neglect by FSMC as determined by school district when considering such items as:

- a. failure to maintain and enforce required standards of sanitation,
- b. failure to maintain proper insurance coverage as outlined by contract,
- c. failure to provide required information statements,
- d. failure to maintain quality of food and service at a level satisfactory to school district, or
- e. failure to comply with Federal and State regulations, and
- f. any other areas deemed pertinent by the SFA

14. The SFA is the responsible authority, without recourse to FNS, for the settlement and satisfaction of all contractual and administrative issues arising from this Agreement. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims, or other matters of contractual nature. Matters concerning violations of the law will be referred to the local, state, or federal authority that has proper jurisdiction.

15. Upon the termination or expiration of the Agreement, the FSMC shall, as soon as possible, vacate all parts of the premise(s) occupied by the FSMC and return the premise(s) to the SFA, together with all the equipment and supplies furnished by the SFA, pursuant to this contract, in the same condition as when originally made available to the management company, except reasonable wear and tear, fire, and other casualty loss.

16. This Contract is made under and shall be governed and construed in accordance with the laws of the State of Nevada. The place of this contract, its suits and forum shall be Nevada, where all matters, whether sound in contract or tort relating to its validity, construction, interpretation, and enforcement shall be determined.

Q. Additional Conditions

1. **Oral Interpretations.** No oral interpretations of the RFP requirements shall be binding on the SFA. All changes in the RFP requirements shall be in writing and shall be issued in the form of an addendum to the RFP no less than ten (10) calendar days prior to proposal opening.
2. **FSMC Certification.** By entering a response to this RFP, the FSMC certifies that the corporation, firm, or person is submitting a proposal for the same materials, supplies, equipment, or services as specified in the RFP. The FSMC certifies that the proposal is in all respects fair and without collusion or fraud. The FSMC certifies that it understands that collusive responses are a violation of Federal law and can result in fines, prison sentences,

and civil damage awards.

3. **Conflicts of Interest.** Conflicts of interest, gratuities and kickbacks, or other inducements are prohibited. Any employee, or any official of the SFA, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money or other things of value as an inducement or intended inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm or corporation, offering, responding for, or in open market seeking to make sales to the SFA, shall be deemed guilty of a felony and upon conviction, such person or persons shall be subject to punishment of a fine in accordance with State and/or Federal laws.
4. **Accrual to FSMC.** Contracts that permit receipts and/or expenses to accrue to the FSMC are prohibited.
5. The SFA reserves the right to accept and/or reject all proposals in the best interest of the SFA. The FSMC agrees that only a “*fixed fee*” Contract will be acceptable. Proposals that are submitted based on a “*cost-plus-a-percentage-of-cost*” or “*cost-plus-a percentage-of-income*” basis are prohibited and will not be accepted.
6. Final acceptance of any Contract because of response to this RFP shall be subject to approval by the SA. The RFP becomes the official Contract when approved, awarded, and officially signed. Each SFA will have a separate contract with the FSMC and will be billed separately. Additional contracts may be added to the consortium in years 2-5 of this contract period for a total of 15 participating SFA contracts.

COST RESPONSIBILITY DETAIL SHEET

The following cost responsibility detail sheet is a necessary part of this proposal specification. Costs which are not provided for under the standard contract terms and conditions but are necessary for the effective on-site operation of the Child Nutrition Program and are directly incurred for the SFA's operation must be assigned by the SFA prior to the submission deadline and designated below:

Description	FSMC	SFA	N/A
Food:			
Food Purchases	X		
USDA Foods Processing Charges	X		
Processing and Payment of Invoices	X		
Program Operation:			
Ordering, Receiving & Inventory	X		
Meal Preparation Heating & Serving	X		
Meal Counting	X		
Recordkeeping & Compliance	X	X	
Labor:	X		
FSMC Employees:			
Salary/Wages	X		
Fringe Benefits and Insurance	X		
Retirement	X		
Payroll Taxes	X		
Workers Compensation	X		
Unemployment Compensation	X		
Preparation and Processing of Payroll	X		
SFA Employees			
Wages		X	
Fringe Benefits and Insurance		X	
Retirement		X	
Payroll Taxes		X	
Workers Compensation		X	
Unemployment Compensation		X	
Preparation and Processing of Payroll		X	

Appendix G (continued)

COST RESPONSIBILITY DETAIL SHEET

Miscellaneous/Additional Items:

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

Description	FSMC	SFA	N/A
Cleaning/Janitorial Supplies	X	X	
Paper/Disposal Supplies	X		
Tickets/Tokens			X
Child/Silverware/Glassware			X
Initial Inventory		X	
Replacement During Operation		X	
Telephone			
Local		X	
Long Distance	X		
Uniforms	X		
Linens*	X		
Laundry	X		
Trash Removal			
From Kitchen		X	
From Dining Area		X	
From Premises		X	
Pest Control		X	
Equipment Replacement and Repair			
Non-Expendable		X	
Expendable		X	
Products and Public Liability	X		
Insurance*	X		
Equipment Rental* (explain)		X	
Car/Truck Rental*(explain)	X		
Vehicle Maintenance*	X		
Storage Costs (if Off-Site)			
Food*	X		
Non-Food supplies*	X		

Description (continued)	FSMC	SFA	N/A
Courier Services (Bank Deposits, Site Deliveries)	X		
Employee Recruitment – Initial Replacement	X		
Sales Tax	X		
Other Taxes and Licenses*	X		
Office Materials	X	X	
Printing*		X	
Promotional Materials*	X		
Other*(cannot include overhead expenses incurred by FSMC)	X		
Cleaning Responsibilities	X	X	
Food Preparation Areas (including Equipment)	X		
Pots, pans, cooking and serving utensils	X		
Serving Areas	X		
Kitchen Floors		X	
Dining Room Floors or Periodic Waxing/Buffering		X	
Hoods		X	
Grease Filters		X	
Routine cleaning of tables and chairs		X	
Cafeteria walls		X	
Light Fixtures		X	
Windows		X	
Window coverings		X	
Grease Traps		X	
Duct Work		X	
Restrooms		X	
Exhaust Fans		X	

**FOOD SERVICE MANAGEMENT COMPANY
REQUEST FOR PROPOSAL/CONTRACT**

Required Format for Submitting Proposal

And

**Attachments to be included in FSMC's Response
to Request for Proposals**

OFFER FORMAT AND CONTENT

- A. FSMCs shall submit one (1) electronic response in Microsoft Word, Microsoft Excel, or Adobe PDF via email to clare@sfgwgroup.org. Subcategories of information in each of the volumes should be highlighted for ease of evaluating the information contained therein. All substantive exceptions and supporting rationale shall be identified as such and consolidated on the attachment. The SFA may accept or reject any such exceptions at its sole discretion.
- B. To facilitate evaluation, the Offer must be specific, and complete to clearly and fully demonstrate the Offeror has a thorough understanding of the requirement, can provide detailed information and relate experience concerning previous performance of similar services. Statements that the Offeror understands, can or will comply with the Scope of Work, statements paraphrasing the Scope of Work or parts thereof, and phrases such as “standard procedures will be employed” or “well-known techniques will be used”, etc., will be considered unacceptable. Offerors should note that data previously submitted shall not be relied upon nor incorporated in the Offer by reference. Only data in the sealed proposal will be considered during the evaluation process.
- C. Binding and Labeling. Each copy of the Offer shall be presented in a bound form with the cover indicating the Solicitation number, the Offeror’s name and address and copy number (i.e. Copy 2 of 4). To be considered, each Offeror must submit a complete response and all forms included in this RFP must be provided in each proposal. In the event that Offeror modifies, revises, or changes the RFP and/or Contract in any manner, the SFA may reject the offer as non-responsive.
- D. Indexing. The sections of the original and each copy of the Offer shall be indexed to indicate the applicable parts and elements. Orderliness of the Offer, readability and similar factors should be considered in Offer preparation.
- E. Format. The mandatory information to be placed in each copy of the Offer is listed below. Each copy shall furnish sections for information discussed in the Scope of Work. Lack of these submissions may cause the Offer to be declared unacceptable.
 - a. Section One of the Offer shall be titled Executive Summary. This section shall include a signed copy of the Offer and Award Form.
 - b. Section Two of the Offer shall be titled Pricing. This section shall include the information described in Section 7: FSMC Offer Requirements of the RFP.
 - c. Section Three of the Offer shall be titled Method of Approach and Implementation Plan. This section shall provide a narrative on the methodology to be used to accomplish Scope of Work responsibilities to the extent possible for evaluation purposes. The language of the narrative should be straightforward and limited to facts, solutions to problems and proposed plans of action.
 - a. The FSMC must submit a comprehensive plan on how the FSMC will provide input to purchase food for the menus that will keep costs low and quality high. In the plan, the FSMC must describe the methodology it will use to document the market value of the USDA Foods or commodities used on the invoice. The FSMC shall provide a sample invoice in the proposal that will meet all the information listed in the Special Terms and Conditions that pertain to USDA requirements

- b. Provide a 21-day breakfast menu that will meet the USDA requirements.
 - c. Provide a 21-day lunch menu for all applicable age grade groups that will meet the USDA requirements.
 - d. Provide detailed information about the FSMC's philosophy regarding promotion (increasing awareness and participation) of the school food service program.
 - e. Provide a comprehensive plan on how the Offeror shall implement Hazard Analysis and Critical Control Point (HACCP) principles to meet the USDA guidance effective July 1, 2006. Public Law 108-265.
 - f. Provide detailed information about the FSMC internal accounting program.
 - g. Provide a detailed marketing plan for the Nutrition Services program.
 - h. The FSMC must demonstrate in this section that it understands the depth and breadth of SFA NAME's Nutrition Services program and that it can successfully manage the food service program and grow the program.
 - i. Provide a detailed implementation plan for this project
- d. Section Four of the Offer shall be titled Offeror's Experience, Expertise and Reliability. This section shall provide information which reflects the Offeror's experience and reliability. This section shall specifically address or include:
- a. At least three (3) verifiable professional references must be provided regarding services provided by the Offeror similar to those required under this Solicitation.
 - b. Provide a detailed description of all FSMC management positions being proposed along with résumés of all FSMC management staff.
 - c. A proposed daily staffing schedule of food service employees. The staffing schedule will include a daily listing of position by school, the daily hours scheduled to work for each position and the corresponding wage rate for position. Each school-staffing schedule describe the total daily hours and daily cost.
 - d. A description of the training plan that the FSMC will give to employees.
 - e. A list of all food service operations. Please highlight those operations that are of similar size and scope.
 - f. A list of school districts where food services contracts have been terminated in the past five (5) years. This information should be provided on Attachment 7.16.
- e. Section Five of the Offer shall be titled Required Documents. This section shall include complete and signed copies of Attachment 1, Offeror's Drug Free Workplace; Attachment 2, Certification of Debarment/Suspension; Attachment 3, Certification Regarding Lobbying; Attachment 4, Independent Price Determination; Attachment 5, Non-Collusion Affidavit; and Attachment 6, IRS W-9).

**MAXIMUM ALLOWABLE COST FOR ALL MEALS AND SERVICES
FIRM, FIXED-PRICE CONTRACT SUMMARY**

Name of Firm Submitting Proposal: _____

Instructions: Complete this pricing table for all serving platforms listed. Refer to Attachment A for each school enrollment and 5 year growth plan.

Meal	Vended Meal No Labor 100-250 students	Vended Meal No Labor 251-500 students	Vended Meal No Labor 500+ students	FSMC cook on site 251-500 students	FSMC cook on site 100-250 students	FSMC cook on site 500+ students
Breakfast						
Lunch						
Snack						

** **VEGAN/SALAD BAR OPTIONAL** – please provide any additional pricing for a salad bar or Vegan meals

Note: No additional fees, costs or expenses may be charged to the SFA above the total, firm, fixed-price cost:

I certify by my signature below that the per meal prices quoted in this proposal are correct and that I have the authority to obligate the company to perform under the conditions outlined in the RFP.

Signature:
Print Name:
Title:
Date:

CALCULATION OF TOTAL ESTIMATED CONTRACT VALUE

School Name:	Battle Born Academy	Explore Academy LVS	Futuro Academy CS	NV Prep	Nevada Rise Academy	Cactus Park Elementary	Sage Collegiate	TEACH Las Vegas	Young Women's Leadership Academy
SY24 Projected enrollment	300	400	463	480	370	300	300	450	300
SY24 Number of serving days	175	181	144	144	150	180	184	180	180

Estimated Annual Breakfast	15750	28960	54671.04	27648	16650	54000	44160	48600	21600
Estimated Annual Lunch	39375	21720	56671.2	55296	36075	54000	38640	48600	45900
Estimated Annual Snack		3620				54000			
Estimated Annual Supper (CACFP)								18,000	

Total Breakfast Cost									
Total Lunch Cost									
Total Snack Cost									

List of Exhibits

The following information/documents shall be provided by the SFA to the FSMC as part of the RFP:

- | | |
|-----------|---|
| Exhibit A | List of sites and a description of each, including ADM, ADP and student eligibility by category and current meal prices |
| Exhibit B | Site Calendars |

Debarment and Suspension Form

Debarment and Suspension and Other Responsibility Matters Primary Covered Transactions

Non-federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR 180. These regulations restrict awards, sub-awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

- (1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
(a) are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency,
(b) have not within a three-year period preceding this application, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
(c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
(d) have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.
(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Business Name _____

Date _____

By _____

Name and Title of Authorized Representative

Signature of Authorized Representative

Certification Regarding Lobbying

Applicable to Grants, Sub-grants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal funds. Contractors that apply for such an award must file the required certification.

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

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

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, an employee of a Member of Congress, or any Board Member, officer, or employee of [School] Independent School District in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal-appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, an employee of a Member of Congress, or any Board Member, officer, or employee of [School] Independent School District 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 its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

Name/Address of Organization

Name/Title of Submitting Official

Signature

Date

INSTRUCTIONS FOR CERTIFICATION FOR DRUG-FREE WORKPLACE

1. The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
2. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on the file in this office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
3. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
4. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).
5. Definitions of terms in the Non-Procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called to the following definitions from these rules:
 - **Controlled substance** means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).
 - **Conviction** means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
 - **Criminal drug statute** means a Federal or non-Federal criminal statute involving manufacture, distribution, dispensing, use, or possession of any controlled substance.
 - **Employee** means the employee of a grantee directly engaged in the performance of work under a grant, including (1) all "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Form AD-1049 (REV 5/90)

U. S. DEPARTMENT OF AGRICULTURE

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS (GRANTS)
ALTERNATIVE I - FOR GRANTEEES OTHER THAN INDIVIDUALS**

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 USC 701 et seq.), 7 CFR 3017, Subpart F, Section 3017-600, Purpose. The January 31, 1989, regulations were amended and published as Part II of the May 25, 1990, Federal Register (pages 21681-21691). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the grant.

Alternative I

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition:
- (b) Establishing an ongoing drug-free awareness program to inform employees about:
 - 1. The dangers of drug abuse in the workplace
 - 2. The grantee's policy of maintaining a drug-free workplace
 - 3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a)
- (d) Notifying the employees in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
 - 1. Abide by the terms of the statement; and
 - 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

- (f) Taking one of the following actions, within thirty calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted -
 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

 Organization Name Award Number or Project Name

 Name and Title of Authorized Representative

 Signature Date

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this RFP.
2. This Non-Collusion Affidavit must be executed by the member, officer, or employee of the FSMC who makes the final decision on prices and the amount quoted in the RFP.
3. Proposal rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of proposals are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the FSMC with responsibilities for the preparation, approval, or submission of the proposal.
4. In the case of a proposal submitted by a joint venture, each party to the venture must be identified in the RFP documents, and an affidavit must be submitted separately on behalf of each party.
5. The term “complementary proposal” as used in the Affidavit has the meaning commonly associated with that term in the RFP process and includes the knowing submission of proposals higher than the proposal of another firm, an intentionally high or noncompetitive proposal, and any other form of proposal submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit in compliance with these instructions will result in disqualification of the proposal.

NON-COLLUSION AFFIDAVIT

State of _____:

Contract No.: _____:

County of _____:

I state that I am _____ of _____ and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this proposal.

(Title) (Name of Firm)

I state that:

- (1) The price(s) and amount of this proposal have been arrived at independently and without consultation, communication, or agreement with any other contractor, FSMC, or potential FSMC.
(2) Neither the price(s) nor the amount of this proposal, and neither the approximate price(s) nor approximate amount of this proposal, have been disclosed to any other firm or person who is a FSMC or potential FSMC, and they will not be disclosed before the submission deadline.
(3) No attempt has been made or will be made to induce any firm or person to refrain from responding to this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
(4) The proposal of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.

(5) _____, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to responding on any public contract, except as follows:

(Name of Firm)

I state that _____ understands and acknowledges that the above representations are material and important, and will be relied on by _____ in awarding the contract(s) for which this RFP is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from _____ of the true facts relating to submission of RFPs for this Contract.

(Name of Firm)

(Name of Public Entity)

(Name of Public Entity)

(Name and Company Position)

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 20__

My Commission Expires: _____

NOTARY PUBLIC

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

- (A) By submission of this offer, the offeror certifies and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:
 - (1) The prices in this offer have been arrived at independently, without consultation, communication, agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor.
 - (2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening in the case of an advertised procurement, or prior to award in the case of negotiated procurement, directly or indirectly to any other offeror or to any competitor.
 - (3) No attempt has been made or will be made by the offeror to induce any person or firm to submit or not to submit, an offer for the purpose of restricting competition.

- (B) Each person signing this offer certifies that:
 - (1) is the person or persons responsible within that organization for the decision as to the prices being offered herein and that he or she has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above; or
 - (2) is not the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein, but that he or she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to (A)(1) through (A)(3) above, and as their agent does hereby so certify, and he or she has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above.

Signature of Vendor's Authorized Representative

Date Title


In accepting this offer, the sponsor certifies that the sponsor's officers, employees, or agents have not taken any action that may have jeopardized the independence of the offer referred to above.

Signature of Authorized Sponsor Representative

FNS Nondiscrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

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

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form online , or obtain the form from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or**
2. **Fax: (833) 256-1665 or (202) 690-7442; or**
3. **Email: program.intake@usda.gov**

This institution is an equal opportunity provider.

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