Procedures for School Food Authorities to Contract and Renew with a Food Service Management Company in Texas
School Year 2022-2023

A. New Bids, Rebids

School Food Authorities (SFAs) that are considering contracting with a Food Service Management Company (FSMC) must follow the procedures below. These procedures apply to the Request for Proposal (RFP) and Contract. The SFA should also understand the renewal process for continued use of an FSMC after the initial year award.

These requirements are not exhaustive. SFAs and FSMCs should carefully review the National School Lunch Act, the Child Nutrition Act of 1966, and all applicable regulations including USDA’s Guidance for School Food Authorities Contracting with a FSMC published in 2016. The guide may be accessed at the following link:
https://fns-prod.azureedge.net/sites/default/files/cn/SP40_CACFP12_SFSP14-2016a2.pdf

1. If an SFA is intending to contract with an FSMC for the first time, it should notify the Texas Department of Agriculture’s (TDA) Food and Nutrition (F&N) division as soon as possible. TDA will provide the SFA with information about procedures and requirements. TDA will open the FSMC contract process to SFAs October 1st of each year for contracts beginning July 1st of the following School Year. SFAs must notify TDA if they intend to issue a RFP for an FSMC during the FSMC contract process beginning October 1st and ending December 31st. The SFA is encouraged to begin the process as soon as possible.

2. All staff responsible directly and indirectly for contracted management provisions must participate in TDA’s training specific to the roles and responsibilities of the district and vendor when utilizing an FSMC. TDA will not approve any steps in the proposal process before SFA training has been completed. A certificate of training completion is required.

3. Before contracting with an FSMC, the SFA should review its current foodservice operation, including:
   - Financial Analysis - profit/loss over the last five years;
   - Costs - food costs, labor costs, direct costs, and food service director cost;
   - Operational considerations - facilities, equipment, and food service staff; and
   - Other factors, such as public relations both internal and external.

   The SFA should understand that even when contracting with an FSMC, there are responsibilities that the SFA may not delegate. The SFA must have a district employee designated in TX-UNPS who will be responsible for the contract and management of the FSMC. The SFA’s responsibility to comply with federal regulations cannot be abdicated because it contracts with a FSMC.

4. The SFA must not allow FSMCs or their affiliated companies or contractors to participate in the preparation of the FSMC RFP (2 CFR §200.319).

5. The SFA must use the Request for Proposal and Contract template provided by TDA. Changes are not permitted outside of the customizable fields.

6. The SFA must provide a completed copy of the RFP and Contract, with supporting documentation, including the criteria for evaluation, before advertising, to TDA for approval, starting at the opening of the FSMC contract and renewal period October 1st and no later than December 31st. Any RFP and Contract not submitted by the due date will not allow enough time to complete the required approval process.
process by April 1st of the procurement year, and the SFA will be required to self-operate its foodservice operation. The SFA must submit the information along with the CE name and ID via Smartsheet.

7. The SFA must send the approved RFP to each company on TDA’s Approved Vendor List before advertising of the RFP begins. SFA may only accept proposals from companies registered with TDA at the time of solicitation release. New vendors will not be added after the registration deadline. Companies not registered with TDA at the time of solicitation proposal may not be awarded a contract.

8. The SFA shall advertise its RFP (2 CFR §200.317). Postings shall run for a period of no less than 14 days, although 30 days is recommended, in a publication of general circulation covering the area served by the SFA. In rural territories, the posting is required to be run in the largest regional paper in the closest metro area.

9. The SFA may decide to conduct a pre-proposal conference two weeks after the date of the last advertisement. All offerors must be invited to the pre-proposal conference. The SFA must respond in writing to all questions asked and provide a copy to all offerors. The SFA must also provide a copy to TDA F&N. If only one FSMC responds to the public advertisement, then SFA may conduct a walk-through of the facility instead of a pre-proposal conference.

10. The SFA must wait at least two weeks after the pre-proposal conference to allow time for all proposals to be submitted before selecting the FSMC with the best responsive proposal. If additional information is requested at the pre-proposal conference or if the RFP is amended by questions or requests from the pre-proposal conference, then more time should be provided to allow vendors to develop a responsive proposal. Consideration should be given to procurement time allocations so that SFAs have enough time to make an adequate decision, and the deadlines in place for contracts to be executed for the upcoming year are met. (SFAs may elect at any time to stop the RFP process.)

11. If the FSMC Food Service Director is to be shared with another SFA under contract with the FSMC, the specific costs, salaries, and all benefits, as well as the time allocations between SFAs must be stated in accordance with the RFP for each SFA in each contract. These requirements cannot be waived.

12. The SFA must furnish TDA with the following documents for approval of the contract before the April 1st deadline:

   - A final copy of the RFP and Contract accompanied by the completed USDA Contract Checklist, required certifications, and evaluation documents for all responsive vendors. FSMC proposals will not become a part of the contract. All services, pricing, and terms must be included in the contract. The contract must be approved by TDA before it is signed by the SFA and the FSMC. The District and FSMC may not begin operations under the contract until the contract is approved by TDA and fully executed.

   NOTE: Please be advised that if the RFP and Contract is altered in any manner without prior approval, it may be considered an unapproved contract and may result in SFA being required to pay its FSMC using funds other than the school nutrition funds;

   - A completed TDA New Contract Checklist must be provided as part of the packet submitted by SFA to be approved. This document should serve as the cover page for the packet submitted to TDA via Smartsheet including the CE ID and Name.

13. No variation from these procedures will be approved by TDA.
B. FSMC Renewals

1. The SFA must notify TDA each year of the remaining four years of the contract of the SFA’s intent to renew the contract by submitting the following documentation to TDA for approval starting October 1st and no later than December 31st:

   - A letter stating that the SFA has elected to renew the contract with the FSMC for the upcoming school year accompanied by a completed TDA Contract Renewal Checklist;
   - Copy of any amendments, certifications, letter agreements, or any other documents related to the contract renewal;
   - Required federal certifications
     - Suspension Debarment Certification Form;
     - Anti-Collusion Affidavit;
     - Lobbying Certification Form.
   - Compliance monitoring forms and information on TDA review status, annual USDA Foods reconciliation, and the annual FSMC monitoring form;
   - Copy of the foodservice budget for the current year ended (actual numbers), and the proposed budget for the upcoming school year (in the format provided by TDA); and
   - A current list of SFA campuses served by the FSMC.

2. All changes, amendments, letter agreements, subcontracts, etc., must be submitted to TDA for approval prior to execution.

C. Miscellaneous

If you have any questions, please contact the TDA F&N at:

Texas Department of Agriculture
Food and Nutrition Division
P. O. Box 12847
Austin, Texas 78711
Telephone: (888) 839-6325

Submit all documents to the program via Smartsheet include the CE ID and Name.