

Procedures for Contracting with a Food Service Management Company

Procuring the services of a Food Service Management Company (FSMC) requires using formal purchasing procedures and providing for open and free competition. Contracts are written for one year with the option to renew the contract for an additional four subsequent years. All contracts end on June 30. KSDE recommends the effective date of all initial contracts begin July 1.

Child Nutrition & Wellness, Kansas State Department of Education (KSDE) administers the federal Child Nutrition Programs in Kansas on behalf of the United States Department of Agriculture. KSDE has developed the following guidelines and time table for contractual agreements between a sponsor and a FSMC. **Allow approximately six (6) months to complete all requirements for procuring and contracting with a FSMC.**

Below are the procedures sponsors must follow to procure a contract with a FSMC:

1. Attend or receive training on FSMC procurement and contract oversight regulations offered by KSDE.
2. Approximately six months prior to the effective date of the contact obtain from KSDE the following references and documents regarding contracting with a FSMC:
 - Request for Proposal (RFP) for to Manage a School Food Service Program
 - Sponsor Exhibits (A-I)
 - Contractor Exhibits (J-Q)
 - Instructions for Completing the Request for Proposal and Exhibits
 - FSMC Proposal Evaluation Guide
 - KSDE Suggested FSMC Contract Procurement Timeline.
 - *Contracting with Food Service Management Companies: Guidance for School Food Authorities*, USDA. Available at <https://cnw.ksde.org>, SNP, SNP Food Service Facts, Chapter 14 Food Service Management Companies, Related Forms.
3. Carefully read the USDA publication, *Contracting with Food Service Management Companies: Guidance for School Food Authorities*.
4. Prepare the RFP and exhibits. The KSDE prototype RFP and exhibits **MUST** be used for all FSMC contract procurements. Follow the instructions for completing the RFP entitled "Instructions for Completing the Request for Proposal and Exhibits". The sponsor's legal counsel should review the RFP and exhibits. Care should be given to the development of the 21-day cycle menu of breakfasts and lunches. The FSMC may develop the 21-day cycle menu, if indicated on the Sponsor Exhibit B. The menus must be followed for the first 21 days of the contract. If assistance is needed in reviewing the menus, contact the sponsor's KSDE area child nutrition consultant.
5. Submit the RFP and exhibits to KSDE for approval. Allow up to three weeks for follow-up and approval.
6. After receiving written approval from KSDE for the RFP and its exhibits:
 - Solicit proposals directly from all registered FSMCs. Refer to the list of FSMCs that are registered. All registered FSMCs should receive the announcement of the Request for Proposals. Proof that the Sponsor directly solicited proposals from all registered FSMCs is required to be submitted to KSDE.

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- The RFP must be publicly advertised in a newspaper with state or regional distribution for a recommended duration of five (5) days. The advertisement should include the RFP number and date, a brief description of what is being proposed for procurement and instructions for obtaining a copy of the RFP. A copy of the proof of advertisement must be submitted to KSDE within two (2) weeks of the advertisement.
 - Allow a minimum of 45 days up to a recommended 60 days from the date the proposals are solicited until the date the proposals are due.
7. All proposals must be sealed. Proposals are not required to be opened publicly at the time stated in the RFP. If proposals are publicly opened then the only information that may be disclosed is which offerors submitted a proposal. A scoring system must be established to evaluate the selection criteria as described in the Sponsor Exhibit F. An evaluation team must be appointed. All RFP responses must be evaluated and the proposal awarded to the FSMC whose proposal will be most advantageous to the sponsor. Negotiations are conducted with FSMCs who are determined to be responsible bidders and whose proposals address all requirements stated in the RFP. Sponsors shall fully document the selection criteria scoring and the reasons why each proposal was or was not selected using Exhibit F. Sponsors must maintain records sufficient to detail the significant history of the procurement for five (5) years beyond the last year of the contract. Written notice must be sent to the responsible bidder whose proposal is accepted as well as to any unsuccessful offerors.
 8. Prepare the KSDE prototype agreement between the sponsor and the FSMC. The agreement is located within the RFP. Any changes or additions to the agreement must be in the form of an addendum to the agreement. Addendums must be initiated by the sponsor. They cannot be written by the FSMC.
 9. Submit the completed agreement section to KSDE for approval; allow up to three (3) weeks for approval. The completed contract includes:
 - A copy of the approved RFP (with completed agreement section), Exhibits A-I and J- Q and any addendum(s), if applicable.
 10. After KSDE has approved the contract, it should be submitted to the sponsor's school board for approval. The signed board minutes indicating the board's approval must be submitted to KSDE.
 11. The contract must be signed by the officials of the sponsor and the FSMC prior to its effective date.
 12. Meals cannot be claimed for reimbursement until AFTER the contract is signed and approved by KSDE.
 13. Retain copies of all bid proposal documents submitted by each FSMC including copies of documents used for selecting the FSMC, documentation of scoring of each proposal, proof of formal advertising, lists of vendors who were directly solicited and any other documents that were used for assuring the procurement of the contract provided free and open competition.
 14. If you have questions or need assistance, please contact Robert Dillman at rdillman@ksde.org or 785-296-2276.