

**School Food Authority (SFA) –
Food Service Management Company (FSMC)
Contract Document Checklist
Section A-Cover Sheet**

SFA Use: A review of the following attached document(s) was completed relative to the applicable requirements contained in this checklist:

Proposed Document:

Request for Proposal (RFP) Contract

Completed Documents:

Bid Documents (RFP/Signed Contract)

Contract Renewal: Indicate the reason for either a renewal fee increase or decrease, if applicable:

1st Renewal 2nd Renewal 3rd Renewal 4th Renewal

Period Covered by Renewal: From: _____ To: _____
(Date) (Date)

For Awarded Contract *(Please attach sheet if additional space is needed.):*

Name of FSMC: _____

Agreement Number: _____ Contract Value: _____

School Food Authority: _____

School Name(s): _____

Period Covered by Contract. From: _____ To: _____
(Date) (Date)

SFA Authorized Representative: _____ Date _____
(Signature)

State Agency Use Only

Date Received: _____

Action Taken: _____

State Agency Reviewer: _____ Date: _____
(Signature)

7 CFR §210.16 FSMC Contract

7 CFR §210.16(a) *General*. Any SFA (including a State agency acting in the capacity of a SFA) may contract with a FSMC to manage its foodservice operation in one or more of its schools. However, no school or SFA may contract with a FSMC to operate an a la carte food service unless the company agrees to offer free, reduced-price, and paid reimbursable lunches to all eligible children. Any school food authority that employs a FSMC in the operation of its nonprofit school food service shall:

Contract Page #	Requirement
<input type="checkbox"/>	(1) Adhere to the procurement standards specified in 7 CFR §210.21 and 2 CFR §200 when contracting with the FSMC (Use 7 CFR §210.21 Checklist to validate);
<input type="checkbox"/>	(2) Ensure that the food service operation is in conformance with the school food authority's agreement under the Program;
<input type="checkbox"/>	(3) Monitor the foodservice operation through periodic onsite visits;
<input type="checkbox"/>	(4) Retain control of the quality, extent, and general nature of its food service, and the prices to be charged the children for meals;
<input type="checkbox"/>	(5) Retain signature authority on the State agency- SFA agreement, free and reduced-price policy statement and claims;
<input type="checkbox"/>	(6) Ensure that all federal USDA Foods received by the SFA and made available to the FSMC accrue only to the benefit of the SFAs nonprofit school food service and are fully utilized therein;
<input type="checkbox"/>	(7) Maintain applicable health certification and assure that all state and local regulations are being met by a FSMC preparing or serving meals at a SFA facility;
<input type="checkbox"/>	(8) Establish an advisory board composed of parents, teachers, and students to assist in menu planning;
<input type="checkbox"/>	(9) Obtain written approval of invitations for bids and requests for proposals before their issuance when required by the state agency. The SFA must incorporate all state agency required changes to its solicitation documents before issuing those documents;
<input type="checkbox"/>	(10) Ensure that the State agency has reviewed and approved the contract terms and that the SFA has incorporated all State agency requirements into the contract before any contract or amendment to an existing FSMC contract is executed. Any changes made by the SFA or a FSMC to a State agency pre-approved prototype contract or state agency-approved contract term must be approved in writing by the State agency before the contract is executed. When requested, the SFA must submit all procurement documents, including responses submitted by potential contractors, to the State agency, by the due date established by the State agency
<input type="checkbox"/>	(11) Ensure that the FSMC implements the professional hiring and training standards for school food service personnel (7 CFR §210 and §235).
<input type="checkbox"/>	(12) Ensure that food and beverage service for all a la carte beverage and food items meet the competitive food nutritional standards (7 CFR §210).

(b) *Invitation to bid*. In addition to adhering to the procurement standards under 7 CFR §210.21 and 2 CFR §200, SFAs contracting with FSMCs shall ensure that:

	Contract Page #	Requirement
<input type="checkbox"/>		(1) The invitation for bids or request for proposals contains a 21-day cycle menu developed in accordance with the provisions of 7 CFR §210.10, to be used as a standard for the purpose of basing bids or estimating the average cost per meal. A SFA with no capability to prepare a cycle menu may, with State agency approval, require that each FSMC include a 21-day cycle menu, developed in accordance with the provisions of 7 CFR §210.10, with its bid or proposal. The FSMC must adhere to the cycle for the first 21 days of meal service. Changes thereafter may be made with the approval of the SFA.
<input type="checkbox"/>		(2) Any invitation to bid or request for proposals indicates that nonperformance subjects the FSMC to specified sanctions in instances where the FSMC violates or breaches contract terms. The SFA shall indicate these sanctions in accordance with the procurement provisions stated in 7 CFR §210.21 and 2 CFR §200. (Use 7 CFR §210.21 Checklist to validate).

(c) *Contracts.* Contracts that permit all income and expenses to accrue to the FSMC and “cost-plus-a-percentage-of-cost” and “cost-plus-a-percentage-of-income” contracts are prohibited.

	Contract Page #	Requirement
<input type="checkbox"/>		(1) Contractual agreements with FSMCs shall include provisions that ensure that the requirements of this section are met.

Such agreements shall also include the following:

	Contract Page #	Requirement
<input type="checkbox"/>		(1) The FSMC shall maintain such records as the SFA will need to support its Claim for Reimbursement under this part, and shall, at a minimum, report claim information to the SFA promptly at the end of each month. Such records shall be made available to the SFA, upon request, and shall be retained in accordance with 7 CFR §210.23(c).
<input type="checkbox"/>		(2) The FSMC shall have State or local health certification for any facility outside the school in which it proposes to prepare meals and the FSMC shall maintain this health certification for the duration of the contract (7 CFR §210.16(c) (2)).
<input type="checkbox"/>		(3) No payment is to be made for meals that are spoiled or unwholesome at the time of delivery, do not meet detailed specifications as developed by the SFA for each food component specified in 7 CFR §210.10, or do not otherwise meet the requirements of the contract. Specifications shall cover items such as grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time.

(d) *Duration of contract.* The contract between a SFA and FSMC shall be of a duration of no longer than 1 year and options for the yearly renewal of a contract may not exceed 4 additional years.

7 CFR §250 Food Distribution FSMC Contract Provisions

7 CFR §250.53(a) *Contract Provisions.* Required contract provisions in fixed-price contracts. The following provisions relating to the use of USDA Foods must be included, as applicable, in a recipient agency’s fixed-price contract with a FSMC. Such provisions must also be included in procurement documents. The required provisions are:

	Contract Page #	Requirement
<input type="checkbox"/>		(1) A statement that the FSMC must credit the recipient agency for the value of all USDA Foods received for use in the recipient agency's meal service in the school year or fiscal year (including both entitlement and bonus foods), and including the value of USDA Foods contained in processed end products, in accordance with the contingencies in 7 CFR §250.51(a) and 7 CFR §250.52(c);
<input type="checkbox"/>		(2) The method and frequency by which crediting will occur, and the means of documentation to be utilized to verify that the value of all USDA foods has been credited 7 CFR §250.51(a) and 7 CFR §250.52(c);
<input type="checkbox"/>		(3) The method of determining the USDA food values to be used in crediting, in accordance with 7 CFR §250.51(c), or the actual USDA food values;
<input type="checkbox"/>		(4) Any activities relating to USDA foods that the FSMC will be responsible for, in accordance with 7 CFR §210.16 and 7 CFR §250.50(d), and assurance that such activities will be performed in accordance with the applicable requirements in 7 CFR §250;
<input type="checkbox"/>		(5) A statement that the FSMC will use all donated ground beef and ground pork products, and all processed end products, in the recipient agency's food service (7 CFR §250.52(c); 7 CFR §250.53(a)(5);
<input type="checkbox"/>		(6) A statement that the FSMC will use all other USDA foods, or will use commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA foods, in the recipient agency's food service (7 CFR §250.51(a);
<input type="checkbox"/>		(7) Assurance that the procurement of processed end products on behalf of the recipient agency, as applicable, will ensure compliance with the requirements in 7 CFR §210.16 and 7 CFR §250(d) and with the provisions of distributing or recipient agency processing agreements, and will ensure crediting of the recipient agency for the value of USDA foods contained in such end products at the processing agreement value;
<input type="checkbox"/>		(8) Assurance that the FSMC will not itself enter into the processing agreement with the processor required in subpart C of 7 CFR §250(d); 7 CFR §250.53(a)(8);
<input type="checkbox"/>		(9) Assurance that the FSMC will comply with the storage and inventory requirements for USDA foods 7 CFR §210.16 and 7 CFR §250.50(d);
<input type="checkbox"/>		(10) A statement that the distributing agency, sub-distributing agency, or recipient agency, the Comptroller General, the Department of Agriculture, or their duly authorized representatives, may perform onsite reviews of the FSMC's foodservice operation, including the review of records, to ensure compliance with requirements for the management and use of USDA foods. 7 CFR §210.9(b)(17), 2 CFR §200.333, and 2 CFR §200.318(b);
<input type="checkbox"/>		(11) A statement that the FSMC will maintain records to document its compliance with requirements relating to USDA foods, in accordance with 7 CFR §250.54(b); and
<input type="checkbox"/>		(12) A statement that extensions or renewals of the contract, if applicable, are contingent upon the fulfillment of all contract provisions relating to USDA Foods (7 CFR §250.33(a)(12).

**Appendix II to Part 200—Contract Provisions for Non-Federal
Entity Contracts Under Federal Awards**

	Contract Page #	Requirement
<input type="checkbox"/>		(1) Simplified Acquisition Threshold. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation-adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. In any case, contracts in excess of the states or state agency threshold must address the foregoing. The State of Texas simplified threshold is set at \$50,000
<input type="checkbox"/>		(2) Termination for Cause. All contracts in excess of \$10,000 must address termination for cause and convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.
<input type="checkbox"/>		(3) Equal Employment Opportunity (41 CFR, Chapter 60. Executive Order 11246 of September 24, 1965, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60)). Construction solicitations/contracts using federal funds; prohibit hiring practices that do not provide an equal opportunity for all persons without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
<input type="checkbox"/>		(4) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). Construction solicitations/contracts exceeding \$2,000 using federal funds; require contractors and subcontracts to include actual wage determinations in bid specifications and contracts.
<input type="checkbox"/>		(5) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Solicitations/contracts that involve mechanics or laborers exceeding \$100,000 using federal funds; establish standards for hourly and salaried employees related to workweek and overtime.
<input type="checkbox"/>		(6) Rights to Inventions Made Under a Contract or Agreement (37 CFR §401.2). Solicitations/contracts using federal funds; requires all contractors to observe all applicable patent rights, copyright, and rights laws in operating the program.
<input type="checkbox"/>		(7) Clean Air Act (42 U.S.C. 7606) and the Federal Water Pollution Control Act (33 U.S.C.13687, Executive Order 11738 and Environmental Protection Agency (EPA) regulations (Title 40 CFR), as amended. Solicitations/contracts exceeding \$150,000 using federal funds; requires compliance with all applicable standards, orders, and regulations; prohibits the award of contracts to contractors that are in violation of the Clean Air Act. Violations must be reported to the Federal awarding agency and the Regional Office of the EPA.
<input type="checkbox"/>		(8) Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871). Solicitations/contracts using federal funds; establish standards for the promotion of energy and water conservation methods when feasibly obtainable.
<input type="checkbox"/>		(9) Debarment and Suspension (2 CFR §200.113; 31 U.S.C. 3321). Solicitations/contracts must include a requirement that contracts cannot be awarded to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR

		180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
<input type="checkbox"/>		(10) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Solicitations/contracts exceeding \$100,000 using federal funds; requires a contractor to complete specific forms related to lobbying (influencing or attempting to influence) in connection with obtaining a contract.
<input type="checkbox"/>		(11) <i>Solid Waste Disposal Act (Section 6002 as amended by the Resource Conservation and Recovery Act)</i> . Solicitations/contracts exceeding \$10,000 using federal funds; requires contractors to maximize energy and resource recovery by using recycled materials and/or recycling waste products when reasonable, cost appropriate, and available and when applicable to the services and /or products to be procured.
<input type="checkbox"/>		(12) <i>Civil Rights (Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)</i> . Solicitations/contracts using federal funds; prohibits discrimination to all eligible program participants on a basis of age, color, disability, national origin, race, and gender.
<input type="checkbox"/>		(13) <i>Historically Underutilized Businesses (HUB) (2 CFR §200.321)</i> . Solicitations/contracts using federal funds; require contractors to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises whenever to the maximum extent possible.