[PLEASE NOTE THAT CHANGES TO RFP AND CONTRACT TERMS ARE NOT PERMITTED. DISTRICTS THAT MAKE CHANGES TO CONTRACT TERMS THAT HAVE NOT BEEN APPROVED BY TDA MUST USE NON-CHILD NUTRITION FUNDS TO PAY THE FSMC. CONTRACTS MUST BE AWARDED TO THE RESPONSIVE AND RESPONSIBLE BIDDER WHOSE PROPOSAL IS LOWEST COST OR MOST ADVANTAGEOUS TO THE PROGRAM WITH PRICE AND OTHER FACTORS CONSIDERED OF WHICH COST MUST BE THE PRIMARY CONSIDERATION.]

SCHOOL NUTRITION PROGRAMS
FOOD SERVICE MANAGEMENT COMPANY

Hamshire-Fannett Independent School District
SFA Name

TDA REQUEST FOR PROPOSAL

NO. 2023-001

Texas Department of Agriculture
Food and Nutrition
P. O. Box 12847
Austin, Texas 78711-2847
Phone (877) TEX-MEAL
Fax (888) 203-6593
Website *http://www.squaremeals.org*

TDA Food and Nutrition RFP Approval Date: February 8, 2022

The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement."

"By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

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I. INTRODUCTION

This document contains a Request for Proposals for providing food service management services for Hamshire-Fannett Independent School District's participation in the United States Department of Agriculture's School Nutrition Programs and sets forth the terms and conditions applicable to the proposed procurement. Upon acceptance, this document shall constitute the contract (Contract) between the offeror and the school food authority.

The Texas Department of Agriculture (TDA) is not and will not be a party to any contract between a School Food Authority (SFA) and a food service management company (FSMC). The school food authority has full responsibility for ensuring that the terms of the Contract are fulfilled. TDA is not involved with the enforcement of this Contract; however, TDA can deny payment for meals received or purchased under an invalid Contract.

II. REQUEST FOR PROPOSALS

A. Legal Notice

Notice is hereby given that Hamshire-Fannett Independent School District, (SFA Name) hereinafter referred to as the School Food Authority (SFA), intends to examine alternatives to its present food service program.

No intent should be construed from this legal notice that the SFA intends to enter into a contract with any party for alternative food service unless, in the sole opinion of the SFA, it is in the SFA's best interest.

All costs involved in submitting a response to this Request for Proposals (RFP) shall be borne in full by the party incurring the said cost.

The offeror to this RFP will be referenced as the FSMC, and any contract that may arise from this RFP will be between the FSMC and the SFA.

The SFA strongly encourages Historically Underutilized Businesses (HUB), Minority and Women Business Enterprises (MWBE), and labor surplus area vendors to compete for this RFP.

B. Request for Proposals

Proposals will be received until 2:00 pm (Time) **on** March 23, 2022 (Date) to supply Hamshire-Fannett Independent School District (SFA) with food service management services during the 2022-2023 School Year, with options for renewal of the Contract for four (4) additional terms of one year each. Price adjustments for renewal options will be limited to a Consumer Price Index (CPI) percentage validated annually.

All FSMCs submitting a proposal must complete all the information required in the RFP, including requested certifications, document responses, and the pricing proposal form. No modifications may be made to any of the standard templates or forms in this RFP to provide a responsive proposal. Proposals received without the completed RFP, certifications, document responses, and pricing proposal form will be considered non-responsive and the FSMC's proposal will be disqualified.

Competitive sealed proposals are subject to all the conditions and specifications attached hereto and will be received in the office of HF Business (Procurement Section) and shall be marked on the envelope "***Food Service Management Proposal,* #** 2023-001 (RFP #) and mark on the envelope with respondent's return address.

SFA reserves the right to reject any proposals and to waive any minor technicalities to take the action which it deems to be in the best interest of the SFA.

The contract resulting from this RFP will be for fixed meal prices and commence on July 1, 2022. This standard template provided by TDA must be used for the contract.

Additional information required to respond to this **RFP** may be obtained from SFA's business office telephone (409) 243-2133 (Number). If additional information is provided, it must be shared with all offerors.

Contracts executed based on submitted proposals are revocable if contrary to law. (See Standard Terms and Conditions hereinbelow).

C. Procurement Method

The procurement method will be the Competitive Sealed Proposals method (commonly known as a Request for Proposals or RFP). All procurement transactions shall be conducted in a manner that provides maximum full and open competition consistent with 2 CFR 200.

D. Pre-Proposal Meeting

A meeting with interested offerors to review the specifications, to clarify any questions, and for a walkthrough of the facilities with school officials, will be on March 2, 2022 (Date) at 2:00 pm (Time) Location: 12702 2nd Street, Hamshire, Texas 77622 (Physical street address of Pre-Proposal Meeting) Attendance is required [Note: If SFA makes attendance by offerors mandatory, then SFA may not waive requirement] Vendor presentations will not be scheduled at this time.

E. Proposal Submission and Award

Each prospective FSMC is to submit 3 (Number) copies of the proposal to the SFA.

All Proposals are to be submitted in a sealed envelope marked "Food Service Management Proposal, #2023-001 (RFP #). Responses should address each of the requirements set forth in this RFP. Please provide the requested information no later than 2:00 pm (Time) CST on March 23, 2022 (Date) to the address below. Responses will be publicly opened at 2:05 pm (Time) CST on March 23, 2022 (Date) to be evaluated per the criteria specified.

Competitive Sealed Proposals are to be submitted to:

Name: Allison Byrd C/O Hamshire-Fannett ISD
Mailing Address: P.O. Box 223
Physical Address: 12702 2nd Street
City: Hamshire
State/Zip: Texas 77622

To be considered, each offeror must submit a complete response to this solicitation using the forms provided, along with any other documents submitted as a part of the Proposal and considered responsive to this RFP. No other documents submitted with the RFP and the Contract will affect the Contract provisions, and there may be no modifications to the RFP and Contract language. If an offeror modifies, revises, or changes the RFP and/or contract in any manner, the SFA will reject the offer as non-responsive. The Offeror must review Section N to review additional services designated by the SFA. Award will be made only to a qualified and responsible offeror whose proposal is responsive to this solicitation. A responsible offeror is one whose financial, technical, and other resources indicate an ability to perform the services required. The offeror shall submit any requested documentation or qualification data along with the sealed proposal. Failure to furnish such documentation, or the inclusion of any false or misleading

information therein, shall be sufficient cause for the rejection of the Proposal or termination of any subsequent Contract.

Offerors or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting proposals. Failure to do so will be at the Offeror's own risk and therefore cannot secure relief on a plea of error. The SFA is not liable for any cost incurred by the offeror in submitting a proposal. **Paying the FSMC from School Nutrition Program funds is prohibited until TDA approval is provided and the Contract is signed.**

If additional information is requested, please contact Allison Byrd (Contact Name) at abyrd@hfhorns.net (Number or E-mail). Any additional information provided to one offeror will be available to all as required to ensure full and open competition.

F. Late Proposals

Proposals will not be accepted after the exact time specified for receipt. Such documents shall be returned unopened to the Offeror.

G. Altering, Amending, or Withdrawing Proposal

No proposal may be altered, amended, or withdrawn after the specified time for opening proposals.

H. Rejection of Proposals

Proposals that do not conform to the requirements of this RFP shall be rejected. Proposals may be rejected for reasons that include, but are not limited to, the following:

- The proposal was received after the submission deadline,
- The proposal was not signed by an authorized representative of the FSMC,
- The proposal contained unauthorized amendments, deletions, or contingencies to the requirements of the RFP,
- The proposal was incomplete or contained significant inconsistencies or inaccuracies.

SFA reserves the right to reject any proposal for a sound, documented reason or to reject all proposals if there is an insufficient number of proposals.

I. Calculation of Time

Periods stated as a number of days shall be calendar days.

J. Firm Offer

By submitting a response to this RFP, and if such a response is not withdrawn before the time for opening proposals, the offeror understands and agrees that it is making a firm offer to enter into a contract, which may be accepted by SFA and which will result in a binding contract. **Such proposal is irrevocable for ninety (90) days after the time for opening proposals has passed.** _____ (Initial) _____ (Date) **FSMC must initial and date here to show agreement.**

III. EVALUATION AND AWARD

A. Evaluation Criteria

Proposals received will be reviewed to ensure all materials have been submitted as specified in this RFP. The contract award will be made to the single qualified vendor that provides the lowest price, most responsive, responsible proposal. A responsible Offeror whose financial, technical, and other resources indicate an ability to perform the services required by this solicitation.

To be considered, each Offeror must submit a complete response to this solicitation using ONLY the forms provided. No other documents submitted with the Request for Proposal/Contract will affect the contract provisions. If documents or modifications outside of the RFP are included in offers, the proposal may be considered unresponsive.

The offeror must be incorporated or licensed to do business in the State of Texas and must be registered with the Food and Nutrition (F&N) of TDA.

The respondents should submit annual reports or financial statements for the past fiscal year in the format of an "accountant's review," including notes to the financial statements provided by a certified public accountant. If the offeror is doing business with like school systems and is familiar with the regulations about operations in such environments, the offeror will receive points for that experience in the evaluation of the weighted criteria. If the offeror is presently operating a comparable, successful National School Lunch Program (NSLP) and School Breakfast Program (SBP) in a school setting, the offeror will receive points for that experience in the evaluation of the weighted criteria.

Value-added responses (a response offering goods and services using general terms rather than addressing the specifically defined expectations) are not permitted. SFAs may not provide additional points when evaluating solicitations based on value adds.

SFAs must not change or bypass the published evaluation and scoring criteria to circumvent full and open competition.

B. Award Criteria

Proposals must be evaluated by an SFA committee based on the offer per meal/meal equivalent and the criteria, categories, and assigned weights as stated herein below (to the extent applicable). Contracts must be awarded to the responsive and responsible bidder whose proposal is the lowest price or most advantageous to the program with the price and other factors considered. The cost must be the primary consideration. See United States Department of Agriculture's Food and Nutrition Service Memo dated November 13, 2015, SP 12-2016. Committee members must consist of SFA employees and representatives familiar with the terms and conditions of the RFP criteria and the evaluation process. Evaluators cannot have any association, personal, or working relationship with the FSMC. Committee members and employees associated with an FSMC will be precluded from participating in the RFP and subsequent Contract process. Each area of the award criteria must be addressed in detail in the Proposal.

The Offeror shall submit a written proposal to address each of the criteria below. The proposal will be evaluated and scored by the SFA's evaluation committee. The maximum points for each criterion are provided below.

Evaluation Criteria	Maximum Points
Cost (**25 points or more**)	25
Guaranty in RFP Included in Proposal (**maximum of 5 points**)	5
Years of Experience in working with Child Nutrition Programs (**maximum of 10 points**)	10
Service Capability Plan (**points determined by SFA**)	5
Financial Conditions/Stability, Business Practices (**points determined by SFA**)	10
Accounting and Reporting Systems (**points determined by SFA**)	10
Promotion of Child Nutrition Programs (**points determined by SFA**)	5
Personnel Management/Staffing Considerations (**points determined by SFA**)	10
Student Engagement (**points determined by SFA**)	10
Compliance/Audit History (**points determined by SFA**)	10
Other: Specify (**points determined by SFA**)	
Total Points (100)	100

The fixed price per meal/meal equivalent may be increased on an annual basis by 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 [insert one CPI regional index: South-Size Class A (population of metropolitan area over 1.5 million), South-Size Class B/C (Mid-sized and small population metropolitan area with fewer than 1.5 million), or South-Size D (all nonmetropolitan areas)] (CPI). Such increases shall be effective on a prospective basis on each anniversary date of this Contract and will only be permitted if approved in advance by SFA. CPI fee increases for the upcoming Contract renewal year must be submitted to SFA by April 1 of each year. No other fee increases will be allowed.

C. Proposal Protests

Any action which diminishes open and free competition seriously undermines the integrity of the procurement process and may subject an SFA to protests. SFAs/Sponsors are responsible for properly responding to protests and concerns raised by potential contractors. Pursuant to 2 CFR Part 200.318(k), SFAs/Sponsors must have protest procedures in place to handle and resolve disputes relating to their procurements and must in all instances disclose information regarding a protest to TDA.

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IV. FINAL CONTRACT

A. Duration of Contract

Unless terminated in accordance with Section V, paragraph K, this Contract will be in effect for a period of one year commencing on July 1, 2022, and terminating on June 30, 2023, and may be renewed for four (4) additional terms of one year each upon mutual agreement between SFA and FSMC and subject to fulfillment of all contract terms designated herein.

B. Contract Documents

Only the following attachments and documents may be included in the Contract document.

1. Original RFP
2. Exhibit A – Site Information – Services Required
3. Exhibit B – Budget
4. Exhibit C – Charts
5. Exhibit D – Designation of Program Expenses
6. Exhibit E – Employees
7. Exhibit F – Food Specifications
8. Exhibit G – Price Proposal Form
9. Exhibit H – Equipment Investment
10. Exhibit I – Applicable Laws
11. Exhibit J – Anti-Collusion Affidavit
12. Exhibit K – Procurement – Certification Regarding Lobbying
13. Exhibit L – Disclosure of Lobbying Activities
14. Exhibit M – Menu Cycles
15. Exhibit N – Price Determination Certificate
16. Exhibit O – SFA Certification of Acknowledgement
17. Exhibit P – FSMC Certification Acknowledgement
18. Exhibit Q – Non-Delegable School Food Authority (SFA) Responsibilities
19. Exhibit R – Debarment Certification

C. Proposal Computation Method

Estimated totals must be carried out to the second decimal place and must not be rounded.

D. Renewal Assumptions

Assumptions: Financial terms of the Agreement are based upon existing conditions and the following assumptions. If there is a material change in conditions, including, without limitations, changes to the following assumptions, this contract (1) may be terminated at the end of the current term or (2) continue under the same terms as written, whichever is mutually agreed upon.

The distinction between a minor change and a material change cannot be qualified for every action undertaken in the Child Nutrition programs. However, at a minimum, a change is material if, had the new term been in the solicitation and original contract, it could have affected how the bidder and other competitors responded to the RFP.

Services or features contingent on multi-year contracts are not allowable. For example, equipment installation may not be stipulated for subsequent contract renewal years.

1. The SFA's policies, practices, and service requirements shall remain materially consistent throughout the contract term and any subsequent contract renewals. The term materially consistent shall mean that a change does not (1)

materially increase FSMC's cost of providing management service or (2) materially decrease the net revenue derived from the food service operations.

2. Legislation, regulations, and reimbursement rates that create changes in the school lunch program shall be enforced on their effective date.
3. Usable USDA Foods of adequate quality and variety required for the menu cycle, valued at an amount as set forth by USDA per pattern meal for the contract year will continue to be available.
4. The government reimbursement rates in effect shall remain materially consistent throughout the year.
5. Meal components and quantities required by any of the programs selected in V. of this RFP and Contract, Section 2. Scope and Purpose, remain consistent with prior years.
6. Service hours, service requirements, and type/number of facilities selling food and/or beverages on SFA's premises shall remain materially consistent throughout the contract term and any subsequent renewal years.
7. The state or federal minimum wage rate and taxes in effect shall remain materially consistent throughout the year.
8. The projected number of full feeding days is: 171 (Number) and shall remain materially consistent in renewal years.
9. If participating in Seamless Summer Option (SSO), the projected number of full feeding days for SSO is: 171 (Number) and shall remain materially consistent in renewal years. If participating in Summer Food Service Program (SFSP) see Section O.
10. SFA revenue credited to the food service program shall include all state and federal amounts received specifically for CN operations.

E. Contract Cost Increase

The FSMC may negotiate at the end of each one-year contract period for a cost increase. Any proposed increase cannot exceed the annual percentage increase of the Consumer Price Index for All Urban Consumers (CPI-U) for the preceding year.

All contract renewals shall be for a period of one year beginning July 1st and ending June 30th, with mutual agreement between the SFA and the FSMC. Renewal contracts cannot be effective prior to the final approval date by TDA and signed by both parties. Failure to have renewal contracts fully executed prior to July 1st, will lapse this contract, and require the SFA to re-bid the contract unless a written request for approval is submitted to and granted by TDA. Renewal year contracts are contingent upon fulfillment of all contract provisions. If TDA determines during an Administrative Review, Procurement Review, audit, etc., that the FSMC is not meeting contractual obligations and is responsible for non-compliance of program regulations, TDA may decline to approve a renewal contract until it can be demonstrated that the FSMC is capable of meeting contractual obligations and compliance with program regulations.

F. Severability

If one or more provisions of this contract or the application of any provision to either party or circumstance is held invalid, unenforceable, or illegal in any respect, the remainder of this Contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

G. Silence, Absence, or Omission

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

H. TDA Review

This Contract may not be executed until TDA approval is provided. Costs incurred prior to TDA approval may not use federal child nutrition funds.

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V. STANDARD TERMS AND CONDITIONS

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

1. "Accounting Periods" means monthly (a specific period of time (e.g., monthly and quarterly)
2. "Allowable Cost" means costs that are allowable under 2 CFR Part 200, Subpart E, "Cost Principles."
3. "Applicable Credit" means the meaning established in 2 CFR 200.406(a).
4. "Charge" means any fixed-priced meal rates as outlined in the contract. No additional administrative fees may be assessed.
5. "Contract" means this RFP and Contract and the attached exhibits.
6. "Direct Cost" means any Allowable Cost that is: (i) incurred by FSMC in providing the goods and services that are identified in SFA's Food Service Budget; and (ii) reasonably necessary in order for FSMC to perform the Services hereunder.
7. "Effective Date" means July 1, 2022.
8. "Fixed Price" means an agreed-upon amount that is fixed at the inception of the Contract. Within a Fixed price contract, the FSMC is the purchasing agent. The SFA is charged one fixed price. Included in the fixed price are:
    a. Menu development specific to the operation
    b. Nutrition education materials and program expense
    c. Design services specific to the operation
    d. Education programs via assembly programs, schoolroom programs, parent/teacher meetings, and school food advisory committee meetings
    e. Personal representation, visitation, and coverage on a regular basis by a principal of the FSMC
    f. All accounting
    g. All payroll costs and documentation
    h. Administrative dietetic, nutritional, sanitation, and personnel advice
    i. All costs incurred in hiring and relocating, if necessary, the FSMC management team
    j. All training costs for FSMC employees
    k. All travel costs for training for FSMC employees
    l. All miscellaneous costs to operate the program: i.e., consumable marketing materials, posters, menu templates, proprietary printed materials.
9. "FSMC's Proposal" means Food Service Management Company's response to the RFP and Contract. Any expenses borne by the FSMC should be included in their proposed priced price.
10. "Material Change" means any change made to a contract after it has been awarded that alters the terms and conditions of that contract substantially enough that had other respondents known of these changes in advance, they could have proposed differently and more competitively (USDA Contracting with Food Service Management Companies – guidance for School Food Authorities- May 2016).
11. "Meal Equivalent" is a numerical value derived by dividing the à la carte revenue by the per meal sum of the Federal and State Free reimbursement plus the value of USDA entitlement and bonus foods. À la carte revenue should include all sales to adults and à la carte sales to students. (*Contracting with Food Service Management Companies: Guidance for School Food Authorities*, May 2016)
12. "Non-profit School Food Service Account" means the restricted account in which all of the revenue from all food service operations conducted by the SFA principally for the benefit of school children is retained and used only for the operation or improvement of the Nonprofit School Food Service Account.
13. "Program(s)" or "Child Nutrition Program(s)" means the USDA Child Nutrition Programs in which SFA participates.
14. "Program Funds" means all funds that are required to be deposited into the Non-profit School Food Service Account.
15. "Proposal" means Food Service Management Company's response to the RFP and Contract.
16. "RFP" means SFA's Request for Proposal and Contract, # 2023-001 (RFP #) and all its attachments.
17. "Services" means the services and responsibilities of FSMC as described in this Contract, including any additional services described in Section N of this Contract.
18. "SFA" or "School Food Authority" means the school food authority as defined in 7 CFR 210.2.

19. “SFA’s Food Service Budget” means the Food Service Budget for the Current School Year, which is attached to this Contract as “Exhibit B” and fully incorporated herein.
20. “SFA’s Food Service Facilities” means the areas, improvements, personal property, and facilities made available by SFA to FSMC for the provision of the food services as more fully described herein.
21. “SFA’s Food Service Program” means the preparation and service of food to SFA’s students, staff, employees, and authorized visitors, as outlined in the scope and purpose, Section A.
22. “SFA’s Food Service Location(s)” means the schools or other locations where Program meals are served to SFA’s schoolchildren.
23. “Summer Program” means either the Summer Food Service Program or the Seamless Summer Option identified hereinbelow, and in which SFA participates.
24. “TDA” means the Texas Department of Agriculture.
25. “USDA” means the United States Department of Agriculture, Food and Nutrition Service.

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A. Scope and Purpose

1. During the term of this Contract, FSMC shall operate SFA's Food Service Program in conformance with SFA's agreement with the Texas Department of Agriculture's (TDA) Food and Nutrition Division (FND).

2. FSMC shall have the exclusive right to operate the programs checked below at the sites specified by SFA in the Schedule of Food Service Locations and Services Provided, which is attached to this Contract as "Exhibit A" and fully incorporated herein. The proposals submitted must be inclusive of all of the SFA's current programs requested in the RFP. However, the SFA reserves the right to add and/or expand the federal child nutrition program to provide the availability of food resources to children and students that can be served through these programs if a material change does not exist, and prior approval is granted by the State Agency before adding child nutrition programs. The SFA also reserves the right to remove child nutrition programs.

- ☒ National School Lunch Program (NSLP)
  - ☒ Seamless Summer Option (SSO)
- ☒ School Breakfast Program (SBP)
  - ☐ Breakfast in the Classroom
  - ☐ Universal Breakfast
- ☐ NSLP After School Care Program (ASCP)
- ☐ Fresh Fruit and Vegetable Program (FFVP)
- ☒ À la carte/Adult Meals/Non-Program Sales
- ☐ Child and Adult Care Food Program (CACFP)
  - ☐ At-Risk Snacks
  - ☐ At-Risk Supper
- ☒ Catering
- ☐ Concessions (operated by the FSMC)
- ☐ Vending (FSMC supplied machines)
- ☐ Special Milk Program (SMP)
- ☐ Summer Food Service Program (SFSP)
- ☐ Disaster Feeding
- ☐ Other: _____
- ☐ Other: _____

3. The FSMC shall be an independent contractor and not an employee of the SFA. The employees of the FSMC are not employees of the SFA.

4. The food service provided shall be operated and maintained as a resource to the SFA's students, faculty.

5. The FSMC shall comply with the rules, regulations, policies, and instructions of TDA and USDA, and any additions or amendments thereto, including but not limited to, Title 7 CFR parts 210, 215, 220, 245, 250; Title 2 CFR part 180, 200, 417, and 418; and Title 7 CFR parts 225 (SFSP) and 226 (CACFP), as applicable.

6. The FSMC's operation of SFA's Food Service Program shall include the performance by the FSMC of all the Services described in this Contract, for the benefit of SFA's students, faculty, and staff.

7. The SFA shall retain signature authority for the application/contract, free and reduced-price policy statement, and Programs indicated in Section A, Paragraph 2, herein, and the monthly claim for reimbursement. (Reference 7 CFR 210.9(a) and (b) and 7 CFR 210.16(a)(5))

8. The SFA shall be responsible for the establishment and maintenance of the free and reduced-price meals' eligibility documentation. (7 CFR 210.7(c), 7 CFR 210.9(b)(18) and 7 CFR 245.6(e))

9. The FSMC shall implement an accurate point of service count using the counting system provided by SFA in its application to participate in the School Nutrition Programs and approved by TDA for the programs listed in Section A, Paragraph 2, herein, as required under USDA regulations. Such a counting system must eliminate the potential for the overt identification of free and reduced-price eligible students under USDA Regulation 7 CFR 245.8(b).

10. The SFA shall be responsible for the development and distribution of the parent letter and Application for Free and Reduced-Price Meals and/or Free Milk and participating in Direct Certification. SFA shall be responsible for the determination of eligibility for free or reduced-price meals and free milk, if applicable. SFA shall be responsible for conducting any hearings related to decisions regarding eligibility for free or reduced-price meals and free milk, if applicable.

11. The SFA shall be responsible for verifying Applications for Free and Reduced-Price Meals as required by USDA regulations.

12. 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 United States Department of Agriculture (USDA) Regulations 7 CFR §210.16(c) and 2 CFR 200.324(d).

13. SFA shall be legally responsible for the conduct of SFA's Food Program and shall supervise the food service operations in such manner as will ensure compliance with all applicable statutes, regulations, rules, and policies including regulations, rules, and policies of TDA and USDA regarding the School Nutrition Programs.

14. SFA shall retain control of the Non-profit School Food Service Account and overall financial responsibility for SFA's Food Service Program.

15. The SFA shall establish all selling prices, including price adjustments, for all reimbursable, non-reimbursable meals/milk, à la carte, and non-program sales (including vending, adult meals, contract meals, concessions, and catering) prices.

16. The SFA shall be responsible for ensuring the resolution of Program reviews and audit findings. FSMC shall fully cooperate with SFA in resolving review and audit issues, and FSMC shall indemnify SFA for any fiscal action, claims, losses or damages, fault, fraud, required repayment or restoration of funds, including reasonable attorney's fees incurred in defending or resolving such issues, that results from FSMC's intentional or negligent acts.

17. The SFA shall monitor the food service operation of FSMC through periodic on-site visits to ensure that the food service is in conformance with USDA program regulations. (7 CFR 210.16(a)(3))

18. If there is more than one SFA Food Service Location, SFA or FSMC, on behalf of SFA, shall conduct an on-site review of the counting and claiming system at each SFA Food Service Location no later than February 1 of each year. If FSMC conducts the on-site review, FSMC will promptly report any findings to SFA. SFA shall always retain responsibility for the counting and claiming system. (7 CFR 210.8(a)(1))

19. FSMC shall maintain all records necessary, in accordance with applicable regulations, for the SFA, TDA, and USDA to complete required monitoring activities and must make said records available to the SFA, TDA, and USDA upon request for the purpose of auditing, examination, or review. (7 CFR 210.16(c)(1)). Records shall be retained in accordance with 7 CFR 210.23(c). The FSMC shall promptly submit all claims information to the SFA by the fifth business day following the month to be claimed.

20. Payments on any claim shall not preclude the SFA from adjusting payment to FSMC of any item found not to have been in accordance with the provisions of this RFP and Contract and bid specifications.

21. The SFA reserves the right, at its sole discretion, to sell or dispense food or beverages, provided such use does not interfere with the operation of the Child Nutrition Programs. Changes to the scope of services to be provided by FSMC beyond the original intent of this RFP and Contract that would constitute a material change to the RFP/Contract will require this Contract to be rebid.

22. FSMC shall cooperate with SFA in promoting nutrition education, health, and wellness policies, and coordinating SFA's Food Service Program with classroom instruction.

23. FSMC shall comply with applicable federal, state, and local laws, rules and regulations, policies, and instructions of TDA and USDA and any additions or amendments thereto, including USDA Regulations at 7 CFR Parts 210, 220, 245, 250; 2 CFR Part 200; 2 CFR 200.318-326, Appendix II to Part 200; 2 CFR 400; 2 CFR 415; 2 CFR 416; 2 CFR 418, and 2 CFR Part 180, as adopted and modified by USDA Regulation 2 CFR Part 417; 7 CFR Part 215 (SMP), if applicable; and 7 CFR Part 225 (SFSP), if applicable; 7 CFR Part 226 (CACFP); and 2 CFR Parts 200.38, 74, & 101(b)(1), and the other laws described in the "Schedule of Applicable Laws," which is attached to this Contract as "Exhibit I" and fully incorporated herein by reference.

24. Any changes to the terms or conditions of this Contract, which are required by Federal or State law or rule, or changes to Federal or State laws or rules, are automatically incorporated herein, effective as of the date specified in such law or rule.

25. FSMC shall comply with all SFA building rules and regulations.

26. Gifts from FSMC: The SFA's officers, employees, or agents shall neither solicit nor accept gratuities, favors, nor anything of monetary value from contractors nor potential contractors in accordance with all laws, regulations, and policies. To the extent permissible under federal, state, or local laws, rules, or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards as outlined in the SFA's written code of conduct. (See SP 09-2015; and 2 CFR Parts 200.112 & 318)

27. Any additional payments to the SFA or any foundations or organizations associated with the SFA that are unrelated to food services, such as money or rebates for school improvements and student scholarships, are not allowable.

28. The ☐ SFA or ☒ FSMC shall obtain and post all licenses and permits that it is required to hold under federal, state, or local law.

29. In all services operated by the FSMC for the SFA's School Nutrition Program, the parties shall operate the Program according to federal, state, and local regulations.

30. If the FSMC provides management services for the Fresh Fruit and Vegetable Program (FFVP) at any of SFA's Food Service Locations, SFA and FSMC shall operate the FFVP in accordance with the requirements of Section 19 of the National School Lunch Act, all applicable regulations and policies, and the FFVP Handbook for Schools, as well as USDA guidance issued via memorandum and the Administrative Review Manual (ARM). SFA and FSMC further agree that not more than 10% of the total funds awarded to the school and/or schools for the operation of the FFVP may be used for administrative expenses.

B. Food Service

1. FSMC shall serve meals on such days and times as aligned to the district calendar and the nutrition programs the SFA has indicated in Section A, Scope and Purpose in this document as requested by the SFA.

2. SFA shall retain control of the quality, extent, and general nature of food service.

3. FSMC shall offer free, reduced-price, and full-price reimbursable meals to all eligible children participating in SFA's Food Service Programs indicated in Section A, Paragraph 2 herein.

4. For an FSMC to offer à la carte food service, the FSMC must offer free, reduced-price, and paid reimbursable meals to all eligible children.

5. FSMC shall provide meals for all programs operated by the CE that meet the meal pattern set by USDA. TDA provides detailed information on applicable meal patterns in the *Administrator's Reference Manual* (ARM) which is available at *Squaremeals.org*.

6. FSMC shall receive no payment for meals that are spoiled or unwholesome at the time of serving, which does not meet the detailed specifications for each food component or menu item in accordance with 7 CFR 210.16(c)(3), or that do not otherwise meet the requirements of the contract.

7. FSMC shall promote maximum participation in the Programs.

8. FSMC shall provide the specified types of service in the schools/sites listed in Exhibit A.

9. FSMC shall sell on the premises only those foods and beverages authorized by the SFA and only at the times and places designated by the SFA, and that meet School Nutrition Program requirements.

10. FSMC must make substitutions in the food components of the meal pattern for students with disabilities when their disability restricts their diet as stated in the students' Individual Educational Plans (IEPs) or 504 Plans and when the need for the substitution is certified by an appropriately licensed medical practitioner. Substitutions for disability reasons must be made on a case-by-case basis only when supported by a written statement of the need for substitutions that includes recommended alternate foods unless otherwise exempted by FNS. Such a statement must be signed by an appropriately licensed medical practitioner (reference: 7 CFR 210.10(g)(1); SP 40-2017; SP 26-2017; and SP 59-2016). The FSMC may make a substitution for those nondisabled students who are unable to consume regular breakfast or lunch because of medical or other special dietary needs. Accommodations for special dietary needs for students without medical disabilities are an SFA decision. If a substitution is made to accommodate the special dietary needs of one student, the same accommodation must be made for all students with the same dietary need (reference: 7 CFR 210.10(g)(2)). There will be no additional charge to the student for such substitutions. (USDA, *"Accommodating Children with Special Dietary Needs in the School Nutrition Programs Guidance for School Food Service Staff".*)

11. FSMC shall make substitutions for fluid milk for non-disabled students who cannot consume fluid milk due to medical or special dietary needs. Substitutions shall be made when a medical authority or student's parent or legal guardian submits a written request for a fluid milk substitute identifying the medical or other special dietary need that restricts the student's diet. Notification of fluid milk substitutions shall remain in effect until the medical authority or the student's parent, or legal guardian revokes such request in writing, or SFA changes its substitution policy for non-disabled students. Fluid milk substitutes shall provide nutrients as required by federal and state regulations. There will be no additional charge to the student for such substitutions. (Reference 7 CFR 210.10(d)(3) and 7 CFR 220.8)

C. Use of Advisory Group/Menus

1. SFA shall establish, and the FSMC shall participate in the formation, establishment, and periodic meetings of an SFA advisory board composed of students, teachers, and parents to assist in menu planning. (Reference 7 CFR 210.16(a)(8))

2. FSMC shall serve meals that follow the 21-day menu cycles that meet the food specifications contained in Food Specifications, which is attached to this Contract as "Exhibit F" and fully incorporated herein, and that meet School Nutrition Program requirements. The 21-day cycle menus developed and provided by the SFA allows the FSMC to determine the bid price. These menus should be followed without any changes to specifications unless agreed upon by the SFA. Such changes may not result in a different fixed rate. The menus are attached to this Contract as "Exhibit M" and fully incorporated herein. At a minimum, such food specifications shall include: (i) a recipe for each menu item that includes the total yield, portion size, ingredients, and all USDA-required nutrient information; (ii) the identity of all branded items that may be used in the meal; and (iii) whenever possible, the grade, style, and condition of each food item and other information that indicates the acceptable level of quality for each food item. FSMC shall provide a detailed recipe for each Food Specification identified for the 9th day in the NSLP menu cycle. A hard copy of these recipes shall be kept on file at SFA.

3. FSMC must follow: (i) the 21-day menu cycle and food specifications developed by the SFA for the NSLP; (ii) the 21-day menu cycle and Meal Specifications developed by SFA for the SBP; (iii) the 21-day menu cycle and Meal Specifications developed by SFA for the After School Snack Program; and (iv) the 21-day menu cycle and Meal Specifications developed by SFA for the Summer Program. (Reference 7 CFR 210.16(b)(1)) or any other program operated on behalf of the SFA.

4. FSMC shall serve à la carte items that meet all state and federal School Nutrition Program requirements. FSMC shall provide documentation that demonstrates that all non-program foods and meals, such as à la carte items, comply with all applicable School Nutrition Program requirements.

5. FSMC may not change or vary the menus after the first menu cycle for the NSLP, SBP, ASCP, Summer Program, or the à la carte items without the written approval of the SFA. SFA shall approve the menus no later than two weeks prior to service. (Reference 7 CFR 210.16 and 7 CFR 210.10) Any changes or variances requested by an FSMC for substitutions to the SFA menu of lower quality food items shall be justified and documented in writing by FSMC. FSMC must maintain documentation for substitutions and justification of lower quality food items for the records retention period that is applicable to food production records and shall make such documentation available to SFA, TDA, and USDA for review upon request. (7 CFR 210.16(c)(1) and 7 CFR 210.23)

6. FSMC must submit an FFVP (Fresh Fruits and Vegetable Program) cycle menu based on the information contained in the 2004 Resource, *Fruits and Vegetables Galore: Helping Kids Eat More,* (available from the FNS website, and as described in current guidance from USDA and TDA) if operated.

7. FSMC must comply with SFA's local wellness policy. In addition, the FSMC must comply with all state and local laws that affect school meal preparation and/or service.

D. Purchases

1. Whether the SFA conducts its procurement or whether the FSMC procures products on behalf of the SFA, FSMC may not require any additional liability coverage, regardless of dollar value, beyond that which SFA would require under procurements not involving FSMC.

2. FSMC shall document and track all FFVP expenses separately and make this documentation easily accessible for SFA or TDA review. Cost should be broken into two categories: (1) operational cost and (2) administrative cost.
   a. Operational costs should cover the primary cost to run the FFVP to include the purchase of fruits and vegetables, including the cost of pre-cut produce and delivery charges; non-food items or supplies that are

used in serving and cleaning; and salaries and fringe benefits for employees engaged in preparing and distributing fresh fruits and vegetables and in maintaining a sanitary environment.

b. Administrative costs are used principally to support planning and to manage the program. The SFA is required to strictly scrutinize all requests for reimbursement of FFVP costs, to ensure that those costs are: (i) allowable; (ii) actual costs; (iii) fully documented; (iv) utilized to purchase fresh fruits and vegetables in accordance with applicable law and regulations; and (v) do not request reimbursement for more than 10% for administrative costs. TDA will monitor the SFA and FSMC to ensure strict compliance with this provision.

c. The FSMC must return the full value of USDA Foods to the CE.

3. FSMC shall complete such purchasing activities in a manner that does not result in duplication of services or expenses in accordance with 2 CFR Part 200.318(d). An FSMC and SFA shall ensure that no conflict of interest exists between the third-party purchasing agent if any, and the SFA's contracted FSMC. The FSMC must not procure additional goods or services beyond what is stipulated in this Contract from the FSMC, the FSMC's parent company, or any subsidiaries of the FSMC's parent company to avoid duplication of services.

4. SFA shall ensure that FSMC shall comply with all applicable competitive bidding and open competition requirements for such purchases, as set forth in 2 CFR Part 200, including but not limited to 2 CFR 200.318-327. In addition, SFA shall ensure that FSMC shall comply with all applicable federal, state and local laws, rules and regulations, policies, and instructions of TDA and USDA and any additions or amendments thereto, including USDA Regulation 7 CFR Parts 210, 220, 245, 250; 2 CFR Part 200; 2 CFR 200.318-327, Appendix II to Part 200; 2 CFR 400; 2 CFR 416; 2 CFR 418 and 2 CFR Part 180, as adopted and modified by USDA Regulation 2 CFR Part 417; 7 CFR Part 215 (SMP), if applicable; and 7 CFR 225(SFSP), if applicable; 7 CFR 226 (CACFP); and 2 CFR Parts 200.38, 74, & 101(b)(1).

5. SFA and FSMC acknowledge that to the extent required by 7 CFR 250.17(e), 2 CFR Part 200, SP 38-2017, and SP 32-2019, SFA must, to the maximum extent practicable, purchase only domestic food and food products for the National School Lunch Program and School Breakfast Program that are produced and processed in the United States using over 51% domestic foods, by weight or volume. As required by the Buy American provision, all products must be of domestic origin as required by 7 CFR Part 210.21(d). A "domestic commodity or product" is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d). Exceptions to the Buy American provision should be used as a last resort; however, the SFA only may approve an alternative or exception. Requests for exception must include the: a) Alternative substitute(s) that are domestic and meet the required specifications: i) Price of the domestic food alternative substitute(s), and ii) Availability of the alternative domestic substitute(s) in relation to the quantity ordered; and b) Reason for exception: limited/lack of availability or price (include price): iii) Price of the domestic food or food product; and iv) Price of the non-domestic food or food product that meets the required specification of the domestic food or food product.

6. To indicate a geographic preference, the SFA must check ONLY ONE of the following:
☐ For this contract, SFA requires that FSMC work with the SFA to establish a process for incorporating geographic preference in the procurement of *unprocessed locally raised and locally grown agricultural products.*
☒ For this contract, SFA does not require that FSMC work with the SFA to establish a process for incorporating geographic preference in the procurement of *unprocessed locally raised and locally grown agricultural products*.

E. USDA Foods

1. SFA shall retain title to all USDA Foods.

2. SFA shall ensure that all federally donated foods received by the SFA and made available to the FSMC accrue only to the benefit of the SFA's nonprofit school food service and are fully utilized therein. 7 CFR 210.16(6)

3. SFA shall assure that the maximum amount of USDA Foods is received and utilized by FSMC. (7 CFR 210.9(b)(15))

4. SFA shall ensure that FSMC has credited it for the value of all USDA Foods received for use in SFA's meal service in each School Year. The value of foods received shall appear as a credit on the invoice for the month in which the donated food was allocated except that the contractor must credit the school district for the value of all USDA Foods received for use in the school district meal service in the School Year. This must include the value of USDA Foods contained in processed end products, in accordance with the contingencies in 7 CFR part 250.51(a)

5. SFA shall maintain final responsibility for management and oversight of the procurement for processing agreements, private storage facilities, or any other aspect of financial management relating to USDA Foods. (7 CFR 210.16, 7 CFR 250.50(d))

6. The FSMC will not itself enter into the processing agreement with the processor required in subpart C of 7 CFR part 250; 7 CFR 250.53(a)(8).

7. FSMC will conduct all activities relating to USDA Foods for which it is responsible in accordance with 7 CFR Parts 250, 210, 220, 225, and 226, as applicable.

8. The FSMC shall credit the SFA the value of USDA Foods contained in the end products at the processing agreement value not less frequently than annually. (7 CFR 250.50(c); 250.53(a)(3)). All refunds received from processors must be credited on invoices submitted to the SFA's Nonprofit School Food Service Account. (7 CFR 250.51(a-b)) The method used to determine the donated food values may not be established through a post-award negotiation or any other method that may directly or indirectly alter the terms and conditions of the procurement or contract.

9. FSMC must accept and use all USDA donated ground beef and ground pork products, and all processed end products in the SFA's Food Service Program, and must use all other donated foods, or commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, in the recipient agency's food service (unless the contract specifically stipulates that the donated foods, and not such commercial substitutes, be used). Upon termination of this Contract, or if this Contract is not extended or renewed, FSMC must return all unused donated ground beef, pork, and processed end products to SFA. (7 CFR 250.51(d); 7 CFR 250.52(c); 7 CFR 250.53(a)(5))

10. FSMC further agrees to accept and use all other USDA Foods in SFA's food service. FSMC ☒ may or ☐ may not use (substitute) commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA Foods, in SFA's Food Service Program. (7 CFR 250.53(a)(6))

    a. SFA shall consult with the FSMC in the selection of USDA Foods; however, the final determination as to the acceptance of USDA Foods must be made by the SFA.

    b. Upon termination of this Contract, FSMC must, at SFA's discretion, return other unused USDA Foods to SFA. The value of other unused USDA Foods shall be based on the market value of all USDA Foods received for use in SFA's food service. The market value shall be the allocated value provided to the SFA in the Texas Unified Nutrition Program System (TX-UNPS). (7 CFR 250.51(a))

    c. At the end of the year, the FSMC shall reconcile the value of USDA Foods received against credits provided on monthly invoices. The contractor shall provide final credit of any balance due to the school district. The total credit given for USDA Foods in each year must equal the USDA Foods, including bonus foods, allocated to the SFA. The credits must also encompass any transfers from other SFAs and/or the state agency accepted in excess of directly allocated USDA Foods.

11. FSMC shall have records maintained and available to substantiate the receipt, use, storage, and inventory of USDA Foods. The FSMC must submit to the SFA monthly inventory reports showing all transactions for processed and non-processed USDA Foods. Failure by the FSMC to maintain records as required by 7 CFR section 250.16 shall be considered prima facie evidence of improper distribution or loss of USDA Foods and the FSMC shall be subject to the provisions of 250.13(e). FSMC shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods.

12. FSMC shall credit SFA for the full value of all USDA Foods allocated for use in the SFA's meal service during the School Year (including both entitlement and bonus foods) regardless of whether the USDA Foods have been used. If the FSMC acts as an intermediary between a processor and the SFA, the FSMC shall credit the SFA for the value of USDA Foods contained in the processed end products at the USDA processing agreement value, unless the processor is providing such credit directly to the SFA. The FSMC will issue all such credit in full prior to the expiration of each Contract Term. Any extensions or renewals of this contract, if applicable, are contingent upon the fulfillment of all contract provisions related to foods.

13. FSMC will comply with 7 CFR 250.14(b); 250.52, and 250.53(a)(9) concerning storage and inventory management of USDA Foods in accordance with 7 CFR 250.52. (7 CFR 250.53(b)) Failure by FSMC to maintain the required records under this Contract shall be considered prima facie evidence of improper distribution or loss of USDA Foods.

14. FSMC will comply, as applicable, with 7 CFR 250.51 and 250.52 concerning payment of processing fees or submittal of refund requests to a processor on behalf of the SFA, or remittance of refunds for the value of foods processed in products to the SFA, in accordance with requirements in 7 CFR Part 250 subpart C.

15. FSMC shall allow SFA and/or any state or federal representative or auditor, including USDA or their duly authorized representatives, to perform onsite reviews of FSMC's food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA Foods. (7 CFR 250.53(a)(10))

16. FSMC shall maintain records to document its compliance with requirements relating to USDA Foods in accordance with 7 CFR 250.54(b). (7 CFR 250.53(a)(11))

17. In this fixed-meal rate contract, the proposal/bid rate per meal must be calculated as if no USDA Foods were available.

18. FSMC acknowledges that the renewal of this Contract is contingent upon the fulfillment of all contract provisions herein relating to USDA Foods. (7 CFR 250.53(a)(12))

F. Employees

1. FSMC shall provide and pay a staff of qualified management (and operational) employees assigned to duty on SFA's premises for the efficient operation of the Programs.

2. SFA must designate if current SFA employees, including site and area managers as well as any other staff, will be retained by SFA or be subject to employment by the FSMC. This must agree with the information reported in the List of Charts and Other Attachments, Chart 2, which is attached to this Contract as "Exhibit C" and fully incorporated herein, and the Schedule of FSMC Employees, which is attached to this Contract as "Exhibit E" and fully incorporated herein.

CHECK ONLY ONE:

Employees retained by:
- ☐ SFA (See Exhibit C, Chart 2)
- ☐ FSMC (See Exhibit E)
- ☒ Both SFA and FSMC (See Exhibit C, Chart 2, and Exhibit E)

3. Any employees to be transitioned to the FSMC payroll will be identified to include each position and the date of anticipated transition in Section N, Optional Requirements to be included herein.

4. For any employees retained by FSMC, SFA shall provide in Exhibit E a list of each FSMC food service position and the minimum qualifications acceptable to SFA for each position.

5. Any food service position not identified in the above-stated Exhibits shall be an employee of SFA. Such employees shall be supervised on SFA's behalf by FSMC management employees; provided, however, that 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, firing, promotion, discipline, levels of compensation and work duties.

6. If SFA is sharing FSMC employees with other SFAs, SFA shall identify in Chart 6 of the Exhibit C: Charts which is attached to this Contract and fully incorporated herein, each SFA with whom the FSMC employee is to be shared and state the percentage of time each employee will spend with each SFA. SFA's budget shall reflect the percentage of time each employee will work at SFA and for which SFA will be charged.

7. SFA shall have final approval regarding the hiring of the Food Service Manager (Position) assigned to the Food Service Program.

8. FSMC shall comply with all wages and hours of employment requirements of federal and state laws. FSMC shall be responsible for supervising and training personnel, including SFA-employed staff. Supervision activities include employee and labor relations, personnel development, and hiring and termination of FSMC management staff. FSMC shall also be responsible for the hiring and termination of the non-management staff who are employees of FSMC.

9. If provided for in the Proposal, SFA and FSMC may transition SFA's food service employees to FSMC's payroll. If a transition occurs, the FSMC shall give first consideration to current employees of SFA or incumbent contractor when hiring employees to provide services pursuant to this Contract, but FSMC shall not be obligated to hire such employees. SFA shall not pay the cost of transferring SFA employees to FSMC payroll.

10. FSMC shall provide Workers' Compensation coverage for its employees, as required by law.

11. FSMC shall instruct its employees to abide by the policies, rules, and regulations with respect to the use of SFA's premises as established by SFA and which are furnished in writing to FSMC.

12. FSMC shall maintain its personnel and fringe benefits policies for its employees, subject to review by SFA.

13. FSMC shall assign to duty on SFA's premises only employees acceptable to SFA.

14. Staffing patterns, except for the Food Service Director, shall be mutually agreed upon.

15. FSMC will remove any employee who violates health requirements or conducts himself or herself in a manner that is detrimental to the well-being of the students, provided such request is not in violation of any federal, state, or local employment laws. In the event of the removal or suspension of any such employee, FSMC shall immediately restructure the food service staff to avoid disruption of service.

16. FSMC shall cause all its employees assigned to duty on SFA's premises to submit to health examinations as required by law and shall submit satisfactory evidence of compliance with all health regulations to SFA upon request.

17. All SFA and FSMC personnel assigned to the food service operation in each school shall be instructed in the use of all emergency valves, switches, and fire and safety devices in the kitchen and cafeteria areas.

18. To the extent and in the manner required by state law, FSMC shall perform a security (background) check on any FSMC employee that will be working at SFA.

19. FSMC shall not blacklist or require a letter of relinquishment or publish or cause to be published or blacklisted any employee of FSMC or SFA discharged from or voluntarily leaving the service of FSMC or SFA with the intent of and for the purpose of preventing such employee from engaging in or securing similar or other employment from any other corporation, company, or individual.

20. Both SFA and FSMC shall ensure that their employees adhere to the professional standards and continuing education training requirements as required by federal regulations, codified at 7 CFR 210.30, throughout the initial term and all renewals of this Contract. School food authorities that operate the National School Lunch Program, or the School Breakfast Program (7 CFR Part 220), must establish and implement professional standards for school nutrition program directors, managers, and staff, as defined in 7 CFR 210.2. Both SFA and FSMC shall establish and implement the foregoing standards and requirements under this Contract.

G. Use of Facilities, Inventory, Equipment, and Storage

1. SFA will make available, without any cost or charge to FSMC, area(s) of the premises in which FSMC shall render its services. SFA shall always have full access to the food service facilities and for any reason, including inspection and audit.

2. At the commencement, termination, or expiration of this Contract, FSMC and SFA shall take a physical inventory of all non-expendable supplies and capital equipment owned by SFA, including, but not limited to, silverware, trays, chinaware, glassware, and kitchen utensils and all furniture, fixtures, and dining room equipment utilized in SFA's Food Service Program. FSMC and SFA shall mutually agree on the usability of such supplies and equipment and, at the expiration or termination of this Contract, FSMC shall surrender to SFA all non-expendable supplies and capital equipment in the condition in which it was received except for ordinary wear and tear, damage by the elements and except to the extent that said premises or equipment may have been lost or damaged by vandalism, fire, flood or other acts of God, or theft by persons other than employees of FSMC except through the negligence of FSMC or its employees, or for any other reason beyond the control of FSMC. FSMC and SFA will sign a summary of the beginning inventory at the commencement and the expiration or termination of this Contract and keep a copy of each on file with this Contract.

3. At the commencement and the expiration or termination of this Contract, FSMC and SFA shall jointly undertake a beginning and closing inventory of all food and supplies. USDA Foods shall also be inventoried by a separate inventory. FSMC and SFA shall determine whether any portion of the beginning inventory is not suitable for SFA's continued use. Such inventory, when completed, shall become a part of this Contract by incorporation. FSMC shall be responsible for accounting for any difference between the beginning inventory and the ending inventory and shall compensate SFA for any shortfall in inventory not arising from (1) normal wear and tear; or (2) theft, fire, or other casualty loss beyond the control of FSMC and not arising from the negligence of FSMC or its agents. The value of the inventories, except for USDA Foods inventories, shall be determined by invoice cost. The value of USDA Foods inventories shall be the market value, which is the value in USDA's Electronic Commodity Ordering System (ECOS) at the time the USDA Foods are received by SFA.

4. During this Contract, title to all SFA food and supplies shall remain with the SFA.

5. FSMC shall maintain the inventory of silverware, chinaware, kitchen utensils, and other operating items necessary for the food service operation and at the inventory level as specified by SFA.

6. SFA will replace expendable equipment and replace, repair, and maintain nonexpendable equipment except when damages result from the use of less than reasonable care by the employees of FSMC.

7. FSMC shall maintain adequate storage procedures, inventory, and control of USDA Foods in conformance with SFA's agreement with TDA.

8. FSMC shall provide SFA with keys for all food service areas secured with locks.

9. SFA shall provide FSMC with local telephone service.

10. SFA ☒ shall or ☐ shall not provide water, gas, and electric service for the food service program. If SFA is providing water, gas, and electric service for the food service program, charges to the food service account shall be made at least quarterly. District may use this formula if kitchens do not have individualized meters:

    District will:

    1) Calculate the square footage of the kitchen by developing a percentage of utilities based on the square footage of the food service facilities in relation to the school's total square footage.

    2) Determine the percentage of time the kitchen is in use compared to the total campus use. (The kitchen may operate 7 hours but the school day with activities may be 9 hours.)

    3) Apply percentages to the average cost of the total utilities.

    The district will only charge utilities for kitchens during months of operation (if the kitchen was not operating in the summer. The district must not charge the food service operation for utilities during the summer months.) The district must not include cafeteria usage when the cafeteria is used for purposes other than feeding students (pep rallies, study hall, evening functions).

11. SFA shall furnish and install any equipment and/or make any structural changes to the facilities needed to comply with federal, state, or local laws, ordinances, rules, and regulations.

12. SFA shall be responsible for any losses, including USDA Foods, which may arise due to equipment malfunction or loss of electrical power not within the control of FSMC.

13. FSMC shall not remove any food preparation and serving equipment owned by SFA from SFA's premises.

14. SFA shall not be responsible for loss or damage to equipment owned by FSMC and located on SFA premises.

15. FSMC shall notify SFA of any equipment belonging to FSMC on SFA premises within ten days of its placement.

16. FSMC shall comply with all SFA building rules and regulations.

17. FSMC shall not use SFA's facilities to produce food, meals, or services for third parties without the approval of SFA. If such usage is mutually acceptable, there shall be a signed agreement that stipulates the fees to be paid by FSMC to SFA for such facility usage. Such usage may not result in a cost to the Non-profit School Food Service Account.

18. SFA, on the termination or expiration of this Contract, shall conduct a physical inventory of all equipment, food, and supplies owned by the SFA.

19. Upon termination of this Contract, FSMC shall surrender to SFA all of SFA's equipment and furnishings used in SFA's Food Service Program in good repair and condition, reasonable wear and tear excepted.

H. Health Certifications/Food Safety/Sanitation

1. FSMC shall maintain, in the storage, preparation, and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations and comply with the food safety inspection requirements of 210.13(b). (7 CFR 210.9(b)(14))

2. FSMC shall maintain all State of Texas and local health certification for any facility outside the school in which it proposes to prepare meals and shall maintain this health certification for the duration of this Contract. (7 CFR 210.16(c)(2))

3. FSMC shall obtain and post all licenses and permits as required by federal, state, and/or local law.

4. FSMC shall comply with all State of Texas and local and sanitation requirements applicable to the preparation of food. (7 CFR 210.16(a)(7))

5. SFA shall maintain applicable health certification and ensure that FSMC complies with all applicable state and local regulations pertaining to sanitation, preparing, or serving meals at a SFA facility. (7 CFR 210.16(a)(7))

6. SFA shall provide sanitary toilet and handwashing facilities for the employees of FSMC.

7. ☒ FSMC ☐ SFA shall be responsible for cleaning food service equipment, kitchen floors, hoods, and grease filters.

8. ☐ FSMC ☒ SFA shall be responsible for the maintenance and expense of insect and pest control in all food service production and storage areas. FSMC will notify SFA of any problems in this area.

9. ☒ FSMC ☐ SFA shall be responsible for the removal of trash and garbage resulting from the food service program in compliance with SFA's schedule for waste disposal.

10. ☐ FSMC ☒ SFA shall be responsible for all regular food service-related building maintenance, with the exception of normal clean-up.

11. ☒ FSMC ☐ SFA shall clean the kitchen and dining room areas. (See Exhibit D, Designation of Program Expenses)

12. ☐ FSMC ☒ SFA shall provide regular cleaning service for cafeteria walls, windows, floors, light fixtures, draperies and blinds, and periodic waxing and buffing of floors.

13. ☒ FSMC ☐ SFA shall place garbage and trash in containers in designated areas as specified by SFA.

14. ☒ FSMC ☐ SFA shall operate and care for all equipment and food service areas in a clean, safe, and healthy condition in accordance with the standards acceptable to SFA and comply with all applicable laws, ordinances, regulations, and rules of federal, state, and local authorities, including laws related to recycling.

15. ☐ FSMC ☒ SFA shall routinely clean grease traps, ductwork, plenum chambers, and roof fans.

16. ☐ FSMC ☒ SFA shall provide extermination services as needed.

17. Any cleaning or sanitation that is not specifically assigned herein shall be the responsibility of SFA.

18. FSMC shall adhere to the food safety program implemented by the SFA for all preparation and service of school meals, using a Hazard Analysis and Critical Control Point (HACCP) system as required by 42 U.S.C. § 1758(h)(5)(A).

19. FSMC shall allow at least two health inspections to be conducted by the Health Department at every site involved in the school meal preparation and/or service as required by 42 U.S.C. §1758(h)(1).

I. Financial Terms

1. All income accruing as a result of payments by children and adults, federal and state reimbursements, and all other income from sources such as donations, special functions, catering, à la carte, vending, concessions, contract meals, grants, and loans shall be credited to the Non-profit School Food Service Fund on a daily basis. Any profit or guaranteed return shall remain in the SFA's Non-profit School Food Service Fund.

2. All facilities, equipment, and services to be provided by the SFA shall be provided at SFA's expense.

3. Meals & Meal Equivalency Rate
    a. For the purpose of making the meal count computation, the number of meals served to children shall be determined by actual counts of reimbursable meals.

    b. The FSMC and SFA shall determine à la carte meal/non-program equivalents by dividing the à la carte revenue by the per-meal sum of the Federal and State free meal reimbursement plus the per-meal value of USDA Foods entitlement and bonus USDA Foods entitlement. The equivalency factor shall be updated annually for any year that the contract is renewed.

    c. Meal equivalents shall be determined with the following formula:

$$\frac{\text{Sales (revenue in dollars)}}{\text{(Federal Free Reimbursement Rate + State Match Reimbursement Rate + .07 meal certification, if applicable + USDA Entitlement Value)}}$$

4. Financial Guarantee
    a. All revenue received in the operation of this contract must accrue to the nonprofit nutrition account.

    b. As part of this RFP, and based on projected revenue and expenses (as outlined in Exhibit B), the SFA has determined that a financial guarantee ☐ is or ☒ is not required.

    ☒ Breakeven position required ☐ Financial Guarantee Amount _____
    ☐ Subsidy Amount_____ ☐ No Guarantee is Requested

    c. If a guarantee is indicated, the SFA may evaluate this criterion up to five points. Providing a figure in excess of the guarantee is a value add and will not be considered as part of the evaluation. Additional points may not be given to guarantees not specified or other value adds.

    d. Any guarantee offered by the FSMC shall be based on information contained in this RFP. Additional addendum and terms will not be permitted.

5. Payment Terms/Method

    a. The FSMC must be paid at a fixed rate per meal/meal equivalent. The offer amount should be based on the assumption that no foods will be available for use. The method by which FSMC will use and account for USDA Foods shall be in accordance with Section E of the Standard Terms and Conditions hereinabove. FSMC shall invoice SFA within 14 days after the end of each Accounting Period for the total amount of SFA's financial obligation for that Accounting Period.

b. SFA shall make payment in accordance with the Texas Prompt Payment Act, Tex. Gov't Code Chapter 2251; however, no interest or finance charges that may accrue under this Contract may be paid from SFA's Nonprofit School Food Service Account.

c. FSMC must submit detailed documentation for each Accounting Period to support what the SFA is charged. Upon termination of the Contract, all outstanding amounts shall immediately become due and payable. Each invoice submitted by FSMC will include reconciliation for any overpayment or underpayment from prior Accounting Periods and shall identify and account for donated food as stated hereinabove.

d. FSMC shall be responsible for paying all applicable taxes and fees, including, but not limited to, excise tax, state and local income tax, payroll, and withholding taxes, for FSMC employees. FSMC shall indemnify and hold SFA harmless for all claims arising from the non-payment of such taxes and fees.

e. SFA and FSMC shall cooperate to ensure that SFA's Food Service Program is operated in accordance with SFA's Food Service Budget. In the event that the FSMC's operation of SFA's Food Service Program results in a deficit greater than the projected deficit stated in SFA's Food Service Budget or a return that is less than the projected return stated in the Food Service Budget, FSMC shall within 30 days pay SFA a guaranty payment as outlined in #4 above. In the event that the FSMC pays a guaranty, FSMC may not recover the guaranty from SFA in subsequent Contract years.

f. SFA shall not be responsible for any expenditure incurred by the FSMC before the execution of this Contract and approval by TDA.

J. Books and Records

1. FSMC shall maintain such records (supported by invoices, receipts, or other evidence) as SFA will need to meet monthly reporting responsibilities and shall submit monthly operating statements in a format approved by the SFA no later than the 10th day following the month in which services were rendered. Participation records, including claim information by eligibility category, shall be submitted no later than the 5th business day following the month in which services were rendered. SFA shall perform edit checks on the participation records provided by the FSMC prior to the preparation and submission of the claim for reimbursement.

2. FSMC shall maintain records to support the SFA's claim for reimbursement and maintain all such records available upon request. 7 CFR 210.16(c)(1).

3. FSMC shall provide SFA with a year-end statement.

4. SFA and FSMC must provide all documents as necessary for the independent auditor to conduct SFA's single audit.

5. FSMC shall make its books and records pertaining to the Contract available, upon demand, in an easily accessible manner for a period of three years after the final claim for reimbursement for the fiscal year to which they pertain. The books and records shall be made available for audit, examination, excerpts, and transcriptions by SFA and/or any state or federal representatives and auditors. If audit findings regarding FSMC's records have not been resolved within the three-year record retention period, the records must be retained beyond the three years for as long as required for the resolution of the issues raised by the audit. (Reference 7 CFR 210.9(b)(17) and 2 CFR 200.334).

6. Authorized representatives of SFA, TDA, USDA, and USDA's Office of the Inspector General shall have the right to conduct on-site administrative reviews of the food service operation.

7. FSMC shall not remove federally required records from SFA premises upon the expiration or termination of this Contract.

K. Term and Termination

1. If at any time, the SFA shall make a reasonable decision that adequate funding from federal, state, or local sources shall not be available to carry out its financial obligation to FSMC, then the SFA shall have the option to terminate this contract by giving 10 days written notice to the FSMC.

2. In the event either party commits a material breach of this Contract, the non-breaching party shall give the breaching party written notice specifying the default, and the breaching party shall have 30 days within which to cure the default. If the default is not cured within that time, the non-breaching party shall have the right to then terminate this Contract for cause by giving 30 days additional written notice to the breaching party. If the breach is remedied prior to the proposed termination date, the non-breaching party may elect to continue this Contract. Notwithstanding the foregoing termination clause, in the event that the breach concerns sanitation problems, the failure to maintain insurance coverage as required by this Contract, failure to provide required periodic information or statements, or failure to maintain quality of service at a level satisfactory to SFA, SFA may terminate this Contract immediately.

3. In the event that either party is prevented from performing its obligations under this Contract by war, acts of public enemies, fire, flood, or acts of God (individually each known as a "Force Majeure Event"), that party shall be excused from performance for the period of such Force Majeure Event exists.

4. In the event of FSMC's nonperformance under this Contract or the violation or breach of the terms of this Contract, SFA shall have the right to pursue any available administrative, contractual, and legal remedies against FSMC.

5. FSMC shall promptly pay SFA the full amount of any meal overclaims, disallowed costs, or other fiscal actions that are attributable to the FSMC's actions hereunder, including those overclaims based on review or audit findings that occurred during the Effective Dates of original and renewal Contracts.

6. SFA is the responsible authority without recourse to USDA or TDA for the settlement and satisfaction of all contractual and administrative issues arising in any way from this Contract. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims, or other matters of a contractual nature.

7. Upon service ending by either Contract expiration or termination, it shall be incumbent upon the FSMC to cooperate fully with the replacement FSMC or SFA if SFA is returning to self-operated food service and with TDA to ensure a smooth and timely transition to the replacement FSMC or SFA.

L. Insurance

1. FSMC shall maintain the insurance coverage set forth below for each accident provided by insurance companies authorized to do business in the state of Texas. A Certificate of Insurance of FSMC's insurance coverage indicating these amounts must be submitted at the time of the award.

2. The information below must be completed by SFA:
   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
         i. $ 1,000,000.00 Combined Single Limit.

   b. Automobile Liability coverage with a $ 1,000,000.00 Combined Single Limit.

c. Workers' Compensation—Statutory; Employer's Liability with a combined single limit of
ii. $ 1,000,000.00

d. Excess Umbrella Liability with a combined single limit of $ 2,000,000.00

3. The SFA shall be included as an additional insured on General Liability, Automobile, and Excess Umbrella policies.

4. The contract of insurance shall provide notice to SFA of cancellation of insurance policies 30 days before such cancellation is to take effect.

5. Notwithstanding any other provision of this Contract, SFA shall not be liable to FSMC for any indemnity.

M. Trade Secrets and Proprietary Information

1. During the term of this Contract, FSMC may grant to SFA a nonexclusive right to access certain proprietary materials of FSMC, including menus, recipes, signage, food service surveys and studies, management guidelines and procedures, operating manuals, software (both owned by and licensed by FSMC) and similar compilations regularly used in FSMC business operations ("Trade Secrets"). SFA shall not disclose any of FSMC's Trade Secrets or other confidential information, directly or indirectly, during or after the term of this Contract. SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of FSMC. All trade secrets and other confidential information shall remain the exclusive property of FSMC and shall be returned to FSMC immediately upon termination of this Contract. SFA shall not use any confusingly similar names, marks, systems, insignia, symbols, procedures, and methods. Without limiting the foregoing and except for software provided by SFA, SFA specifically agrees that all software associated with the operation of the food service, including without limitation, menu systems, food production systems, accounting systems, and other software, are owned by or licensed to FSMC and not SFA. Furthermore, SFA's access or use of such software shall not create any right, title, interest, or copyright in such software and SFA shall not retain such software beyond the termination of this Contract. In the event of any breach of this provision, FSMC shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available. All of SFA's obligations under this section are subject to SFA's obligations under the Texas Public Information Act and any other law that may require SFA to use, reproduce, or disclose the FSMC's confidential information. This provision shall survive the termination of this Contract.

2. Any discovery, invention, software, or program, the development of which is paid for by SFA, shall be the property of SFA to which TDA and USDA shall have unrestricted rights.

3. During the term of this Contract, FSMC may have access to SFA confidential information ("SFA Confidential Information"), including student identifiable confidential information that is protected from disclosure by federal law (42 U.S.C. §1758(b)(6)). FSMC agrees to hold any SFA Confidential Information in confidence during the term of this Contract and thereafter. FSMC further agrees that FSMC has no independent rights to this information and will not make any SFA Confidential Information available in any form to any third party or use Confidential Information for any purpose other than the performance of FSMC's obligations under this Contract. FSMC will use reasonable security measures to protect SFA's Confidential Information from unauthorized access, use, or disclosure and ensure that SFA's Confidential Information is not disclosed or distributed in violation of the terms of this Contract. Immediately upon the termination or expiration of this Contract, FSMC shall return to SFA any copies of SFA's Confidential Information provided to FSMC by SFA, and FSMC will destroy all other copies of SFA's Confidential Information in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials.

N. Optional Requirements to be Included

FSMC must not incorporate into their agreement by any method, including an additional exhibit or guaranty terms, additional items beyond what is indicated in the RFP. Also, please note that using $4,999.00 to avoid the $5,000.00 TDA approval limit will prevent the SFA from increasing the amount later.

The scope of this Contract shall include these optional services. **Check options that apply.**

☒ 1. Financing of Certain Equipment.

(a) FSMC may finance equipment for SFA's Food Service Program in an amount not to exceed $ 50,000.00 per contract year. SFA will follow its usual procurement procedures for any transaction that is financed by FSMC; FSMC cannot be the vendor for any procurement that it finances for SFA. SFA shall repay any financing provided by FSMC at the current lending rate specified when the equipment was purchased, which sum shall be charged to SFA as a Direct Cost to the food service program or the SFA may make payments in accordance with an amortization schedule, as agreed upon by the SFA and FSMC. Ownership of the equipment shall at all times remain with SFA. Any equipment costing $5,000 or more must have prior written approval by TDA (2 CFR 200.439(a)(3)).

(b) If the contract expires or is terminated prior to the complete repayment of the investment, SFA shall, on the expiration date, or within five days after receipt by either party of any notice of termination under this Contract, either **(SFA must check appropriate box)**:

☐ 1) Deliver the equipment or other items funded by the investment to the FSMC in full release of the unpaid balance. OR

☒ 2) Retain the property and continue to make payments in accordance with the amortization schedule. (Reference: USDA Memo SP 40-2016, Updated Guidance: "Contracting with Food Service Management Companies, pages 42-43.)

☐ 2. Information Technology Systems

All Fees Must Be Part of the Fixed-Meal Rate. FSMC shall provide, at its expense, a suitable environment, including such heat, air conditioning, phone, and utility service as may be required for the installation, implementation, operation, and maintenance of the IT System. FSMC's IT System shall provide the following services: _____

POS Note: If SFA has a Point of Service system (POS) or menu planning system/software in place which was purchased by SFA, the FSMC shall use the provided system without additional cost to the SFA. SFAs utilizing Primero Edge provided by TDA at no cost should not select this option. If the SFA does not have a POS system and wishes to use one provided by the FSMC, this option must be selected.

☒ 3. Will the SFA Transition Employee Positions to the FSMC? ☐ Yes ☒ No

If yes, the SFA shall identify each employee position to be transitioned to FSMC's payroll, anticipated date of transition, and the manner in which transition shall occur in Exhibit E.

☐ 4. Other: _____

O. Summer Food Service Program (SFSP)

Check One: ☐ SFA does or plans to participate in the SFSP [*SFA must complete the entire section]*

☒ SFA does not participate in the SFSP *[If this box is checked then Section O does not apply]*

1. SFA shall be responsible for determining the eligibility of all SFSP sites.
2. SFA, as a sponsor, shall be responsible for all management responsibilities of the SFSP, as described in 7 CFR §225.15 (a)(3).
3. Bonding requirements.
   a. Bid guarantee (when the SFSP portion of the bid exceeds the Simplified Threshold of $50,000 as applicable): Offeror shall submit with his or her bid a bid guarantee in the amount of $ _____ [Enter an amount not less than 5 percent or more than 10 percent of the total bid price or may enter $0, if SFSP bid does not exceed the Simplified Threshold of $50,000 as applicable], which shall be in the form of a firm commitment such as bid bond, postal money order, certified check, cashier's check, or irrevocable letter of credit. (SFSP Memorandum 13-2014: Procurement Thresholds in the Summer Food Service Program, January 10, 2014). Bid guarantees other than bid bonds will be returned (a) to unsuccessful Offerors as soon as practicable after the opening of proposals and (b) to the successful Offeror upon execution of such further contractual documents. (i.e., insurance coverage) and bonds as may be required by the bid.

   b. Performance guarantee (when the SFSP portion of the Contract exceeds $50,000, restrictive Texas simplified acquisition threshold): FSMC must obtain a performance bond in the amount of $ _____ [Enter an amount 10 percent or no more than 25 percent of the value of the Contract which shall be in the form of a firm commitment such as bid bond, postal money order, certified check, cashier's check, or irrevocable letter of credit. (SFSP Memorandum 13-2014: Procurement Thresholds in the Summer Food Service Program, January 10, 2014). Bid guarantees other than bid bonds will be returned to unsuccessful Offerors as soon as practicable after the opening of proposals. Performance bonds for the successful Offeror shall be held for the duration of the Contract. (7 CFR 225.15(m)(5-7)

4. SFA shall immediately correct any problems found as a result of a health inspection and shall submit written documentation of the corrective action implemented within two weeks of the citation.

5. FSMC must comply with the 21-day menu cycle developed by SFA for the SFSP (Exhibit M) and include it in the RFP. SFA shall approve any changes in the menus no later than two weeks prior to service after the initial cycle has been used. The SFA shall inform TDA of menu changes for the SFSP.

6. SFA, as an SFSP sponsor, is responsible for conducting and documenting the required SFSP site visits of all sites for pre-approval and during the operation of the program.

7. SFA will make the final determination of the opening and closing dates of all SFSP sites, if applicable.

8. FSMC may use foods to conduct SFSP in accordance with Section E of the Standard Terms and Conditions hereinabove and 7 CFR Part 225 and 2 CFR Part 200.

P. Certifications

FSMC shall execute and comply with the following Certifications: (i) Debarment certification shall be provided by a) the SFA providing the page from *The System for Award Management* and maintaining such record with other supporting documentation to demonstrate that the SFA had referenced *The System for Award Management;* or b) that by signing this Agreement that the FSMC certifies that neither it nor any principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal department or agency or by the State of Texas; or c) submitting the TDA Certification Regarding Debarment,

Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts form; and (ii) Anti-collusion Affidavit, which is attached to this Contract as Exhibit J and fully incorporated herein; (iii) Certification Regarding Lobbying, which is attached to this Contract as Exhibit K and fully incorporated herein; and (iv) Standard Form-LLL, Disclosure of Lobbying Activities, when applicable, which is attached to this Contract as Exhibit L and fully incorporated herein.

Q. Miscellaneous

1. Emergency Notifications.
   a. SFA shall notify FSMC of any interruption in utility service of which it has knowledge. Notification will be provided to:
      Name: _____
      Title: _____
      Telephone number: _____
      Alternate telephone number: _____

   b. SFA shall notify the FSMC of any delay at the beginning of the school day or the closing of school(s) due to snow or other emergency situations. Notification will be provided to:
      Name: _____
      Title: _____
      Telephone number: _____
      Alternate telephone number: _____

2. Governing Law. This Contract is governed by and shall be construed in accordance with Texas and federal law.

3. Headings. All headings contained in this Contract are for convenience of reference only, do not form a part of this Contract, and shall not affect in any way the meaning or interpretation of this Contract.

4. Incorporation/Amendments. This Request for Proposal and Contract, which includes the attached Exhibits A–M (collectively the "Contract Documents"), contain the entire agreement between the parties with relation to the transaction contemplated hereby, and there have been and are no covenants, agreements, representations, warranties or restrictions between the parties with regard thereto other than those specifically set forth in this Contract. In the event of a conflict between or among any of the terms of the Contract Documents, such conflicts shall be resolved by referring to the Contract Documents in the following order of priority: (i) SFA's Request for Proposal and Contract. No modification or amendment to this Contract shall become valid unless it is made in writing, signed by the parties, and approved by TDA.

5. **INDEMNITY. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS CONTRACT, FSMC SHALL DEFEND, INDEMNIFY, AND HOLD SFA HARMLESS FROM AND AGAINST ALL CLAIMS, LIABILITY, LOSS, AND EXPENSES, INCLUDING REASONABLE COLLECTION EXPENSES, ATTORNEYS' FEES, AND COURT COSTS THAT MAY ARISE BECAUSE OF THE ACTIONS OF FSMC, ITS AGENTS OR EMPLOYEES IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS CONTRACT, EXCEPT TO THE EXTENT ANY SUCH CLAIMS OR ACTIONS RESULT FROM THE NEGLIGENCE OF SFA, ITS EMPLOYEES OR AGENTS. THIS CLAUSE SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS CONTRACT.**

6. Nondiscrimination. Both SFA and FSMC agree that no child who participates in the NSLP, SBP, SMP, ASCP, CACFP, SSO, or SFSP will be discriminated against on the basis of race, color, national origin, sex, age, or disability.

7. Notices. All notices, consents, waivers, or other communications which are required or permitted hereunder, except those required under Emergency Notification herein above, shall be sufficient if given in writing and delivered personally, or by sending a copy thereof by first class or express mail, postage prepaid, courier service, charges prepaid or by facsimile transmission (followed by the original) to the address (or to the facsimile or telephone number), as follows (or to such other addressee or address as shall be set forth in a notice given in the same manner):

   To: SFA abyrd@hfhorns.net
   To: FSMC _____
   Copy: ebroussard@hfhorns.net

   If such notice is sent by mail or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or courier service for delivery to that person or, in the case of a facsimile transmission, when received.

8. Severability. If one or more provisions of this contract or the application of any provision to either party or circumstance is held invalid, unenforceable, or illegal in any respect, the remainder of this Contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

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

10. Subcontract/Assignment. No provision of this Contract shall be assigned or subcontracted without the prior written consent of the SFA, except that FSMC may, after notice to SFA, assign this Contract in its entirety to an affiliated company or wholly-owned subsidiary without prior written consent and without being released from any of its responsibilities hereunder.

11. Waiver. The failure of FSMC or SFA to exercise any right or remedy available under this Contract upon the other party's breach of the terms, covenants, or conditions of this Contract or the failure to demand prompt performance of any obligation under this Contract shall not be deemed a waiver of such right or remedy; of the requirement of punctual performance; or any subsequent breach or default on the part of the other party.

(THIS SPACE INTENTIONALLY LEFT BLANK)

AGREEMENT

Offeror certifies that the FSMC shall operate in accordance with all applicable state and federal regulations.

Offeror certifies that all terms and conditions within the Proposal shall be considered a part of this Contract as if incorporated herein.

This Contract shall be in effect for one year and may be renewed by mutual agreement for four additional one-year periods.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed by their duly authorized representatives.

ATTEST:

SCHOOL FOOD AUTHORITY:

Hamshire-Fannett ISD
Name of SFA

_____
Signature of Authorized Representative

Allison Byrd
Typed Name of Authorized Representative

Director of Finance
Title

February 4, 2022
Date Signed

ATTEST:

FOOD SERVICE MANAGEMENT COMPANY:

_____
Name of FSMC

_____
Signature of Authorized Representative

_____
Typed Name of Authorized Representative

_____
Title

_____
Date Signed

Exhibit A: Site Information- Services Required

If your School District has more than 20 Sites, please use Exhibit A Supplement. All sites must be recorded.

SITE/ SCHOOL	GRADES SERVED	MEAL PREPARATION TYPE SP=self-prep SA = satellite	SERVING TIMES	BREAKFAST	LUNCH	ADULT/ ALACARTE/ EXTRA SALES	OFFER VS. SERVE (select by campus)	ASCP Snacks (NSLP)	Seamless Summer (SSO)	Summer Feeding (SFSP)	CACFP		CATERING	CONCESSIONS	VENDING	OTHER_____
											At-Risk Snacks	At-Risk Supper				
Elementary	PreK-3	SP	7:20-7:50	X	X	X	X									
			10:25-12:55													
Intermediate	4-5	SP	7:25-7:50	X	X	X	X									
			11:03-12:08													
Middle School (Junior High)	6-8	SP	7:20-7:55	X	X	X	X									
			10:58-1:10							X						
High School	9-12	SP	7:20-8:00	X	X	X	X									
			11:14-12:33													

Exhibit B: Budget

Projected Revenue: Based on 171 (Number) days of meal service in School Year 2022-2023 using 2021-22 reimbursement rates.

Check one:
☒ These numbers are based on projected revenues for School Year 2022-2023 using the months of 08/2018 (Month/Year) through 05/2019 (Month/Year).
☐ These numbers are based on actual revenue from School Year 2021-2022.

All non-program revenue in dollars must be converted to Meal Equivalents to estimate expense. Formula to convert is: Sales: Revenue in Dollars / (Free reimbursement rate + USDA Foods entitlement rate) x per meal rate

Consolidated Food Service Budget School Year 22-23

Revenue:			
Local			
	Student Breakfast Sales Revenue		$ 20,165.00
	Student Lunch Sales Revenue		$ 179,234.00
	Adult & À la carte Sales Revenue		$ 208,786.00
	Catering & Other Non-Program Revenue		$ 0.00
		Total Sales:	$ 408,185.00
Reimbursement			
	School Breakfast Program		$ 87,489.00
	National School Lunch Program		$ 303,987.00
	After School/At-Risk Snack Program		$ 0.00
	At-Risk CACFP Supper Program		$ 0.00
	State Matching Reimbursement		$ 8,077.00
	Other Federal/State Reimbursement		$ 0.00
		Total Reimbursement:	$ 399,553.00
Total Revenue: (Total Sales + Total Reimbursement)			$ 807,738.00
Expenses:			
	Reimbursable Breakfast Meal Rate Fee		$ 89,250.00
	Reimbursable Lunch Meal Rate Fee		$ 250,750.00
	Reimbursable Snack Meal Rate Fee		$ 0.00
	Reimbursable Supper Meal Rate Fee (CACFP)		$ 0.00
	À la carte Sales Revenue		$ 85,000.00
	Catering Revenue		$ 0.00
	Other Non-Program Revenue		$ 0.00
	SFA Direct Expense		$ 382,738.00
		Total Expenses:	$ 807,738.00
Estimated Budget Projection: Total Revenue (Sales + Reimbursement) – Expenses:			$ 0.00

USDA Foods Entitlement Allocation Estimate: **$** 73,345.89

SFA Contact for Budget Completion: Name: Allison Byrd Phone: (409) 243-2133

Exhibit C: Charts

The charts outlined have been supplied by the SFA to assist the FSMC with assessing the operational requirements required to fulfill the contract needs resulting from this RFP.

Chart 1: Projected Enrollment Chart (By Campus) – Projected new campuses and dates of the anticipated opening must be included

Chart 2: Staffing Chart (Identifying whether each position is SFA or FSMC personnel):
A - Cafeteria Staffing (Elementary)
B - Cafeteria Staffing (Secondary)

Chart 3: Participation Data for free, reduced-price, and paid meals Chart

Chart 4: Chart stating District Meal Prices

Chart 5: Chart/copies of Reimbursement Claims for Current and Prior School Year(s)

Chart 6: Chart identifying:
(1) each FSMC position that will be shared with other SFAs;
(2) the SFAs with whom FSMC employees will be shared; and
(3) the percentage of time FSMC employees will work at each SFA.

Chart 7: School Calendar for 2022-2023. If SFA does not have an approved school calendar, the projected calendar may be provided.

Exhibit D: Designation of Expenses
DESIGNATION OF PROGRAM EXPENSES

The SFA has deemed the following Program Expense schedule to be a necessary part of this bid specification as an indicator of who will bear ultimate responsibility for the cost. Costs that are not provided for under the standard contract terms and conditions, but are necessary for the effective on-site operation of the food service program and are directly incurred for the SFA's operation, must be assigned by the SFA and included in the RFP. The column selected by the SFA for each expense represents whether the SFA or FSMC is ULTIMATELY responsible for that cost.

DESCRIPTION	FSMC	SFA	N/A*
FOOD:			
Food Purchases	☒		
USDA Foods Processing	☒	☐	☐
Processing and Payment of Invoices (includes USDA Foods processing)	☒	☐	☐
LABOR:	☐	☐	☐
FSMC EMPLOYEES:	☒	☐	☐
Salaries/Wages	☒	☐	☐
Fringe Benefits and Insurance	☒	☐	☐
Retirement	☒	☐	☐
Payroll Taxes	☒	☐	☐
Workers' Compensation	☒	☐	☐
Unemployment Compensation	☒	☐	☐
SFA EMPLOYEES:	☐	☒	☐
Salaries/Wages	☐	☒	☐
Fringe Benefits and Insurance	☐	☒	☐
Retirement	☐	☒	☐
Payroll Taxes	☐	☒	☐
Workers' Compensation	☐	☒	☐
Unemployment Compensation	☐	☒	☐
OTHER EXPENSES:	☐	☐	☐
**Paper/Disposable Supplies	☒	☐	☐
Smallwares	☐	☐	☐
China/Silverware/Glassware:	☒	☐	☐
Initial Inventory	☐	☐	☒
Replacement during Operation	☒	☐	☐
Telephone:	☐	☐	☐
Local	☐	☒	☐
Long Distance	☐	☒	☐
Mobile	☐	☐	☒
Uniforms	☐	☐	☐
**Linens	☒	☐	☐
Laundry	☒	☐	☐
Trash Removal:	☐	☐	☐
From Kitchen	☒	☐	☐
From Dining Area	☒	☐	☐
From Premises	☐	☒	☐
Pest Control	☐	☒	☐
Equipment Replacement:	☐	☐	☐
Nonexpendable	☐	☒	☐
Expendable	☒	☐	☐

DESCRIPTION	FSMC	SFA	N/A
Equipment Repair	☐	☒	☐
**Car/Truck Rental (Include Explanation in RFP)	☐	☐	☒
**Vehicle Maintenance	☐	☐	☒
**Courier Service (i.e., Bank Deposits, School Deliveries)	☐	☒	☐
**Storage Costs:	☒	☐	☐
Supplies	☐	☐	☐
**Office Supplies	☒	☐	☐
**Printing	☒	☐	☐
**Promotional Materials	☒	☐	☐
CLEANING EXPENSES:	☐	☐	☐
Food Preparation Areas (Include Equipment)	☒	☐	☐
Serving Areas	☒	☐	☐
Kitchen Areas	☒	☐	☐
Dining Room Floors	☒	☐	☐
Periodic Waxing and Buffing of Dining Room Floors	☐	☒	☐
Restrooms for Food Service Employees	☒	☐	☐
Grease Traps	☐	☒	☐
Daily Routine Cleaning of Dining Room Tables and Chairs	☒	☐	☐
Thorough Cleaning of Dining Room Tables and Chairs	☐	☒	☐
Cafeteria Walls	☐	☒	☐
Kitchen Walls	☐	☒	☐
Light Fixtures	☐	☒	☐
Windows	☐	☒	☐
Window Coverings	☐	☒	☐
Hoods	☐	☒	☐
Grease Filters	☐	☒	☐
Duct Work	☐	☒	☐
Exhaust Fans	☐	☒	☐
Other: (List Below)	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐

*Not Applicable

Exhibit E: Employees

SCHEDULE OF FSMC EMPLOYEES
Minimum Qualifications for FTE

Cafeteria Manager

Minimum 2 years experience in varied kitchen positions including food preparation, serving, and customer service.

At least 6 months experience in a similar capacity.

Must be able to communicate clearly and professionally.

Be able to reach, bend, stoop and frequently lift up to 30 pounds.

Be able to work in a standing position for long periods of time (up to 8 hours).

Possess basic math skills.

Prior school food service experience desired.

Cafeteria Worker

Must be able to communicate clearly and professionally.

Be able to reach, bend, stoop and frequently lift up to 30 pounds.

Be able to work in a standing position for long periods of time (up to 7 hours).

Possess basic math skills.

Exhibit F: Food Specifications

FOOD SPECIFICATIONS

All Food specifications must meet requirements of the United States Department of Agriculture ("USDA") *Food Buying Guide* ("FBG"), 7 CFR Part 210, USDA Guidance Memos, other applicable federal regulations, and TDA's Administrative Reference Manual ("ARM")

- All USDA Foods offered to the SFA and made available to FSMC are acceptable and should be utilized in as large a quantity as may be efficiently utilized.

- All food and food products purchased on behalf of the SFA must be in compliance with Buy American provisions. Food and Food products must be produced in the United States, and food products must be processed in the United States using over 51% of domestic foods by weight or volume. 7 CFR 250.17(e); 2 CFR Part 200; SP 38-2017; SP 32-2019; and 7 CFR Part 210.21(d).

For all other food components, specifications shall be as follows:

- Grains must be made from whole grain, whole-grain rich flour/meal, or enriched grain. Cereals may be whole grain, whole-grain rich, enriched grain, or fortified grain. All grains must be fresh (or frozen, if applicable) and must meet the minimum weight per serving as listed in the Child Nutrition Program Food Buying Guide (FBG) or as appropriately identified on a food nutrition label or product manufacturer's statement. If applicable, the product should be in moisture-proof wrapping and pack code date provided.

- All meat and poultry must have been inspected by the USDA and must be free of color or odor.
  - Beef must be at least 70:30 lean to fat, preferably 80:20 lean to fat.
  - Poultry should be U.S. Grade A when applicable and should meet the recommendations outlined in *Specifications for Poultry Products, A Guide for Food Service Operators* from USDA.
  - For breaded and battered items, all flours must be whole-grain or enriched for bread/grains credit and breading/batter must not exceed 30% of the weight of the finished product.
  - For sausage patties, the maximum fat allowed is 50% by weight; industry standard of 38% to 42% fat preferred.

- All cured processed meats (bologna, frankfurters, luncheon meat, salami, others) shall be made from beef and/or poultry and must be processed in the United States using over 51% domestic meats. No variety of meats, fillers, extenders, non-fat milk solids, or cereal will be allowed. Meats must not show evidence of greening, streaking, or other discoloration.

- All cheese must be from domestic milk sources and should be firm, compact, and free from gas holes; free of mold; free of undesirable flavor and odors; pasteurized when applicable; preferably reduced or low-fat. All cheese should also have a bright, uniform, and attractive appearance; and have a pleasing flavor; demonstrate satisfactory melting; contain proper moisture and salt content, and be processed in the United States.

- All fish must have been inspected by the United States Department of Commerce (USDC) and meet the minimum flesh and batter/breading required for USDC Grade A product or product packed under federal inspection (PUFI) by the USDC. All fish must also be in compliance with the Buy American provisions for farmed and wild fish as described in SP 32-2019.

- All fresh fruits must be ripe and in good condition when delivered and must be ready for consumption per the USDA FBG. Fruits must at a minimum meet the food distributors' second quality level. Fruits should have characteristic color and good flavor and be well-shaped and free from scars and bruises. Size must produce a yield equal to or greater than the attached 21-day cycle menu requirements.

- All fresh vegetables must be from domestic sources, ripe and in good condition when delivered, and must be ready for consumption per the FBG. Vegetables must at a minimum meet the food distributors' second quality level. Vegetables should have characteristic color and good flavor and be well-shaped and free from discoloration, blemishes, and decay. Size must produce a yield equal to or greater than the attached 21-day cycle menu requirements.

- All canned vegetables must be produced and processed in the United States using over 51% domestic vegetables by weight or volume; meet the food distributors' first quality level (extra fancy and fancy); canned fruits (standard) must meet the second quality level. Vegetables should have characteristic color and good fresh flavor and be free from discoloration, blemishes, and decay.

- Eggs must be from domestic sources, inspected and passed by the state or federal Department of Agriculture, and used within 30 days of the date on the carton. Eggs should be grade A, uniform in size, clean, sound-shelled, and free of foreign odors or flavors.

- Sauces, such as gravy, spaghetti sauce, pizza sauce, etc., must be smooth and uniform in color with no foreign substance, flavor, odor, or off-color.

- If applicable, the food production facility, manufacturing plant, and products must meet all sanitary and other requirements of the Food, Drug, and Cosmetic Act and other regulations that support the wholesomeness of products.

- Meals and food items must be stored and prepared under properly controlled temperatures and in accordance with all applicable health and sanitation regulations.

- Fluid milk must be from domestic sources and offered in a variety of at least two different fat contents. If flavored milk is offered in the National Lunch Program or School Breakfast program, unflavored milk must also be offered as a selection. The selection of milk must be consistent with the types of milk consumed the prior year. The milk must contain vitamins A and D at levels specified by the Food and Drug Administration and must be consistent with State and local standards.

Other (additional SFA requirements):

Exhibit G: Price Proposal Form

Required – Must be returned by the FSMC and included with contract document.

The undersigned FSMC proposes to manage the school food service for Hamshire-Fannett Independent School District, School Food Authority (SFA) during the School Year 2022-2023 at the fixed per-meal rates shown below, subject to the terms of SFA's Request for Proposals including SFA's estimated total numbers of meals shown below. If the contract is awarded, FSMC will bill SFA for meals and meal equivalents at the fixed rates shown below, without any additional charges.

The meal prices in this proposal must not consider the value of USDA Foods that the FSMC may receive for use during the year. If the contract is awarded, FSMC will fully credit SFA for the value of USDA Foods received for use.

The FSMC acknowledges that the contract will be awarded based primarily on the lowest proposed Total Cost to SFA, shown below, combined with SFA's evaluation of non-price criteria specified in the RFP.

Program	FSMC's Proposed Fixed Price per Meal or Equivalent	X	SFA's Estimated Annual Meals or Meal Equivalents—all sites	=	FSMC's Proposed Cost to SFA—all sites (extended cost)
Breakfast	$	X	49,924	=	$ 0.00
Lunch	$	X	142,738	=	$ 0.00
Milk	$	X		=	$ 0.00
NSLP Afterschool Childcare Program (ASCP)	$	X		=	$ 0.00
At-Risk After-school (Snacks)	$	X		=	$ 0.00
At-Risk After-school Meals (Supper)	$	X		=	$ 0.00
Summer (SFSP)	$	X		=	$ 0.00
Seamless Summer Option (SSO)	$	X		=	$ 0.00
Summer (SFSP)	$	X		=	$ 0.00
A la carte (equivalents)	$	X	47,965	=	$ 0.00
Catering (equivalents)	$	X		=	$ 0.00
Non-Program Revenue (equivalents)	$	X	2,619	=	$ 0.00
Other:	$	X		=	$ 0.00

Company's proposed Total Cost to SFA: $ $ 0.00

Is there an equipment investment option offered? ☐ Yes ☐ No If yes, amount: $ _____

Offeror must select one option below:

☐ Breakeven Position ☐ Guaranteed Return _____ ☐ Projected Deficit _____
☐ Not applicable (NA) ☐ Subsidy (specify) _____ ☐ Other (specify)_____

Submitted by: _____

Company: _____

Printed Name and Title of Authorized Representative: _____

Signature: _____ Date: _____

Exhibit H: Equipment Investment

An equipment investment may only be offered in response to the amount designated in Section N: Optional Requirements to be Included. If no equipment investment was requested or outlined by the SFA, the vendor shall not propose resources for this use for consideration in the RFP.

All state and federal regulations apply to all purchases made on behalf of the SFA.

Vendors must complete this exhibit to have equipment investments considered as part of the proposal.

Only as needed:

Reach-In Coolers/Warmers
Freezers/Coolers
Steamers
Dishwasher

Exhibit I: Applicable Laws

SCHEDULE OF APPLICABLE LAWS

- FSMC shall comply with the mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).
- FSMC shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (the "Act"), 40 U.S.C. §3701 and 3704, as supplemented by Department of Labor regulations, 29 CFR Part 5. Under Section 103 of the Act, FSMC shall be required to compute the wages of every laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in any workweek. Section 107 of the Act provides that no laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor.
- 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.
- FSMC shall comply with the following civil rights laws, as amended: 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 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities.
- FSMC shall comply with the Buy American provision for contracts that involve the purchase of domestic food and food products in the United States using over 51% domestic foods by weight or volume, USDA Regulation 7 CFR 210.21(d) and 7 CFR Part 250.
- FSMC has signed the Anti-Collusion Affidavit, Exhibit J, which is attached herein and is incorporated by reference and made a part of this Contract.
- FSMC shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), §508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (Title 40 CFR).
- FSMC shall comply with the Lobbying Certification, Exhibit K, which is attached herein and is incorporated and made a part of this Contract. If applicable, FSMC has also completed and submitted Standard Form-LLL, Disclosure of Lobbying Activities, Exhibit L herein, or will complete and submit as required in accordance with its instructions included in Exhibit L.
- FSMC shall strongly encourage the participation of Historically Underutilized Business (HUB), Minority and Women Business Enterprise (MWBE), and labor surplus area vendors to compete in procurement opportunities the FSMC conducts on behalf of the SFA.
- FSMC shall ensure that the nondiscrimination statement is affixed to all letters, notices, publications, and websites as required by FNS Instruction 113.1 (November 8, 2005).

Revised Equal Opportunity Public Notification (October 14, 2015)

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing, or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the *USDA Program Discrimination Complaint Form*, (AD-3027) found online at: *http://www.ascr.usda.gov/complaint_filing_cust.html*, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter 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;
(2) fax: (202) 690-7442; or
(3) email: *program.intake@usda.gov*.

This institution is an equal opportunity provider.

Exhibit J: Anti-Collusion

ANTI-COLLUSION AFFIDAVIT

STATE OF_____)

COUNTY OF_____)

_____, of lawful age, being first sworn on oath says, that he/she is the agent authorized by the bidder to submit the attached bid. Affiant further states that the bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or with any state official of employees to quantity, quality, or price in the prospective contract, or any other terms of said prospective official concerning the exchange of money or other things of value for special consideration in the letting of contract; that the bidder/contractor had not paid, given or donated, or agreed to pay, give or donate to any officer or employee either directly or indirectly in the procuring of the award of a contract pursuant to this bid.

_____
Signed

Subscribed and sworn before me this _____ day of _____, 20_____

Notary Public (or Clerk or Judge) _____

My commission expires _____

PROCUREMENT

Certification Regarding Lobbying

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

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by Title 31, § 1352 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 _____ (FSMC) 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 Federally 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 _____ (FSMC) 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.

The undersigned shall require that the language of this certification is 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.

[To be completed by the FSMC when proposal submitted]

_____

_____

_____
Name and Address of Organization

_____
Name/Title of Submitting Official

_____
Signature

_____
Date

PROCUREMENT

DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Type of Federal Action:	**2. Status of Federal Action:**	**3. Report Type:**
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	**5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:**
☐ Prime ☐ Subawardee Tier _____ , *if known:* **Congressional District,** *If known:*	**Congressional District,** *If known:*
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*:
8. Federal Action Number, *If known:*	**9. Award Amount,** *If known:* $
10. a. Name and Address of Lobbying Registrant *(If individual, last name, first name, MI):*	**b. Individuals Performing Services** *(Including address if different from No. 10a)* *(last name, first name, MI):*
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

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

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred, Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward receipt. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks: Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g. "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in Item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).

11. Certifying official shall sign and date the form, print his/her name, title and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Exhibit M: Menu Cycles

MENU CYCLE FOR
NATIONAL SCHOOL LUNCH PROGRAM

Instructions: Attach a sample of the 21-day cycle lunch menu prepared by the SFA and save the menu per Campus Level as appropriate. This menu must be used for the first 21-day cycle of the new School Year.

If additional menus are needed, please use Exhibit M: Supplement.

2022 - 2023 School Year

Campus Level: _____

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

MENU CYCLE FOR SCHOOL BREAKFAST PROGRAM

Instructions: Attach a sample of the 21-day cycle lunch menu prepared by the SFA and save the menu per Campus Level as appropriate. This menu must be used for the first 21-day cycle of the new School Year.

If additional menus are needed, please use Exhibit M: Supplement.

2022 - 2023 School Year

Campus Level: _____

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

MENU CYCLE FOR AFTER SCHOOL CARE PROGRAM

Instructions: Attach a sample of the 21-day cycle lunch menu prepared by the SFA and save the menu per Campus Level as appropriate. This menu must be used for the first 21-day cycle of the new School Year.

If additional menus are needed, please use Exhibit M: Supplement.

2022 - 2023 School Year

Campus Level: _____

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

MENU CYCLE FOR SEAMLESS SUMMER OPTION OR SUMMER FOOD SERVICE PROGRAM

Instructions: Attach a sample of the 21-day cycle lunch menu prepared by the SFA and save the menu per Campus Level as appropriate. This menu must be used for the first 21-day cycle of the new School Year.

If additional menus are needed, please use Exhibit M: Supplement.

2022 - 2023 School Year

Campus Level: _____

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18	19	20
21				

Exhibit N: Price Determination Certificate

Independent Price Determination Certificate

Both the School Food Authority (SFA) and the Food Service Management Company (Offeror) shall execute this Independent Price Determination Certificate.

Name of Food Service Management Company _____

Name of School Food Authority _____

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, or 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 to 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 a negotiated procurement, directly or indirectly to any other Offeror for the purpose of restricting competition.
3. No attempt has been made or will be made by the Offeror to induce any person or firm to submit or not submit an offer for the purpose of restricting competition.

Each person signing this offer on behalf of the Offeror certifies that:

1. He or she is the person in Offeror's organization responsible within the organization for the decision as to the prices being offered herein and has not participated, and will not participate, in any action contrary to A.1 through A.3 above; or
2. He or she is not the person in Offeror's organization responsible within the 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 certify; and he or she has not participated, and will not participate, in any action contrary to A.1 through A.3 above.

To the best of my knowledge, this Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any government agency and have not in the last three years been convicted of or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

_____	_____	_____
Signature of Food Service Management Company's Authorized Representative	Title	Date

In accepting this offer, the SFA certifies that no representative of the SFA has taken any action that may have jeopardized the independence of the offer referred above.

_____	_____	_____
Signature of School Food Authority's Authorized Representative	Title	Date

Note: SFA's acceptance of an offer does not constitute an award of the contract.

Exhibit O: SFA Certification of Acknowledgement

Please initial below next to each statement certifying that you have read and fully understand the contents of this document.

I certify that I, Allison Byrd (Name), on behalf of Hamshire-Fannett School District, have read and fully understand the contents of this contract. I understand that the SFA must maintain oversight of the food service operations and that these responsibilities will not be delegated to the FSMC. I also understand that the SFA is responsible for closely monitoring the FSMC contract and the FSMC's daily activities.
Initial Here: AB

I certify that I understand the requirements to utilize a FSMC and will comply with the procedures accordingly.
Initial Here: AB

I certify that I will not enter into an agreement with an FSMC that has a real or apparent conflict of interest. This includes FSMCs that provide recommendations, develop or draft specifications, requirements, statements of work, requests for proposals, contract terms, and conditions, or other documents for use in conducting procurement.
Initial Here: AB

I certify that I, nor any employees (including School Board Members) of Hamshire-Fannett School District, will not solicit or accept donations, gratuities, nor favors from current or potential FSMCs (i.e., gifts, golf outings, meals, etc.). Initial Here: AB

I certify that I will appropriately and in a timely manner respond to all bid/proposal protests and concerns raised by potential FSMCs. Initial Here: AB

I certify that the Hamshrie-Fannett School District has a written Code of Conduct that addresses conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts, and will make sure all employees are aware of said standards. Initial Here: AB

I have read and understand what the allowable costs are for all of the applicable CN programs. Initial Here: AB

I certify that Hamshire-Fannett School District will be legally responsible for the conduct of the non-profit school food service program and shall supervise the food service operations in such manner as will ensure compliance with the rules and regulations of TDA and the USDA regarding each of the CN programs covered by this contract. Initial Here: AB

I certify that all food service employees and those responsible for the oversight of the contract and FSMC's operations have the necessary skillset to fulfill required monitoring responsibilities including management of the items that cannot be delegated to a FSMC. Initial Here: AB

I certify that staff responsible for monitoring and oversight of the FSMC meet the minimum Professional Standards requirements. Initial Here: AB

I certify that Hamshire-Fannett School District shall retain control of the non-profit school food service account, signature authority, and overall financial responsibility for the CN programs. This includes access to TX-UNPS, and any other designated state system, local point of sale systems, and accounting systems.
Initial Here: AB

I certify that the CN programs are the responsibility of Hamshire-Fannett School District and Hamshire-Fannett School District is responsible for all contractual agreements entered into in connection with the CN programs. Initial Here: AB

I certify that Hamshire-Fannett School District will be responsible for determining student eligibility for all applicable programs and that Enter FSMC Name will have no involvement in the process. Initial Here: AB

I certify that Hamshire-Fannett School District will retain all records for the current year plus the three from the end of the contract including any renewals. Initial Here: AB

I certify that all food will follow the current meal standards and Local Wellness Policy. Initial Here: AB

I certify that Hamshire-Fannett School District will monitor awarded FSMC vendor to ensure compliance with USDA regulations. Initial Here: AB

I certify that Hamshire-Fannett School District will be responsible for non-compliance discovered while operating with a FSMC and will comply with the return of disallowed costs to remedy findings. Initial Here: AB

I certify that Hamshire-Fannett School District will create an advisory board composed of students, teachers, and parents to assist in menu planning and student participation. Initial Here: AB

I certify that Hamshire-Fannett School District will not delegate any of the above responsibilities to the FSMC. Initial Here: AB

I hereby certify that neither Hamshire-Fannett School District nor its principals/authorized representatives are presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from participation in this transaction by any Federal/State department or agency. Initial Here: AB

I further certify that neither Hamshire-Fannett School District nor any of its principals /authorized representatives has a reported criminal background that would affect the receipt of Federal funds. Initial Here: AB

I certify that FSMC is not a paid consultant or contractor with Hamshire-Fannett School District in any other capacity than for this contract. Initial Here: AB

I certify under penalty of perjury that the information on these forms is true and correct and that I will immediately report to the state agency any changes that occur to the information submitted. I understand that this information is being given in connection with the receipt of federal funds. The state agency may verify information; the deliberate misrepresentation of information will subject me to prosecution under applicable federal and state criminal statutes.

On behalf of Hamshire-Fannett School District, I hereby agree to comply with all state and federal laws and regulations governing the CN programs administered by the state agency. In accordance with Federal law and USDA policy. Hamshire-Fannett School District does not discriminate on the bases of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by the USDA. I will ensure that all monthly claims for reimbursement are true and correct and that records are available to support these claims.

Name of Authorized Representative Allison Byrd

Title of Authorized Representative Director of Finance

Signature of Authorized Representative _____

Date Signed December 21, 2021

Exhibit P: FSMC Certification of Acknowledgement

Please initial below next to each statement certifying that you have read and fully understand the contents of this document.

I certify that I, _____, on behalf of _____, (FSMC) have read and fully understand the contents of this contract. Initial Here: _____

I certify that I, nor any of the employees of _____, (FSMC) have not received any solicitations from any _____ School District employee. In addition, I certify that no gifts, donations, or anything of monetary value (i.e., golf outings, meals, etc.) have been provided. Initial Here: _____

I certify that employees of the FSMC will be trained to understand and comply with all necessary training including the current written Code of Conduct authored by _____ School District. Initial Here: _____

I certify that all of _____ (FSMC) food service employees meet the minimum Professional Standards requirements outlined for the operation of Child Nutrition programs. Initial Here: _____

I certify that _____ School District will be legally responsible for the conduct of the non-profit school food service program, and shall have access to all necessary documents, which will be maintained onsite, including but not limited to all contracts with vendors so that they may supervise the food service operations in such manner as will ensure compliance with the rules and regulations of TDA and the USDA regarding each of the CN programs covered by this contract. Initial Here: _____

I certify that _____ (FSMC) will not have control of the district's non-profit school food service account, signature authority, and overall financial responsibility for the CN programs. This includes access to TXUNPS and any other defined state or local system. Initial Here: _____

I certify that _____ School District will be responsible for determining student eligibility for all applicable programs and that _____ (FSMC) will have no involvement in the process. Initial Here: _____

I certify that _____ (FSMC) will follow the 21-day menu for the first 21-days of service, without change. Initial Here: _____

I certify that all food will comply with the current meal standards and Local Wellness Policy. Initial Here: _____

I certify that _____ (FSMC) will comply with all applicable standards, orders, or requirements issued under the Clean Air Act and the Federal Water Pollution Control Act and will report violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency. Initial Here: _____

I hereby certify that neither _____ (FSMC) nor its principals/authorized representatives is presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from participation in this transaction by any Federal/State department or agency. Initial Here: _____

I further certify that neither _____ (FSMC) nor any of its principals /authorized representatives has a reported criminal background that would affect the receipt of this Federal Award. Initial Here: _____

I certify that _____ (Name) is not a paid consultant or contractor with _____ School District in any other capacity than for this contract.

Initial Here: _____

I certify under penalty of perjury that the information on these forms is true and correct and that I will immediately report to the SFA any changes that occur to the information submitted. I understand that this information is provided in connection with the receipt of federal funds. The state agency may verify information; the deliberate misrepresentation of information will subject me to prosecution under applicable federal and state criminal statutes. On behalf of_____, (FSMC) I hereby agree to comply with all state and federal laws and regulations governing the CN programs administered by the state agency. In accordance with Federal law and USDA policy, _____ (FMSC) does not discriminate on the bases of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by the USDA.

Name of Authorized Representative _____

Title of Authorized Representative _____

Signature of Authorized Representative _____

Date Signed _____

Exhibit Q: Non-Delegable School Food Authority (SFA) Responsibilities

The SFA shall be legally responsible for the conduct of the food service program and shall supervise and monitor the food service operations to ensure compliance with the rules and regulations of the Texas Department of Agriculture (TDA) and the United States Department of Agriculture (USDA) regarding the school food service program. The Food Service Management Company (FSMC) acknowledges that the SFA is responsible for completing the following duties and that these cannot be delegated to the FSMC:

1. **On-site inspections**: 7 CFR 210.16(a)(2) (3), 7 CFR 210.8(a)(1).
    a. Monitor the food service operation through documented periodic visits to ensure compliance with the approved FSMC contract.
    b. Conduct on-site reviews of the lunch counting /claiming system by school
    c. Follow-up on any lunch counts which show counting discrepancies

2. **Control and overall financial responsibility** of the school food service account. (7 CFR 210.19(a)(1))

3. **Advisory board:** establish and include parents, staff, and students to assist in menu planning. 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. (7 CFR 210.16(b)(1), 7 CFR210.16(a)(8))

4. **Health certification**: 7 CFR 210.16(a)(7) must be maintained to assure that all state and local regulations are met by the FSMC preparing or serving meals at the SFA facilities.

5. **Establish all prices**: 7 CFR 210.16(a)(4) for food items served under the nonprofit school food service account (e.g., reimbursable meals, à la carte, and adult meals).

6. **Retain signature authority** on: (7 CFR 210.9 (a)(b), 210.16(a)(5))
    a. Application/agreement to participate in the Child Nutrition Programs including
    b. Free and reduced-price policy statement; and
    c. TX-UNPS claim system.
    d. Contractual agreements with the school nutrition program (i.e., vending meals to other SFAs, commodity processing contracts) 7 CFR 210.21 &.19(a)(1); 7 CFR 210.9(b)(13); 7 CFR 210.15(a); 7 CFR 250.15(a)
    e. Resolution of all program review and audit findings. (7 CFR 210.18(i) and 210.18(k)(1)(2))

7. **Submit monthly claim for reimbursement** 7 CFR 210.8(a); 7 CFR 210.16(a)(5).
    a. TDA Food and Nutrition Division approves only SFA personnel access to the system which also represents secure signature authority for applications and claims.
    b. Review to ensure accuracy of lunch counts prior to the claim submission.
    c. Edit check worksheets that compare daily lunch counts by eligibility category. Free and reduced-price meals may not be claimed in excess of the number of students approved for such benefits.

8. **Free and Reduced-Price Meal Process** 7 CFR 245.6
    a. Develop, distribute, and collect parent letters and applications for free/reduced-price meals & free milk
    b. Determination and verification of applications for free/reduced-price meals or free milk
    c. Conduct any hearings related to such determinations.

9. **USDA donated foods** 7 CFR 210.9(b)(13) (formerly Commodities)
    a. Monitor that the maximum amount is received and used by the FSMC in the SFA food service.
    b. Monitor that the FSMC credits SFA at least annually for all USDA Donated foods.

10. **À la carte food service**: 7 CFR 210.16(a) The SFA must also offer free, reduced price, and full price reimbursable meals to all eligible children to operate an à la carte food service.

I acknowledge that these responsibilities cannot be delegated to the FSMC and must remain the sole responsibility of the SFA.

Printed Name of SFA Authorized Representative: Allison Byrd Title Director of Finance

FSMC Representative: _____ Title_____

Signature: FSMC Representative _____ Date_____

Exhibit R: Debarment Certification

CERTIFICATION
REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS

DEFINITIONS

Covered Contracts/Subcontract
(1) Any nonprocurement transaction which involves federal funds (regardless of amount), including such arrangements as a sub-grant, for example, between TDA and another entity or the Contracting Entity and another entity.

(2) Any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed the federal procurement small purchase threshold fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 3305 (currently $50,000) under a grant or sub-grant.

(3) Any procurement contract for goods or services between a participant and a person under a covered grant, sub-grant, contract or subcontract, regardless of amount, under which that person will have a critical influence on or substantive control over that covered transaction, including

a. Consultant.
b. Principal investigators.
c. Providers of audit services required by the TDA or federal funding source.
d. Researchers.

Debarment - An action taken by a debarring official in accordance with 2 CFR Part 417, 48 CFR Part 1, or equivalent federal regulations, to exclude a person from participating in covered contracts. A person so excluded is “debarred”.

Grant - An award of financial assistance, including cooperative agreements, or contracts or subcontracts for goods or services entered into to carry out an award of financial assistance. A grant may be in the form of money, or property in lieu of money, to an eligible grantee, sub-grantee or sub-recipient.

Ineligible - a person that is prohibited from entering into a covered contract or subcontract because of an exclusion or disqualification.

Participant - any person who submits a proposal for or who enters into a covered contract or subcontract, including an agent or representative of a participant.

Person - Any individual, corporation, partnership, association, unit of government, or legal entity, however organized.

Principal - An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with Federal funds, who— (i) is in a position to handle Federal funds, or (ii) is in a position to influence or control the use of those funds, or (iii) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

Proposal - A solicited or unsolicited bid, application, request, invitation to consider or similar communication by or on behalf of a person seeking to receive a covered contract.

Suspension - An action taken by a suspending official in accordance with 2 CFR Part 471, 48 CFR Part 1, or equivalent federal regulations that immediately excludes a person from participating in covered contracts for a temporary period, pending completion of an investigation and any judicial or administrative proceedings that may ensue. A person so excluded is "suspended".

Voluntary exclusion - A status of nonparticipation or limited participation in a covered contract or subcontract assumed by a person under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have government wide effect.

Voluntarily excluded - The status of a person who has agreed to a voluntary exclusion.

CERTIFICATION
REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS

Name of Business (Contractor)	**Vendor ID No. or Social Security No.**

(1) The prospective contractor 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 contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this proposal.

Signature of Contractor Representative	Date
Printed/Typed Name of Contractor Representative	Printed/Typed Title of Contractor Representative