

**School District and Charter School Procedures to Contract with a Food Service Management Company (FSMC)
Colorado Department of Education (CDE) Office of School Nutrition**

A. Planning and Preparation

1. Rules and Regulations: School district and Charter schools that are School Food Authorities (SFA) and interested in contracting with a food service management company must comply with regulations and procedures for contracting with FSMCs. Regulations include the National School Lunch Act, the Child Nutrition Act of 1966, 7 CFR Part 210.16; 210.19; 210.21; 250 3016; 1 CCR 301-3, 2202-R-208.00 the Colorado RFP and Contract procedures and all applicable federal, state and local regulations.
2. Schedule: Due to the complexity of the process and federal oversight (USDA and OIG), schedule sufficient time for preparation and CDE approval of the documents (See timeline below)
3. Evaluate: The SFA’s decision process to privatize food service or remain a self-operated program should include an evaluation of the current food service operation, including:
 - a. Financial Analysis - Profit/Loss over the last five years;
 - b. Costs - Food costs, labor costs, direct costs and food service director cost;
 - c. Operational considerations -Facilities, equipment and food service staff;
 - d. Estimated administrative/management fees;
 - e. Non-delegable duties: Responsibilities that the SFA may not delegate, even though a food service management company operates the SFA’s food service. (see attached list)
 - f. Other internal and external factors, such as public opinion, employee and vendor relations.

B. New Bid or Re-Bid Timeline and Procedures

SFAs considering contracting with a food service management company (FSMC) must follow the procedures below that apply to the Request for Proposal (RFP) and Contract and renewal amendments.

Schedule	Action Steps	Comments
November to January	SFA contacts CDE for RFP packet and FSMC contract documents	<ol style="list-style-type: none"> 1. If SFA plans to contract with a FSMC for the first time, notify the (CDE) Nutrition Unit as soon as possible. 2. CDE will provide SFA with information about procedures and requirements.
January to February	SFA develops draft RFP using CDE prototype	<ol style="list-style-type: none"> 1. SFA must use the (RFP) and Contract provided by CDE’s Nutrition Unit. Changes are <u>not</u> permitted. 2. FSMCs may not assist in drafting or developing a RFP if they will respond to that RFP
February to March	<ol style="list-style-type: none"> 1. SFA issues RFP to all registered vendors 2. SFA advertises RFP in a media source covering their area for no less than 14 days. 	<ol style="list-style-type: none"> 1. SFA sends approved RFP to each company on CDE’s Approved Vendor List <u>before</u> advertising the RFP. 2. SFA advertises its RFP and Contract (7 CFR § 3016.36(c)(d)) for no less than 14 days in a publication of general circulation covering the area served by the SFA. 3. SFAs may only accept proposals from companies registered with CDE.
March to April	<ol style="list-style-type: none"> 1. Walk-throughs of the SFA’s facilities are conducted and attended by interested bidders. 2. Pre-proposal- conferences and vendor presentations are 	<ol style="list-style-type: none"> 1. A minimum of 45 days is required from the time proposals are solicited to the time they are due. 2. SFA conducts a pre-proposal conference two weeks after the date of the last advertisement. 3. All offerors must be invited to the pre-proposal conference.

	<p>scheduled by each SFA as either a requirement or option of the RFP process.</p> <p>3. CDE representative may be asked to be present (especially for first time SFA contracts)</p>	<p>4. SFA must respond in writing to all questions asked and provide a copy of all questions and answers to all offerors.</p> <p>5. If additional information is requested at the pre-proposal conference or if the RFP is amended by questions or requests from the pre-proposal conference, then additional time should be provided to allow vendors to develop a responsive proposal.</p> <p>6. SFA must also provide a copy of all correspondence to CDE's Nutrition Unit.</p> <p>7. If only one FSMC responds to the public advertisement, the SFA may conduct a walk-through of the facility instead of a pre-proposal conference.</p>
<p>April to May</p>	<p>1. FSMC responses are publicly opened by each SFA at the specified date and time.</p> <p>2. The SFA evaluates and scores each response</p> <p>3. The SFA's submits selected FSMC response to CDE for required pre award review</p> <p>4. CDE reviews the response to assure compliance with procurement regulations</p>	<p>1. SFA must use the Colorado Request for Proposal and Contract.</p> <p>2. SFA's legal counsel should review and approve the contract.</p> <p>3. SFAs should have adequate time to make a decision and execute the contracts for the upcoming year.</p> <p>4. SFAs may elect at any time to stop the process.</p> <p>5. The selected FSMC cannot participate with the SFA in writing contract language, terms or conditions. Any FSMC employee that drafts or writes contract terms or language would cause the contract to be voided and resubmitted to competitive procurement.</p>
<p>May to June</p>	<p>1. SFA submits contract package to CDE for approval</p> <p>2. CDE approves contract package and the SFA is informed that they may award a contract.</p> <p>3. A signed contract must be submitted to CDE.</p>	<p>1. SFA submits the following contract documents for approval by May 21st to CDE Nutrition Unit:</p> <ul style="list-style-type: none"> a. Completed CDE New Contract Checklist as cover sheet b. Final copy of the RFP and Contract c. Any documents related to the food service contract. <p>2. CDE approves the contract before it is signed by SFA and FSMC.</p> <p>3. SFA and FSMC may not begin operations before:</p> <ul style="list-style-type: none"> a. Contract approval by CDE b. Date the contract is signed. <p>4. NOTE: <u>If the RFP and/or Contract is altered without prior CDE approval, it is considered an unapproved contract and the SFA may not use child nutrition funds to pay the FSMC</u></p>

C. Shared Food Service Directors, Staff or Services between SFAs

1. If the FSMC food service director, staff or services are to be shared with another SFA under contract with the FSMC, the specific costs, salaries, all benefits, and time allocations between SFAs must be stated in the RFP for each SFA in each contract.
2. If the procurement periods for each SFA do not coincide, then an amendment for the SFA not in the procurement year may be necessary.

3. If there is a substantive change in the value of the contract of the SFA not in the procurement year, that SFA will also need to enter into a new procurement process for their contract.
4. **These requirements cannot be waived.**
5. Any variation from these procedures must be approved by CDE before implementation by SFA.

D. FSMC Renewals

1. **By May 15 of each year** of the remaining four years, the SFA must notify CDE of the intent to renew the contract by submitting the following required renewal documents to CDE for approval.
 - a. All renewal forms at <http://www.cde.state.co.us/nutrition/nutrifsmc>
 - b. A completed FSMC Renewal Packet and associated required documents
 - c. Copy of any amendments, subcontracts, letter agreements, or any other documents related to the contract for food service management;

E. Non Renewal:

- a. If the SFA elects not to renew the contract, the SFA must adhere to procedures and timelines outlined for new contracts.
- b. If the SFA elects to return to a self-operated program, notify CDE.

F. If you have any questions please contact:

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Responsibilities that a School Food Authority (SFA) may NOT delegate to a Food Service Management Company (FSMC)

Each SFA is legally responsible for the conduct of the school food service program to ensure compliance with the rules and regulations of the CDE-Nutrition Unit and the USDA.

The following summarizes responsibilities that the SFA must complete and **may not delegate** to the FSMC:

1. **On-site inspections:**
 - a. Monitor the food service operation through 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.
3. **Advisory board:** establish and include parents, staff and students to assist in menu planning.
4. **Health certification:** 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:** for food items served under the nonprofit school food service account (e.g., reimbursable meals, a la carte service, and adult meals).
6. **Retain signature authority** on:
 - a. Application/agreement to participate in the Child Nutrition Programs including
 - b. Free and reduced price policy statement; and
 - c. On-line claim system.
 - d. Contractual agreements with the school nutrition program i.e., vending meals to other SFAs, etc. and any commodity processing contracts
 - e. Resolution of all program review and audit findings.
7. **Monthly claim for reimbursement**
 - a. Review to ensure accuracy of lunch counts prior to the claim submission.
 - b. 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**
 - a. Develop, distribute and collect the parent letter and application for free and reduced price meals and 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** (Commodities)
 - a. Monitor that the maximum amount are received and used by the FSMC in the SFA food service.
 - b. Monitor that FSMC credits SFA at least annually for all USDA Donated foods.
10. **A la carte food service:** the SFA must also offer free, reduced price and full price reimbursable meals to all eligible children in order to operate an ala carte food service.