

**CHILD NUTRITION PROGRAMS
FOOD SERVICE MANAGEMENT COMPANY
OSKALOOSA CSD SCHOOL FOOD AUTHORITY**

2021 REQUEST FOR PROPOSAL & FIXED-PRICE CONTRACT

Bureau of Nutrition & Health Services

Bureau of Nutrition & Health Services of the Iowa Department of Education

Grimes State Office Building

400 East 14th Street

Des Moines, IA 50319-0146

Phone (515) 281-5356

Fax (515) 242-5988

Website: <https://www.educateiowa.gov/pk-12/nutrition-programs>

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 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.

It is the policy of the Bureau of Nutrition & Health Services of the Iowa Department of Education not to discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, disability, or religion in its programs, activities, or employment practices as required by the Iowa Code section 216.7. If you have questions or grievances related to compliance with this policy by (Name of CNP Provider), please contact the Iowa Civil Rights Commission, Grimes State Office Building, 400 E. 14th St., Des Moines, IA 50319-1004; phone -281-4121, 800-457-4416; website: <http://www.state.ia.us/government/crc/index.html>.”

Request for Proposal Checklist

A "No" response to any checklist item will result in the FSMC proposal being rejected in its entirety.

CNP FSMC RFP and Fixed Price Contract	Yes	No	N/A	Comments
Vendor Proposal Response Evaluation Checklist				
Proposal Accepted				ex: proposal received after specified time
Cut-off score				
Proposal received on or before deadline - (3:00PM, Tuesday, April 21, 2020) as indicated II.B; II.E.				
Vendor entered responses directly onto the RFP even if the response is also submitted in other documents.				
Vendor attended the pre-proposal meeting and/or vendor presentations, if required II.D.(1-4)				
All addendums (Pre-proposal meeting, etc.) to RFP were signed by FSMC and returned with RFP				
Vendor submitted requested number of copies of sealed RFP proposal and all copies are identical. II.E.(2)				
Vendor submitted all FSMC Exhibits, attachments, certified financial statements, and other documents and materials requested in the RFP				
If requested, a bid bond or certified check was included in the amount(s) indicated III.E.(5)(d) and III.O.(5)(a-b)				
If indicated in the RFP, the FSMC submitted 21-day cycle menu(s)				
Vendor entered their fee proposal and guarantee proposal in III.J.(8)				
Vendor indicated # of days for submission of invoice, monthly statement, and participation in III.J.(9) and III.K.(1)(a)(I and ii)				
Proposal was signed by individual authorized to legally bind the Vendor. IV-Agreement				
All attachments are referenced in all Proposal documents submitted				

Five Year Plan for Participation in Child Nutrition Programs

Please check the appropriate column for each CN Program. If you have definite plans to begin or end participation in any of these programs, please indicate that information in the comments column. *Adding programs that are not included in the RFP after contracting with a FSMC may be considered a material change and may result in the SFA being required to issue a new RFP.*

Program	Participate and plan to continue	Do not currently participate but may begin within five years	Do not currently participate and have no plans to begin	Comments
National School Lunch, NSLP	X			
School Breakfast, SBP	X			
Special Milk, SMP			X	Only for students who do not have access to SBP and NSLP.
*Fresh Fruit Vegetable, FFVP- <i>plan to apply</i>		X		*Grant program based on at least 50% of students eligible for free and reduced price meals at a school site.
Summer Food Service, SFSP		X		SFA intends to manage program in 2020 for FSMC to manage in 2021
Afterschool Care Snack, ACSP			X	
Child & Adult Care Food, CACFP			X	

Note: Be sure to include 21-day cycle menus, as indicated in Exhibit B, for all programs that you currently participate in or definitely plan to participate in.

REQUEST FOR PROPOSAL AND FIXED PRICE CONTRACT INDEX

I. INTRODUCTION	1
II. REQUEST FOR PROPOSAL/INSTRUCTIONS	1
A. Legal Notice	1
B. Request for Proposal	1
C. Procurement Method	2
D. Pre-Proposal Meeting / Timeline	2
E. Proposal Submission and Award	2
F. Late Proposals	5
G. Altering, Amending or Withdrawing Proposal.....	5
H. Protest Procedures.....	5
I. Calculation of Time.....	5
J. Firm Offer.....	5
K. Final Contract.....	5
III. STANDARD TERMS AND CONDITIONS	5
A. Definitions.....	5
B. Scope and Purpose	7
C. Food Service	10
D. Use of Advisory Group/Menus.....	12
E. Purchases	12
F. USDA Foods	14
G. Employees.....	14
H. Use of Facilities, Inventory, Equipment, and Storage	14
I. Health Certifications/Food Safety/Sanitation	18
J. Financial Terms	18
K. Books and Records	21
L. Term and Termination.....	21
M. Insurance.....	22
N. Trade Secrets and Proprietary Information	22
O. Summer Food Service Program.....	23
P. Optional Services to Be Included	26
Q. Certifications.....	26
R. Miscellaneous.....	26
IV. AGREEMENT	30
LIST OF RFP EXHIBITS AND APPENDICES	31
APPENDIX 1: HHFKA DIETARY GUIDELINES & 21-DAY MENU CYCLES	32
APPENDIX 2: PURCHASING SPECIFICATIONS	33
APPENDIX 3: INFORMATION REQUIRED ON INVOICE	34
APPENDIX 4: SCHEDULE OF APPLICABLE LAWS	35
APPENDIX 5: EVALUATION RUBRIC, EXAMPLE	37
APPENDIX 6: FSMC CONTACT INFORMATION	38

EXHIBITS A THROUGH K AND NONDELEGATABLE DUTIES, DEBARMENT, INDEPENDENT PRICE DETERMINATION, LOBBYING, AND ALLOWABLE-UNALLOWABLE EXPENSES FORMS ARE ATTACHED AS EXCEL WORKBOOK TITLED "FIXED PRICE EXHIBITS, SFA-FSMC"

I. INTRODUCTION

This document contains a **Request for Proposal** for providing food service management services for Oskaloosa Community School District School Food Authority's (SFA) participation in the United States Department of Agriculture's (USDA) Child Nutrition Programs (CNP) and sets forth the terms and conditions applicable to the proposed procurement. Upon acceptance, this document shall constitute the contract between the FSMC and the School Food Authority.

The SFA has full responsibility for ensuring that the terms of the contract are fulfilled. The Bureau of Nutrition & Health Services of the Iowa Department of Education (BNHS) is never a party to any contract between a SFA and a food service management company (FSMC). BNHS has no involvement with the enforcement of this contract; however, payment can be denied for all meals received/purchased under an invalid contract.

II. REQUEST FOR PROPOSAL / INSTRUCTIONS

II. A. Legal Notice

Notice is hereby given that Oskaloosa Community School District School Food Authority, 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 SFA intends to enter into a contract with any party for alternative food service unless, in the sole opinion of SFA, it is in SFA's best interest to do so.

All costs involved in submitting a response to this Request for Proposal (RFP) shall be borne in full by the interested party.

SFA reserves the right to accept any proposal which it determines most favorable to the interest of SFA and to reject any or all proposals or any portion of any proposal submitted which, in SFA's opinion, is not in the best interest of SFA.

The Offeror to this RFP will be referred to as the FSMC, and any contract that may arise from this Request for Proposal (RFP) will be between the FSMC and the SFA.

II. B. Request for Proposal

1. SFA will consider a Fixed-Price Proposal
2. Proposals will be received until 3:00PM CDT on **April 21, 2020**, for supplying Oskaloosa CSD SFA with food service management services during the school year of 2020 – 2021, (SY 2021) with options for renewal of the contract for four additional terms of one year each.
3. Sealed proposals are subject to all the conditions and specifications attached hereto and will be received in the office of the Oskaloosa Community School District, 1800 North 3rd Street, Oskaloosa, Iowa and shall be marked on the envelope "*Food Service Management Proposal, # 2020-01*" with the FSMC's return address marked on the envelope.
4. In accepting proposals, Oskaloosa CSD SFA reserves the right to reject any and all proposals and to waive any minor informality in order to take the action which it deems to be in the best interest of SFA.
5. Additional information requested by any FSMC to adequately respond to this Request for Proposal must be submitted in writing to the SFA. Both the question(s) and response(s) will be submitted to all FSMCs that have requested the RFP.
6. FSMCs must submit a complete response to this Request for Proposal (RFP), including all certifications, for consideration as a responsive proposal.
7. Contracts entered into on a basis of submitted proposals are revocable if contrary to law.
8. See Standard Terms and Conditions herein below.

II. C. Procurement Method 7 CFR 210.21

1. Procurement Method will be the Competitive Sealed Proposal for a firm, fixed price contract with price adjustment as indicated in III.J.(6)(b). Competitive Sealed Proposals differ from the traditional sealed bid method in the following ways:
 - a. The BNHS *Fixed Price RFP & Contract* Prototype is required for proposals
 - b. Competitive sealed proposals allow discussions with competing FSMCs and adjustments to the initial proposal.
 - c. Comparative judgmental evaluations may be made when selecting among acceptable proposals for award of contract.
2. Discussions for the purpose of clarification may be conducted with responsible FSMCs who submit proposals determined to be considered for award selection, to assure full understanding of all terms and conditions of the RFP response and Contract requirements following state regulations and SFA policy.
3. In conducting these discussions, there shall be no disclosure of any information derived from proposals submitted by competing FSMCs.
4. All procurement transactions shall be conducted in a manner that provides maximum open and free competition consistent with 7 CFR § 200.319(a).
5. Procurement must be conducted so that there is no apparent or real conflict of interest. Disciplinary actions will apply for violations. 2 CFR 200.318(c)(1-2).

II. D. Pre-Proposal Meeting / Timeline

A meeting with interested FSMCs to clarify the specifications, to answer any questions, and for a walkthrough of the facilities with school officials will be at

1. Location, Date, Time: 1800 North 3rd Street, Oskaloosa, Iowa, Monday, March 30, 2020, at 10:00AM CDT
2. Attendance is required. **Note:** If attendance is mandatory, SFA may not waive requirement for any FSMC.
3. Document meeting with sign-in sheet. Summarize all information shared, questions asked, and answers provided. Send the information as a numbered addendum(s) of this RFP to all interested parties. The addendum(s) must be signed by FSMCs and returned as part of the RFP/Contract.
4. Vendor presentations will not be scheduled at this time.

II. E. Proposal Submission and Award

1. SFA must use this prototype Request for Proposal and Contract. SFAs not complying with required procurement procedures will not be approved for reimbursement of meals for USDA Child Nutrition programs. The SFA must submit this RFP to at least three of the FSMCs listed in RFP Appendix 6. However, BNHS strongly recommends submitting the RFP to all FSMCs listed plus any other companies the SFA may be aware of to ensure the most competitive procurement process.
2. Five copies of Competitive Sealed Proposals are to be submitted to:

Name of SFA/Contact: Chad M. Vink, SBO, Oskaloosa CSD
Mailing Address: 1800 North 3rd Street
Physical Address:
City: Oskaloosa
State/Zip: IA 50219

3. Proposal deadline is:
 - a. Time 3:00 PM CDT Proposals will not be accepted after this time.
 - b. Date Tuesday, April 21, 2020
 - c. Location 1800 North 3rd Street, Oskaloosa, Iowa
 - d. Sealed Proposal submitted marked "Food Service Management Proposal, # 2020-01."
4. To be considered, each FSMC must submit a complete response to this solicitation **using the forms provided.**
 - a. No other documents submitted with the RFP and Exhibits will affect the Contract provisions, and **there may be no modifications to the RFP language without BNHS approval.**
 - b. In the event that FSMC modifies, revises, or changes the RFP prototype in any manner, SFA must reject the offer as non-responsive.
 - c. Section P offers SFA the opportunity to include any additional/needed services.
5. Award will be made only to a qualified and responsible FSMC whose proposal is responsive to this solicitation.
 - a. A responsible FSMC is one who's financial, technical, and other resources indicate an ability to perform the services required.
 - b. FSMC shall submit for consideration such records of work and further evidence as may be required by the SFA's Board of Trustees.
 - c. Failure to furnish such records and evidence, 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.
 - d. The qualification data shall be submitted by each FSMC along with the sealed proposal, and shall include the following:
 - i. A bid bond or certified check in the amount of **\$50,000** to show good faith must be enclosed.
 - ii. Annual reports or financial statements for the past three (3) years, certified by a licensed public accountant, must be included in the pre-qualification data.
 - iii. Information that FSMC is doing business with like school systems and is familiar with the regulations pertaining to operations in such environments, if applicable.
 - iv. Information that FSMC is presently operating a comparable, successful school lunch and breakfast program in a public school setting, if applicable.
6. FSMCs or their authorized representatives must fully inform themselves as to the conditions, requirements, and specifications before submitting proposals; failure to do so will be at the FSMC's own risk who cannot secure relief on plea of error.
7. The SFA is not liable for any cost incurred by the FSMC in submitting a proposal. **Paying the FSMC from Child Nutrition Program (CNP) funds is prohibited until the Contract is reviewed and accepted by BNHS and signed by the SFA.**

8. If additional information is requested, please contact Chad Vink in writing at vinkc@oskycsd.org. Any additional information provided to one FSMC will be available to all.
9. Award Criteria: *(see Evaluation Rubric in RFP Exhibits and Table example in RFP Appendix 5)*
 - a. All proposals are to be safeguarded by the SFA. Each SFA committee member will score the proposals **independently** before the committee identifies the most advantageous response.
 - b. Proposals will be evaluated by the 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).
 - c. Committee members must consist of SFA employees familiar with the regulations and requirements of the child nutrition programs.
 - d. If a committee member is an agent for, employee of or in any manner associated with a FSMC, that FSMC may not participate in the RFP and subsequent contract.
 - e. Each area of the award criteria must be addressed in detail in the Proposal.
 - f. The FSMCs will be notified **after** all responses have been scored as to the status of their proposals.
 - g. Any request for information from any of the proposals must be evaluated by the SFA for compliance with Freedom of Information requirements. However, no information is released until after the award is made.
10. Weight Evaluation Criteria: The BNHS provided "Evaluation Rubric" located in Appendix 5 must be used to evaluate the proposals submitted by FSMCs in order to establish a quantitative score based on the selection criteria in the table. The SFA may make changes to the Evaluation Rubric and may also add additional evaluative documents. **The completed Evaluation Rubric and any supporting documentation must be submitted to the BNHS before the award is considered final.** The RFP must establish a level playing field for all companies that submit proposals. All possible sources of revenue for the contract period must be included, including extensions of the contract. The RFP is the defining document for the contract that will be prepared once an awardee is identified.
 - a. SFA must determine *in advance of issuing the RFP* what percentage (total of 100 points which equals 100%) each category in the Evaluation Rubric will be given when comparing proposals. (See example in RFP Appendix 5)
 - b. SFA may amend, delete, or add additional categories subject to BNHS pre-approval.
 - c. SFA may not include as a category: prior experience with the SFA as it would violate USDA's free and open competition regulation for procurement.
 - d. The criteria for cost (fixed price amount) must be worth more points than any other single criteria on the Evaluation Rubric.
 - e. Other forms, such as rubrics, may be used in addition to the Evaluation Rubric. They must be pre-approved by BNHS and included in the RFP solicitation.
 - f. A cut-off score must be set by the SFA and included on the Evaluation Rubric. FSMC proposals that score under the cut-off score will not be considered for a contract and must be notified in writing.

II. F. Late Proposals

Any proposal submitted after the time specified for receipt will not be considered and will be returned unopened.

II. G. Altering, Amending or Withdrawing Proposal

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

II. H. Protest Procedures

The SFA is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. The SFA must have a written policy or procedure for resolving protests which will be attached as part of Exhibit J-SFA Policies Impacting the Food Service Program.

II. I. Calculation of Time

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

II. J. Firm Offer

1. By submitting a response to this Request for Proposal, and if such response is not withdrawn prior to the time for opening proposals arrives, FSMC understands and agrees that they are making a firm offer to enter into a contract, which may be accepted by SFA and which will result in a binding contract.
2. Such proposal is irrevocable for period of ninety (90) days after the time for opening of proposal has passed. _____ **(FSMC must initial and date to show agreement)**

II. K. Final Contract

The complete contract includes all documents included by the SFA in the RFP, and all documents submitted by the FSMC that have been mutually agreed upon by both parties (i.e. worksheets, attachments, and operating cost sheets) and identified in Section R, paragraph 4 of the Standard Terms and Conditions.

III. STANDARD TERMS AND CONDITIONS

III. A. Definitions

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

1. "Accounting Periods" means each month. *indicate specific period of time (e.g., each month) to be determined by contracting parties.*
2. Allowable Cost" means costs that are allowable under 2 CFR Part 225, "Cost Principles for States, Local Governments, and Indian Tribes," 2 CFR Part 220, "Cost Principles for Educational Institutions," and 2 CFR Part 230, "Cost Principles for Non-Profit Organizations," as applicable, and their Attachments, and 7 CFR Part 200.317-326, as applicable.
3. "Applicable Credit" " means the meaning established in 2 CFR Part 225, Appendix A, Section C(4), and 2 CFR Part 230, Appendix A, Section A(5), respectively.
4. "Charge" means any charge for an Allowable Cost that is:
 - a. Incurred by FSMC in providing the goods and services that are identified in SFA's Food Service Budget;
 - b. Not provided for in the General and Administrative Expense Fee; and
 - c. Established and reasonably allocated to SFA in accordance with the Methodology for Allocated Costs, which is attached to this Contract as "Exhibit F", and fully incorporated herein by reference.
5. "Contract" means this RFP and Contract, the exhibits attached to this RFP and Contract and FSMC's Proposal.
6. "Cost-reimbursable" contract means a contract that provides for payment of incurred costs to the extent prescribed in the contract, with or without a fixed fee.
7. "BNHS" means the Bureau of Nutrition & Health Services of the Iowa Department of Education.
8. "Direct Cost" means any Allowable Cost that is:
 - a. Incurred by FSMC in providing the goods and services that are identified in SFA's Food Service Budget; and
 - b. Reasonably necessary in order for FSMC to perform the Services hereunder. The term "Direct Cost" does not include any cost allocated to SFA as Charges, the General and Administrative Expense Fee, or any Management Fees.
9. "Effective Date" means **July 1, 2020**. All Iowa FSMC contracts begin July 1.
10. "Fixed Fee" means an agreed upon amount that is fixed at the inception of the Contract. In a cost reimbursable contract, the fixed fee includes the contractor's direct and indirect administrative costs and profit allocable to the Contract.
11. "Fixed-Price" contract means price that is fixed at the inception of a contract and is guaranteed for a specific period of time. A fixed-price contract may also contain an economic cost adjustment provision tied to a standard index.
12. "FSMC's Proposal" means Food Service Management Company's response to the RFP and Contract.
13. "Meal Equivalents" are used to determine payment to the FSMC for non-program food such as adult meals, milk sales, a la carte, catering, etc., as well as other reimbursable (SBP, SFSP, ACS, SMP) meals when a separate price is not proposed for meals other than NSLP. The other meals and non-program sales are converted into Meal Equivalents using the meal equivalency formula indicated in Financial Terms, III.J.5(g). The meal equivalency factor and meal equivalency formula shall remain fixed for the term of the Contract and all renewals.

14. "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.
15. "Program(s)" or "Child Nutrition Program (CNPs)" means the USDA Child Nutrition Programs in which SFA participates.
16. "Program Funds" means all funds that are required to be deposited into the Non-profit School Food Service Account.
17. "Proposal" means Food Service Management Company's response to the RFP and Contract.
18. "RFP" means SFA's Request for Proposal and Contract, and all of its attachments.
19. "Services" means the services and responsibilities of FSMC as described in this Contract, including any additional services described in Section P of this Contract.
20. "SFA" or "School Food Authority" as defined in 7CFR § 210.2.
21. "SFA's Food Service Budget" means the Food Service Budget for the Current School Year, which is attached to this Contract as "Exhibit F" and fully incorporated herein.
22. "SFA's Food Service Facilities" means areas, improvements, personal property and facilities made available by SFA to FSMC for the provision of the food services as described herein.
23. "SFA's Food Service Program" means the preparation and service of food to SFA's students, staff, employees and authorized visitors, including the following programs: *National School Lunch Program (NSLP)*, *School Breakfast Program (SBP)*, *After School Care Snack Program (ACSP)*, *Summer Food Service Program (SFSP)*, *Fresh Fruit and Vegetable Program (FFVP)*, and *a la carte food service*.
24. "SFA's Food Service Location(s)" means the schools or other locations where Program meals are served to SFA's schoolchildren.
25. "Summer Food Service Program (SFSP)" means either the Summer Food Service Program or the Seamless Summer Option identified herein, and in which SFA participates.
26. "USDA" means United States Department of Agriculture, Food and Nutrition Service.

III. B. Scope and Purpose

1. Duration of Contract. Unless it is terminated in accordance with Section L, this Contract will be in effect for a period of one year **commencing July 1, 2020, and terminating June 30, 2021**, and may be renewed for up to four additional terms of one year each upon mutual agreement between SFA and FSMC. 7 CFR 210.16(d)
2. During the term of this Contract, FSMC shall operate SFA's Food Service Program in conformance with SFA's agreement with the BNHS Office of School Nutrition. 7 CFR 210.16(a)(2)
3. FSMC shall have the exclusive right to operate the programs specified by SFA in Exhibit A: Site Information, which is attached to this Contract and fully incorporated herein.
4. The FSMC shall
 - a. Be an independent contractor and not an employee of the SFA. The employees of the FSMC are not employees of the SFA.
 - b. Implement an accurate point of service count using the counting system provided by SFA in its application to participate in the Child Nutrition Programs and approved by BNHS for the programs listed in Exhibit A: Site Information, herein, as required under USDA regulations. Counting system must eliminate the potential for the overt identification of free and reduced-price eligible students under USDA Regulation 7 CFR §245.8.

- c. Operate SFA's Food Service Program and shall include performance by FSMC of all the Services, described in this Contract, for the benefit of SFA's students, faculty and staff.
 - d. Maintain all records necessary, in accordance with applicable regulations, for SFA, BNHS and USDA to complete required monitoring activities and must make said records available to SFA, BNHS, and USDA upon request for the purpose of auditing, examination and review. 7 CFR § 210.16(c)(1)
 - e. Cooperate with SFA in promoting nutrition education, health and wellness policies and coordinating SFA's Food Service Program with classroom instruction.
 - f. Comply with applicable federal, state and local laws, rules and regulations, policies, and instructions of BNHS and USDA and any additions or amendments thereto, including USDA Regulation 7 CFR Parts 210, 220, 245, 250, 2 CFR 200.318-200.326; 7 CFR Part 215 (SMP), if applicable; and 7 CFR Part 225 (SFSP), if applicable; 7 CFR Part 226 (CACFP); Section 19 of the NSLP Act (FFVP); and OMB Circulars, and the other laws described in the "Schedule of Applicable Laws," which is attached to this Contract as "RFP Appendix 4" and fully incorporated herein by reference.
 - g. Comply with all SFA building rules and regulations.
 - h. Provide additional food service such as banquets, parties, and refreshments for meetings as requested by SFA as follows:
 - i. SFA or requesting organization will be billed for the actual cost of food, supplies, labor, and FSMC's overhead and administrative expenses if applicable to providing such service.
 - ii. USDA Foods shall not be used for these special functions unless SFA's students will be primary beneficiaries.
5. SFA shall be responsible for:
- a. Signature authority for the application/contract, free and reduced price policy statement, and Programs indicated in Exhibit A: Site Information, herein, and the monthly claim for reimbursement. 7 CFR §210.9(a) and (b) and 7 CFR §210.16(a)(5)
 - b. Development and distribution of the parent letter and Application for Free and Reduced-Price Meals and/or Free Milk and participating in Direct Certification.
 - c. Implementation of eligibility for free or reduced-price policy for meals and free milk, as applicable, in accordance with 7 CFR Part 245.
 - d. Conducting any hearings related to determinations
 - e. Verification of applications for Free and Reduced-Price Meals as required by USDA regulations
 - f. Establishment and maintenance of the free and reduced-price meals' eligibility roster. 7 CFR § 210.7(c), 7 CFR § 210.9(b) (18) and 7 CFR § 245.6(e)
 - g. Ensure the FSMC conducts the SFA's Child Nutrition Programs' operations in accordance with regulations.
 - h. Supervision of 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 BNHS and USDA regarding the Child Nutrition Programs.
 - i. Establishing all selling prices, including price adjustments, for all reimbursable and non-reimbursable meals/milk and a la carte (including vending, adult meals, contract meals, and catering) prices. (Exception: Non-pricing programs need not establish a selling price for reimbursable meals/milk.)

- j. Control of the Non-profit School Food Service Account and overall financial responsibility for SFA's Food Service Program.
 - k. Ensuring the resolution of Program reviews and audit findings. FSMC shall fully cooperate with SFA in resolving review and audit issues. 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.
 - l. Monitoring 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)
 - m. Conducting 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 there is more than one SFA Food Service Location.
 - n. The counting and claiming system. 7 CFR § 210.8(a)(1)
6. SFA and FSMC agree that this Contract is neither a *cost-plus-a-percentage-of-income* nor a *cost-plus-a-percentage-of-cost contract*, and that this contract does not allow income and expenses to accrue to the FSMC. 7 CFR §210.16(c).
 7. Payments on any claim shall not preclude SFA from making a claim for adjustment on any item found not to have been in accordance with the provisions of this Contract and bid specifications.
 8. SFA may request of FSMC additional food service programs; however, 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. Any food and beverages must meet the USDA 2010 HHFKA Smart Snacks and the Iowa Healthy Kids Act.
 9. Any change to the scope of services to be provided by FSMC that is beyond the scope or original intent of this RFP/Contract, including the addition of a program such as breakfast (SBP) or summer food (SFSP), *may* be considered a material change. The SFA must evaluate the total cost and scope of the change to the existing contract and determine if a material change would occur. The SA must be notified of the determination, provided documentation, and give final approval before the change may be implemented. If the change to the contract is considered a material change, the contract must be rebid.
 10. 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.
 11. 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. (7CFR 200.317-200.326) 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.
 12. Summer Food Service Program: In the event that the RFP requires FSMC to provide management services for SFA's SFSP or Seamless Summer option (SSO), the parties agree to operate the Program according to federal, state, and local regulations.
 13. Fresh Fruit and Vegetable Program (FFVP): In the event that FSMC provides management services for the FFVP at any of SFA's Food Service Locations, SFA and FSMC agree to 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. SFA and FSMC further agree that not more than 10% of the total funds awarded to the school and/or schools for operation of the FFVP may be used for administrative expenses.

III. C. Food Service

1. FSMC shall:
 - a. Serve meals on such days and at such times as requested by the SFA.
 - b. Offer free, reduced-price, and full-price reimbursable meals to all eligible children participating in SFA's Food Service Programs indicated herein.
 - c. In order to offer a la carte food service, offer free, reduced-price, and full-price reimbursable meals to all eligible children.
 - d. Promote maximum participation in all Child Nutrition Programs.
 - e. Provide specified types of service in the schools/sites listed in Exhibit A.
 - f. Sell on the premises only those foods and beverages authorized by the SFA and only at the times and places designated by the SFA.
 - g. Support the SFA's compliance with the 2010 Healthy Hunger Free Kids Act Reauthorization (HHFKA) including, but not limited to:
 - i. Provide meals that meet the meal pattern(s) as required by the HHFKA and implementation schedule, including but not limited to requirements for components, whole grains, calories, sodium, trans-fats, saturated fats, and milk fat and variety. (See RFP Appendix 1 and 7 CFR 210.10, 220.8, 250.61-62, 226.17(a))
 - ii. Plan menus and serve meals that meet the required USDA certification for the SFA to receive the additional reimbursement currently set at 6-cents per reimbursable lunch.
 - iii. Ensure that potable water is available at no cost or restriction to all students during lunch and breakfast service.
 - iv. The FSMC may not directly or indirectly restrict the sale or marketing of fluid milk at any time or in any place on school premises or at any school-sponsored event. 7 CFR 210.21(e)
 - h. Maintain records to ensure that non-program food revenue is reported in a way that the SFA can identify compliance.
2. SFA shall retain control of the quality, extent, and general nature of the food service. 7 CRF 210.16(a)(4)
3. Special Dietary Needs
 - a. Modifications *Within* the Meal Pattern-The SFA and FSMC will make substitutions that do not vary from the meal pattern for
 - i) Students with a medical concern, disability, food allergy, or food intolerance
 - ii) The SFA may require a medical statement for modifications within the meal pattern
 - (1) Even if a medical statement is required by the SFA, the FSMC should accommodate the substitution(s) as soon as they are made aware of the request
 - b. Modifications *Outside* the Meal Pattern-The SFA and FSMC will make substitutions in food components that vary from the meal pattern for
 - i. Students with a disability that is documented on the Diet Modification Request Form and signed by a State licensed healthcare professional who is capable of prescribing medication
 - ii. Students with an IEP or 504 Plan that includes specific dietary information similar to that in the Diet Modification Request Form

- c. Modifications for Personal, Cultural, or Ethical Reasons
 - i) Modification for other than medical reasons may be made at the discretion of the SFA as long as the modification is *within* the meal pattern
 - (1) SFAs are encouraged to accommodate when possible
- d. Fluid milk substitutes for students with disabilities, medical reasons, and personal reasons:
 - i. FSMC shall make substitutions for fluid milk for disabled and non-disabled students who cannot consume fluid milk due to medical or special dietary needs.
 - (a) If the milk substitute *does not meet nutrients* as required by federal and state regulations then a Diet Modification Request Form signed by a State licensed healthcare professional who is capable of prescribing medicine must be on file.
 - (b) When the milk substitute *does meet nutrients* as required by federal and state regulations, then the SFA may require a Diet Modification Request Form for milk substitutions that meet nutrients as required by federal and state regulations
 - (i) Even if a Diet Modification Request Form is required by the SFA, the FSMC should accommodate the substitution as soon as they are made aware of the request
 - ii. The SFA will not provide a creditable substitution for fluid milk to students for non-medical reasons, such as personal choice, upon written request from a parent or guardian.
 - iii. Creditable fluid milk substitutes must provide nutrients as required by federal and state regulations. (Reference 7 CFR § 210.10(g) and 7 CFR § 220.8) See RFP Appendix 2.
 - iv. There will be no additional charge to the student for such substitutions.

III. D. Use of Advisory Group/Menus

1. SFA shall establish and the FSMC shall participate in the formation, establishment, and meetings of SFA advisory board composed of students, teachers, and parents to assist in menu planning. The advisory board will meet at least twice a year. 7 CFR § 210.16(a)(8)
2. SFAs with no capability to prepare a cycle menu may (for more information refer to Exhibit B), with BNHS approval, require that each FSMC include a 21-day cycle menu, developed in accordance with the provisions of 7 CFR 210.10, with its proposal. The FSMC must adhere to the cycle for the first 21 days of meal service. Source of cycle menu must be noted on the RFP cycle menu. 7 CFR 210.16(b)(1).

FSMC will submit 21 day cycle menu

OR

SFA will submit 21 day cycle menu as indicated in Exhibit B

3. SFA shall approve the menus no later than two weeks prior to service. 7 CFR 210.16(b)
4. FSMC:
 - a. Shall serve meals that follow the 21-day menu cycles that meet Child Nutrition Program requirements and food specifications contained in Exhibits B, attached to this Contract.
 - b. Follows approved 21-day menu cycle and Meal Specifications for the NSLP, SBP, After School Care Snack Program, Fresh Fruit and Vegetable Program, the SFSP and a la carte.
 - c. May not change or vary the menus after the first menu cycle for the NSLP, SBP, After School Care Snack Program, SFSP, FFVP or a la carte items without written approval of SFA.
 - d. Shall justify all requests for any changes or variances for substitutions to SFA menu of lower quality food items.
 - e. Maintains documentation for substitutions and justification of lower quality food items for the records retention period applicable to food production records and documentation is available to SFA, BNHS and USDA for review upon request. 7 CFR 210.16(b)(1)

- f. Complies with SFA’s local wellness policy.
- g. Complies with all state and local laws that affect school meal preparation and/or service.
- h. Meal Specifications provided shall include:
 - i. Standardized Recipes for each menu item that includes total yield, portion size, ingredients and all USDA required nutrient information.
 - ii. Copies of these recipes kept on file at SFA.
 - iii. Identity of all branded items that may be used in the meal; and
 - iv. Grade, style and condition of each food item and other information that indicates the acceptable level of quality for each food item as applicable.

III. E. Purchases

1. Whether SFA conducts its own procurement or whether FSMC procures products on behalf of 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.
3. SFA must check one of the purchasing options stated herein below [Note: SFA may not change the purchasing option once it has issued its RFP. Any change would be considered material and require SFA to either begin its procurement process again]:

SFA will do all purchasing for Child Nutrition Programs, except for Section P Optional services	
FSMC will buy the beginning inventory, exclusive of commodities, from SFA.	X

4. SFA and FSMC acknowledge that, to extent required by 7CFR 210.21(d)/FNS Policy Memo SP 24-2016, SFA must, when possible, purchase only food products that are produced in the United States. This is also known as the “Buy American” provision. (See RFP Appendix 4)
 - a) FSMC must document, and SFA approve, the use of non-domestic food when competition reveals the cost of domestic food is significantly higher than non-domestic food and/or when food is not produced or manufactured in sufficient quantities domestically to be available in satisfactory quantities
5. The SFA encourages the FSMC to explore the Iowa Farm to School Program, F2S, and to make an effort to purchase fresh, locally grown food as allowed including the use of Geographic Preference in 7 CFR 210.21(g). The FSMC is encouraged to offer nutrition-based educational opportunities. The FSMC may include information about how the company will approach this program in Exhibit K, Part 3, B.

III. F. USDA Foods 7CFR 250.50 Subpart D, 7CFR 250.51-250.53, plus parts 210, 220, 225 or 226

1. SFA shall:
 - a. Retain title to all USDA Foods.
 - b. Ensure that FSMC has credited the SFA for the value of all USDA Foods received for use in SFA’s meal service in the school year. 7 CFR § 250.51(a)

- c. Maintain responsibility for oversight of procuring processing agreements, private storage facilities, or any aspect of financial management relating to USDA Foods.
 - d. Assure that the maximum amount of USDA Foods allotted by the State Agency are received and utilized by FSMC.
 - e. 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. 7 CFR 250.50(d)
2. FSMC:
- a. Will conduct all activities relating to USDA Foods for which it is responsible in accordance with 7 CFR 250.50(d) as applicable.
 - b. Shall accept and use all donated beef and pork products, and all processed end products, in SFA's Food Service Program. Upon termination of this Contract, or if this Contract is not extended or renewed, FSMC must return all unused donated beef, pork, and processed end products to SFA. 7 CFR § 250.51(d)
 - c. Agrees to accept and use all other USDA Foods in SFA's food service.
 - d. May substitute commercially purchased foods of the same generic identity, of U.S. origin, of equal or better quality than USDA Foods, in contract. 7 CFR 250.51(d)
 - e. Is prohibited from entering into processing contracts utilizing USDA Foods on behalf of SFA. 7 CFR 250.50(d)
 - i. FSMC agrees that any procurement of end products by FSMC on behalf of SFA will be in compliance with the requirements in subpart C of 7 CFR Part 250 and with the provisions of SFA's processing agreements.
 - ii. FSMC shall credit SFA for the value of USDA Foods contained in the end products at the processing agreement value.
 - iii. All refunds received from processors must be credited to SFA's Nonprofit School Food Service Account. 7 CFR § 250.51(a)
 - f. Shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods.
 - g. Shall credit SFA for the value of all USDA Foods received for the use in SFA's meal service in the school year, including both entitlement and bonus foods, and including the value of USDA Foods contained in processed end products. 7 CFR 250.51(a)
 - h. Is prohibited from cashing out USDA Foods and providing a credit to SFA for USDA Foods.
 - i. Will comply with 7CFR 250.52 concerning storage and inventory management of USDA Foods:
 - i. FSMC will maintain accurate and complete records with respect to the receipt, use/disposition, storage, and inventory of USDA Foods.
 - ii. 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.
 - j. Shall allow SFA and/or any state or federal representative/auditor, including the Comptroller General and USDA, or their duly authorized representatives, to perform onsite reviews of FSMC's food service operation, including review of records, to ensure compliance with requirements for management and use of USDA Foods. 7 CFR § 250.53(a)(10)

- k. Shall maintain records to document its compliance with requirements relating to USDA Foods in accordance with 7 CFR § 250.54(b).
- 3. Shall account for the value of USDA Foods (7CFR § 250.51) in a fixed-meal rate contract by:
 - a. FSMC subtracts the market value of all USDA donated USDA Foods received for use in SFA's food service from SFA's monthly bill/invoice.
 - b. The market value is based on the value in USDA's WBSCM (Web Based Supply Chain Management) at the time the USDA Foods are received by SFA.
- 4. The Fixed-Price rate proposed in the RFP must be calculated as if no donated USDA Foods were available.
- 5. FSMC acknowledges that renewal of this Contract is contingent upon the fulfillment of all contract provisions herein relating to USDA Foods. 7 CFR § 250.53(a)(12)
- 6. 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 based on the value in USDA's WBSCM (Web Based Supply Chain Management or current system) at the time the USDA Foods are received by SFA. 7 CFR § 250.51(a)

III. G. Employees

- 1. FSMC shall provide and pay a staff of qualified employees assigned to duty on SFA's premises for efficient operation of the Programs as indicated in Exhibit I.
- 2. SFA will 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 as indicated in Exhibit I.

Check one	Employee Retained by:
	SFA (school will keep and pay current employees)
	FSMC (the FSMC will keep and pay current employees)
X	Both SFA and FSMC (a combination of the above)

- 3. Any food service position not identified above 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.
- 4. If the Food Service Director is an employee of the FSMC, then the SFA must also designate an employee of the SFA as Program Director. The SFA Program Director is responsible for maintaining oversight and responsibility for planning, administering, implementing, monitoring, and evaluating school meal programs. Both the FSMC director and the SFA Program Director must meet hiring standards and training standards as indicated at www.fns.usda.gov/school-meals/professional-standards. The 12-hours of annual required training for Food Service Directors applies to both FSMC Food Service Director and SFA Program Director.
- 5. If provided for in the Proposal, SFA and FSMC may transition SFA's food service employees to FSMC's payroll. If transition occurs:
 - a. 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.

- b. Each position to be transitioned and date of transition shall be identified.
 - c. SFA shall not pay cost of transferring SFA employees to FSMC payroll.
6. If SFA is sharing FSMC employees with other SFA's, SFA shall identify in Exhibit I and fully incorporated herein:
- a. Each SFA with whom the FSMC employee is to be shared and,
 - b. The percentage of time each employee will spend with each SFA.
7. FSMC shall:
- a. Comply with all wage and hours of employment requirements of federal and state laws.
 - b. Be responsible for supervising and training personnel, including SFA-employed staff as required by Professional Standards regulations at <http://www.fns.usda.gov/school-meals/professional-standards>. Supervision activities include employee and labor relations, personnel development, and hiring and termination of FSMC management staff, except for the Food Service Director.
 - c. Be responsible for the hiring and termination of non-management staff who are employees of FSMC. Hiring of the program director must conform to Professional Standards regulations as cited in (b) above.
 - d. Provide Workers' Compensation coverage for its employees, as required by law.
 - e. Instruct its employees to abide by the policies, rules, and regulations with respect to use of SFA's premises as established by SFA and are furnished in writing to FSMC.
 - f. Maintain its own personnel and fringe benefits policies for its employees, subject to review by SFA.
 - g. Assign to duty on SFA's premises only employees acceptable to SFA.
 - h. Cause all of 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.
 - i. Remove any employee who violates health requirements or conducts him/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.
 - j. 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 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.
8. Staffing patterns shall be mutually agreed upon.
9. 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.

III. H. 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.

2. SFA shall have full access to the food service facilities at all times and for any reason, including inspection and audit.
3. FSMC and SFA shall:
 - a. Non-expendable supplies and capital equipment: At the commencement, termination or expiration of this Contract,
 - i. 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.
 - ii. Mutually agree on the usability of such supplies and equipment and,
 - iii. 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.
 - iv. Sign a summary of the beginning inventory and ending inventory at the expiration or termination of this Contract and keep a copy of each on file with this Contract.
 - b. Food and supplies: At the commencement, expiration or termination of this Contract,
 - i. Jointly undertake a beginning and closing inventory of all food and supplies.
 - ii. Determine whether any portion of the beginning inventory is not suitable for SFA's continued use. Such inventory shall become a part of this Contract by incorporation.
 - iii. Inventory USDA Foods by a separate inventory. The market value is based on the value in USDA's WBSCM (Web Based Supply Chain Management) at the time the USDA Foods are received by SFA. FSMC shall be compensated for any increases in such inventory not accounted for by USDA Foods inventory increases for which FSMC had not previously provided SFA a credit.
 - iv. 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) use of food, USDA Foods and related supplies in SFA's Food Service Program for which SFA had not previously received a credit;
 - (2) normal wear and tear;
 - (3) theft, fire or other casualty loss beyond the control of FSMC and not arising from the negligence of FSMC or its agents.
 - v. Determine the value of the inventories, except for USDA Foods inventories, by invoice cost.
4. FSMC shall:
 - a. Maintain the inventory of silverware, chinaware, kitchen utensils and other operating items necessary for the food service operation and at the inventory level specified by SFA.
 - b. Maintain adequate storage procedures, inventory and control of USDA Foods in conformance with SFA's agreement with BNHS.
 - c. Provide SFA with keys for all food service areas secured with locks.
 - d. Not remove any SFA owned equipment from SFA's premises.
 - e. Comply with all SFA building rules and regulations.
 - f. Surrender to SFA all of SFA's equipment and furnishings in good repair and condition, reasonable wear and tear excepted upon termination of this Contract

- g. FSMC shall not use SFA's facilities to produce food, meals or services for third parties without the approval of SFA.
- v. 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.
- vi. Such usage may not result in a cost to the Non-profit Food Service Account.

5. SFA shall:

- a. Replace expendable equipment and replace, repair and maintain nonexpendable equipment except when damages result from careless use by the employees of FSMC.
- b. Provide FSMC with local telephone service, water, gas and electric service for the food service program.
- c. 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.
- d. Be responsible for any losses, including USDA Foods, which may arise due to equipment malfunction or loss of electrical power not within control of FSMC.
- e. Not be responsible for loss or damage to equipment owned by FSMC and located on SFA premises.
- f. Shall retain title to all SFA food and supplies in SFA during the course of this Contract.

III. I. Health Certifications/Food Safety/Sanitation

1. FSMC shall

- a. 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 requirement of § 210.13(b). 7 CFR § 210.9(b)(14)
- b. Maintain all State of Iowa 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)
- c. Obtain and post all licenses and permits as required by federal, state, and/or local law.
- d. Comply with all State of Iowa and local and sanitation requirements applicable to the preparation of food. 7 CFR 210.16(a)(7)
- e. 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 the Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265).
- f. Allow at least two health inspections to be conducted by the Health Department at every site involved in school meal preparation and/or service as required by Healthy Hunger Free Kids Act 2010.

2. SFA shall

- a. Maintain applicable health certification.
- b. 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)

- c. Provide sanitary toilet and hand washing facilities for the employees of FSMC as required by state and local sanitation requirements.
- 3. SFA and FSMC will follow the responsibility for tasks as designated in Exhibit G and Exhibit H Division of Program Expenses and Division of Responsibilities.

III. J. 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.
- 2. Any profit or guaranteed return shall remain in the SFA’s Non-profit School Food Service Account.
- 3. All Financial Terms, as found in 7 CFR 210.14 are in effect, including net cash resources, financial assurances, use of donated foods, pricing paid lunches, revenues from non-program foods, and using revenues received by the nonprofit food service that are only for the operation or improvement of such food service. The SFA with assistance from the FSMC as necessary will complete the paid lunch equity tool and document non-program foods revenues and expenditures.
- 4. All facilities, equipment and services to be provided by SFA shall be provided at SFA’s expense.
- 5. Meal Equivalency Rate equals the sum of total federal reimbursement received for a free NSLP (lunch) meal at the previous year’s rate. The equivalency rate will remain fixed for the term of the Contract and all renewals.

Meal Equivalency Rate (AS PROVIDED BY BNHS)

Lunch Meal Equivalency Rate:	
FY2019-20 Federal Free Rate of Reimbursement:	\$ 3.4300
FY2019-20 7-Cent Additional Reimbursement:	\$ 0.0700
FY2019-20 Value of USDA Entitlement USDA Foods:	<u>\$ 0.3625</u>
Total Meal Equivalent Rate	<u>\$ 3.8625</u>

- 6. Payment Terms/Method: Fixed-Price contract
 Fixed Price per Meal Rate Proposal—the FSMC must propose and will be paid at a fixed rate per meal/Meal Equivalent. The proposed amount should be based on the assumption that no donated USDA Foods will be available for use and should also include all expected rebates, discounts and other applicable credits. The method by which FSMC will use and account for USDA Foods shall be in accordance with section F of the Standard Terms and Conditions herein above. A separate price for SBP or other meals may not be proposed by the FSMC unless the SFA requests a separate price in the box below. Proposal of a separate price by the FSMC when not requested will be considered non-responsive.

To be completed by the FSMC as applicable:

Fixed-Price Proposal for NSLP Lunch:

Fixed-Price Proposal for SFSP Lunch:

- a. The fixed price per meal may be increased or decreased 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 (CPI). The CPI rate will be submitted to the SFA by BNHS annually, and the provided rate must be used.
- b. Such increase or decrease shall be effective annually on the anniversary date of this Contract and will be allowed only if approved by the SFA and FSMC via signed Addendum.
- c. No other cost increases will be allowed.
- d. For the purpose of computing the foregoing meal counts, the number of National School Lunch Program, School Breakfast Program, Afterschool Care Snack Program and Summer Program meals served to children shall be determined by the Meal Equivalency Formula based on actual meal counts.
- f. Any meal not covered by the prices indicated in 'a' above will be determined using the following formula as defined by the Institute for Child Nutrition, (ICN):
 - All student reimbursable lunches and full-paid adult lunches are counted as one meal equivalent for each lunch served. *Number of reimbursable + adult lunches x 1*
 - Full second student lunches can be counted as a la carte income or as an adult lunch served.
 - Lunches eaten by school food service employees at no charge for the meal are considered in-kind and should not be counted as a meal equivalent.
 - Three breakfasts are the equivalent of two lunches.
Breakfast Meal Equivalent = Number of breakfasts served x .66 (conversion factor)
 - Three snacks are the equivalent of one lunch.
Snack Meal Equivalent = Number of snacks served divided by 3
 - All other food sales, a la carte income, catered income and vending income will be divided by the Meal Equivalency Rate, III.J.(4).
Other Meal Equivalent = Dollar amount of a la carte + vending + catered income + other, is divided by Meal Equivalency Rate

Total Meal Equivalents = Lunches + Breakfast Meal Equivalent + Snack Meal Equivalent + Other Meal Equivalent. Total Equivalents are multiplied times the Fixed Price.
- g. No payment will be made to FSMC for meals that (7 CFR 210.10, 210.16, and 220.8):
 - i. are spoiled or unwholesome at the time of delivery;
 - ii. do not meet detailed specifications as developed by SFA for each food component in the meal pattern; or
 - iii. Do not otherwise meet the requirements of this Contract.
6. Payment Terms/Method: FSMC shall invoice SFA within 30# of days after the end of each Accounting Period for the total amount of SFA's financial obligation for that Accounting Period.
7. No interest or finance charges that may accrue under this Contract may be paid from SFA's Nonprofit School Food Service Account.
8. FSMC must:
 - a. 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.
 - b. Indemnify and hold SFA harmless for all claims arising from payment of such taxes and fees.
9. The SFA may include the guarantee amount in negotiations with FSMCs that meet or exceed the cut-off score.

10. The SFA may select 'no guarantee' below. If not selected, then the FSMC must indicate no loss or a minimum return.

Check one	Guarantee Proposal	Amount
X	The SFA does not want a Guarantee Proposal	
	Guarantee Minimum Return (FSMC enter amount)	\$
	Guarantee No Loss	

- a. Any Guaranteed Return proposed by the FSMC must be fully described in the methodology including the formula for determining the value. The methodology, inclusive of the formula/calculation, may not change in renewal years. If the contract contains such guarantees, the contract should also contain language that ensures that the FSMC bears responsibility for failure to meet those goals. "Returns" cannot be contingent upon multi-year contract duration
- b. If a Guarantee is proposed, the following language should be included: "The FSMC bears responsibility for failure to meet these goals. Guarantee of the Contract is based upon the following goals/assumptions in addition to the SFA goals/assumptions in the RFP; the financial terms of the Contract shall be adjusted to compensate for such change by mutual agreement of the parties. These assumptions apply only to the guarantee and in no way reflect a change to any other RFP language."
- c. Each language item added that relates to the Guarantee should begin with "The amount of the guarantee may be affected if ..."
- d. In the event that FSMC pays a guarantee, FSMC may not recover the guarantee from SFA in subsequent Contract years.

11. SFA shall not be responsible for any expenditure incurred by FSMC before execution of this Contract and approval by BNHS.

III. K. Records and Documentation

1. FSMC shall:

- a. Maintain records (supported by invoices, receipts, or other evidence) SFA will need to meet monthly reporting responsibilities, support the SFA Claims for Reimbursement, and,
 - i. Shall submit monthly operating statements in a format approved by the SFA no later than the **4th** day of the month determined by SFA & FSMC following the month in which services were rendered.
 - ii. Submit participation records, including claim information by eligibility category, no later than the **10th** day of the month determined by the SFA & FSMC following the month in which services were rendered. SFA will complete edit checks on the submitted participation records prior to preparation and submission of the claim for reimbursement.
- b. Maintain records at SFA's premises to support all allowable expenses appearing on the monthly operating statement.
- c. Keep records in an orderly fashion according to expense categories.
- d. Provide SFA with a year-end statement.
- e. Provide all documents necessary for the independent auditor to conduct SFA's single audit.

- f. Make its documentation 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.
 - g. Make the documentation and records available for audit, examination, excerpts, and transcriptions by SFA and/or any state or federal representatives and auditors.
 - h. Retain records beyond the three-year period if audit findings regarding FSMC's records have not been resolved within the three-year record retention period, for as long as required for the resolution of the issues raised by the audit. 7 CFR §210.9(b)(17), 7 CFR §200.317-200.326 Appendix II of Part 200
 - i. Authorized representatives of SFA, BNHS, USDA and USDA's Office of the Inspector General (OIG) shall have the right to conduct on-site administrative reviews of the food service operation.
2. FSMC shall not remove federally required records from SFA premises upon the expiration or termination of this Contract.

III. L. Term and Termination

1. If, at any time, SFA shall make a reasonable decision that adequate funding from federal, state or local sources shall not be available to enable SFA to carry out its financial obligation to FSMC, then SFA shall have the option to terminate this Contract by giving 10 days written notice to FSMC.
2. In the event either party commits 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.
 - a. If the default is not cured within that time, the non-breaching party shall have the right to terminate this Contract for cause by giving 30 days written notice to the breaching party.
 - b. If the breach is remedied prior to the proposed termination date, the non-breaching party may elect to continue this Contract.
 - c. 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. Either party may terminate this Contract for cause by providing sixty (60) days prior written notice to the other party. 7 CFR 210.16(d)
4. 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.
5. 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 and all available administrative, contractual and legal remedies against FSMC. 7 CFR 210.16(b)(1)
6. FSMC shall promptly pay SFA the full amount of any meal overclaims, disallowed costs or other or fiscal actions which are attributable to FSMC's actions hereunder, including those over claims based on review or audit findings that occurred during the Effective Dates of original and renewal contracts.
7. SFA is the responsible authority without recourse to USDA or BNHS 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.

III. M. 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 Iowa. A Certificate of Insurance of FSMC's insurance coverage indicating these amounts must be submitted at the time of award.
2. The information below must be completed by SFA:
 - a. Comprehensive General Liability—includes coverage for:
 - i. Premises—Operations
 - ii. Products—Completed Operations
 - iii. Contractual Insurance
 - iv. Broad Form Property Damage
 - v. Independent Contractors
 - vi. Personal Injury: \$1,000,000 Combined Single Limit
 - b. Automobile Liability coverage with a \$1,000,000 Combined Single Limit.
 - c. Workers' Compensation—Statutory; Employer's Liability with a combined single limit of \$1,000,000.
 - d. Excess Umbrella Liability with a combined single limit of \$25,000,000.
3. SFA shall be included as additional insured on General Liability, Automobile, and Excess Umbrella policies.
4. The contract of insurance shall provide for 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.

III. N. 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").
 - a. 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.
 - b. SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of FSMC.
 - c. 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.
 - d. SFA shall not use any confusingly similar names, marks, systems, insignia, symbols, procedures and methods.
 - e. 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.
 - f. 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.
 - g. 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.

- h. All of SFA's obligations under this section are subject to SFA's obligations under Iowa Statute and any other law that may require SFA to use, reproduce or disclose FSMC confidential information.
 - i. This provision shall survive 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 BNHS 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)
 - a. FSMC agrees to hold any SFA Confidential Information in confidence during the term of this Contract and thereafter.
 - b. 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.
 - c. 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.
 - d. 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.

III. O. Other Programs

Summer Food Service Program

SFA does not currently participate in SFSP, but the district is anticipating implementing the program in SY20. The number of meals and sites indicated in Exhibit A are an estimate. Fixed Price Bids for SFSP for lunch using the NSLP meal pattern are to be included in the proposal.

Sponsors may not contract out the following management responsibilities of the Program 7 CFR 225.15(a)(3). The SFA is responsible for full compliance with rules and regulations relating to implementation of the SFSP. 7CFR 225.15(3)

1. The following administrative responsibilities must remain with an employee of the SFA, as the SFSP Sponsor, and may not be delegated to a FSMC employee. The SFA is responsible to:
 - a. Meal orders
 - i. Inform the FSMC of the approved food service sites and the approved level at each site for which the FSMC will provide meals.
 - ii. Plan for and prepare or order meals on the basis of participation trends with the objective of providing only one meal per child at each meal service.
 - b. Records and claims
 - i. Maintain accurate records which justify all costs and meals claimed, including meal count information to substantiate claims. 7 CFR 210.10
 - ii. Submit claims for reimbursement in accordance with 7 CFR 225.15.

- c. Training and monitoring
 - i. Hold Program training sessions for its administrative and site personnel and,
 - ii. Not allow a site to operate until personnel attend at least one of the trainings.
 - iii. Visit and review food service operations at each SFSP site as required by BNHS agreement.
 - iv. Maintain a reasonable level of site monitoring.
 - v. Document required SFSP site visits of all sites.

- d. Determination / Processing of Free and Reduced Price applications
 - i. Coordination of printing of materials.
 - ii. Approving Official, Hearing Official, or contact person for questions.
 - iii. Development of materials for distribution from prototypes provided by BNHS, including Letter to Parents, Application, Public Release, etc.
 - iv. Distribution of materials to parents/guardians.
 - v. Collection of submitted applications.
 - vi. Processing of applications, including approval/denial and follow-up to obtain complete information.
 - vii. Inputting data into computer if applications approved manually.
 - viii. Inputting data into computer if computer system automatically determines eligibility.
 - ix. Final approval and signature of approving official.
 - x. Notification of approval and status to parent/guardian.

- e. Submission of Media Release

- f. Completion of Summer Food Service Program Sponsor and Site Application

- g. Preparation and submission of claim for reimbursement
 - i. Compiling daily site counts at the school and SFA level, and maintaining records.
 - ii. Signing the claim for reimbursement.

- 2. FSMC may complete the following duties in the SFSP for the SFA
 - a. Meal preparation. Preparation of food according to the menu planning option.
 - b. Meal delivery.
 - c. Meal service. Meals served within the designated time period.
 - d. Procurement of food, supplies, goods, and other services in compliance with procurement standards prescribed in USDA Uniform Federal Assistance Regulations, 7 CFR Part 200.317-200.326 for public sponsors, and 7 CFR Part 225 SFSP regulations.

- 3. The FSMC or SFA may ensure that in storing, preparing, and serving food, proper sanitation and health standards are met. 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.

- 4. SFA shall be responsible for determining eligibility of all SFSP sites

- 5. Bonding requirements
 - a. Bid guarantee (when the SFSP portion of the proposal exceeds \$150,000):
 - i. FSMC shall submit with his or her proposal a bid guarantee in an amount not less than 5 percent or more than 10 percent of total bid price.
 - ii. Shall be in the form of a firm commitment such as bid bond, postal money order, certified check, or cashier's check.
 - iii. Bid guarantees other than bid bonds will be returned:

- a. to unsuccessful FSMCs as soon as practicable after the opening of proposals and,
 - b. to the successful FSMC 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 \$150,000):
 - i. FSMC must obtain a performance bond in an amount not less than 10 percent nor 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, or cashier's check. Bid guarantees other than bid bonds will be returned to unsuccessful FSMCs as soon as practicable after the opening of proposals. Performance bonds for the successful FSMC shall be held for the duration of the Contract.
- 6. FSMC must comply with the 21-day menu cycle approved by SFA for the SFSP
 - a. SFA shall approve any changes in the menus no later than two weeks prior to service after the initial cycle has been used.
 - b. Documentation of SFA approval must be kept of any changes to menus by the FSMC.
 - c. Portion sizes shall be documented on menus if production records are not maintained by the site.
- 7. SFA will make final determination of the opening and closing dates of all SFSP sites
- 8. FSMC may use USDA Foods to conduct SFSP in accordance with Section F of the Standard Terms and Conditions herein above and 7 CFR 225, 7 CFR 200.317-326
- 9. The FSMC entering into a contract with the SFA under SFSP shall not subcontract for the total meal, with or without milk, or for assembly of the meal. 7 CFR 225.6(h)(2)(ii) and 226.21(e)

Fresh Fruit and Vegetable Program:

SFA does not currently participate in FFVP, but the district is anticipating implementing the program in SY22. The number of meals and sites indicated in Exhibit A are an estimate.

- 1. 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 operation of the FFVP may be used for administrative expenses.
 - a. Operational cost should cover the primary cost to run the FFVP to include purchase of fruits and vegetables, including the cost of bulk and/or 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 managing the program. Administrative costs cannot exceed ten (10%) percent of the SFA's FFVP costs. 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. IDOE will monitor the SFA and FSMC to ensure strict compliance with this provision.

Operational and Administrative labor costs must be supported by time sheets or time studies

III. P. Optional Services to Be Included

1. The scope of this Contract may include additional services as noted before the RFP is issued. Note: if SFA is seeking improvements to its food service equipment, SFA must state amount.
2. SFA and FSMC will not be able to incorporate into their agreement by any method, including an additional exhibit or guarantee terms that FSMC will provide items without SFA stating such options in the RFP prior to issuance. **Including additional items or terms in the response that are not requested in the RFP, such as offering new equipment, may lead to the response being rejected as non-responsive.**

III. Q. Certifications

1. FSMC shall execute and comply with the following Certifications which are attached to this Contract as Exhibits and fully incorporated herein:
 - a. Debarment Certification
 - b. Anti-collusion Affidavit
 - c. Certification Regarding Lobbying
 - d. Standard Form-LLL, Disclosure Form to Report Lobbying, when applicable

III. R. Miscellaneous

1. Emergency Notifications:
 - a. SFA shall notify FSMC personnel 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 FSMC personnel of any delay in the school day start 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 Iowa law.
3. Headings: All headings and formatting 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:
 - a. This Contract, which includes the attached Exhibits A–K, Price Proposal/Evaluation Rubric and RFP Appendixes 1-6, any attachments indicated in the Exhibits, Program Regulations, and SFA’s RFP/Contract (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.

- b. 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 RFP solicitation
 - ii. FSMC proposal documents; and
 - iii. SFA/FSMC final RFP/contract
 - c. The SFA alone must be responsible, in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements. 2 CFR 200.318(k)
 - d. No modification or amendment to this Contract shall become valid unless made in writing, signed by the parties, and approved by BNHS.
5. Indemnity:
- a. Except as otherwise expressly provided in this Contract, FSMC will defend, indemnify, and hold SFA harmless from and against all claims, liability, loss and expense, including reasonable collection expenses, attorneys' fees and court costs that may rise 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.
 - b. This clause shall survive termination of this Contract.
6. Nondiscrimination: In the operation of Child Nutrition Programs, no child shall be denied benefits or be otherwise discriminated against because of race, color, national origin, age, sex, or disability. State agencies and school food authorities shall comply with the requirements of: Title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Department of Agriculture regulations on nondiscrimination (7 CFR parts 15, 15a, and 15b); and FNS Instruction 113-1.
- a) The USDA and Iowa nondiscrimination statements must be printed on all material describing child nutrition programs such as handbooks, letters and pamphlets, and on websites. The most current nondiscrimination statements can be obtained from BNHS.
7. Notices:
- a. 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: Superintendent, Oskaloosa CSD, 1800 North 3rd Street, Oskaloosa, IA 52577; Fax 641-673-8370

To FSMC: _____

Copy to: Bureau of Nutrition & Health Services
 - b. If such notice is as above, 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 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 prior written consent of 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 of any subsequent breach or default on the part of the other party.
12. BNHS Review: This Contract is not effective until it is approved, in writing, by BNHS.

IV. AGREEMENT

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

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

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

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

SCHOOL FOOD AUTHORITY:

Name of SFA Oskaloosa Community School District

Signature of Authorized SFA Representative _____

Printed Name of Authorized SFA Representative Shelly Herr

Title Board President

Date Signed _____

FOOD SERVICE MANAGEMENT COMPANY:

Name of FSMC _____

Signature of Authorized FSMC Representative _____

Printed Name of Authorized FSMC Representative _____

Title _____

Date Signed _____

BUREAU OF NUTRITION & HEALTH SERVICES:

Signature of BNHS Consultant _____

Printed Name of BNHS Consultant Shea Cook

Date of RFP Approval _____

Date Final RFP/Contract Received & Accepted _____

RFP EXHIBITS & APPENDIXES

See Excel Workbook titled *“Fixed Price RFB Exhibits, SFA-FSMC”* for:

Evaluation Rubric

Exhibit A: SFA Profile

Exhibit B: Required 21-Day Menus *(and attached forms)*

Exhibit C: Participation

Exhibit D: Meal Prices

Exhibit E: Revenue

Exhibit F: Expenses

Exhibit G: Division of Costs *(only required for Cost Reimbursable)*

Exhibit H: Division of Responsibilities

Exhibit I: Labor: Personnel and Staffing

Exhibit J: SFA Policies Impacting Food Service Programs

Exhibit K: FSMC Profile and Plans to Increase Participation/Improve Program

RFP Appendixes	Page
Appendix 1: Healthy Hunger Free Kids Act Nutrition Guidelines	32
Appendix 2: Purchasing Specifications	33
Appendix 3: Information Required on Invoice	34
Appendix 4: Schedule of Applicable Laws	35
Appendix 5: Bid Evaluation Rubric Example	37
Appendix 6: FSMC Contact Information	38

RFP Appendix 1—HHFKA Nutrition Guidelines

	Breakfast Meal Pattern			Lunch Meal Pattern		
	Grades K-5 ^a	Grades 6-8 ^a	Grades 9-12 ^a	Grades K-5	Grades 6-8	Grades 9-12
Meal Pattern	Amount of Food ^b Per Week (Minimum Per Day)					
Fruits (cups) ^{c,d}	5 (1) ^e	5 (1) ^e	5 (1) ^e	2½ (½)	2½ (½)	5 (1)
Vegetables (cups) ^{c,d}	0	0	0	3¾ (¾)	3¾ (¾)	5 (1)
Dark green ^f	0	0	0	½	½	½
Red/Orange ^f	0	0	0	¾	¾	1¼
Beans/Peas (Legumes) ^f	0	0	0	½	½	½
Starchy ^f	0	0	0	½	½	½
Other ^{f,g}	0	0	0	½	½	¾
Additional Veg to Reach Total ^h	0	0	0	1	1	1½
Grains (oz eq) ⁱ	7-10 (1) ^j	8-10 (1) ^j	9-10 (1) ^j	8-9 (1)	8-10 (1)	10-12 (2)
Meats/Meat Alternates (oz eq)	0 ^k	0 ^k	0 ^k	8-10 (1)	9-10 (1)	10-12 (2)
Fluid milk (cups) ^l	5 (1)	5 (1)	5 (1)	5 (1)	5 (1)	5 (1)
Other Specifications: Daily Amount Based on the Average for a 5-Day Week						
Min-max calories (kcal) ^{m,n,o}	350-500	400-550	450-600	550-650	600-700	750-850
Saturated fat (% of total calories) ^{n,o}	< 10	< 10	< 10	< 10	< 10	< 10
Sodium (mg) ^{n,p}	< 540	< 600	< 640	< 1230	< 1360	< 1420
Trans fat ^{n,o}	Nutrition label or manufacturer specifications must indicate zero grams of trans fat per serving.					

^aIn the SBP, the above age-grade groups are required beginning July 1, 2013 (SY 2013-14). In SY 2012-2013 only, schools may continue to use the meal pattern for grades K-12 (see § 220.23).

^bFood items included in each food group and subgroup and amount equivalents. Minimum creditable serving is ½ cup.

^cOne quarter-cup of dried fruit counts as ½ cup of fruit; 1 cup of leafy greens counts as ½ cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

^dFor breakfast, vegetables may be substituted for fruits, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans and peas (legumes) or “Other vegetables” subgroups as defined in §210.10(c)(2)(iii).

^eThe fruit quantity requirement for the SBP (5 cups/week and a minimum of 1 cup/day) is effective July 1, 2014 (SY 2014-2015).

^fLarger amounts of these vegetables may be served.

^gThis category consists of “Other vegetables” as defined in §210.10(c)(2)(iii)(E). For the purposes of the NSLP, “Other vegetables” requirement may be met with any additional amounts from the dark green, red/orange, and beans/peas (legumes) vegetable subgroups as defined in §210.10(c)(2)(iii).

^hAny vegetable subgroup may be offered to meet the total weekly vegetable requirement.

ⁱAs of publication of the final rule on NSLP and SBP flexibilities on 12/12/18 at least half of the grains offered must be whole grain-rich in the NSLP beginning July 1, 2012 (SY 2012-2013), and in the SBP beginning July 1, 2013 (SY 2013-2014).

^jIn the SBP, the grain ranges must be offered beginning July 1, 2013 (SY 2013-2014).

^kThere is no separate meat/meat alternate component in the SBP. Beginning July 1, 2013 (SY 2013-2014), schools may substitute 1 oz. eq. of meat/meat alternate for 1 oz. eq. of grains after the minimum daily grains requirement is met.

^lFluid milk must be low-fat (1 percent milk fat or less, unflavored or flavored) or fat-free (unflavored or flavored).

^mThe average daily amount of calories for a 5-day school week must be within the range (at least the minimum and no more than the maximum values).

ⁿDiscretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, trans fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent milk fat are not allowed.

^oIn the SBP, calories and trans fat specifications take effect beginning July 1, 2013 (SY 2013-2014).

^pAs of publication of the final rule on NSLP and SBP flexibilities on 12/12/18 Sodium Target 1 is effective from July 1, 2014 (SY 2014–2015) through June 30, 2024 (SY 2023–2024). Sodium Target 2 is effective July 1, 2024 (SY 2024–2025).

RFP Appendix 2 - Purchasing Specification

A. Meat, Poultry and Fish

1. Beef: All beef cuts will be U.S.D.A. Choice from steers and heifers only. Primal cuts that will be purchased will include round, loin, flank, rib and chuck. No plate or shank cuts will be used. All ground beef will meet the IMPS. 136 standard.
2. Pork: U.S.D.A. No. 1, cured, smoked and fresh.
3. Poultry: U.S. Grade A and appropriate standard of identity
4. Fish: Fresh and frozen, U.S. Grade A where grade exists.
5. Prepared Meat Products: Meet above specification for meat component and include Child Nutrition Label or Product Analysis

B. Dairy (Minimum Standards)

1. Milk: Grade "A" under 30,000 bacterial counts per c.c., flavored or unflavored skim, and/or flavored or unflavored 1% (*must offer at least two types*)
2. Eggs: U.S.D.A. Grade "A", Fresh Fancy, no storage eggs to be used.
3. Ice Cream: appropriate standard of identity
4. Cheese: U.S. Grade AA and appropriate standard of identity for type of cheese
5. Milk substitute minimum requirement per cup:

Calcium	276 mg-27.6%
Protein	8 grams
Vitamin A	500 IU-10%
Vitamin D	100 IU-25%
Magnesium	24 mg-6%
Phosphorus	222 mg-22.2%
Potassium	349 mg-9.7%
Riboflavin	.44 mg-25.9%
Vitamin B12	1.1 mcg-18.3%

C. Canned Fruits and Vegetables: First quality fancy vegetables and choice fruits.

D. Fresh and Frozen Fruits and Vegetables: US Grade A or US Fancy as appropriate.

E. Condiments: As appropriate for the condiment

F. Miscellaneous Groceries: As appropriate for the product and standard of identity for the product.

G. Juice: 100 percent juice

H. All products with a standard of identity should meet the appropriate standard of identity

I. Trans-fat: Except for naturally occurring trans-fat in meat products, all foods served in schools must contain zero grams of trans-fat (less than 0.5 grams on label) per serving.

J. Whole grain rich: At least half of all grains served for NSLP and SBP must be whole grain rich.

RFP Appendix 3 – Information Required on Invoice

The following information should be for the month and YTD

Reimbursable Breakfasts served

Reimbursable Lunches Served

Reimbursable ACSP Served

Total Meal Equivalents served

Revenues

1. Federal reimbursement
2. State Reimbursement
3. Student lunch sales
4. Breakfast Lunch sales
5. Adult meal sales
6. A la carte sales
7. Catering sales
8. Vending sales
9. Other sales
10. Interest

Expenditures

1. Purchased food—may choose to break down into Groceries, Dairy, Bread, Beverages, Frozen foods, Meats and other potential categories.
2. Food production supplies
3. General operating supplies
4. Labor—If both District and FSMC Labor is involved—Please separate by District and FSMC
 - a. Salaries
 - b. Benefits
 - c. Payroll Taxes
 - d. Staff development
 - e. Conference Travel
5. Purchased services
6. Property Operations
7. Equipment
8. Miscellaneous

Value of Commodities Received

Profit or Loss for the program

RFP Appendix 4 - SCHEDULE OF APPLICABLE LAWS

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

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub-recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and sub-grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) It is FNS policy to award a fair share of contracts to small and minority business firms. State agencies must take affirmative steps to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. It is FNS policy to award a fair share of contracts to small and minority business firms. State agencies must take affirmative steps to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. 7 CFR 227.14(e)

RFP APPENDIX 5 - EVALUATION RUBRIC: FIXED-PRICE CONTRACT

In order to establish a level playing field for all companies that submit proposals, the BNHS provided “Evaluation Rubric” must be used to evaluate the proposals submitted by FSMCs

- 1) Lead person or designee completes the Responsible/Responsive Checklist. Reject any proposals with a ‘no’ on any checklist item.
- 2) Lead person or designee calculates the points for Cost as indicated in this example: *Calculate the percentage difference between fees. FSMC #1 response .2290 management fee; FSMC# 2 response .1500; and FSMC# 3 response .1895. FSMC #2 is the lowest response and would get all 50 points. FSMC #1 is 34.5% more so they would get 32.75 (could round up to 33) points. (Calculation: .1500 divided by .2290 = .655 x 100 = 65.5%. 100% – 65.5% = 34.5%. 50 points minus 34.5% = 32.75) FSMC #3 is 21% more, so they would get 39.5 (could round up to 40) points. All members of the Evaluation Team use the same calculation for costs.*
- 3) Each Evaluation Team member independently scores the remaining criteria in the Evaluation Rubric.
- 4) The lead person or designee collates the responses by averaging the points of each team member. All individual Evaluation Rubrics as well as the collated data are submitted to the State Agency for review.

. Anything that will be used to evaluate proposals must be included on the Evaluation Rubric

EVALUATION RUBRIC COLLATED RESULTS EXAMPLE

Criteria	FSMC 1	FSMC 2	FSMC 3	%/pts
Cost Proposal (proposed price)	33	50	40	50
Menu / Product Identification / Nutrition Analysis Menus	10	7	8	10
Marketing / Training / Operations Marketing	5	5	4	10
Accounting and Reporting Systems	5	4	4	5
Company Experience	15	8	10	10
Company Financials	5	7	10	10
Other Considerations	3	5	3	5
Total	76	86	85	100
<i>The cut-off score for proposals is 85. Responders of proposals evaluated below this score will not enter into negotiations</i>				

FSMC #1 would be notified that they were below the cut-off score and *will not* enter into negotiations. FSMC #s 2, 3, and 4 would be notified that they were at or above the cut-off score and *will* enter into negotiations with all three or can choose to award contract to highest score.

RFP Appendix 6--FSMC CONTACT INFORMATION

*Currently Serving Iowa Schools, *listed alphabetically*:

A'viands, LLC, Address: 767 North Eustis Street, St Paul, MN 55114. Jonathan Barnes, 612-322-3853, jbarnes@aviands.com

Chartwells K-12 School Dining, Compass Group North America, Address: 615 Bucher Ave., Shoreview, MN, 55126. Tim Leary 612-202-6407 tim.leary@compass-usa.com

Lunchtime Solutions, Inc. Address: PO Box 2022, 391 West Steamboat Drive, N. Sioux City, SD 57049. Deni Winter, 712-251-0427, d.winter@lunchtimesolutions.com; Fred Sulzbach 712-251-6541, f.sulzbach@lunchtimesolutions.com

Opaa! Food Management, Inc. Address: 16401 Swingley Ridge Rd., Suite 600, Chesterfield, MO 63017. Greg Frost, VP-Business Development, 636-812-0777 ext. 196, gfrost@opaafood.com; Craig Cohen, Executive VP, 636-778-4904, cohen@opaafood.com

SODEXO, Address: 3020 Woodcreek Downers Grove, IL 60515; Doris Timmen, 312-802-3731, doris.timmen@sodexo.com

Taher, Inc., Address: 5570 Smetana Drive, Minnetonka, MN 55343, Erin Marissa, 952-945-0505, e.marissa@taher.com; Shauna Strub, 612-219-6692, s.strub@taher.com

Thrive Nutrition Services, LLC, Address: 901 West 10th Street, Suite 200, Sioux Falls, SD 57104, LaDonna Tonak, 605-681-8008, sales@got-thrive.com

***Prospective Companies**, *listed alphabetically*:

Arbor Management, Inc. Address: 917 W. Hawthorn Dr., Itasca, IL, 60143. Jeff Krause, VP Sales, 630-620-5005, jeff.krause@arbormgt.com

**This list represents companies that currently serve Iowa schools and companies that have contacted the State Agency interested in serving Iowa schools. The contact information is supplied for convenience to the SFA and no endorsement is implied.*