COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
607 SOUTH DRIVE
HARRISBURG, PA 17120
www.education.pa.gov

Food Service Management Company (FSMC) Request for Proposal (RFP) and COST REIMBURSABLE Contract

Titusville Area School District

106-61-720-3

July 1, 2024 to June 30, 2025

Any School Food Authority (SFA) selecting to use a full-service FSMC must prepare a RFP utilizing this document which may not be re-typed or changed in any way. Addendums to the original or renewal year contract are not permitted. Should the SFA and FSMC enter into any addendum, the Division of Food and Nutrition (DFN) will not review the addendum and the language in this document prevails as binding. The standard form contract has open fields where additions can be made on the contract, itself, in lieu of attaching an addendum.

Agreement Page

The Pennsylvania Department of Education (PDE) provides this contract as a service to sponsors, therefore; PDE shall not be named as a party to this contract. The School Food Authority, hereafter referred to as the SFA, is the responsible authority, without recourse to PDE and the United States Department of Agriculture (USDA) regarding the settlement and satisfaction of all issues arising under this contract. This includes, but is not limited to, disputes, claims, protests of award or source evaluation.

The FSMC certifies that they shall operate in accordance with all applicable State and Federal regulations.

The FSMC certifies that all terms and conditions within the Bid Solicitation shall be considered a part of the contract as if incorporated therein.

This contract shall be in effect for one year starting **July 1, 2024** through **June 30, 2025** and may be renewed by mutual agreement for up to four additional one-year period(s).

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed by their duly authorized representative on the date signed.

Titusville Area School District	
SFA	FSMC
SFA Authorized Representative's **Digital** Signature	FSMC Authorized Representative's **Digital** Signature
Stephanie Keebler	
Printed Name of SFA Authorized Representative	Printed Name of FSMC Authorized Representative
Superintendent	
SFA Authorized Representative Title	FSMC Authorized Representative Title

General Information

A. Intent

This solicitation is for the purpose of entering into a contract for the operation of a food service program for

Titusville Area School District

herein after referred to as the School Food Authority (SFA).

The bidder is herein referred to as the Food Service Management Company (FSMC). The contract will be between the SFA and the FSMC.

B. Procurement Method

1. All procurement transactions shall be conducted in a manner that provides maximum full and open competition consistent with Title 2 CFR §200.318-§200.327.
2. This contract will be a Cost-Reimbursable contract whereas the FSMC will be paid on the basis of the direct costs (food, labor, and supplies) incurred plus fixed fees (administrative and management fees). Expenses that represent the administrative fee must be itemized. A management fee represents the profit to the FSMC.
3. The value of commodities received must be itemized in the regular monthly billing to the SFA to document savings resulting from commodity receipt. The FSMC will ensure that its system of inventory management will not result in the SFA being charged for donated foods.
4. The SFA must determine the existence of the proper pass-through value of the donated commodities; e.g., credits or reductions on the invoice in the month of receipt. The values are to be based on the values at the point the SFA receives the commodities from the Pennsylvania Department of Agriculture (PDA), and on USDA commodity prices pertinent to the time period and shall be in the meal cost that is included in the bidder's proposal.

C. Pre-Bid Meeting, Bid Submission and Award

1. Pre-Bid Meeting
   a. A meeting with interested bidders to review the specifications, to clarify any questions, and for a walk-through of the facilities with school officials will be held at the Administration Office, 301 East Spruce St, Titusville PA 16354.

      See the timeline, Section D, below for date and time. Attendance is required.

   b. FSMC may bring no more than 2 representatives.

   c. Pictures will not be allowed.
2. Bid Submission and Award
   a. Proposals are to be submitted to:

      Titusville Area School District

      Attention: Michael Hlad

      301 E. Spruce St,
      Titusville, PA 16354

      Proposals are due before the start of the Public Opening. See the timeline, Section D, below for the date and time of the Public Opening. Proposals will not be accepted after this time. Proposals are to be submitted in a sealed envelope marked Food Service Management Bid.

   b. The SFA will not conduct the procurement process in a manner that uses statutorily or administratively imposed in-state or local geographic preferences in the evaluation of bids or proposals in accordance with Title 2 CFR §200.319(c).

   c. The SFA is prohibited from entering into a contract with a FSMC that provides recommendations, develops or drafts specifications, requirements, statements of work, requests for proposals, contract terms and conditions, or other documents for use in conducting procurement.

d. The SFA reserves the right to reject any or all bids, if deemed in the best interest of the SFA.

e. For consideration, each FSMC must submit a complete response to this solicitation using only the forms provided. No additional forms will be accepted as part of this contract. DFN will not review or approve any additional forms added to this contract. Any additional forms added to this contract will not be binding.

f. The SFA will award the contract to the most qualified and responsible FSMC whose proposal is responsive to this solicitation. A responsible FSMC is one whose financial, technical and other resources indicate an ability to perform the services required by this solicitation.

g. The FSMC or authorized representative are expected to be fully informed of all conditions, requirements, and specifications before submitting bids; failure to do so will be at the FSMC's risk and cannot secure relief on the plea of error. The SFA is not liable for any cost incurred by the bidder prior to PDE Division of Food and Nutrition's (DFN) final approval of the contract, as dated on page 1 and the signing of the contract by all parties. Paying the FSMC from Child Nutrition (CN) program funds (non-profit school food service account) is prohibited until the contract is signed by both parties and final approval is provided by DFN. DFN approval must be initialed on each page of the contract prior to both parties signing the contract.

h. If additional information is required, please contact: Michael Hlad at 814-827-0545 or at mhlad@gorockets.org

D. Timeline

	Scheduled Date & Time		Postponed Date & Time[1]	
Pre-Bid Meeting	02/20/2024	1:30 pm	02/22/2024	1:30 pm
Last Date for Questions from FSMC	02/20/2024	1:30 pm	02/22/2024	1:30 pm
SFA provides Answers to FSMC Questions by	02/22/2024	2:00 pm	02/23/2024	2:00 pm
Public Bid Opening[2]	03/07/2024	2:00 pm	03/08/2024	2:00 pm

[1] **Postponed date is for any weather related or other postponements from the original scheduled date.**

[2] **Public bid opening must be at least two weeks after the Pre-Bid meeting or the date the SFA provides answers to FSMC questions, whichever date is later. Take into account the postposed Pre-Bid Meeting date when setting the original public bid opening date.**

E. Award Criteria

The contract will be awarded to the responsible bidder whose proposal is most advantageous to the program with price and other factors considered. An evaluation committee must be comprised of at least three people. Each committee member evaluates proposals independently. Select one of the following scoring methods:

☒ One-Step Scoring Method: The relative value assigned to each criterion must be specified and "Cost" must be the primary factor (assigned 51% or more of the points or assigned the greatest number of points compared to other factors). Once the criterion has been evaluated and ranked, the SFA may negotiate with any bidder receiving an average of **the percentage indicated below** or more (criteria must be consistent with the RFP and cannot add or delete specifications/requirements. i.e. the scope cannot change). At the conclusion of the negotiations the proposals are rescored and the award is made to the bidder presenting the most advantageous proposal, with price used as the primary factor.

Percentage required for negotiation: 85%

Cost	36
Service Capability	8
Financial Conditions/Stability, Business Practices	8
Accounting and Reporting Systems	8
Personal Management	8
Experience and References	8
Promotion of the School Food Service Program	8
Involvement of Students, Staff and Patrons	8
Quality Assurance	8
Total points possible:	100

☐ Two-Step Scoring Method: Technical proposals are evaluated and ranked using the value assigned to each criterion before cost is considered. The SFA may negotiate with any bidder receiving an average of the percentage indicated below or more (criteria must be consistent with the RFP and cannot add or delete specification/requirements. i.e. the scope cannot change). At the conclusion of the negotiation the SFA requests bidders to submit best and final price. The award is made to the bidder submitting the lowest price.

Percentage required for negotiation:

Total points possible**:**

F. Bid Protests

Any action which diminishes full and open competition seriously undermines the integrity of the procurement process and may subject the SFA to bid protests. Pursuant to Title 2 CFR §200.318(k), SFAs are responsible for properly responding to protests and concerns raised by potential FSMCs. SFAs must attach their bid protest procedures to this RFP. SFAs must, in all instances, disclose all information regarding a protest to DFN.

G. Bonding Requirement

Bid Guarantee: The FSMC shall submit with its proposal, a bid guarantee for at least five percent (5%) of the total bid price (Total FSMC Costs) in the form of a firm commitment such as a bid bond, postal money order, certified check, cashier's check, or irrevocable letter of credit. Bid guarantees other than bid bonds will be returned (a) to unsuccessful FSMCs as soon as practicable after the opening of bids; and (b) to the successful FSMC upon execution of such further contractual documents (i.e., insurance coverage) and bonds as required by the proposal.

H. Captions

Captions in all sections of this document are provided only as a convenience and shall not affect the interpretation of this instrument, and its attachments.

I. Contract Terms

The contract shall be for a period of one year with the school year beginning on or about **July 1, 2024**, and ending **June 30, 2025**, with up to four one-year renewals with mutual agreement between the SFA and the FSMC.

This contract cannot be effective prior to the date of final approval by DFN, as dated on page 1, and signed by both parties.

J. Employees

Retention of the current food service employees is addressed in the Standard Terms and Conditions under subsection Employees.

K. Errors or Omissions

The proposing FSMC shall not be allowed to take advantage of any errors or omissions in the RFP specifications. Where errors occur in the RFP specification, the FSMC shall promptly notify the contact person listed. Inconsistencies in the RFP specifications are to be reported prior to proposals being submitted. The SFA must communicate to all potential bidders.

L. Final Contract

The complete contract includes all documents included by the SFA in the RFP and the proposal submitted by the FSMC. No additional addendums may be added.

M. Gifts from FSMC

The SFA's officers, employees, or agents shall neither solicit nor accept gratuities, favors, nor anything of monetary value from FSMCs nor potential FSMCs. To the extent permissible under State law, rules, or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards.

N. Disqualified Bids

1. Non-Responsive Bids – Any FSMC that submits an incomplete proposal that fails to meet the specifications of this RFP shall not be considered in the scoring process. The FSMC may be considered non-responsive and the proposal may not be accepted. Any FSMC that submits a proposal for items or activities not requested by the SFA as specified in the RFP shall not be considered in the scoring process. In such instances, the FSMC also may be considered non-responsive and the proposal may not be accepted.
2. Late Bids – The SFA will not consider any bid received after the exact time specified for receipt.

O. Meal Equivalents

For the purpose of making the meal count computation, the number of meals served to children shall be determined by actual counts of reimbursable meals. The FSMC and SFA shall determine a la carte meal equivalents by dividing the a la carte revenue by the per-meal sum of the Federal and State free meal reimbursement plus the per meal value of USDA entitlement and bonus donated foods. A la carte revenue shall include adult meals and a la carte sales to students and adults. If applicable, include revenue from vending machine sales as part of the a la carte revenue.

P. Payment and Fees

The following definitions are provided to clarify what are allowable direct costs:

- Food: limited to those items purchased for use in the preparation and service of student, adult, and a la carte meals as specified under terms and conditions.
- Labor: limited to on-site employees responsible for the management, preparation, service, and clean-up of meals.
- Miscellaneous Expenses: paper supplies, equipment rental, cleaning materials, commodity handling and warehousing charges, travel as required for effective program management, uniforms, printing, taxes and licenses, insurance, and as contractually obligated herein. All expenses must be allowable and directly allocable to the food service operation.

Q. Additional Information

1. This proposal and contract are based on the SFA's 21-day menu. Please check a box below indicating whether or not additional proposals/worksheets will be considered. (Choose one)

   ☒ No

   ☐ Yes, the SFA will consider alternate menus when submitted with the proposal along with the Attachment CR3, Projected Operating Costs (POC), that demonstrate the cost associated with implementation of the alternate menu. The FSMC must also submit an Attachment CR3, POC, on the original menu.

2. Indicate whether or not the SFA provides meals to other sponsors and, if so, list the name of the sponsors to which the SFA provides meals. (Choose one)

   ☒ No

   ☐ Yes, the SFA provides/sells meals to other sponsors.

   List Name of Other Sponsors:

   *No FSMC employees are allowed to be onsite at these above-listed sponsors.

   ***Signed Sponsor to Sponsor Agreements* must be in place each year for each sponsor listed above. It is the purchasing sponsor's responsibility to submit to PDE.

3. Indicate the number of proposals to be submitted by the FSMC

   2 paper copies

   1 electronic copies

4. The SFA may add any additional items that need to be covered in the RFP/original contract below. The SFA may not add additional items to the Renewal Year Contracts without rebidding unless the item constitutes an immaterial change from the original contract. PDE cannot provide an exclusive listing of which changes are material regarding the many procurement actions undertaken in CN programs. The SFA should consult with legal counsel in making those determinations. However, PDE views a change as material when, had the new term been in the solicitation and original contract, it could have affected how the bidder and other competitors responded to the RFP.

   If the services of the FSMC are to begin after the start of the school year and the beginning contract term date is later than July 1 (i.e. January 1), enter the beginning contract term date under this section and include that date in the advertisement and solicitation. It must also be addressed at the walk-through. The ending contract term date will always be June 30.

   Do not repeat any items/specifications outlined under General Information (A-P) or the Standard Terms & Conditions (1-29).

   1. Prefer FSMC have experience with PrimeroEdge POS system software.
   2. No alternate bids accepted.
   3. All bidders must use specified breakfast, lunch and ala carte pricing. These prices are subject to change per SFA authorization.
   4. All bidders must include details of their billing methods on their proposal.
   5. Continue working and promoting with the district on all food service programs.

Standard Terms and Conditions

1. Scope and Purpose

   A. The FSMC shall operate in conformance with the SFA's Policy Statement/Agreement with PDE.

   B. The SFA *currently operates* the programs indicated below with a checkmark:

☒ National School Lunch Program (NSLP)	☐ Child and Adult Care Food Program (CACFP)
☒ Extended School Year	☐ At-Risk Supper
☒ School Breakfast Program (SBP)	☐ Special Milk Program (SMP)
☐ Afterschool Snack Program (ASP)	☐ Vending
☐ Summer Food Service Program (SFSP)	☒ A la Carte
☐ Seamless Summer Option (SSO)	☒ Community Eligibility Provision (CEP)

   Proposals must be inclusive of all of the SFA's current programs. However, the SFA reserves the right to add and/or expand the federal CN program to provide the availability of food resources to children and students that can be served through these programs. Prior approval must be obtained by the State Agency before adding a CN program and both parties must agree to the addition. The SFA also reserves the right to remove CN programs.

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

   D. The food service provided shall be operated and maintained as a resource to the SFA's students, faculty, and staff and not as a source of profit to the FSMC.

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

   F. 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, grants, loans, etc., shall be deposited in the SFA's non-profit school food service account. Any profit or guaranteed return shall remain in the SFA's non-profit school food service account. If there is a guaranteed return, it can be no less frequent than yearly. This is a non-profit program and, as such, the SFA's non-profit school food service account should retain a maximum balance of three (3) months operating expenses on hand as is required under Title 7 CFR §210.9(b)(2).

   G. The SFA and the FSMC agree that this contract is neither a "cost-plus-a-percentage-of-income" nor a "cost-plus-a-percentage-of-cost" contract as required under Title 7 CFR §210.16(c).

   H. The SFA shall be legally responsible for the conduct of the non-profit school food service program and shall supervise the food service operations in such manner as will ensure compliance with the rules and regulations of PDE and the USDA regarding each of the CN programs covered by this contract. The SFA shall not relinquish any prohibited responsibilities to the FSMC.

   I. The SFA shall retain control of the CN program's food service account and overall financial responsibility for the CN programs.

   J. The SFA shall establish 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.) These prices shall not be established by the FSMC. However, the FSMC may provide recommendations.

K. The FSMC shall provide additional school-related food service, such as banquets, parties, refreshments for meetings, etc., as requested by the SFA. The SFA or requesting organizations will be billed for the actual cost of food, supplies and labor, and the FSMC's administrative expenses if applicable to providing such service. USDA commodities shall not be used for these special functions unless the SFA's students will be primary beneficiaries.

L. Guarantee: The Projected Operating Costs (POC), Attachment CR3, supporting the guarantee must be submitted. The FSMCs guarantee (Breakeven, return, or loss) dollar amount is documented in section 7 of the POC. The estimated yearly income must support the stated guarantee. If the FSMC proposes a guaranteed return, loss, or breakeven, it must be **unlimited**. If a FSMC proposes a guarantee that is not supported by the POC provided by the SFA, the FSMC must provide the SFA with justification regarding their guaranteed amount. Guarantee options are explained below:

1. Guaranteed Loss: The FSMC guarantees that the SFA's invoiced Financial Obligation as stated on the POC shall exceed gross receipts for the current year by no more than stated and documented on Attachment CR3. The FSMC agrees to reimburse the SFA for the amount by which the SFAs actual deficit for the current year is greater than the Guaranteed Deficit for the current year.
2. Guaranteed Breakeven: The FSMC guarantees the SFA's invoiced Financial Obligation as stated on the POC for the current year shall at a minimum, equal the SFA's documented gross receipts for the current year.
3. Guaranteed Return: The FSMC guarantees that the documented gross receipts for the current year shall exceed the SFA's invoiced Financial Obligation as stated on the POC for the current year by at least the amount documented on Attachment CR3. The FSMC agrees to reimburse the SFA for the amount by which the SFA's actually return for the current year is less than the Guaranteed Return for the current year.
4. No Guarantee.

M. Guarantee Conditions and Assumptions: The FSMCs obligation to reimburse the SFA shall remain in effect only during the current year and any renewal year and is contingent upon the following conditions and assumptions remaining in effect for the current year. In the event one or more of the following conditions and assumptions does not remain in effect for the current year, the FSMC may reduce its reimbursement to the SFA by an appropriate amount:

1. Reimbursement rates for the food service program will not be less than those stated in the RFP.
2. The per meal commodity value of USDA donated foods **offered** will not be less than the per meal commodity value of USDA donated foods received during the prior year.
3. The number of full-service days on which breakfast and lunch are served will be at least the serving days listed on Attachment CR3. The participation and number of service day estimates for SFSP and CACFP shall be excluded from the guaranteed assumptions.
4. The average daily student enrollment for the current year will be within two percent of the number stated on Attachment 1 – Averaged Daily Participation.
5. The number of students eligible to receive free and reduced-price meals compared to the total student enrollment will not decrease from that provided on Attachment 1 – Average Daily Participation.
6. The SFA will not require the FSMC to take an action which will cause the cost of wages and/or benefits for the FSMCs food service employees to exceed the levels set forth on Attachment 4 Summary, Attachment 4 Details, Attachment 5 Summary and Attachment 5 Details.
7. The selling prices of school breakfast, lunch, and afterschool snacks will be no less than the meal prices listed on Attachment 1 – Average Daily Participation.
8. Should costs reflected on Attachment CR3 be materially higher than projected due to price changes as documented by the Consumer Price Index for All Urban Consumers (CPI-U), U.S. base for food away from home, the guarantee will be commensurately reduced.

9. A change resulting in a drop in participation or sales greater than 2% of projected budgeted sales or participation unless the impact on the guarantee is reviewed and mutually agreed to in writing by both parties before any change occurs.

10. No strikes, work stoppages, or school closings, and all make-up days due to inclement weather were implemented.

11. There will be no changes in Federal, State or local regulations which cause financial impact to the Food Service Program.

N. The SFA reserves the right, at its sole discretion, to sell or dispense any food or beverage before or after the SFA's regularly scheduled lunch or breakfast periods, provided such is not prohibited by Local Wellness Policies and state or federal program regulations. Specially exempted fundraiser foods or beverages may only be sold at the frequency specified by DFN per Title 7 CFR §210.11(b)(4).

O. The FSMC must 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 as required by Title 7 CFR §210.10(d)(4).

P. The FSMC shall cooperate with the SFA in promoting nutrition education and coordinating the SFA's food service with classroom instruction. The FSMC shall comply with the Local Wellness Policy including the nutrition guidelines as required.

Q. The FSMC shall make modifications and substitutions in school meals for students whose disabilities restrict their diet. Meal modifications and substitutions shall be made on a case-by-case basis and must be supported by a medical statement with the required information when the modification or substitution cannot be made within the Program meal pattern. There will be no additional charge to the student for such substitutions or modifications.

R. The SFA is responsible for all contractual agreements the SFA enters into in connection with the CN programs.

S. This contract shall be construed under the laws of the Commonwealth of Pennsylvania. Any action or proceeding arising out of this contract shall be heard in the appropriate courts of the Commonwealth of Pennsylvania.

T. The FSMC shall comply with the provisions of the bid specifications, which are hereby in all respects made a part of this contract.

U. No provision of this contract shall be assigned or subcontracted without prior written consent of the SFA and DFN.

V. No waiver of any default shall be construed to be or constitute a waiver of any subsequent claim.

W. This contract constitutes the entire contract between the SFA and the FSMC.

X. 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 the SFA are to be used.

Y. Payments on any claim shall not preclude the 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.

Z. The SFA shall be responsible for ensuring the resolution of program review and audit findings.

AA. This contract must be reviewed and approved by DFN prior to execution, as noted in the final approval on page 1.

2. Signature Authority

A. The SFA shall retain signature authority for the policy statement/agreement to participate in the CN programs, including but not limited to the School Nutrition Program Financial Form, the Verification Report, and the on-line submission of the sponsor application/site information and other reports, and requests to PDE to amend the application.

B. The SFA shall retain signature authority for the Monthly Claim for Reimbursement in the CN Program Electronic Application and Reimbursement System (CN PEARS).

C. The SFA is responsible for reviewing the data and signing the Edit Check Worksheet(s) prior to the submission of the monthly Claim for Reimbursement.

D. The FSMC may not be given access to CN PEARS, COMPASS, or the PrimeroEdge Student Eligibility System.

3. Free and Reduced Price Meals Policy

A. The SFA shall be responsible for the establishment and maintenance of the free and reduced price meals' eligibility roster. This may not be delegated to the FSMC.

B. The FSMC shall implement an accurate point of service meal/milk count using the meal counting system submitted by the SFA in their application to participate in the CN programs and approved by DFN, as required under Title 7 CFR §210.8. Such meal/milk counting system must eliminate the potential for the overt identification of free and reduced price eligible students under Title 7 CFR §245.8 and prevent erroneous meal counts. The FSMC is responsible for ensuring students are not being claimed for meals when they were not in attendance at the time of the meal or did not receive a reimbursable meal. The SFA must have a system in place to monitor this.

C. The SFA shall be responsible for the completion, distribution, and collection of the parent letter and household application for free and reduced price meals and/or free milk. This may not be delegated to the FSMC.

D. The SFA shall be responsible for obtaining the Direct Certification List from COMPASS or PrimeroEdge (as applicable), as required throughout the school year, for use to determine eligibility for free meals without obtaining a household application for free and reduced price meals and/or free milk from parent/guardian. This may not be delegated to the FSMC.

E. The SFA shall be responsible for the determination of eligibility for free and reduced price meals and free milk and will not disclose confidential information to the FSMC, as required under Title 7 CFR §210.16(a). The SFA will provide the FSMC with a list of children. This list must be updated by the SFA when changes occur in a student's eligibility status. These activities may not be delegated to the FSMC.

F. The SFA shall be responsible for conducting any hearings related to determinations regarding eligibility for free and reduced price meals and free milk. This may not be delegated to the FSMC.

G. The SFA shall be responsible for verifying household applications for free and reduced price meals and follow-up activities as required by federal regulations. The SFA position responsible for completing the verification process (this may not be delegated to the FSMC) is N/A district is CEP.

4. USDA Donated Foods

A. The SFA shall retain title to all USDA donated foods.

B. The FSMC is prohibited from entering into any processing contracts utilizing USDA donated foods on behalf of the SFA. All refunds received from processors must be retained by the non-profit school food service account.

C. The FSMC shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to, USDA donated foods.

D. The FSMC shall select, accept and use USDA donated foods in as large quantities as may be efficiently utilized in the SFA's non-profit school food service, subject to approval of the SFA. The SFA shall consult with the FSMC in the selection of commodities; however, the final determination as to the acceptance of commodities must be made by the SFA.

E. The FSMC will use all donated foods or will use commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, in the SFA's food service.

F. The FSMC must assure that the procurement of processed end products on behalf of the SFA, as applicable, will ensure compliance with the requirements of Title 7 CFR Part 250 subpart C, and with the provisions of distributing or recipient agency processing agreements, and will ensure crediting of the SFA for the value of donated foods contained in such end products at the processing agreement value.

G. The FSMC shall have records available to substantiate that the full value of all USDA donated foods is used solely for the benefit of the SFA.

H. The FSMC shall perform the following activities in accordance with Title 7 CFR §250.50(d): (check all that apply)

- ☒ Preparing and serving meals using donated foods.
- ☒ Ordering or selection of donated foods (in coordination with the SFA).
- ☒ Storage and inventory management of donated foods.
- ☒ Payment of processing fees or submittal of refund requests to a processor on behalf of the SFA, or remittance of refunds for the value of donated foods in processed end products to the SFA.

5. Crediting For and Use of Donated Foods

A. The FSMC must credit the SFA for the value of all donated foods received for use in the SFA's meal service in the school year (including both entitlement and bonus foods).

B. The FSMC must credit the SFA for the value of donated foods contained in processed end products if the FSMC is required to:

1. Procure processed end products on behalf of the SFA, or
2. Act as an intermediary in passing donated food value in processed end products on to the SFA.

C. All crediting must be done on no less than a monthly basis.

D. The FSMC must provide clear documentation of the crediting showing the value received from the donated foods. As determined by PDA's Bureau of Food Assistance in accordance with Title 7 CFR §250.51(c), the following methods shall be used for valuing donated foods:

a. Processed donated foods are credited based on the product values stated on the USDA November Material Price List pertinent to the appropriate School Year.

b. All other donated foods are credited based on the product values at the time the foods are received by the SFA, using either PDA's January Commodity Price List or PDA's July Commodity Price List. (Commodity Price Lists are available on PAMeals.)

E. Following Title 7 CFR §210.21(f)(iv), invoices must clearly display all applicable credits to the SFA.

6. Inventory, Storage and Record Retention of USDA Donated Foods

A. When this contract or subsequent renewals terminates, the FSMC must return all unused donated ground beef, donated ground pork and processed end products. At the termination of the contract, the SFA (choose one)

- ☐ will allow the FSMC to keep other unused donated foods.
- ☒ will retain all other unused donated foods.

B. The FSMC will comply with the storage and inventory requirements for donated foods.

C. The SFA, the Comptroller General, PDA, PDE, USDA, or their duly authorized representatives, may perform on-site reviews of the FSMC's food service operation, including the review of records, to ensure compliance with requirements for the management and use of donated foods.

D. The FSMC will maintain records to document its compliance with requirements relating to donated foods, in accordance with Title 7 CFR §250.54(b).

E. The SFA must maintain the following records relating to the use of donated foods:

1. The donated foods and processed end products received and provided to the FSMC for use in the SFA's food service.
2. Documentation that the FSMC has credited the SFA for the value of all donated foods received for use in the SFA's food service in the school year, including, in accordance with the requirements in Title 7 CFR §250.51(a), the value of donated foods contained in processed end products.
3. The actual donated food values used in crediting.

F. The FSMC must maintain the following records relating to the use of donated foods:

1. The donated foods and processed end products received from, or on behalf of, the SFA, for use in the SFA's food service.
2. The FSMC must show documentation that it has credited the SFA for the value of all donated foods received for use in the SFA's food service in the school year, including, in accordance with the requirements in Title 7 CFR §250.51(a), the value of donated foods contained in processed end products.
3. The FSMC must maintain documentation of its procurement of processed end products on behalf of the SFA, as applicable.

G. The SFA must ensure that the FSMC is in compliance with the requirements of this part through its monitoring of the non-profit school food service operation, as required in Title 7 CFR Parts 210, 220, 225, or 226, as applicable. The SFA position responsible for this monitoring process is
the Director of Transportation & Food Service

H. The SFA must conduct a reconciliation at least annually (and upon termination of the contract) to ensure that the FSMC has credited it for the value of all donated foods received for use in the SFA's non-profit school food service in the school year. The annual Agency Summary Report provided by PDA's Bureau of Food Assistance is the basis for the donated food values.

7. Renewal Assumptions

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

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

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

1. The SFA reserves the right to expand the federal CN programs in order to provide availability of food resources to children and students that can be served through these programs so long as both parties are in agreement and prior approval is obtained by DFN.
2. The SFA's policies, practices, and service requirements shall remain materially consistent throughout the contract term and any subsequent contract renewals.

   The term materially consistent shall mean that a change does not (1) materially increase FSMC's cost of providing management service or (2) materially decrease the net revenue derived from the food service operations.
3. Legislation, regulations, and reimbursement rates that create changes in the CN program shall be enforced on their effective date.
4. Usable commodities of adequate quality and variety required for the menu cycle, valued at an amount as

5. The government reimbursement rates in effect shall remain materially consistent throughout the year.
6. Meal components and quantities required by any of the programs selected in letter B, under 1 (Scope and Purpose) of the Standard Terms and Conditions remain consistent with prior years.
7. Service hours, service requirements, and type or number of facilities selling food and/or beverages on SFA's premises shall remain materially consistent throughout the contract term and any subsequent contract renewal years.
8. The state or federal minimum wage rate and taxes in effect shall remain materially consistent throughout the year.
9. The projected number of full feeding days that shall remain materially consistent in renewal years are 177
10. If participating in Seamless Summer Option (SSO), the projected number of full feeding days for SSO that shall remain materially consistent in renewal years are N/A
    If participating in Summer Food Service Program (SFSP) see Section 27.B.
11. SFA revenue credited to the food service program shall include all state and federal amounts received specifically for CN operations.

B. Contract Cost Increase: The FSMC may negotiate at the end of each one-year contract period for a cost increase. If there is an increase in the Administrative and Management Fees, it cannot exceed the annual percentage increase of the Consumer Price Index for All Urban Consumers (CPI-U) for the preceding year. The addition of new line items to the budget is not allowable in renewal years. The CPI-U can be used as a gauge for proposed increases to operating costs. However, the SFA must be able to justify approval for operating costs exceeding the CPI-U.

C. All contract renewals shall be for a period of one year beginning July 1 and ending June 30, with mutual agreement between the SFA and the FSMC. Renewal contracts cannot be effective prior to the final approval date by DFN and signed by both parties. Failure to have renewal contracts fully executed prior to July 1, will lapse this contract and require the SFA to re-bid the contract.

D. Renewal year contracts are contingent upon fulfillment of all contract provisions. If DFN determines during an Administrative Review, Procurement Review, audit, etc., that the FSMC is not meeting contractual obligations and is responsible for noncompliance of program regulations, DFN may decline to approve a renewal contract until it can be demonstrated that the FSMC is capable of meeting contractual obligations and being in compliance with program regulations.

8. Health Certifications

A. The SFA shall maintain all applicable health certifications on its facilities and shall ensure that all state and local regulations are being met by the FSMC preparing or serving meals at any SFA facility.

B. The FSMC shall maintain state and/or local health certifications for any facility outside the SFA in which it proposes to prepare meals and shall maintain this health certification for the duration of the contract as required under Title 7 CFR §210.16(c).

C. The FSMC shall adhere to the Food Safety Plan implemented by the SFA for all preparation and service of school meals, using a Hazard Analysis and Critical Control Point (HACCP) system as required under Public Law 108-265.

D. The FSMC agrees to 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 Public Law 108-265.

E. The SFA shall immediately correct any problems found as a result of a health inspection. The FSMC must support and cooperate with the necessary corrections.

9. Meals

A. The FSMC shall serve meals on such days and at such times as requested by the SFA.

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

C. The FSMC shall offer free, reduced price and paid reimbursable meals to all eligible children participating in the CN programs.

D. In order for the FSMC to offer a la carte food service, the FSMC must offer free, reduced price and paid reimbursable meals to all eligible children.

E. The FSMC shall provide meals in the CN programs that meet the requirements as established in Title 7 CFR Part 210, Part, 215, Part 220, Part 225, and Part 226.

F. The FSMC shall provide the specified types of service in the schools/sites listed in Section 1, letter B.

G. The FSMC shall promote maximum participation in the CN programs. Proposal shall include plan for FSMC to increase participation, if applicable, and any cost that will be incurred as a result of the plan. Any guarantee dependent on participation must identify the change to the guarantee based upon participation factors.

H. The FSMC shall sell on the premises only those foods and beverages authorized by the SFA and only at the times and places designated by the SFA.

I. No payment will be made to the FSMC for meals that are spoiled or unwholesome at the time of delivery, do not meet detailed specifications as developed by the SFA for each food component in the meal pattern, or do not otherwise meet the requirements of the contract.

J. The SFA may request changes in delivery and packaging in cases of an emergency. Emergencies may include, but are not limited to, wars, acts of public enemies, strikes, work stoppages, natural disasters, acts of God, civil disorders, public health crises, freight embargos, or loss or malfunctions of utilities, respectively, and which by the exercise of due diligence they were unable to prevent. Any price adjustment resulting from the emergency, must be agreed upon by both parties in writing. Additionally, the length of the emergency period should be estimated and agreed to by both parties in writing.

10. Books and Records and Reports

A. The FSMC shall maintain and provide to the SFA, on a monthly basis, detailed (itemized) documented cost records (supported by invoices, receipts, etc.). This documentation must be retained on-site by the SFA. The FSMC is required to identify the amount of each discount, rebate, and other applicable credits. All costs must be fully supported, mutually agreeable to the SFA and the FSMC and be allowed by federal regulations. The FSMC shall submit the detailed monthly documentation no later than the tenth (10th) calendar day succeeding the month in which services were rendered. Participation records shall be submitted no later than the fifth (5th) working day succeeding the month in which services were rendered. The SFA shall perform edit checks on the participation records provided by the FSMC prior to the preparation and submission on-line of the Claim for Reimbursement. The SFA shall reconcile Edit Check worksheets and daily/monthly meal counts against student attendance records and daily transaction worksheets/logs.

B. The FSMC shall maintain records <u>at the SFA</u> to support all expenses and revenue appearing on the monthly operating statement attributable to the SFA. These records shall be kept <u>at the SFA</u> in an orderly fashion according to expense categories. This includes, but is not limited to invoices, receipts, and timesheets to support all expenses charged to the SFA.

C. The FSMC shall provide the SFA with a year-end statement.

D. The SFA shall conduct an internal audit of food, labor and other large expense items quarterly, as well as performing random audits on smaller expense categories. This includes, but is not limited to, conducting inventory counts and analyzing and reconciling invoices, receipts and time sheets on no less than a quarterly basis. The SFA shall maintain documentation for a period of three (3) years from the end of the contract term (including renewals) to which they pertain.

E. Should the SFA have any concern as to the FSMC's compliance of regulatory rules due to internal audits, monitoring, an Administrative Review, or a Procurement Review conducted by PDE, the SFA shall have the right to request an audit of the FSMC and the selection of the auditor(s) to perform the audit. The FSMC will be responsible for bearing the costs that occur as a result of this audit.

F. The SFA and the FSMC must provide all documents as necessary for the independent auditor to conduct the SFA's single, program, or financial audit.

G. Books and records of the FSMC pertaining to the CN program operations shall be made available, upon demand, in an easily accessible manner for a period of three (3) years from the end of the contract term (including renewals) to which they pertain, for audit, examination, excerpts and transcriptions by the SFA and/or any state or federal representatives and auditors.

H. If audit findings regarding the FSMC's records have not been resolved within the three-year period, the records must be retained beyond the three-year period for as long as required for the resolution of issues raised by the audit. (Title 2 CFR §200.334).

I. The FSMC shall not remove federally required records from the SFA premises. Upon contract termination, the FSMC must leave copies of the records at the SFA premises.

J. The SFA is responsible for ensuring resolution of program review and audit findings.

11. Employees

A. The SFA reserves the right to interview and approve the on-site food service manager/director.

B. The SFA must designate if the ***current*** SFA employees, including site and area managers as well as any other staff, will be retained by the SFA or be subject to employment by the FSMC. (Choose One)

- [x] Employees will be retained by the SFA.
- [ ] Employees will be retained by the FSMC.
- [ ] Employees will be retained by the SFA and FSMC.
- [ ] There are currently no SFA employees, charged to the non-profit Food Service Account.

C. The SFA must have a written code of conduct for all employees, which the FSMC must uphold for all employees working with the food program. (Title 2 CFR §200.318(c)).

D. The FSMC shall provide the SFA with a schedule of employees, positions, assigned locations, salaries, and hours to be worked as part of the proposal. Specific locations and assignments will be provided to the SFA two full calendar weeks prior to the commencement of operation.

E. The FSMC must provide time sheets for each FSMC employee and indicate the pro-ration of shared employees. These time sheets must be submitted monthly with each invoice that is submitted for payment. The time sheets need to clearly indicate all locations that each employee and pro-rated employee worked and the percent of time that the employee worked in each location.

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

G. The SFA must identify a SNP director who is an employee of the SFA. The SNP director must meet the minimum Professional Standards hiring and annual training requirements. In addition, the SNP director must ensure program oversight, including but not limited to, ensuring that the FSMC's food service director and all food service staff also meet the Professional Standards requirements (Title 7 CFR §210.30). Directors must accrue eight (8) hours of food safety training upon hire and every five (5) years thereafter. The SNP director responsibilities will be fulfilled by this position: The Director of Transportation & Food Service

H. The SFA and FSMC must ensure that all food service employees meet and continue to meet all of the Professional Standards for hiring and training requirements. All trainings must be documented in PrimeroEdge Teamwork.

I. The FSMC shall maintain its own personnel and fringe benefits policies for its employees. A copy of these policies must be submitted with all proposal documents. These policies are subject to review by the SFA.

J. Staffing patterns shall be mutually agreed upon.

K. The FSMC shall not hire employees in excess of the number required for efficient operation.

L. The SFA shall provide sanitary toilet and hand washing facilities for the employees of the FSMC.

M. The SFA may request in writing the removal of any employee of the FSMC who violates health requirements or conducts himself/herself in a manner that is detrimental to the well-being of the students.

N. In the event of the absence, termination, removal or suspension of any such employee, the FSMC shall immediately restructure the food service staff without disruption of service.

O. All SFA and/or 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.

P. The use of student workers or students enrolled in vocational classes in the food service shall be mutually agreed upon.

Q. The FSMC shall provide proof that each prospective employee working with children has had a Pennsylvania State Criminal History Background Check and a Federal Criminal History Record that is not more than one (1) year old. (Section 111 of the Public School Code. See Act 48 of 2003 Section 111 for specific convictions that this applies to.)

R. The FSMC shall provide proof that each prospective employee working with children has had the required number of hours of approved child abuse recognition and reporting training. (Act 31 of 2014)

12. Monitoring

A. The SFA shall monitor the food service operation of the FSMC through periodic on-site visits to ensure that the food service is in conformance with USDA program regulations per Title 7 CFR §210.16. On-site monitoring is required regardless of the number of sites. An On-Site Review Checklist (Monitoring Form) for monitoring can be found on PEARS/Applications/Download Forms under section SNP-Forms. Further, if there is more than one site, there is an additional requirement that the SFA conduct an on-site review of the counting and claiming system no later than February 1, of each year as required by Title 7 CFR §210.8. The SFA position responsible for performing all on-site reviews is the Director of Transportation & Food Service.

B. The records necessary for the SFA to complete the required monitoring activities must be maintained on-site by the FSMC under this contract, and must be made available to the Auditor General, USDA, PDE, PDA, and the SFA upon request for the purpose of auditing, examination, and review.

13. Menus/Advisory Boards

A. The FSMC must comply with the 21-day menu developed by the SFA for the programs checked in section 1, letter B of this contract, and is included in the RFP (the exception to this would be the SFSP which only requires an 11-day menu). Minor changes made by the FSMC after the first 21-day cycle must be approved by the SFA. The SFA shall approve menus no later than two weeks prior to service. Major changes to the menu are not allowable unless included as part of the RFP process and acceptable by the SFA as indicated in Section Q. FSMC proposals must identify if they plan to change the 21-day menu included in the RFP, as indicated by the SFA in Section Q. If so, the FSMC must identify how it will change the menu and the financial impact to revenues and expenses.

B. The SFA is responsible for the formation and establishment of an advisory board composed of parents, teachers, and students meeting periodically to assist in menu planning and other activities related to food service. The FSMC may participate in these periodic meetings as deemed appropriate by the SFA. The establishment of the advisory board may not be delegated to the FSMC.

The advisory board will be overseen by this position: The Director of Transportation & Food Service

The frequency of advisory board meetings will be: Two times per school year.

C. The SFA must maintain records of the advisory board including agenda, meeting minutes, and detailed sign-in sheet indicating role of attendees as either parents, teachers, or students. These records must be made available, upon request, in an easily accessible manner for a period of three (3) years from the end of the contract term (including renewals) to which they pertain, for audit, examination, excerpts and transcriptions by the SFA and/or state or federal representatives and auditors.

14. Use of Facilities, Inventory, Equipment & Storage

A. The SFA will make available, without any cost or charge to the FSMC, area(s) of the premises agreeable to both parties in which the FSMC shall render its services.

B. 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 CN programs.

C. The FSMC and the SFA shall inventory the equipment and commodities owned by the SFA at the beginning of the school year, including but not limited to, silverware, trays, chinaware, glassware, and/or kitchen utensils.

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

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

F. The FSMC shall maintain adequate storage procedures, inventory, and control of USDA donated foods in conformance with the SFA's agreement with PDA.

G. The SFA shall provide the FSMC with one set of keys for all food service areas secured with locks.

H. The SFA shall provide the FSMC with local telephone service.

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

J. Check one of the following regarding equipment:

☒ The SFA is not requesting the FSMC to propose purchase of equipment. The FSMC may not propose purchase of equipment in proposal and equipment may not be charged, directly or indirectly, to the SFA throughout the duration of the contract.

☐ The SFA is allowing the FSMC to propose equipment necessary for implementation or enhancement of operation. The FSMCs may recommend equipment for the SFAs food service operation in an amount not to exceed . If the SFA approves the recommendation, the SFA will procure and finance the equipment.

The SFA must obtain preapproval from DFN for each item of equipment costing $5,000 or greater through the Capital Expenditure Request process if non-profit school food service account funds are going to be used at any time during the process for the purchase.

☐ The SFA is allowing the FSMC to propose equipment necessary for implementation or enhancement of operation. The FSMC may finance equipment for the SFAs food service operation in an amount not to exceed **,** for the life of the contract including optional renewal. Any equipment not included in FSMC proposal may not be charged, directly or indirectly, to the SFA throughout the duration of the contract. **If this option is selected, the SFA may provide specifications in Section Q, Additional Information.**

The SFA must obtain preapproval from DFN for each item of equipment costing $5,000 or greater through the Capital Expenditure Request process if non-profit school food service account funds are going to be used at any time for the purchase (even if the FSMC purchases).

The FSMC shall be subject to the same procurement requirements to which the SFA is subject in purchasing equipment and may not serve as a vendor when purchasing equipment on behalf of the SFA. Ownership of the equipment will vest in the SFA immediately upon purchase of the equipment. The SFA shall repay the FSMC at the rate agreed upon when the equipment is purchased.

If the contract expires or is terminated prior to complete repayment of the investment, the SFA shall, on the expiration date, or within five days after receipt by either party of any notice of termination under this Contract, either (choose one)

Retain the property and continue to make payments in accordance with the amortization/payment schedule.

Pay the remaining balance immediately.

Deliver the equipment or other items funded by the investment to the FSMC. Dependent upon the amount paid compared to the amortized value, one of the respective parties may be credited.

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

L. All food preparation and serving equipment owned by the SFA shall remain on the premises of the SFA.

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

N. The FSMC shall notify the SFA of any equipment belonging to the FSMC on SFA premises within 10 days of its placement on SFA premises.

O. The SFA shall have access, with or without notice, to all of the SFA's facilities used by the FSMC for purposes of inspection and audit.

P. The FSMC shall not use the SFA's facilities to produce food, meals, or services for other organizations without the approval of the SFA. If such usage is mutually acceptable, there shall be a signed agreement, which stipulates the fees to be paid by the FSMC to the SFA for such facility usage.

Q. The SFA, on the termination or expiration of the contract, shall conduct a physical inventory of all equipment and commodities owned by the SFA.

R. The FSMC shall surrender to the SFA upon termination of the contract, all equipment, and furnishings in good repair and condition.

15. Purchases

A. If the FSMC is procuring goods or services which are being charged to the SFA under the contract, the FSMC is acting as an agent for the SFA and must follow the same procurement rules under which the SFA must operate and that the FSMC may not serve as a vendor. Check one of the below options:

☐ The SFA will do all purchasing for the non-profit school food service.

☐ The FSMC bills the SFA for foods when purchased. At the option of the SFA, the FSMC will purchase back unused supplies from the SFA at the termination of the contract in order to prevent overbuying.

☒ The FSMC bills the SFA for food when used. At the option of the SFA, the SFA will buy the ending inventory from the FSMC.

B. This contract shall not prevent the SFA from participating in food co-ops or purchasing food from vendors with whom the FSMC normally does not do business.

C. Under Title 7 CFR §210.21(f)(i):

1. Only allowable costs will be paid from the non-profit school food service account to the FSMC net of all discounts, rebates and other applicable credits accruing to or received by the FSMC; to the extent, those credits are allocable to the allowable portion of the costs billed to the SFA.

2. The FSMC must separately identify for each cost submitted for payment to the SFA the amount of each cost that is allowable and unallowable.

3. Proprietary information, such as brand name, may be redacted, provided sufficient information is provided for SFA to reconcile monthly billing invoice against supporting documentation.

4. The FSMC must individually identify the amount of each discount, rebate and other applicable credits on all bills and invoices presented to the SFA. In the case of other applicable credits, the nature of the credit must be identified.

5. The FSMC must identify, on the final invoice of the school year, the method by which it will report discounts, rebates and other applicable credits allocable to the contract that cannot be reported prior to the conclusion of the contract.

6. The FSMC must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation to the SFA and, upon request, to DFN, or USDA.

D. No expenditure may be made from the non-profit school food service account for any cost resulting from a cost reimbursable contract that fails to include requirements of this section, nor may any expenditure be made from the non-profit school food service account that permits or results in the FSMC receiving payments in excess of the FSMC's actual, net allowable costs.

E. P.L. 110-246, Section 4302 of the Richard B. Russell National School Lunch Act (NSLA), allows SFAs to purchase unprocessed locally grown and locally raised agricultural products. NSLA allows SFAs, if they choose to do so, to apply a geographic preference when procuring unprocessed locally grown and locally raised agricultural products. The SFA may just apply a preference, they cannot make this a requirement.

16. Nonprogram Foods

A. Nonprogram foods include any non-reimbursable foods and beverages purchased using funds from the non-profit school food service account. This would include, but is not limited to, a la carte; catering; vending, second meals and non-reimbursable suppers.

B. The FSMC must identify the following on the monthly invoice:

- Costs of all reimbursable meals;
- Costs of all nonprogram foods.

C. The SFA is responsible for maintaining documentation of all revenues for reimbursable meals and all revenues for nonprogram foods.

D. Documentation to identify the separation of:

- Revenues of reimbursable meals from revenues of nonprogram foods
- Costs of reimbursable meals from costs of nonprogram foods

This documentation must be made available to the Auditor General, USDA, PDE, PDA, and the SFA upon request for the purpose of auditing, examination, and review.

17. Payment Terms/Method

A. Invoices

1. The FSMC shall invoice the SFA monthly for amounts due based on on-site records. The SFA shall make payments within 30 days of the invoiced date.

2. Invoices must be itemized by cost categories such as food, including commodities, labor, supplies, rebates, discounts, credits, etc. Detailed (itemized) cost documentation must be submitted monthly to support what the SFA is charged for each cost, charge, or expense. This documentation must be retained on-site by the SFA.
3. The FSMC is required to identify the amount of each discount, rebate, and other applicable credits on bills and invoices presented to the SFA for payment as required by Title 7 CFR §210.21(f)(iv). An example of the invoice, identifying commodities (USDA entitlement balances), discounts, rebates and credits must be included with the proposal.
4. Costs, charges, and expenses must be mutually agreeable to the SFA and the FSMC and be allowed by federal regulations.
5. The FSMC must submit a monthly reconciliation to the SFA comparing the invoice and revenue against the projected revenue and expenses. (Used in the Attachment CR3, Projected Operating Costs of the proposal.)
6. DFN may randomly request SFAs to submit copies of invoices for compliance with the above items.
7. The payment of interest and late fees from the non-profit school food service account fund is prohibited.
8. Upon termination of the Agreement, all outstanding amounts shall immediately become due and payable.

B. Advance Payment – Indicate whether or not the SFA will consider an advance payment.

☐ No, the SFA will not consider providing an advance payment to the FSMC.

☒ Yes, the FSMC may provide an explanation regarding the financial benefits of allowing an advance and the SFA may consider a request from the FSMC for an advance payment for operational expenses. If an advance is paid it must be reconciled by the end of the first six months from the start of each school year (July 1).

If after the SFA has considered and agreed to paying an advance, the advance will be paid (choose one):

☐ Using the general fund. A loan agreement between the general fund and the non-profit school food service account must be in place.

☒ Using the non-profit school food service account.

C. Payment Incentives – Indicate whether or not the SFA will consider payment incentives. (Choose one)

☐ No, the SFA will not consider any payment incentives such as discounts or credits for prompt payment, electronic payment, etc.

☒ Yes, the SFA will consider payment incentives such as discounts or credits for prompt payment, electronic payment, etc. Payment incentives only apply if the invoice is paid according to payment terms.

18. Buy American

A. The FSMC shall purchase, to the maximum extent practicable, domestic commodities or products which are either an agricultural commodity produced in the United States (U.S.) or a food product processed in the U.S. substantially using agricultural commodities produced in the U.S.

B. The FSMC must document and the SFA must approve any exceptions to Buy American. Exceptions are allowable when the domestic foods are not produced or manufactured in the US in sufficient and reasonably available quantities; or competitive bids reveal the costs of a US product are significantly higher than the non-domestic product.

C. The FSMC shall certify the percentage of U.S. content in the products supplied to the SFA.

D. The SFA reserves the right to review vendor purchase records to ensure compliance with the Buy American provision.

19. Sanitation

A. The FSMC shall place garbage and trash in the containers in the designated areas as specified by the SFA.

B. The SFA shall remove all garbage and trash from the designated areas.

C. The FSMC shall clean the kitchen and dining room areas as indicated on the Attachment 2, Cost Responsibility Detail Sheet.

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

E. The FSMC shall comply with all local and state sanitation requirements in the preparation of food.

20. Licenses, Fees and Taxes

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

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

C. The FSMC shall comply with all SFA building rules and regulations.

21. Civil Rights

A. Both the SFA and FSMC hereby agrees that it will comply with:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);
2. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);
3. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);
4. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
5. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189);
6. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000);
7. All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.);
8. Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42, and 50.3);
9. Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any Program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Contract;
10. The USDA nondiscrimination statement that in accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

B. This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This

includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

C. By accepting this assurance, the SFA and FSMC agree to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Sponsor, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA.

22. Emergency Closing

A. The SFA shall notify the FSMC of any interruption in utility service of which it has knowledge.

B. The SFA shall notify the FSMC of any delay in the beginning of the school day or the closing of school(s) due to snow or other emergency situations.

23. Term and Termination

A. The SFA or the FSMC may terminate the contract for cause or for convenience by giving 60 days written notice.

B. At any time, because of circumstances beyond the control of the FSMC or the SFA, either party may terminate the contract by giving 10 days written notice to the other party.

C. Force Majeure. Neither the FSMC nor the SFA shall be responsible to the other for losses should the fulfillment of the terms of the contract be delayed or prevented by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, wars, acts of public enemies, strikes, work stoppages, natural disasters, acts of God, civil disorders, public health crises, freight embargos, or loss or malfunctions of utilities, respectively, and which by the exercise of due diligence they were unable to prevent.

D. The SFA is protected under the Commonwealth of Pennsylvania's Tort Claims Act (act), and as such, cannot and shall not be held responsible or otherwise liable for those actions or inactions specifically enumerated under the Act. Based on the foregoing, each party agrees to protect, indemnify, and hold harmless the other party and its agents, employees, directions, officers, affiliates, consultants, and/or contractors from and against any and all damages, injuries (including bodily injury, dismemberment, and/or death), claims, liabilities, and costs (including reasonable attorneys' fees), which arise or may be suffered or incurred in whole or in part as a result of the acts or omissions of the indemnifying party, its agents, employees, directors, officers, affiliates, consultants, and/or contractors, and whether arising under this Agreement, to the extent permitted by law.

24. Nonperformance by the FSMC

A. The FSMC is required to provide a Performance Bond in the amount of 10% (dollar amount or percentage of the total bid price [Total FSMC Costs]) as a guarantee of performance of all terms outlined under this contract. The amount/percentage should not be unreasonable in that it would prevent full and open competition. The Performance Bond provides the SFA recourse in the event that contractual obligations are not satisfactorily performed.

B. In the event of the FSMC's nonperformance under this contract and/or the violation or breach of the contract terms, the SFA shall have the right to pursue all administrative, contractual, and legal remedies against the FSMC and shall have the right to seek all sanctions and penalties as may be appropriate.

C. The FSMC shall reimburse the SFA the full amount of any meal over-claims which are attributable to the FSMC's negligence, including those over-claims based on review or audit findings that occurred during the effective dates of the original and renewal contracts.

D. The SFA shall notify DFN in the event of nonperformance by the FSMC.

25. Certifications

A. The FSMC shall comply with Sections 3702 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. §3701-3708, as supplemented by the Department of Labor regulations, Title 29 CFR Part 5. Under Section 3702 of the Act, the FSMC shall be required to compute the wages of every laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible, provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of forty hours in any work week.

B. The FSMC shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations, Title 41 CFR Part 60.

C. The FSMC shall comply with the Buy American provision for contracts that involve the purchase of food, Title 7 CFR §210.21(d).

D. The FSMC shall sign the Certification Regarding Debarment and Suspension, Appendix D, which is made a part of this contract. (Title 2 CFR Part 180) This certification assures the SFA that the FSMC has not been debarred from entering into contracts with the Federal Government, or any other entity receiving Federal funds, or suspended from entering contracts during a time when the FSMC is being investigated for a legal action which is being taken to debar the FSMC from contracting activities.

E. The FSMC shall comply with all applicable standards, orders, or requirements issued under the Clean Air Act (Title 42 U.S.C. 7401-7671), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency. Violations can be reported electronically at https://www.epa.gov/enforcement/report-environmental-violations.

F. The FSMC shall comply with the mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

H. The FSMC shall sign the Lobbying Certification, Appendix E, which is made a part of this contract. If applicable, the FSMC has also completed and submitted Standard Form-LLL, Disclosure of Lobbying Activities, Appendix E. If no lobbying activity occurred, the FSMC is still required to sign the Disclosure of Lobbying Activities, Appendix E. (Title 2 CFR Part 418)

I. The FSMC shall sign the Certification of Independent Price Determination, Appendix F, which is incorporated herein by reference and made part of this contract.

26. Insurance

A. The FSMC is required to be insured adequately to support the terms of the contract. The FSMC shall maintain the insurance coverage set forth below for each accident provided by insurance companies authorized to do business in the state of Pennsylvania. A Certificate of Insurance of the FSMC's insurance coverage indicating these amounts must be submitted at the time of award.

B. The FSMC shall have in effect during all times under this agreement, comprehensive general liability insurance, including products and completed operations liability, contractual liability, and independent contractor's liability coverage and personal injury. Minimum coverage shall be $1,000,000 per incident/per person for general liability.

1. General Liability	$1,000,000
2. Worker's Compensation	Statutory Coverage
3. Vehicle Insurance	$1,000,000
4. Umbrella Liability	$5,000,000 per incident/per person

C. The SFA shall be named as additional insured on the General Liability and Automobile insurance policy. The FSMC must provide a waiver of subrogation in favor of the SFA for General Liability, Automobile, and Worker's Compensation.

D. In addition, the FSMC shall provide fire and theft insurance at its own expense to cover any risk created by fire and/or theft to its property located on the premises of the SFA. The FSMC further agrees to provide all necessary fire and/or theft insurance to cover clothes, garments and other articles owned by their employees.

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

27. Summer Food Service Program (SFSP) (See letter B under 1 (Scope and Purpose) of the Standard Terms and Conditions for verification of participation)

A. If participating, then the SFA shall offer free meals to all eligible children participating in the SFSP. If the FSMC will operate the SFSP (including the preparation, record keeping, and delivery of meals), a flat price per meal cost must be submitted as part of this RFP for the SFSP (Attachment SFSP1, SFSP Projected Operating Costs). In accordance with Title 7 CFR §225.15 the SFA cannot contract out the management responsibilities of the SFSP. The SFA shall be responsible for ensuring that the food service operation conforms to all program requirements outlined in Title 7 CFR Part 225. The SFA shall be responsible for determining eligibility for all SFSP sites. The SFA as a SFSP sponsor is responsible for conducting and documenting the required site visits of all sites for pre-approval and during operation of the program.

B. The SFSP will operate from _____ to _____ .

28. Child and Adult Care Food Program (CACFP) (See letter B under 1 (Scope and Purpose) of the Standard Terms and Conditions for verification of participation)

If participating, then the SFA shall offer meals to all eligible children and adults participating in the CACFP, respectively. If the FSMC will operate the CACFP (including the preparation, record keeping, and delivery of meals), a flat price per meal cost must be submitted as part of this RFP for the CACFP (Attachment CACFP1, CACFP Projected Operating Costs). In accordance with Title 7 CFR §226.15 the SFA cannot contract out the management responsibilities of the CACFP. The SFA shall be responsible for ensuring that the food service operation conforms to all program requirements outlined in Title 7 CFR Part 226.

29. Trade Secrets and Proprietary Information

A. During the term of the contract, the FSMC may grant to the SFA a nonexclusive right to access certain proprietary materials of the FSMC, including menus, recipes, signage, food service surveys and studies, management guidelines and procedures, operating manuals, software (both owned by and licensed by the FSMC), and similar compilations regularly used in FSMC business operations (trade secrets). The SFA shall not disclose any of the FSMC's trade secrets or other confidential information, directly or indirectly, during or after the term of the contract. The SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of the FSMC. All trade secrets and other confidential information shall remain the exclusive property of the FSMC and shall be returned to the FSMC immediately upon termination of the contract. The SFA shall not use any confusingly similar names, marks, systems, insignia, symbols, procedures, and methods. Without limiting the forgoing and except for software provided by the SFA, the 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 the FSMC and not the SFA. Furthermore, the SFA's access or use of such software shall not create any right, title interest, or copyright in such software and the SFA shall not retain such software beyond the termination of the contract. In the event of any breach of this provision, the FSMC shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available. This provision shall survive termination of the contract.

B. Any discovery, invention, software, or programs paid for by the SFA shall be the property of the SFA to which the State Agency and USDA shall have unrestricted rights.

Appendix A

SFA Certification of Acknowledgement

Initial below next to each statement certifying that you have read and fully understand the contents of this contract.

A. I certify that I, Stephanie Keebler **,** on behalf of **the SFA**, have read and fully understand the contents of this contract. I understand that **the SFA** must maintain oversight of the food service operations and that these responsibilities will not be delegated to the FSMC. I also understand that **the SFA** is responsible for closely monitoring the FSMC contract and the FSMC's daily activities.

Initial Here:

B. I certify that I have chosen a Cost Reimbursable contract, and will follow the respective procedures.

Initial Here:

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

Initial Here:

D. I certify that I, nor any employees (including School Board members) of **the SFA**, will not solicit or accept donations, gratuities, nor favors from current or potential FSMCs (i.e. gifts, golf outings, meals, etc.).

Initial Here:

E. I certify that I will appropriately and in a timely manner respond to all bid protests and concerns raised by potential FSMCs.

Initial Here:

F. I certify that **the SFA** has a written Code of Conduct that addresses conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts, and will make sure all employees are aware of said standards.

Initial Here:

G. I have read and understand what the allowable costs are for all of the applicable CN programs.

Initial Here:

H. I certify that **the SFA** will be legally responsible for the conduct of the non-profit school food service program, and shall supervise the food service operations in such manner as will ensure compliance with the rules and regulations of PDE and the USDA regarding each of the CN programs covered by this contract.

Initial Here:

I. I certify that this **SFA position** The Director of Transportation & Food Service will fulfill the SNP director responsibilities. The SNP director must meet the minimum Professional Standards hiring and annual training requirements and provide program oversight, including but not limited to, ensuring that the FSMC's food service director and all food service staff also meet the Professional Standards requirements (Title 7 CFR §210.30). Directors must accrue eight (8) hours of food safety training upon hire and every five (5) years thereafter.

Initial Here:

J. I certify that **the SFA** shall retain control of the CN programs' non-profit school food service account, signature authority, and overall financial responsibility for the CN programs. This includes access to CN PEARS, COMPASS, or PrimeroEdge Student Eligibility System.

Initial Here:

K. I certify that CN programs are the responsibility of **the SFA** and **the SFA** is responsible for all contractual agreements entered into in connection with the CN programs.

Initial Here:

L. I certify that **the SFA** will be responsible for determining student eligibility for all applicable programs and that the FSMC will have no involvement in the process.

Initial Here:

M. I certify that **the SFA** will retain all records for the current year plus three years from the end of the contract including any renewals.

Initial Here:

N. I certify that all food will be in compliance with the current meal standards and Local Wellness Policy.

Initial Here:

O. I certify that **the SFA** will monitor the FSMC in order to ensure compliance with USDA regulations.

Initial Here:

P. I certify **the SFA** will create an advisory board composed of students, teachers, and parents to assist in menu planning.

Initial Here:

Q. I certify that **the SFA** will not delegate any of the above responsibilities to the FSMC.

Initial Here:

R. I hereby certify that neither **the SFA** nor its principals/authorized representatives is presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from participation in this transaction by any Federal/State department or agency.

Initial Here:

S. I further certify that neither **the SFA** nor any of its principals/authorized representatives has a reported criminal background that would affect the receipt of Federal funds.

Initial Here:

T. I certify that the FSMC is not a paid consultant or contractor with **the SFA** in any other capacity than for this contract.

Initial Here:

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

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

Printed Name of SFA Authorized Representative: Stephanie Keebler

SFA Authorized Representative Title: Superintendent

SFA Authorized Representative Signature: _____

Appendix B

FSMC Certification of Acknowledgement

Initial below next to each statement certifying that you have read and fully understand the contents of this contract.

A. I certify that I, _____ on behalf of **the FSMC**, have read and fully understand the contents of this contract.

Initial Here:

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

Initial Here:

C. I certify that employees of **the FSMC** will be trained to understand and comply with all necessary trainings including the current written Code of Conduct authored by **the SFA**.

Initial Here:

D. I certify that all of **the FSMC** food service employees meet the minimum Professional Standards requirements.

Initial Here:

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

Initial Here:

F. I certify that **the FSMC** will not have control of the CN programs' non-profit school food service account, signature authority, and overall financial responsibility for the CN programs. This includes access to CN PEARS, COMPASS, or the PrimeroEdge Student Eligibility System.

Initial Here:

G. I certify that **the SFA** will be responsible for determining student eligibility for all applicable programs and that the FSMC will have no involvement in the process.

Initial Here:

H. I certify that **the FSMC** will follow the 21-day menu for the first 21-days of service, without change.

Initial Here:

I. I certify that all food will be in compliance with the current meal standards and Local Wellness Policy.

Initial Here:

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

Initial Here:

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

Initial Here:

L. I further certify that neither **the FSMC** nor any of its principals/authorized representatives has a reported criminal background that would affect the involvement in CN programs.

Initial Here:

M. I certify that **the FSMC** is not a paid consultant or contractor with **the SFA** in any other capacity than for this contract.

Initial Here:

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

On behalf of **the FSMC**, I hereby agree to comply with all state and federal laws and regulations governing the CN programs administered by the state agency. In accordance with Federal law and USDA policy, **the FSMC** does not discriminate on the bases of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Printed Name of FSMC Authorized Representative _____

FSMC Authorized Representative Title _____

FSMC Authorized Representative Signature _____

Appendix C

Acknowledgement of Personnel Relationships

☐ Yes ☐ No (choose one), **the SFA** employs the same person/people that is/are employee(s) of **the FSMC**.

If Yes, we the undersigned certify that the employee(s):

- Does/will not have a real or apparent conflict of interest.
- Does/will not participate in the selection, award, or administration of the contract.
- Does/will not have access to or control of the food service financial account.
- Does/will not be involved in the establishment of the selling prices for all reimbursable and non-reimbursable meals, a la carte items, adult meals, catering, or vending items.
- Does/will not have access to CN PEARS, COMPASS, or the PrimeroEdge Student Eligibility System.
- Does/will not be involved in the completion, distribution or collection of the parent letters and household applications for free and reduced price meals.
- Does/will not be involved in the determination or verification of eligibility for free and reduced price meals.

Employee Name	SFA Position Title and Job Duties	FSMC Position Title and Job Duties

Titusville Area School District	
SFA	FSMC
SFA Authorized Representative Signature	FSMC Authorized Representative Signature
Stephanie Keebler	
Printed Name of SFA Authorized Representative	Printed Name of FSMC Authorized Representative
Superintendent	
SFA Authorized Representative Title	FSMC Authorized Representative Title

Appendix D

Certification Regarding Debarment and Suspension

This certification is required by the regulations implementing Executive Order 12549 and 12689, "Debarment and Suspension" (Title 2 CFR Part 180). These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

(1) The prospective participant certifies, by submission of this proposal, that neither it nor its principals:

(a) Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

FSMC _____

Printed Name of FSMC Authorized Representative _____

FSMC Authorized Representative Title _____

FSMC Authorized Representative Signature _____

Appendix E

Certification Regarding Lobbying

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding $100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding $100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

FSMC _____

Printed Name of FSMC Authorized Representative _____

FSMC Authorized Representative Title _____

FSMC Authorized Representative Signature _____

Appendix E

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

☐ Applicable ☐ Not Applicable

(This form must be signed regardless of Applicability)

1. Type of Federal Action: _____ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: _____ a. bid/offer/ application b. initial award c. post-award	3. Report Type: _____ a. initial filing b. material change For Material Change Only: Year _____ Quarter _____ Date of Last Report _____
4. Name and Address of Reporting Entity: Prime Subawardee Tier, if known: Congressional District, if known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable:	
8. Federal Action Number, if known:	9. Award Amount, if known: $	
10. a. Name and Address of Lobbying Entity: (last name, first name, MI)	10. b. Individuals Performing Services (including address if different from No. 10,a.)	
(Attach Continuation Sheet(s) SF-LLL-A If Necessary) (if individual, last name, first name, middle)		
11. Amount of Payment (check all that apply): $ _____ Actual $ _____ Planned	13. Type of payment (check all that apply): ___ a. retainer ___ b. one-time fee ___ c. commission ___ d. contingent fee ___ e. deferred ___ f. other; specify:	
12. Form of Payment (check all that apply): ___ a. cash ___ b. in-kind; specify: Nature _____ Actual _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or member(s) contracted for Payment indicated in Item 11: (Attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Are Continuation Sheet(s) SF-LLL-A Attached:	Yes_____ (Number _____)	No _____
16. Information requested through this form is authorized by Title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: Name: Title: Telephone:	

Disclosure of Lobbying Activities
Continuation Sheet SF-LLL-A

Reporting Entity: _____ Page _____ of _____

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee; e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) Number, Invitation for Bid (IFB) Number; grant announcement number; the contract, grant or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes e.g., "RFP-DE-90-001".
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check all that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check all that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether a SF-LLL-A Continuation Sheet(s) is attached. List number of sheets, if yes.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348-00046), Washington, DC 20503.

Appendix F

Independent Price Determination Certificate

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

Titusville Area School District	
SFA	FSMC

(A) By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

(1) The prices in this offer have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any person or firm to submit or not to submit, an offer for the purpose of restricting competition.

(B) Each person signing this offer on behalf of the Food Service Management Company certifies that:

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

(2) He or she is not the person in offeror's organization responsible within the organization for the decision as to the prices being offered herein, but that he or she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate in any action contrary to (A)(1) through (A)(3) above, and as their agent does hereby so certify and he or she has not participated and will not participate in any action contrary to (A)(1) through (A)(3) above.

To the best of my knowledge, this Food Service Management Company, its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.

FSMC Authorized Representative Signature	FSMC Authorized Representative Title

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

	Superintendent
SFA Authorized Representative Signature	SFA Authorized Representative Title

NOTE: ACCEPTING A BIDDER'S OFFER DOES NOT CONSTITUTE AWARD OF THE CONTRACT.

Appendix G

Sample Minimum Food Specifications

These are minimum specifications. The SFA is encouraged to provide more details that align with the 21-day menu.

Meat/Seafood

All meats, meat products, poultry, poultry products, and fish must be Government inspected.

- Beef, lamb, and veal shall be USDA Grade Choice or better.
- Pork shall be U.S. No. 1 or U.S. No. 2.
- Poultry shall be U.S. Government Grade A.
- Seafood to be top grade; frozen fish must be a nationally distributed brand, packed under continuous inspection of USDA.

Dairy Products

All dairy products must be Government inspected.

- Fresh eggs shall be USDA Grade A or equivalent, 100% candled.
- Frozen eggs must be USDA inspected.
- Milk shall be pasteurized Grade A.

Fruits and Vegetables

- Fresh fruits and vegetables selected according to written specifications for freshness, quality, and color – U.S. Grade A Fancy.
- Canned fruits and vegetables selected to requirements U.S. Grade A Choice or fancy (fruit to be packed in light syrup or natural juices).
- Frozen fruits and vegetables shall be U.S. Grade A Choice or better.

Baked Products

- Bread, rolls, cookies, pies, cakes, and pudding either prepared or baked on premises or purchased on a quality level commensurate with meeting USDA breakfast and lunch requirements as applicable.

Staple Groceries

- Staple groceries to be a quality level commensurate with previously listed standards.