Minnesota Department of Education

School Nutrition Programs
Food Service Management Contracts
Requirements for School Year 2013-14

These requirements apply to school food authorities that participate in School Nutrition Programs (SNP) and contract with a company for the management of their school food service. These requirements do not apply to contracts limited to preparation/delivery of meals ("contracts for vended meals").

1. Requirements for *Renewal* of a Management Contract for School Year (SY) 2013-14

A school food authority and a food service management company may mutually agree to renew a management contract for SY 2013-14, without conducting a new procurement, if the following conditions are met:

- The management contract must be **renewable**, that is, the original contract allowed for renewals and the contract has not already been renewed the maximum number of times allowed by federal or state law.

  Public schools may renew a management contract for a total of three years (original contract plus two renewals) as allowed by state law. Other school food authorities (not public schools) may renew a management contract for a total of five years (original contract plus four renewals) as allowed by federal program regulations. (See the following section on *Requirements for Obtaining a New Management Contract* for a list of school food authorities that have already renewed their management contract for the maximum number of years.)

- The school food authority and company may mutually agree to an **adjustment of the financial terms** of the management contract, up to a maximum percentage increase defined by the index that was specified in the original contract. Usually the Consumer Price Index (CPI-U) – Food Away from Home, Midwest Region is used for this purpose. The CPI-U to use for 2013-14 management contracts (the maximum percentage that financial terms may be adjusted from the 2012-13 contract to the 2013-14 contract) is 3.1 percent.
- **No material changes** are made to the management contract.

  In school year 2012-13, school food authorities with management contracts were required to evaluate whether the changes to food items and quantities specified by the Healthy, Hunger-Free Kids Act of 2010 (HHFKA) would be a material change to their management contract. If the changes required by HHFKA were not a material change to your management contract, then the contract may continue to be renewed. If the changes required by HHFKA were a material change to your management contract, then the contract may *not* be renewed again for SY 2013-14 and procurement for a new management contract must be conducted prior to school year 2013-14.

Required Template for Contract Renewal: The Food Service Management Contract – Renewal template, available on the *School Nutrition Programs / Procurement and Contracts / Food Service Management* page of the Minnesota Department of Education website, must be

used to renew a management contract. There are two versions of the renewal template, for either a *fixed meal price* or a *cost-reimbursable* contract.

- Email a copy of your 2013-14 *signed* contract renewal to *mde.fns@state.mn.us* or fax to 651-582-8501, attention to Food Service Management Contract Review. Contract renewals are not required to be reviewed by Food and Nutrition Service (FNS) prior to being signed. If a signed renewal is found to not meet program requirements, however, it will have to be revised and re-signed.

  Send the signed contract renewal to FNS as early as possible, and no later than May 2013. A school food authority's approval to claim School Nutrition Program (SNP) reimbursements for SY 2013-14 will be delayed if FNS has does not receive a signed copy of the management contract renewal.

2. Requirements for Obtaining a *New* Management Contract for SY 2013-14

According to Minnesota Department of Education (MDE) records, SY 2012-13 is the final renewal year of the food service management contract for these school food authorities. These management contracts may *not* be renewed for SY 2013-14.

1000003448	1000004179	1000004353
1000003874	1000004239	1000004380
1000003965	1000004274	1000004392
1000004040	1000004345	1000004768
1000004116	1000004349	1000005052

Notify MDE if your school food authority:

- Is currently in the final renewal year of a management contract but is *not* listed above, or
- Does not currently have a management contract but plans to enter into a management contract starting SY 2013-14.

Requests for Proposals/Timelines
School food authorities that plan to have a new food service management contract for SY 2013-14 should begin the procurement process for a new contract in winter 2013. The rest of this memorandum and attachments explain the requirements for procuring a new management contract and timelines for submitting contract and procurement documentation to MDE. See the attached *SNP Procurement Requirements for a Food Service Management Contract* for detailed information about the required steps in the procurement process.

- A school food authority planning to obtain a new food service management contract for school year 2013-14 **should start its procurement process in winter 2013** and should complete the process before the end of the current school year. The draft management contract and procurement documentation should be submitted to MDE for review no later than May 2013.
- Prototypes that can be used to develop a **Request for Proposals (RFP)** for a food service management contract are available on the MDE website. There are two prototypes available, depending on whether the school food authority is looking for a *fixed meal price* contract or a *cost-reimbursable* management contract. Refer to the attached *SNP Procurement Requirements for a Food Service Management Contract* for an explanation of the basic differences between the *fixed meal price* and *cost-reimbursable* contract formats.
- The **Food Service Management Contract template**, provided on the MDE website, is required as the **primary contract document** between the school food authority and

Company. There are two contract templates available, either for a *fixed meal price* contract or a *cost-reimbursable* contract.

The school food authority may add an **addendum** or **amendments** to add or modify contract provisions as needed, except for provisions that are required by program regulations. An addendum or amendment should be limited to information that needs to be added to the provisions already in the Contract template. The addendum or amendment must be organized and numbered so that the addendum provisions are specifically linked to the provisions of the Contract template that are being added to or modified.

FNS Review of Contract and Procurement Documentation

1. Draft Contract and Procurement Documentation

Send a copy of the draft contract to FNS as early as possible, not later than May 2012. Allow two weeks for FNS response. The draft contract may be signed by the company, but not by the school food authority. FNS will respond either to confirm that the contract meets program requirements and may be signed by both parties, or to require specified revisions. At the same time, **send the completed Procurement Description Form** with required attachments.

The draft contract and procurement documents may be emailed to *mde.fns@state.mn.us* or faxed to 651-582-8501, to attention of Food Service Management Contract Review.

2. Signed Contract

After any required changes have been made to the draft contract, **send a signed copy of the contract** to FNS. Email the signed copy to *mde.fns@state.mn.us* or fax to 651-582-8501, to attention of Food Service Management Contract Review. The signed copy of the contract must be received before FNS can approve the school food authority to claim SNP reimbursements for SY 2013-14.

If you have any questions about requirements for food service management contracts, contact MDE-FNS at 651-582-8526, 800-366-8922 (MN Toll-free) or mde.fns@state.mn.us.

School Nutrition Programs
Procurement Requirements for Obtaining a Food Service Management Contract

General Procurement Requirements

Federal and state requirements for competitive procurement and required contract provisions must be met when a school food authority participating in School Nutrition Programs (SNP) obtains a contract for management of its food service. Federal procurement standards allow state and local procurement procedures to be used as long as they are consistent with federal requirements. A school food authority may be prohibited from paying contract costs from the nonprofit school food service account if required procurement procedures have not been followed.

Federal regulations require a school food authority to follow formal procurement procedures to obtain a contract that will be over $150,000. State law requires public schools to follow formal procurement procedures for contracts over $100,000.

School food authorities typically use a Request for Proposals (RFP) format (instead of an Invitation for Bids format) to procure a management contract. The RFP format allows the school food authority to award the contract based on a combination of lowest price and how well the proposals meet the evaluation criteria established by the school food authority.

Procurement Steps and Timelines

Steps (see following pages for more details on each step)	**Suggested Timelines**
1. Draft the Request for Proposals (RFP).	By February preceding the school year that contract will begin.
2. (Optional) Send Draft RFP to MDE for review.	Allow two weeks.
3. Advertise and distribute the RFP.	March.
4. Select Evaluation committee.	March.
5. Pre-proposal (on-site) meeting with interested companies. Issue clarifications to RFP as needed.	Meeting scheduled at least two weeks after advertisement. Issue clarifications in writing to all interested companies within one week of request for clarification.
6. Deadline for companies to submit proposals.	April. At least two weeks after pre-proposal meeting and at least one week after any final clarifications.
7. Evaluate proposals; award contract; draft contract.	Allow at least two weeks after receipt of proposals for award of contract and drafting contract. School board approval may be obtained at this step, pending MDE review; or approval is obtained after MDE review.
8. Email or fax draft contract and procurement documentation to MDE for review.	Allow two weeks for MDE response.
9. Revise draft contract if necessary; obtain school board approval; obtain signatures; email or fax signed copy to MDE.	May/June.

1. Draft the Request for Proposals (RFP)

Choose RFP Template

Two versions of a prototype RFP for a food service management contract are available on the MDE website, for either a *fixed meal price* contract or a *cost-reimbursable* contract. The RFPs are available on the *School Nutrition Programs / Procurement and Contracts/ Food Service Management Contracts* page. Also available is the *RFP – Attachments* spreadsheet, which includes various attachments for the RFP.

All proposals must be for the same type of contract so that the financial portions of the proposals can be compared and ranked. The school food authority selects the appropriate template for its needs:

- RFP for a Fixed Meal Price Contract
- RFP for a Cost-Reimbursable Contract

If the **fixed meal price RFP** is used, the proposals from companies will specify the **fixed prices to be charged for each meal type**. The fixed meal prices will include the company's cost of preparing the meals, management costs and profit. Since the fixed meal prices do not take into account the value of United States Department of Agriculture (USDA) Foods that the school food authority will provide to the company during the year, the company must credit the school food authority for the value of USDA Foods as they are received. In addition to the RFP template, the ***RFP-Attachments* spreadsheet** contains various documents that must be attached for a complete RFP.

If the **cost-reimbursable** RFP is used, the proposals from companies will indicate the **fixed management fees** that the company will charge, and the **maximum costs that the school food authority will reimburse to the company**. USDA Foods received by the company help to reduce the reimbursable costs that need to be paid to the company. The school food authority is responsible during the year to monitor that the company has requested reimbursements only for actual and allowable costs, after subtracting applicable discounts, rebates, and credits received by the company. Reimbursement for costs is limited to the lesser of (1) the maximum per-meal costs in the company's proposal or (2) the actual reimbursable costs incurred by the company. In addition to the RFP template, the ***RFP-Attachments* spreadsheet** contains various documents that must be attached for a complete RFP.

Evaluation Criteria

The RFP format allows a school food authority to identify the evaluation criteria that will be used to award points to the non-price portion of each proposal. An RFP with evaluation criteria may be used for either a fixed meal price contract or a cost-reimbursable contract.

Sample evaluation criteria are provided in the *RFP-Attachments* document. The school food authority must modify, add or delete criteria as needed. Assign the maximum number of points for each criterion. The single highest number of points must be assigned to price. Points are usually distributed so that total maximum points are 100. Attach the evaluation criteria to the RFP.

Procurement of Automated Eligibility System

If the RFP will include requesting the company to act as its procurement agent for acquiring an automated eligibility system, contact the Minnesota Department of Education – Food and Nutrition Service for additional provisions that must be included in the RFP.

2. MDE Review (Optional)

The school may send its RFP to FNS for review prior to distributing to companies. Two weeks should be allowed for FNS response. An estimated response date may be requested from FNS.

3. Advertise and Distribute the RFP

The school food authority must advertise the RFP in at least one public notice in a newspaper of general circulation in the area of the school food authority. The notice must provide a general description of the scope of work, how to request a copy of the RFP, and the date and location for the pre-proposal meeting and the submission of proposals.

- A prototype Legal Notice is attached to the RFP template.
  The school food authority also must distribute the RFP to known vendors that may be interested in submitting proposals.
- A prototype Letter to Food Service Management Company is attached to the RFP template.
- The Contact List of management companies known to FNS is available on the *SNP / Procurement and Contracts / Food Service Management Contracts* page of the MDE website.

4. Evaluation Committee

At least three persons should be selected for the evaluation committee. Do not select individuals who may have a conflict of interest. The evaluation committee members will attend the pre-proposal meeting and any presentations, and evaluate the non-price portions of the proposals.

5. Pre-Proposal Meeting/Clarifications

A mandatory pre-proposal meeting or conference should be held onsite for interested companies. If the meeting is mandatory, only companies that have attended the meeting may submit proposals. The pre-proposal meeting provides an opportunity for the school food authority to answer questions and provide clarifications, and to conduct a facility tour, preferably while the food service is in operation.

It should be stated at the meeting that information provided orally is not official until provided in writing to all companies that have received the RFP. Inform companies that all contact with the district must be through the designated district representative. Any other contact with district personnel, administration, vendors, contractors, or board members will disqualify their proposal.

The pre-proposal meeting should not be held until interested companies have had an opportunity to review the RFP, so allow at least a week between distribution of the RFP and the meeting. The meeting should be held at least two weeks prior to the proposal submission deadline, so that companies have time to thoroughly develop their proposals and request any clarifications.

Companies may request clarifications regarding the RFP before, during or after the pre-proposal meeting. Clarifications must be provided in writing to all companies that have received the RFP, and should be provided within a week of the request. The school food authority may issue needed clarifications at any time, although it is recommended that clarifications not be issued during the last week before the proposal deadline. However if a late issue arises that must be clarified, the proposal deadline can be extended.

6. Deadline for Proposals

At the scheduled date and time specified as the deadline for proposal submission, the proposals are opened and read aloud. Proposals either conform to the requirements of the RFP and are

accepted for consideration, or are rejected for being non-responsive to the RFP. All proposals become the property of the school food authority. No access to proposals can be provided to companies until the contract is awarded.

7. Evaluation of Proposals/Award of Contract/Drafting Contract

The school food authority's evaluation committee evaluates and ranks the non-price portions of the proposals, based on the criteria that were listed in the RFP. Maintain documentation of each person's evaluation and the final decision. Non-price portions of the proposals (materials, references, presentations) should be evaluated before reviewing the price proposals.

The Point Calculator and Instructions, available from the *RFP – Attachments* spreadsheet, should be used to record the points awarded to each proposal. The Point Calculator calculates the number of points that should be awarded to each proposal for the price portion. The evaluator enters the number of points for each criterion, and the Point Calculator then shows the total number of points that have been awarded to each proposal. The contract is awarded to the responsible company that has submitted a proposal that is responsive to the RFP and has received the highest number of points.

The standard *SNP Food Service Management Contract* provided by MDE must be used as the primary contract document between the school food authority and Company. The school food authority may attach an additional document to the contract to add or modify provisions as needed, subject to review of the additional provisions by MDE.

Other general requirements for food service management contracts:

- The school food authority is responsible for drafting management contract provisions.
- Financial terms must be either fixed meal prices or reimbursement of costs plus fixed management fees.
- Effective dates of the management contract must be within the school year July 1 - June 30.
- The contract may be renewed for additional school years by mutual agreement of the school and the company, without a new procurement, only if the original contract provided for contract renewal, specified the economic index that will be used to adjust prices/fees, and no material changes are being made to the contract. The original contract may also require that the meal equivalency factor be updated when a contract is renewed.

8. MDE Review

Send the **draft contract** (may be signed by company but not by school) and the completed ***Procurement Description Form*** to FNS for review as early as possible, preferably no later than May 2013. Documents can be emailed to *mde.fns@state.mn.us* or faxed to 651-582-8501, to attention of Food Service Management Contract Review.

FNS will respond either that the contract meets program requirements and may be signed, or will specify changes that are required prior to signature.

9. Signature/Copy to MDE

Make any contract changes required by MDE. Obtain signatures and email a signed copy to *mde.fns@state.mn.us* or fax to 651-582-8501, attention to Food Service Management Contract Review. Also send the completed *Procurement Description Form* to FNS if not already sent. These documents must be received before FNS can approve the school's application to claim SNP reimbursements for school year 2013-14.