

**INVITATION FOR BID (IFB)
And
CONTRACT FORM**

U S DEPARTMENT OF AGRICULTURE – FOOD AND NUTRITION SERVICES

SUMMER FOOD SERVICE PROGRAM INVITATION FOR BID AND CONTRACT

SECTION A

This document contains an invitation to food service management companies to bid for the furnishing of unitized meals to be served to children participating in the Summer Food Service Program (SFSP) authorized by Section 13 of the National School Lunch Act, and operated under Part 225 of the US Department of Agriculture (USDA) regulations. This document sets forth the terms and conditions applicable to the proposed procurement. Upon acceptance it shall constitute the contract between the bidder and the Sponsor named below,

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0280. The time required to complete this information collection is estimated to average 39 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

SPONSOR		BID OPENING	
SPONSOR LEA CODE		BID ISSUE DATE	BID NUMBER
NAME		DATE	
ADDRESS (include city, state, zip code)		TIME	
		LOCATION	
TELEPHONE NUMBER	CONTACT PERSON	SPONSOR TO ENTER ESTIMATED NUMBER OF MEALS. FIXED UNIT PRICE BIDS TO BE INSERTED BY THE BIDDER.	
CONTRACT DATES		Fixed Unit Price Bid Per Meal	Sponsors Estimated # of Meals
COMMENCEMENT		Totals	
EXPIRATION		Breakfast \$ _____ X _____	\$ _____
		Snack \$ _____ X _____	\$ _____
		Lunch/Supper \$ _____ X _____	\$ _____
BID BOND PERCENTAGE REQUIRED (Sponsor shall insert appropriate percentage from 5% to 10%)		ESTIMATED TOTAL \$ _____	
		PROMPT PAYMENT DISCOUNT (to be inserted by the bidder)	
		<input style="width: 50px;" type="text"/> %	For payment within <input style="width: 50px;" type="text"/> days
		PERFORMANCE BOND PERCENTAGE REQUIRED (State agency shall insert appropriate percentage from 10% to 25%)	

BIDDER		
NAME	SIGNATURE (in ink)	
STREET ADDRESS (include city, state, zip code)	NAME (print or type)	
	TITLE	
TELEPHONE NUMBER	DATE	
ACCEPTANCE		
CONTRACT NUMBER	SPONSOR NAME	
SPONSOR SIGNATURE	TITLE	DATE

SECTION B

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

- 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 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;
 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 certifies that:
1. He or she is the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein and that he or she has not participated, and will not participate, in any action contrary to A1 through A3 above; or
 2. He or she is not the person in the offeror's organization responsible within that 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 A1 through A3 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 A1 through A3 above.

SIGNATURE OF VENDOR'S AUTHORIZED REPRESENTATIVE	TITLE	DATE
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In accepting this offer, the sponsor certifies that the sponsor's officers, employees or agents have not taken any action which may have jeopardized the independence of the offer referred to above.

SIGNATURE OF AUTHORIZED SPONSOR REPRESENTATIVE

(Accepting a bidder's offer does not constitute acceptance of the contract.)

NOTE: Sponsor and Bidder shall execute this Certificate of Independent Price Determination.

SECTION C

INSTRUCTIONS TO BIDDERS

1. Definitions

As used herein:

- a) Bid – The bidder's offer.
- b) Bidder – a food service management company submitting a bid in response to this invitation for bid.
- c) Contractor – a successful bidder who is awarded a contract by a Sponsor under the SFSP.
- d) Food Service Management Company – any commercial enterprise or nonprofit organization with which a sponsor may contract for preparing unitized meals, with or without milk or juice, for use in the Program, or for managing a sponsor's food service operations in accordance with the SFSP regulations. Food service management companies may be: (a) Public agencies or entities; (b) private, non-profit organizations; or (c) private, for profit companies.
- e) Invitation for Bid (IFB) – the document where the procurement is advertised. In the case of this Program the IFB becomes the contract once both parties agree in writing to all terms and conditions of the IFB.
- f) Sponsor – the Service Institution which issues this IFB.
- g) Unitized Meal – an individual proportioned meal consisting of a combination of foods meeting the SFSP pattern requirements, delivered as a unit with or without milk or juice. The State agency may approve exceptions to the unitized meal such as separate hot and cold packs.

Other terms shall have the meaning ascribed to them in the SFSP regulations (7CFR Part 225).

2. Submission of Bids

- a) Bidders are expected to examine carefully the specifications, schedules, attachments, terms and conditions of this IFB. Failure to do so will be at the bidder's risk.
- b) Bids must be executed and submitted in triplicate. If accepted, this IFB will become the contract, and one copy of the contract will be forwarded to the successful bidder with the notice of award. The copy

marked "original" will be governing should there be a variance between that copy of the bid and the other two copies submitted by the bidder. No changes in the specifications or general conditions are allowed. Erasures on all copies must be initialed by the bidder prior to submission. Failure to do so may result in rejection of the bid.

- c) Bids over \$150,000 shall include a bid bond in the amount of _____% of bid price. (Sponsor shall insert appropriate percentage from 5% to 10%. Sponsor should also insert this percentage on the IFB/Contract Face Sheet. Only those bonding and surety companies contained in the current Treasury Circular 570 may be used to obtain the required bonding. The Treasury Circular is published annually, for the information of Federal bond-approving officers and persons required to give bonds to the United States. All certificates of Authority expire June 30, and are renewable July 1, annually.

Bid bonds will be returned (a) to unsuccessful bidders as soon as practicable after the opening of bids and (b) to the successful bidder upon execution of such further Contractual documents and bonds as may be required by the bid as accepted. The bid must be securely sealed in a suitable envelope, addressed to the office issuing the IFB and marked on the outside with the name of the bidder, bid number and date and time of opening.

- d) A copy of a current State or local health certificate for the food preparation facilities shall be submitted with the bid.

Failure to comply with any of the above shall be reason for rejection of the bid.

3. Explanation to Bidders

Any explanation desired by a bidder regarding the meaning or interpretation of the IFB specifications, etc. must be requested in writing prior to bid opening and with sufficient time allowed for a reply to reach all bidders before bid opening. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective bidder concerning an IFB will be furnished to all prospective bidders as an amendment of the IFB, if such information is necessary to bidders in submitting bids on the IFB, or if the lack of such information would be prejudicial to uninformed bidders.

4. Acknowledgement of Amendments to IFBs

The sponsor must acknowledge receipt of an amendment to an IFB by a bidder by signing and returning the amendment. Such acknowledgement must be received prior to the hour and date specified for bid opening.

5. Bidders Having Interest in More Than One Bid

If more than one bid is submitted by any one person, by or in the name of a clerk, partner, or other person, all such bids shall be rejected.

6. Time for Receiving Bids

Sealed bids shall be deposited at the Sponsor's address no later than the exact time and date indicated on the face of this IFB. Bids received prior to the time of opening will be securely kept, unopened.

7. Errors in Bids

Bidders or their authorized representative are expected to fully inform themselves as to the conditions, requirements and specifications before submitting bids; failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.

8. Award of Contract

- a) The contract will be awarded to that responsible bidder whose bid is lowest and conforms to the specifications of the IFB.
- b) The Sponsor reserves the right to reject any or all bids and to waive informalities and minor irregularities in bids received.
- c) The Sponsor reserves the right to reject the bid of a bidder who previously failed to perform properly, or complete on time, contracts of a similar nature, or the bid of a bidder whose investigation shows is not in a position to perform the contract.
- d) Sponsor reserves the right to accept any bid within 30 days from the date of bid opening.

9. Late Bids, Modification of Bids or Withdrawal of Bids

- a) Any bid received after the exact time specified for receipt of bids will not be considered unless it is received before award is made, and it was sent by registered or certified mail not later than the fifth calendar day prior to the specified date (e.g. a bid submitted in response to an IFB requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier).
- b) Any modification or withdrawal of bid is subject to the same conditions as in (a) above, except that withdrawal of bids by telegram is authorized. A bid may also be withdrawn in person by a bidder or an authorized representative, provided identity is made known and he or she signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.
- c) The only acceptable evidence to establish the date of mailing for a late bid, modifications or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the bid, modification or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service).
- d) Notwithstanding the above, a late modification of an otherwise successful bid which makes its terms more favorable to the Sponsor will be considered at any time it is received and may be accepted.

SECTION D

SCOPE OF SERVICES

- A. USDA regulations 7 CFR Part 225, entitled Summer Food Service Program is hereby incorporated by reference.
- B. Contractor agrees to deliver:
 - unitized meals and/or
 - meal components in bulk. The contractor agrees to provide serving directions and appropriate sized serving utensils to meet the required portion size for each component per meal service for the quantity of meals agreed upon for delivery.
- C. Contractor will deliver meals * _____ of milk or juice to locations set out in Schedule A, attached hereto and made a part hereof, subject to the terms and conditions of this solicitation.

Food Service Management Companies may prepare meals, with or without milk or juice, for use in Summer Food Service Program.
- D. All meals furnished must meet or exceed USDA requirements set out in Schedule C, attached hereto and made a part hereof.
- E. Contractor shall furnish meals as ordered by the Sponsor during the period of ** _____ to ** _____. Meals are to be served *** _____ days of a week, as specified in Schedule A.
- F. This contract may be extended by the SFA and the FSMC under the rules and regulations prescribed by the Commissioner of Education; however, pursuant to federal regulations, such extensions shall be executed prior to applying for participation in subsequent SFSP. The original contract shall be of duration of no longer than one (1) year and options for the yearly renewal of a contract may not exceed 4 additional years.
- G. Contract Cost Increase: The SFA may negotiate at the end of each one year contract period for a cost increase not to exceed the annual percentage increase of the New York - Northeastern New Jersey Consumer Price Index for all Urban Consumers for the preceding year, provided it has been satisfactorily established by the FSMC that there has been at least an equivalent increase in the amount of its cost of operation during the period of the contract..

* Insert "inclusive" or "exclusive" as applicable.

** Sponsor shall insert contract commencement date and expiration date.

*** Sponsor shall insert appropriate number of serving days.

SECTION E

UNIT PRICE SCHEDULE AND INSTRUCTIONS

1. Bidders are asked to submit prices in accordance with Schedule(s) D for meals with/without milk or juice* meeting the contract specifications set forth in Schedule C and to be delivered to all of the sites stated in Schedule A. Please note that bidders must complete a Schedule D for each meal type (breakfast, lunch, supplement, etc.) covered by the IFB.

* Sponsor should indicate whether or not milk or juice should be included in the meals/supplements.

2. Evaluation of bids will be performed as follows:

Determine the grand total bid for each bidder by totaling the bids for each meal type from Schedule(s) D. Bidders' calculations will be checked prior to totaling.

3. Pricing shall be on the menus described in Schedule B. All bidders must submit bids on the same menu cycle provided by the Sponsor. Deviation from this menu cycle shall be permitted only upon authorization of the Sponsor. Bid price must include the price of food components (including milk and/or juice, if part of unitized meal), packaging, transportation and all other related costs (e.g., condiments, utensils, etc.).

The unit prices of each meal type which the bidder agrees to furnish must be written in ink or typed in the blank space provided and must include proper packaging as required in the specifications and delivery cost to the designated sites. Unit prices shall include taxes, but any charges or taxes which are required to be paid under future laws must be paid by the bidder at no additional charge to the Sponsor.

4. Average Daily Number of Meals are estimated: They are the best known estimates for requirements during the operating period. The Sponsor reserves the right to order more or less meals than estimated at the beginning of the operating period. Contractor will be paid at the 100% unit cost rate during the payment period specified. (The Sponsor should indicate in Section F, #4, "Method of Payment," whether the payment period is to be weekly, bi-weekly, or monthly.) Sponsor does not guarantee orders for quantities shown. The maximum number of meals will be determined based on the approved level of meal services designated by the administering office for each site serving meals provided by the contractor. However, if average meals delivered per day by type over the contract period fall below 90% of the applicable average daily estimate, adjustments will be made to the per unit price in accordance with Schedule D.

5. Evaluation of Bidders: Each bidder will be evaluated on the following factors:

- a. Financial capability to perform a contract of the scope required.
- b. Adequacy of plant facilities for food preparation, with approved license certification that facilities meet all applicable State and local health, safety and sanitation standards.
- c. Previous experience of the bidder in performing series similar in nature and scope.
- d. Other factors such as transportation capability, sanitation, and packaging.

Bidders that do not satisfactorily meet the above criteria may be rejected as non-responsive and not be considered for award.

6. Meal Orders Sponsors will order meals on ** _____ of the week preceding the week of delivery; orders will be placed for the total number of operating days in the succeeding week, and will include breakdown totals for each site and each type of meal.

The Sponsor reserves the right to increase or decrease the number of meals ordered on a *** _____ hour notice, or less if mutually agreed upon between the parties to this contract.

7. Meal-Cycle Change Procedure. Meals will be delivered on a daily basis in accordance with the menu cycle which appears in Schedule B. Menu changes may be made only when agreed upon by both parties. When an emergency situation exists which might prevent the contractor from delivering a specified meal component, the Sponsor shall be notified immediately so substitutions can be agreed upon. The Sponsor reserves the right to suggest menu changes within the vendor's suggested food cost, periodically throughout the contract period.

8. Non-compliance. The Sponsor reserves the right to inspect and determine the quality of food delivered and reject any meals which do not comply with the requirements and specifications of the contract. The contractor will not be paid for unauthorized menu changes, incomplete meals, meals not delivered within the specified delivery time

* See appendices for additional bid and procurement specifications: Bid Specifications Appendix p.27 and Schedule B-1Food and Beverage Procurement Specifications p.

** Insert mutually agreed day.

*** Sponsor shall insert appropriate number.

period and meals rejected because they do not comply with the specifications. The Sponsor reserves the right to obtain meals from other sources, if meals are rejected due to any of the stated reasons. The contractor will be responsible for any excess cost, but will receive no adjustment in the event the meals are procured at lesser cost. The Sponsor or inspecting agency shall notify the contractor in writing as to the number of meals rejected and the reasons for rejection.

The SFSP regulations proved that statistical sampling methods may be used to disallow payment for meals which are not served in compliance with Program regulations. In the event that disallowances are made on the basis of statistical sampling, the Sponsor and the administering agency as to the number of meals disallowed, the reasons for disallowance, and the methodology of the statistical sampling procedures employed.

9. Specifications

A. Packaging:

- 1) Hot Meal Unit – Package suitable for maintaining meals in accordance with local health standards. Container and overlay should have an air-tight closure, be of non-toxic material, and be capable of withstanding temperatures of 400 degrees (204 degrees C) or higher.
- 2) Cold Meal Unit (or Unnecessary to Heat) – Container and overlay to be plastic or paper and non-toxic.
- 3) Cartons – Each carton to be labeled. Label to include:
 - a) Processor's name and address (plant).
 - b) Item identity, meal type.
 - c) Date of production.
 - d) Quantity of individual units per carton.
- 4) Meals shall be delivered with appropriate nonfood items: condiments, straws for milk,

napkins, single service ware, etc. Sponsor shall insert the types of nonfood items that are necessary for the meals to be eaten:

a) Food Preparation:

Meals shall be prepared in accordance with State and local health standards.

b) Food Specifications:

Bids are to be submitted on the menu cycle included in Schedule B; and portions shall, as a minimum, be the quantities specified by USDA for each component of each meal, as included in Schedule C of this contract.

All meals in the menu cycle must meet the food specifications and quality standards. All meat and meat products shall have been slaughtered, processed and manufactured in plants inspected under USDA approved inspection program and bear the appropriate seal. All meat and meat products must be sound, sanitary and free of objectionable odors or signs of deterioration of delivery.

Milk and milk products are defined as “. . . pasteurized fluid types of flavored or unflavored whole milk, low-fat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. . . All milk should contain vitamins A and D at the levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.” Milk delivered hereunder shall conform to these specifications.

SECTION F

GENERAL CONDITIONS

1. Delivery Requirements

- A. Delivery will be made by the contractor to each site in accordance with the order from the Sponsor.
- B. Meals are to be delivered daily, unloaded, and placed in the designated location by the contractor's personnel at each of the sites and times listed in Schedule A.
- C. The contractor shall be responsible for delivery of all meals and/or dairy products at the specified time. Adequate refrigeration or heating shall be provided during delivery of all food to insure the wholesomeness of food at delivery in accordance with State or local health codes.
- D. The Sponsor reserves the right to add or delete food service sites by amendment of the initial list of approved sites in Schedule A, and make changes in the approved level for the maximum number of meals which may be served under the Program at each site (established under Section 225.6(dX2) of the SFSP regulations). The Sponsor shall notify the contractor by providing an amendment to Schedule A of all sites which are approved, cancelled, or terminated subsequent to acceptance of this contract, and of any changes in the approved level of meal service for a site. Such amendments shall be provided within * _____ hours or less.

2. Supervision and Inspection

The contractor shall provide management supervision at all times and maintain constant quality control inspections to check for portion size, appearance and packaging, in addition to the quality of products.

3. Recordkeeping

- A. Delivery tickets must be prepared by the contractor at a minimum in three copies: one for the contractor, one for the site personnel and one for the Sponsor. Delivery tickets must be itemized to show the number of meals of each type delivered to each site. Designees to the Sponsor at each site will check adequacy of delivery and meals before signing the delivery ticket. Invoices shall be accepted by the

Sponsor only if signed by Sponsor's designee at the site.

- B. The contractor shall maintain records supported by delivery tickets, invoices, receipts, purchase orders, production records for this contract, or other evidence for inspection and reference, to support payments and claims.
- C. The books and records of the contractor pertaining to this contract shall be available for a period of three years from the date of submission of the Sponsor's final claim for reimbursement, or until the final resolution of any audits, for inspection and audit by representatives of the State agency, representative of the U.S. Department of Agriculture, the Sponsor and the U.S. General Accounting Office at any reasonable time and place.

4. Method of Payment

The contractor shall submit its itemized invoices to the Sponsor ** _____ in compliance with Section 225.6(h)(2)(iv) of the SFSP regulations. Each invoice shall give a detailed breakdown of the number of meals delivered at each site during the preceding period. The Sponsor shall calculate the average number of meals delivered each day for the applicable period. Payment will be made at the unit price shown for that range. Each payment period will be calculated and paid for independent of other periods. No payment shall be made unless the required delivery receipts have been signed by the site representative of the Sponsor.

The contractor shall be paid by the Sponsor for all meals delivered in accordance with this contract and SFSP regulations. However, neither the Department nor the State agency assumes any liability for payment of differences between the number of meals delivered by the contractor and the number of meals served by the Sponsor that are eligible for reimbursement.

5. Inspection of Facility

- A. The Sponsor, the State agency and USDA reserve the right to inspect the contractor's facilities without notice at any time during the contract period, including the right to be present during preparation and delivery of meals.

* Insert mutually agreed upon number.

** Sponsor shall insert "weekly", "bi-weekly" or "monthly".

- B. The contractor's facilities shall be subject to periodic inspections by State and local health departments of any other agency designated to inspect meal quality for the State. This will be accomplished in accordance with USDA regulations.
- C. The contractor shall, when required by the State Health Department, provide meals which it prepares to be inspected by the local health department or an independent agency to determine bacterial levels in the meals being served. Such levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other establishments in the locality. The results of the inspections must be submitted promptly to the Sponsor and State agency.

6. Performance Bond Requirement

The successful bidder shall provide the Sponsor with a performance bond in the amount of *** _____% of the contract price. The bond shall be executed by the contractor and a licensed surety company listed in the current Department of Treasury Circular 57.0. Only those bonding and surety companies contained in the current Treasury Circular 570 may be used to obtain the required bonding. The Treasury Circular is published annually, for the information of Federal bond-approving officers and persons required to give bonds to the United States. All certificates of Authority expire June 30, and are renewable July 1, annually.

The bond shall be furnished not later than ten days following award of the contract.

7. Insurance

Sponsors will insert herein their insurance requirements.

8. Availability of Fund

The Sponsor reserves the right to cancel this contract if the Federal funding to support the SFSP is withdrawn. It is further understood that, in the event of cancellation of the contract, the Sponsor shall be responsible for meals that have already been assembled and delivered in accordance with this contract.

9. Number of Meals and Delivery Times

The contractor must provide exactly the number of meals ordered. Counts of meals will be made by the Sponsor at all sites before meals are accepted. Damaged or

incomplete meals will not be included when the number of delivered meals is determined.

10. Emergencies

In the event of unforeseen emergency circumstances the contractor shall immediately notify the Sponsor by telephone or telegraph of the following: (1) the impossibility of on-time delivery; (2) the circumstance(s) precluding delivery; and (3) a statement of whether or not succeeding deliveries will be affected. No payments will be made for deliveries made later than **** _____ hours after specified meal time.

Emergency circumstances at the site precluding utilization of meals are the concern of the Sponsor. The Sponsor may cancel orders provided it gives the contractor at least ***** _____ hours notice or less if mutually agreed upon between the parties to this contract.

Adjustment for emergency situations affecting the contractor's ability to deliver meals, or Sponsor's ability to utilize meals, for periods longer than 24 hours will be mutually worked out between the contractor and Sponsor.

11. Termination

- A. The Sponsor reserves the right to terminate this contract if the contractor fails to comply with any of the requirements of this contract. The Sponsor shall notify the contractor and surety company, if applicable, of specific instances of non-compliance in writing.

The Sponsor shall have the right, upon such written notice, to terminate the contract and the contractor or surety company, if applicable, shall be liable for any damages incurred by the Sponsor. Prior to termination, the Sponsor shall contact the State agency or regional office concerning procedures for conducting a re-procurement action.

- B. The Sponsor may, by written notice to the contractor, terminate the right of the contractor to proceed under this contract, if it is found by the Sponsor that gratuities in the form of entertainment, gifts or otherwise were offered or given by the contractor to any officer or employee of the Sponsor with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending of the contract; provided that the existence of the facts upon which the Sponsor makes such findings shall be in issue and may be reviewed in any competent court.

***** Insert percentage required by the State, but not less than 10% of the Contract Price and not more than 25%.**

****** Sponsor shall set time in accordance with State agency instructions.**

******* Insert same number as in Section F #1-D on page 8.**

- C. In the event this contract is terminated as provided in paragraph (b) hereof, the Sponsor shall be entitled (i) to pursue the same remedies against the contractor as it could pursue in the event of a breach of contract by the contractor, and (ii) as penalty in addition to any other damages in an amount which shall not be less than three nor more than ten times the cost incurred by the contractor in providing any such gratuities to any such officer or employee

12. Subcontractors and Assignments

The contractor shall not subcontract for the total meal, or for the assembly of the meals; and shall not assign, without the advance written consent of the Sponsor, this contract or any interest therein.

13. Quality Control Plan

To ensure that health and sanitation requirements are met at all times in the preparation and delivery of the summer meals, each vendor must submit the following documents with the invitation for bid:

- A. A copy of the company's quality control assurance plan that provides complete details on the quality assurance procedures for meal preparation, packaging of food items, transportation and delivery schedules.
- B. Quality assurance procedures shall identify the food production monitoring methods used to ensure that all foods are handled in a safe and sanitary manner. Quality assurance procedures will include but shall not be limited to the following:
 - 1) The production/handling procedures for food (meal assembly shall identify specific measures designed to monitor and assure the maintenance of personnel hygiene, sanitary conditions of the facility and the length of time associated with meal production periods.
 - 2) Food product temperature monitoring procedures must provide a description of the procedures utilized to assure maintenance of safe food temperatures during all phases of handling, production, storage and shipment of meals. A records used for monitoring and recording food temperatures must be maintained.

After the contract has been awarded and the program is in operation, the vendor is responsible for submitting a copy of the records used for monitoring and recording food temperature during handling, production, storage, and delivery of the meals to the sponsor.

The vendor is also responsible for submitting samples of weights taken during program operations. It is the responsibility of the Sponsor to ensure that the Quality Control Plan is in place before the contract begins.

SECTION G

GENERAL PROVISIONS

Equal Opportunity

“The FSMC shall comply with Title VI of the Civil Rights Act of 1964, as amended, USDA regulations implementing Title IX of the Education Amendments, and Section 504 of the Rehabilitation Act of 1973, and any additions or amendments.” The FSMC shall comply with Equal Employment Opportunity provision. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Clean Air and Water

If this contract is in excess of \$150,000, the Sponsor and FSMC shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 USC 1857), or the Federal Water Pollution Control Act (33 USC 1319), as amended.

Debarment and Suspension

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

U. S. DEPARTMENT OF AGRICULTURE

**Certification Regarding Debarment, Suspension, Ineligibility
And Voluntary Exclusion – Lower Tier Covered Transactions**

This certification is required by the regulations implementing Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4722). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTUCTIONS ON REVERSE)

- (1) This prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attaché as explanation to this proposal.

Organization Name

PR/Award Number or Project Name

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)

Date

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person in which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available in the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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, US 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, in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.
- (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.

Name & Address of Organization

Name & Title of Submitting Official

Signature

Date

DISCLOSURE OF LOBBYING ACTIVITIES
 Complete this form to disclose lobbying activities pursuant to 31 USC 1352
 (See reverse for public burden disclosure)

Approved by OMB
0348-0046

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/applications <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change for Material Change only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____ if known: Congressional District, if known: _____		5. If Reporting Entity in #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 (if individual, last name, first name, MI):		b. Individuals Performing Services (including address if different from #10a.) (last name, first name, MI):
Attach Continuation Sheet(s) SF-LLL-A if necessary		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned		13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind: specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11: Attach Continuation Sheet(s) SF-LLL-A if necessary		
15. Continuation Sheet(s) SR-LLL-A attached: <input type="checkbox"/> yes <input type="checkbox"/> no		
16. Information requested through this form is authorized by title 31 USC 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 USC 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 not less than 10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone #: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

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 the 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 followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first 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 boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and entailed 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 or not a SF-LLL-A Continuation Sheet(s) is attached.
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 (0-348-0046), Washington, DC 20503.

INSTRUCTIONS FOR COMPLETION OF SCHEDULE A

SITE INFORMATION LIST

1. Enter Sponsor's name in upper left-hand corner.
 2. Use correct street address for all sites listed.
 3. Check "X" if site has adequate refrigeration to store all meals ordered and could receive early deliveries.
 4. Under columns (1) and (2), enter the beginning and ending dates for meal service at each site.
 5. Under column (3), enter the total number of days meals will be served at each site.
 6. Enter in column (5) beside the appropriate meal type, the average number of each type of meal that is estimated to be served each day at the site. For example, if a site plans to serve 11,000 lunches for 44 days during the summer, then the average is 250 ($11,000 \div 44$). Do not insert the maximum number that will be served on a particular day during the summer.
 7. Enter in column (6) the result of column (3) times column (5).
 8. Enter in column (7) the delivery time for each meal type.
- When estimating the Average Meals Served Per Day (column (5)), use the average from the prior summer if the site was in operation at that time.
- Since Schedule A must be completed well in advance of the application deadline, it is recognized that changes will occur in the data by the time the program begins. However, be as accurate as possible since the data is used by the vendor to arrive at his bid prices. The vendor awarded the bid will accept changes after the bid opening.

Schedule A

SUMMER FOOD SERVICE PROGRAM
Sites Where Program Will Operate

Sponsor Name		Address				Contact Person/ Phone #		Food Service Management Company Name			
Name of Site Address & Phone #	Authorized Designee	Holding Facilities		Dates		Days of The Week (3)	Total Days Operating (4)	Type(s) of Meal (5)	Estimated Aver. # of Meals/Day (6)	Total Number of Meals (4 x 6) (7)	Delivery Time for each Meal Type (8)
		Yes	No	Begin (1)	End (2)						
								Breakfast			
								AM Snack			
								Lunch			
								PM Snack			
								Supper			
								Breakfast			
								AM Snack			
								Lunch			
								PM Snack			
								Supper			
								Breakfast			
								AM Snack			
								Lunch			
								PM Snack			
								Supper			
								Breakfast			
								AM Snack			
								Lunch			
								PM Snack			
								Supper			

SCHEDULE B

U.S. DEPARTMENT OF AGRICULTURE – FOOD AND NUTRITION SERVICE

**SUMMER FOOD SERVICE PROGRAM
MENU CYCLE ***

* Sponsor shall attach a menu cycle for each site.

SCHEDULE B-1

INSERT FOOD AND BEVERAGE PROCUREMENT SPECIFICATIONS HERE

SCHEDULE C

U.S. DEPARTMENT OF AGRICULTURE – FOOD AND NUTRITION SERVICE

SUMMER FOOD SERVICE PROGRAM USDA REQUIRED MEAL PATTERNS

The meal requirements for the Program are designed to provide nutritious and well-balanced meals to each child. Except as otherwise provided in Section 225.16(b) of the SFSP regulations, the following table presents the minimum requirements for meals served to children in the Program.

BREAKFAST

Milk

Fluid Milk 1 cup (1/2 pint)

Vegetables and Fruits

Vegetables and/or fruits or full-strength vegetable or fruit juice 1/2 cup
(Or an equivalent quantity of any combination of vegetables, fruits,
and juice) 1/2 cup

Bread and Bread Alternates

Bread (whole-grain or enriched) or 1 slice

Bread Alternates (whole-grain or enriched):

Cornbread, biscuits, rolls, muffins, etc. or 1 serving

Cooked pasta or noodle products or 1/2 cup

Cooked cereal grains, such as rice, corn grits, or bulgur or 1/2 cup

(Whole-grain, enriched, or fortified):

Cooked cereal or cereal grains or cold dry cereal 3/4 cup or 1 ounce
(whichever is less)

(Or an equivalent quantity of a combination of bread or bread alternates)

❖ (OPTIONAL) Serve as often as possible:

Meat and Meat Alternates

(See lists under Lunch or Supper) 1 ounce

SCHEDULE C

SNACK (Supplemental Food)

Choose two items from the following four components:

Meat and Meat Alternates

Lean meat or poultry or fish or
1 ounce
(edible portion as served)

Meat Alternates

Cheese or 1 ounce
Egg or 1 large
Cooked dry beans or peas or 1/4 cup
Peanut butter or other nut or
Seed butters or
Nuts and/or seeds or 2 tablespoons
Yogurt (plain, sweetened or flavored) 8 ounces
(or an equivalent quantity or any combination of meat
4 ounces
Or meat alternates)

Vegetables and Fruits

Vegetables and/or fruits or 3/4 cup
Full-strength vegetable or fruit juice 3/4 cup
(or an equivalent quantity of any combination of vegetables,
fruits, and juice)
Juices cannot be served with milk

Bread and Bread Alternates

Bread (whole-grain or enriched) or 1 slice
Bread Alternates (whole-grain or enriched):
Cornbread, biscuits, rolls, muffins, etc. or 1 serving
Cooked pasta or noodle products or 1/2 cup
Cooked cereal grains, such as rice, corn grits, or bulgur or 1/2 cup
(Whole-grain, enriched, or fortified):
Cooked cereal or cereal grains or cold dry cereal 3/4 cup or 1 ounce
(whichever is less)

(Or an equivalent quantity of a combination of bread or bread alternates)

Milk

Fluid Milk 1 cup (1/2 pint)

SCHEDULE C

LUNCH OR SUPPER

Milk

Fluid Milk 1 cup (1/2 pint)

Meat and Meat Alternates

Lean meat or poultry or fish or 2 ounces
(edible portion as served)

Cheese or 2 ounces

Egg or 1 large

Cooked dry beans or peas or 1/2 cup

Peanut butter or other nut or

Seed butters or

Nuts and/or seeds or 4 tablespoons

Yogurt (plain, sweetened or flavored) 1 ounce = 50% *

(or an equivalent quantity of any combination of meat
or meat alternates)

Vegetables and Fruits

Vegetables and/or fruits (2 or more selections for a total of 3/4 cups) or 3/4 cup

Full-strength vegetable or fruit juice 3/4 cup

(or an equivalent quantity of any combination of vegetables,
fruits, and juice)

Juice may not be counted to meet more than 1/2 of this requirement.

Bread and Bread Alternates

Bread (whole-grain or enriched) or 1 slice

Bread Alternates (whole-grain or enriched):

Cornbread, biscuits, rolls, muffins, etc. or 1 serving

Cooked pasta or noodle products or 1/2 cup

Cooked cereal grains, such as rice, corn grits, or bulgur 1/2 cup

(Or an equivalent quantity of a combination of bread or bread alternates)

* No more than one-half of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement.

NOTE: The serving sizes of food specified in the meal patterns are minimum amounts. If the administering agency approves the sponsor to serve smaller portion sizes to children under 6 years, the Sponsor must meet the meal patterns specified in the Child Care Food Program (CCFP) regulations. You can obtain copies of these regulations from your State agency. Children over 6 years old may be served larger portions, but not less than the minimum requirements specified in the Summer Food Service Program regulations. Remember that you do not receive reimbursement for meals that do not meet the minimum program requirements.

SCHEDULE D

SPONSOR: _____

UNIT PRICE SCHEDULE

INSTRUCTION:

VENDOR: Complete items (d) and (e) for each meal type.

SPONSOR: Complete items (a) – (c) for each meal type.

Total Meals X Cost = Total Cost

(a) MEAL TYPE (i.e. Lunch)	(b) AVERAGE DAILY MEALS NEEDED ¹	(c) TOTAL NUMBER OF MEALS ²	(d) UNIT COST ³	(e) TOTAL BID
			\$	\$

ADJUSTMENTS

If the average daily meals billed is less than the average daily meals needed (per item (b) above) a one time adjustment to the unit price will be made as follows:

AVERAGE DAILY MEALS BILLED
- AVERAGE DAILY MEALS NEEDED

MULTIPLY "UNIT COST" (D)
BY THIS AMOUNT

81 – 90%	1.05
71 – 80%	1.10
61 – 70%	1.15
51 – 60%	1.20
50% or below	1.30

EXAMPLE: If the average daily meals billed – by the “average daily meals needed” (item b above) = .82 or 82%, multiply the “unit cost” (item d above) by 1.05.

The contractor will invoice the Sponsor at the 100% unit cost indicated above bi-weekly. To determine if an additional cost per meal is due the vendor, complete the following calculation. Divide the total number of meals billed by type (lunch, breakfast or supplement) for the total length of the program by the total number of days the program was operated. Any additional charges resulting from this higher “adjustment” will be reflected in the final statement from the vendor.

NOTE: The unit cost per meal should not exceed the maximum operational reimbursement for each meal type as stated in Part 7 CFR225 of the federal regulations.

1. Obtained from Columns (3) and (6), Schedule A, by dividing total meals for each specific meal type by the greatest number of days operated by a site in Column (3).
2. Obtained from Schedule A by totaling Column (6) for each specific meal type.
3. Unit cost specified is that cost based on 100% Average Meals Needed Per Day.

SUMMARY BID SHEET

MEAL TYPE	TOTAL NUMBER OF MEALS	UNIT COST ¹	TOTAL
Breakfast		\$	\$
AM Snack		\$	\$
Lunch		\$	\$
PM Snack		\$	\$
Supper		\$	\$
TOTAL		\$	\$

¹ Unit cost must be identical to those costs listed on the UNIT PRICE SCHEDULE

SCHEDULE E

Standard Clauses for All New York State School Food Authority – Food Service Management Company Contracts

The parties of the attached contract, license, lease amendment or other agreement or any kind (hereinafter, the contract or this contract) agree to be bound by the following clauses which are hereby made a part of the contract (the word Contractor herein refers to any party other than the School Food Authority (SFA), whether a contractor, licensor, licensee, lessor, lessee, or any other party):

1. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
2. **CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto amendments thereof) and the terms of this Schedule E, the terms of this Schedule E shall control.
3. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

Grantor agencies are permitted to require changes, remedies, changed conditions, access and record retention and suspension of work clauses approved by the Office of Federal Procurement Policy.

4. **HOLD HARMLESS.** The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the negligent acts, errors or omissions of its employees providing the services rendered by the Contractor pursuant to this Agreement. The Contractor shall defend and indemnify and hold harmless the SFA and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the negligent provision of services pursuant to this Agreement.
5. Where applicable, all contracts awarded by grantees and subgrantees in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327 330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.