




State of New Jersey

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To: School Business Administrators, Charter School Leads; Non-Public School Administrators; Food Service Management Companies

From: Rose Tricario, Division Director 

Date: July 20, 2020

Subject: Food Service Management Company (FSMC) Contracts during COVID-19

It has come to our attention that there are concerns about Cost Reimbursable Food Service Management Company (FSMC) Contract fee structures during COVID-19 circumstances.

A change in fee structure to an existing contract is a material change which will require the School Food Authority (SFA) to re-bid for the services provided under the contract. Due to the COVID-19 pandemic, the SFA has the option to forego a rebid and to procure, through an Emergency, Non-Competitive process, a 1-year contract for SY 2020-2021.¹ Upon termination of the Emergency, Non-Competitive, 1-year contract for SY 2020-2021, the SFA must complete the RFP process to solicit proposals for a new base year contract.

If the fee structure is a concern, a Cost Reimbursable FSMC Contract can be terminated by the SFA with 60 days' notice. SFAs should consult with their board attorney with any questions.

In the event of a contract termination, the below options are available:

- (1) the SFA can complete the RFP process to solicit proposals for a new base year contract for SY 2020-2021; or,
- (2) the SFA can procure, through the Emergency, Non-Competitive process, a 1-year contract for SY 2020-2021. The SFA must complete the RFP process to solicit proposals for a new base year contract for SY 2021-2022.

For all options, the only allowable fee structure is either a 'cents per meal' fee or a flat fee.

Flat fees are an annual fee. Therefore, no additional FSMC fees can be charged to SFAs participating in SSO for July and August 2020.

If the contract is terminated, the State Agency must be notified immediately of how the SFA will proceed. Please notify the Contracts Unit through DFNContracts@ag.nj.gov.

¹ See "Nationwide Waiver of Food Service Management Contract Duration in the National School Lunch Program and Summer Food Service Program," dated April 24, 2020.