FSMC Contracts
2019-2020
Objectives

Today’s webinar will:

- Outline the State Agency Responsibilities
- Outline the SFA Responsibilities
- Outline what is required of the SFA in all FSMC contracts
- Define the structure of both Cost-Reimbursable and Fixed Price Meal Contracts
- Outline the advantages and disadvantages of each type of contract
- Discuss the next steps in the contract process
State Agency Responsibility

State agencies are required to ensure that participating SFAs entering into contracts with FSMCs comply with State and Federal procurement standards and cost principles and applicable Federal Program regulations.

- Annually review contracts prior to execution of the contract by either party.
- Review and approve any RFP changes or modifications prior to advertising the RFP.
- Monitor how the SFA is conducting contract performance.
- Provide technical assistance.
Responsibility of the School Food Authority (SFA)

- Adhere to Procurement Standards
- Include and Monitor the Buy American Provision
- Solicitation, Contract Award and Monitoring of the Contract
- Ensure the FSMC performs according to the contract
  - Monitor via periodic on-site visits
  - Control quality and meal pricing
- Retain Signature Authority
Responsibility of the SFA

- Full utilization of USDA Foods
- Maintain health certifications
- Establish Advisory Board
- Obtain State Agency review and approval of contracts before execution
- Submission of all contract documents MUST be by the deadline
Important Contract DEADLINES

- **April 30th** - Change requests for RFP/Contracts Due
- **May 31st** - FSMC Contract Addendums are due
- **June 30th** - All FSMC Contracts must be submitted to the State for Final Approval
  - Fixed price Contract are submitted electronically via SNEARS in the Electronic Contract Approval System (ECAS)
  - Cost Reimbursable Contracts submitted via mail to the State Agency - All required documentation must be included for approval

SFAs MUST have an executed contract before the food services begin.
FSMC Contracts for 2019-2020

- For the 2019-2020 School Year both the Cost Reimbursable and Fixed Price per meal FSMC contracts will be available in New Jersey School Nutrition Programs

- For Both types of contracts you MUST use the state approved RFP/Contract Document that includes all the required federal language, specifications and program information
FSMC Contracts Format - RFP

- Both types of FSMC contracts will be in the Request for Proposal (RFP) Format
  - RFP’s require an evaluation of the criteria specified in the RFP and Price must have the highest assigned weight
  - SFA must choose the criteria to be evaluated that best meets the needs of the SFA
  - SFA must use an evaluation team (minimum of 3 people) and each team member will score the proposal - an average of the total of each team member’s individual scores will be used to determine the successful proposal
Cost Reimbursable Structure

- FSMC bills the district for their direct cost of labor, food and supplies
- FSMC bills the district for an administrative/management fee per meal or flat fee each month for their indirect costs
  - Indirect costs include but are not limited to: Dietetic services, menu development, Personnel and Labor relations services, legal services, supervisory personnel and regular inspections or audit personnel, general regional or national support, design services, software and support for FSMC information technology
  - Only actual net documented direct costs may be charged to the SFA for any charges outside the Administrative/Management Fee
- The SFA assumes the risk of price increases for food, supplies and labor
Cost Reimbursable Structure

- SFA must verify and monitor all direct costs for food, supplies and labor
  - All invoices for direct costs should be verified and checked for accuracy

- SFA must verify that credits, rebates and discounts have been properly applied
  - FSMC monthly operating statements must clearly detail the date, amount and applicable items that were rebated, discounted and/or credited
  - FSMC will disclose all commodities received monthly

- SFA’s utilizing cost-reimbursable contracts may have to monitor the FSMC’s compliance with Federal procurement standards
Fixed Price per Meal Structure

- FSMC proposes a fixed price for each meal type (Breakfast, Lunch & Snack)
  - The Fixed Price per meal is based on direct costs and Administrative/Management Fees *not including* Government Commodities

- FSMC bills on the actual meal counts that are served

- FSMC will *credit* all Commodities received each month based on the NJDA market value

- No other hidden fees associated with the program are billed
Fixed Price per Meal Structure

- Yearly meal price increases can only go up by the quarterly index rate as posted by the NJ Department of Community Affairs (Per NJ code 18A:18A)
  - The FSMC and SFA may agree to economic price adjustments which will lead to an upward or downward adjustment to the Fixed Price per meal when the adjustments are necessary to comply with changes in applicable Federal and/or State regulations

- SFA’s reconciliation and monitoring of monthly bills is simpler and more transparent (price per meal x number of meals served)
In Both types of contracts:

- The SFA must use proper Federal, State and Local procurement procedures.

- The SFA is responsible for monitoring the Food Service Program regularly to ensure compliance with program regulations (such as meal program requirements, contractual requirements and health and safety standards).

- The SFA must make sure that clear and relevant specifications are used in the RFP (make sure that specifications properly address your concerns and needs).

- The SFA must clearly define the evaluation process and scoring criteria in the RFP and only those criteria specified can be evaluated.
In Both types of contracts:

- The SFA must include any anticipated changes in their district and or program in the RFP

- The SFA must provide accurate historical meal counts and make sure that all respondents to the RFP use those numbers to ensure all bids are based on the same assumptions

- Proposals should not be overly responsive
In Both types of contracts:

- In both types of contracts any significant change that takes place during the contract (that would have made others bid differently) is a material change and a re-bid is necessary.

- Compliance with the Buy American Provision must be monitored.
In Both types of contracts:

- **New for SY 19-20** - the State Agency will assist the SFA in providing historical meal count data based on Reimbursement Vouchers submitted January 2018 through December 2018 (not including July and August 2018)
Cost Reimbursable Disadvantages

- FSMC has less incentive to manage the program for the optimal outcome for the district
  - Cost increases are passed to the district
  - Cost of inefficiency is passed to the district and may not be corrected
  - Less incentive to manage labor hours, food and supply costs by the FSMC because the SFA will have to absorb these costs

- FSMC has an incentive to **underestimate** the costs in order to win the business in the proposal process
Cost Reimbursable Disadvantages

- Verification of costs is the responsibility of the SFA: SFA must verify **ALL** direct costs being billed back each month
  - This places the maximum administrative burden on the SFA’s
- Difficult to monitor and verify true and actual discounts, rebates and credits
  - FSMC’s have been cited in Federal reviews for not passing on discounts rebates and credits to SFA’s
  - State Agency Procurement Reviews found that many districts did not receive discounts, rebates or credits and were charged for non allowable costs by the FSMC’s
- District assumes risk of program costs increases for food, labor and supplies
Cost Reimbursable Advantages

- If the costs of food, supplies and labor decrease, the district will see the decreases more quickly than in a fixed price per meal contract.
Fixed Price Advantages

- The FSMC has a strong incentive to keep students happy and eating school lunch
  - Increased participation will increase profits for the FSMC
  - Maintaining quality standards in both food and service will benefit both the FSMC and the SFA

- Helps the SFA realize a clearer audit trail

- Simplified reconciliation of FSMC bill (Number of meals x cost per meal)

- Greater transparency of costs
Fixed Price Advantages

- Significantly reduces monitoring and review of invoices for food, supplies and labor
- Predictable costs going forward
- The FSMC has a strong incentive to manage costs
  - FSMC’s cost per meal can only increase annually based on the Quarterly Index Rate
  - FSMC must actively manage your operation to the most efficient level to achieve their financial outcome
  - Entices the FSMC to stay/be competitive and not comfortable
Fixed Price Disadvantages

In periods of falling costs, they will not be reflected as quickly
Fixed Price “Perceived” Disadvantages

- Less flexibility
  - In terms of having flexibility when changes occur during the contract, the FSMC has many reasons to work with the SFA to successfully accommodate necessary changes
  - In many cases flexibility are changes that are actually a material change and are not permitted with either type of contract

- Food will not be acceptable to the students (we have heard the term “prison food” being used)
  - This specifically refers to other states where state law restricts procurements to use only an Invitation for Bid (IFB) format (award based on price only)
  - It is definitely not advantageous to the FSMC to serve less than acceptable food to your students as their profits are based on students eating / buying meals
Conclusion

- The reputation and reliability of a FSMC company is important to them - they don’t want negative press
- SFA’s must be a champion for their students
  - Write/prepare good specifications that reflect the needs of your district
  - As in any contract you must monitor the contract to make sure that the FSMC is compliant
- Let the FSMC’s know you want the best quality meals and programs for the children of NJ
In Summary....

There are many reasons to embrace the Fixed Price Meal Contract

- The amount of monthly cost monitoring is significantly reduced
- It is the SFA’s responsibility to be a good steward of the Federal dollars
  - Federal Audits and State Agency Procurement Reviews have uncovered many issues with districts receiving credits, discounts and rebates and unallowable/undocumented program costs
  - State Agency Procurement Reviews have also found non-allowable programs costs being charged to the SFA
- FSMC’s will have a greater incentive to better manage your program and provide meals that your students will buy
In Summary....

- In a Cost Reimbursable Contract the SFA must verify all direct costs billed each month and make sure that non-program costs are not being charged to the Child Nutrition Programs.

- In either type of contract the SFA’s can maintain flexibility based on district priorities and needs with proper planning and forecasting during the development of and inclusion in the RFP.

- It is the SFA’s responsibility to Monitor your contract.

- It is the SFA’s responsibility to properly plan and prepare the RFP/Contract using the State Agency prototype for either the Fixed Price per Meal or Cost Reimbursable Contract.

- It is the SFA’s responsibility to submit all contract documents for State Agency approval by the DUE DATE and **BEFORE the contract is executed**.
Important Changes for SY 19-20

- There will be **significant** changes in both types of contracts and documents required for the RFP/Contract process - You MUST attend the MANDATORY training sessions and review webinars

- **Plan** now to choose your contract for next year

- Take the time to review and **prepare** your RFP documents - anticipate any program changes that may occur in your district and include them in your RFP

- Talk to your staff, students and parents to gather important information for the **evaluation** criteria

- **Evaluate** responses to proposals in a fair and open manner
Upcoming MANDATORY Training

The State Agency is developing training sessions for the Business Administrators on RFP/Contracts to be conducted in January 2019

- January 15, 2019 - Morris County Police and Fire Academy
- January 22, 2019 - ECO Center
- January 24, 2019 - Webinar at 10:00 am

Webinars for February 2019
- FSMC Contract Addendums Webinar
- Fixed Price Contracts ECAS Submission Webinar (Fixed Price only)
Resources

- **NSLP Cost-Reimbursable Contracts with a FSMC**

- **National School Lunch Program - Food Service Management Contracts**
Thank You

This presentation was developed to provide clarification on the FSMC contracts for the 2019-2020 School year.

If we cannot answer your question now - we will provide guidance on your questions in the near future.