

**Instructions Regarding the
Invitation for Bid and Contract Process
For the School Nutrition Programs
Food Service Management Company/ Vended Meal Services**

PLEASE READ THIS DOCUMENT THOROUGHLY

According to *The School Code of Illinois* (105 ILCS 5/10–20.21), all food service management company (FSMC) contracts involving expenditures in excess of \$25,000 must be competitively bid. The prototype *Invitation for Bid and Contract* is for use by a school food authority (SFA) initiating a new contract with an FSMC to provide meal services for the School Nutrition Programs. The document, provided by the Illinois State Board of Education Nutrition Department (ISBE), will assist the SFA in obtaining competitive bids and awarding the contract to the responsible bidder whose bid is responsive and lowest in price. The document clearly defines the costs and responsibilities of the FSMC and the SFA.

All vended meal service contracts involving expenditures over \$250,000 must be competitively bid. The prototype *Invitation for Bid, and Contract* is for use by a school food authority (SFA) initiating a new contract with a vendor to provide meal services for the School Nutrition Programs. The document, provided by the Illinois State Board of Education Nutrition Department (ISBE), will assist the SFA in obtaining competitive bids and awarding the contract to the responsible bidder whose bid is responsive and lowest in price. The document clearly defines the costs and responsibilities of the vendor and the SFA.

The prototype specifies the meal fee structure as a maximum flat fee per meal, a management fee per reimbursable meal, and an annual fee to manage a la carte services. The maximum flat fee per meal includes the allowable direct costs for the preparation and service of the reimbursable meals and a la carte equivalents including food, labor, and other expenses. The management fee is for those costs associated with the services for reimbursable meals provided by the food service management company. In addition, there may be an annual flat fee for the management of the a la carte program.

The FSMC must submit bids based on the projected revenue and meal participation data provided by the SFA on Exhibit A, *School Data* and the required labor schedule on Exhibit G, *Staffing Patterns*. Due to COVID 19 pandemic, 2018-2019 school year data may be used as the base of projections or if the SFA has more recent data that is reflective of the anticipated food service that may be used and identified. After evaluating the criteria established in the solicitation/contract on a pass/fail basis to determine whether or not a bidder is responsive, and the bid is responsive, the SFA must evaluate the bids on the total estimated contract cost based on the projected annual number of reimbursable meals and a la carte equivalents listed on the *Bid Summary* plus fees.

While the prototype ensures requirements of federal and state regulations and statutes are met, the document should not be considered all-inclusive. **The SFA should carefully read each contract item in the prototype to ensure both the SFA's needs and local procurement requirements are being met and all blanks provided in the prototype have been accurately completed.** In addition, the language for several required sections at the beginning and end of the document is not included in the prototype. Those particular sections require the specific attention of the SFA and/or the SFA's legal counsel.

School food authorities receiving federal reimbursement must follow the required federal and state procurement procedures explained in this document. To ensure regulatory compliance and continued funding, **all SFAs must submit the *Invitation for Bid and Contract* documents to ISBE for review prior to beginning the bid solicitation process.** If the documents submitted are deemed in compliance with federal and state regulations and statutes, the ISBE will provide written notification to the SFA authorizing the SFA to begin the bid solicitation process. Throughout the entire bid solicitation and contract process, the SFA should keep in mind the **bid solicitation and resulting**

contract must be the same document.

Carefully review the competitive sealed bidding procedures, including the required three-step document submission procedures outlined on the following pages. If you have questions regarding the bid solicitation and contract process, please contact our office at 217-782-2491 or 800-545-7892 (in Illinois), or via email at nutritionprocurement@isbe.net.

Competitive Sealed Bidding Procedures

The following procurement and three-step document submission procedures must be implemented to ensure compliance with federal and state regulations and statutes. These requirements apply to all new food service management company contracts over \$25,000. The SFA should also seek the advice of their legal counsel regarding local regulations and policies. An SFA failing to follow and complete the following required procedures may be prohibited from utilizing nonprofit food service account funds to pay for the meal services contract.

1. **Submission #1—allow at least 30 calendar days for ISBE to complete the initial document review and additional time for the contract to be finalized to ensure compliance and the SFA to receive written notification that the SFA may proceed with the bid solicitation.**

All *Invitation for Bid and Contract* documents must be submitted to ISBE for review to determine regulatory compliance **prior to beginning the bid solicitation process**. The [Invitation for Bid and Contract Submission Form](#) that must accompany the solicitation/ contract documents. Please allow at least 30 days for completion of the initial review. When the documents submitted are deemed in compliance with federal and state regulations and statutes, the Illinois State Board of Education will provide written notification to the SFA authorizing the SFA to begin the bid solicitation process.

2. After receiving written notification authorizing the SFA to proceed with the bid solicitation, the SFA must solicit bids from an adequate number of known suppliers using only those documents already determined in compliance by ISBE. SFAs must directly provide (i.e. mail or deliver) the *Invitation for Bid and Contract* documents to **all** contractors listed on the [ISBE List of Potential Contractors](#).
3. The proposed procurement must be publicly advertised in at least one public notice at least ten days before the bid opening date in a newspaper of general circulation in the area of the school/district as required by the School Code of Illinois (105 ILCS 5/10–20.21). However, per USDA guidance, it is recommended this timeframe be much longer to allow bidders adequate time to respond. Therefore, ISBE requires at least one public notice a minimum of 45 calendar days before the bid opening date in order to ensure the competitive bid process is not restrictive.
4. Throughout the bid solicitation process, **all addenda/amendments, including all questions and answers, must be submitted to ISBE for review** and the SFA must receive notice the document(s) is/are in compliance prior to distributing addenda/amendments to all prospective bidders that received the original solicitation.

Addenda/amendments should not be issued within a minimum of seven (7) working days of the time and date set for the bid opening. Otherwise, the time and date set for the bid opening may be delayed to allow issuing an addendum/amendment.

5. Following the 45-calendar day solicitation period, sealed bids are accepted by the school food authority. On the announced bid opening date, the bids must be publicly opened and read aloud. All bids and supporting documents become the property of the SFA.

In addition to the *Bid Summary*, all bidders must submit signed copies of the following:

- [Bid-Rigging Certification](#)
- [Certificate of Independent Bid Determination](#)
- [Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions](#)

If the estimated contract cost is over \$100,000, bidders must also submit signed copies of the following:

- [Certificate Regarding Lobbying form](#)
- [Disclosure of Lobbying Activities form](#) (if applicable)

6. All bids must be evaluated solely by SFA employees based on the criteria established in the bid solicitation using the [Bid Criteria Analysis Sheet](#) or a similar form. Until such time as a contract is awarded, no bidder, prospective or otherwise, may be provided access to any supporting documents received by the SFA.
7. **Submission #2—allow at least 30 calendar days for ISBE to review the documents and for the SFA to receive written notification that the SFA may proceed with the contract award.** Following the bid opening and prior to the contract award, the following documents must be submitted to ISBE for review, accompanied by the [Pre-Contract Award Summary Sheet](#). The contract may not be awarded “pending ISBE’s compliance notification”.
 - Newspaper advertisement with date of publication
 - [List of bidders that received the solicitation/contract documents and all addenda issued](#)—include date mailed/delivered
 - If a pre-bid conference was held—[list of bidders in attendance](#)
 - *Bid Summary* form for each bid received
 - Correspondence from bidders opting not to bid (or phone call documentation)
 - Completed [Bid Criteria Analysis Sheet](#) summarizing all bids received
8. After receiving notification from ISBE stating that the SFA may proceed with the contract award, the contract is awarded to the responsible bidder whose bid, conforming to all material terms and conditions of the *Invitation for Bid and Contract*, is lowest in price. The contract must be awarded to the responsible bidder submitting the lowest bid responsive to the terms of the *Invitation for Bid and Contract*. Keep in mind, any and all bids may be rejected when there are sound documented reasons to do so.

9. Submission #3

Upon completion of the contract award, the SFA must provide copies of the following documents to ISBE, accompanied by an original signed copy of the [Post-Contract Award Summary Sheet](#).

- Executed copy of the contract—Signed *Bid Summary* form
- Signed copy of the *Bid-Rigging Certification* form
- Signed copy of the *Certificate of Independent Bid Determination* form
- If the contract is \$25,000 or more—Signed copy of the *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions*
- If the contract is over \$100,000—Signed copy of the *Certificate Regarding Lobbying*
- If the contract is over \$100,000 and any funds other than Federal appropriated funds have been used for lobbying—Signed copy of the *Disclosure of Lobbying Activities*

The bid solicitation and resulting contract (including all addenda) must be the same document(s) previously determined in compliance by ISBE. Revisions cannot be made to the executed *Invitation for Bid and Contract* without first submitting proposed revisions to ISBE for review and receiving written notification that the proposed revisions are allowable within the regulatory guidelines. Furthermore, additional documents and/or agreements, including those developed by the contractor, cannot become part of the executed contract.

Solicitation/Contract Provisions

Invitation for Bid and Contract documents, including specifications and attachments, must clearly define the items or services needed for bidders to respond to the invitation properly. The SFA must not place unreasonable requirements on bidders in order to qualify to do business, thereby restricting competition [7 CFR 3016.36(c)(1)(i)].

All FSMC contracts involving expenditures in excess of \$25,000 must contain contractual provisions or conditions that will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.

The *Invitation for Bid and Contract* document must not contain provisions that:

1. Allow for alternate bids that deviate from or modify the provisions of the bid solicitation.
2. Award the contract based solely on the contractor financial guarantee.
3. Do not clearly define the responsibilities of the school food authority and the food service management company.
4. Require a bid bond greater than 5 percent of the total estimated contract cost.
5. Require a performance bond greater than 20 percent of the total estimated contract cost.
6. Fail to meet federal procurement procedures.
7. Fail to meet the United States Department of Agriculture (USDA) regulations as stated in 7 CFR Parts 210, 215, and 220.
8. Fail to clearly define the bidder responsibility and bid responsiveness criteria to evaluate the bids.
9. Allow for the purchase or lease of equipment without detailed specifications of each piece of equipment and terms for the specified lease or purchase.
10. Do not clearly state the types of meal services, number of meals or participation levels, student and adult milk and meal charges, and number of serving days.
11. Do not allow for the current market value of USDA Foods to be credited to the nonprofit school food service program.
12. Prevent the determination of the total estimated contract cost.
13. Restrict competition or prevent an adequate number of companies from bidding on services.
14. Permit all receipts and expenses to accrue to the food service management company.
15. Permit cost-plus-a-percentage of cost or cost-plus-a percentage of income.
16. Allow for goods, services, or monies to be utilized other than in the nonprofit school food service program.

Federal regulations allow contracts between SFAs and FSMCs to be effective no longer than one year with the option to renew yearly but not to exceed four additional years

Pre-Bid Conference Guidance

School food authorities may be required by local procurement policies or may choose to conduct a pre-bid conference, also referred to as a pre-bid meeting. If this is the first procurement for meal services by the school food authority, conducting a pre-bid conference may be very beneficial to both the SFA and the prospective bidders. Following is general guidance that should be considered when planning a pre-bid conference.

Due to the COVID 19 pandemic, video and teleconference pre-bid meetings/ tours are allowable. The same structure and processes must be in place as an in-person meeting. This includes start date and time, attendance, etc.

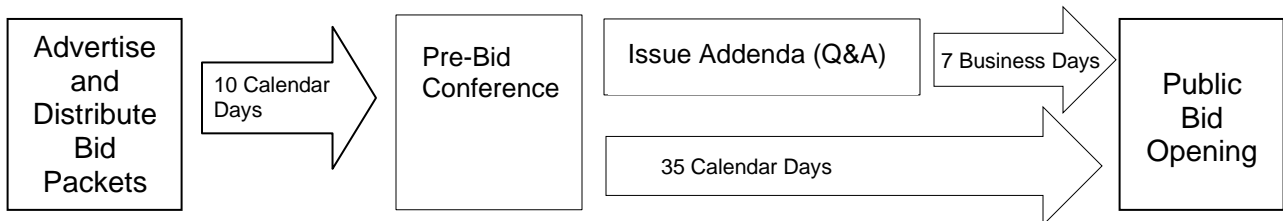
Attendance

Attendance at the conference by prospective bidders is strongly recommended but not required for submittal of a bid.

Scheduling

It is required that the conference be scheduled at least 10 calendar days after the public advertisement and distribution of the bid packets to provide sufficient notice to all prospective bidders. Announcement of the pre-bid conference should be included in both the bid packet and the public advertisement.

In addition, the conference should be scheduled at least 25 calendar days prior to the public bid opening date to allow the SFA sufficient time to issue written addenda/amendments that may result from the conference and for bidders to subsequently prepare their bids. Hence, a minimum 35 calendar day solicitation period is strongly recommended by the Illinois State Board of Education.



Purpose

- Provide information and clarification regarding contract specifications that will assist in the preparation of bids
- Answer questions (take detailed notes; then provide answers in writing—see *Addenda/Amendments/Questions and Answers* below)
- State that clarifications, exceptions, and/or alternate bids will result in disqualification
- Conduct a facility tour
- Discover ambiguities, errors, or omissions in the Invitation for Bid (IFB) that may later be corrected through written addenda or amendments to the IFB

The conference should NOT be held as a substitute for formally amending a deficient or ambiguous specification or to disseminate performance requirements in addition to those contained in the solicitation.

Addenda/Amendments/Questions and Answers

It should be stated at the opening of the pre-bid conference that information provided should not be considered official until provided in writing to all prospective bidders that have received the IFB. Oral explanations or instructions given before the award of the contract shall not be binding. Any information given to a prospective bidder shall be furnished to all prospective bidders that received the original solicitation/contract as an addendum or amendment to the solicitation/contract.

Bidder Responsibility and Bid Responsiveness Criteria

In the *Invitation for Bid and Contract*, the SFA must specify the pass/fail criteria to determine whether the bidder is responsible and the bid is responsive and includes all relevant factors. Prior to determining the low bid, SFAs may consider such matters as contractor integrity, past performance, financial and technical resources, and accessibility to other necessary resources.

Bid criteria must be evaluated on a pass/fail basis. It is the SFA's responsibility to establish the minimum standards a bidder must meet for each criterion. In addition, the SFA must identify the means by which bidders can demonstrate compliance with those standards. The criteria should be designed by the SFA to meet the SFA's specific needs but must not restrict competition.

Following are two forms. The *Bidder Responsibility and Bid Responsiveness Criteria* form, also found in the prototype *Invitation for Bid and Contract*, may be used to outline the criteria and minimum standards established by the SFA and the evidence required for submission by bidders to demonstrate compliance. **The *Bid Criteria Analysis Sheet*, or a similar form, must be used to evaluate each bidder based on the evidence provided to demonstrate compliance in meeting the minimum standards for each criterion established by the SFA in the *Bidder Responsibility and Bid Responsiveness Criteria* section of the IFB.** The *Bid Criteria Analysis Sheet* is one of the documents that must be submitted to ISBE along with the *Pre-Contract Award Summary Sheet* following the bid opening and prior to the contract award.

Bid Document Submission Information

Refer to pages 3 and 4 of this document regarding the detailed document submission procedures. The documents required for each step should be sent to ISBE as instructed below.

Submission #1—[Invitation for Bid and Contract Submission Form](#) and documents—mail or email

Submission #2—[Pre-Contract Award Summary Sheet and documents](#)—mail or email

Submission #3—[Post-Contract Award Summary Sheet](#) and documents— mail or email

Please submit documents only once. For example, do not fax and mail. Our office needs only one set of documents for each submission.

Mail: Nutrition Procurement Department
Illinois State Board of Education
100 North First Street – W270
Springfield, IL 62777-0001

Questions: Call 800 545-7892 (in Illinois) or 217-782-2491

Email: nutritionprocurement@isbe.net