



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



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SUPERINTENDENT OF
PUBLIC INSTRUCTION

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GOVERNOR

DATE: April 1, 2008

TO: Local and Intermediate School District Superintendents, Public School Academy Directors, and Nonpublic School Administrators

FROM: Carol Wolenberg, Deputy Superintendent

SUBJECT: Rebidding of Food Service Management Contracts

The purpose of this letter is to update you on the requirements for obtaining a new or rebidding a current food service management contract (FSMC) as well as to outline your options for extending a FSMC that is now in place.

As a result of some actions by the U. S. Department of Agriculture (USDA), the Michigan Department of Education (MDE) has issued several advisories regarding FSMCs during the last few months. On December 18, 2007, we alerted you that some of your current contracts may no longer meet the specifications outlined in the USDA's Final Procurement Regulations and that all contracts would have to be rebid for an effective date of either July 1, 2008, or July 1, 2009. At that time, we indicated that MDE would require all districts to use a fixed price contract. Later, we notified you that MDE was working in conjunction with the Michigan School Business Officials (MSBO), Michigan Association of School Boards (MASB), and Middle Cities Education Association (MCEA), to develop a process whereby you would have a choice to utilize either a fixed price contract or a cost reimbursable contract. With the results of this collaboration being complete, we can now provide details regarding the next steps for bidding, rebidding, or extending a FSMC.

MDE is aware of the districts in their fifth and final year of their FSMC and of those expressing a desire to initiate a contract for next year. All of those districts have been provided with the prototype request for proposal (RFP) documents and instructions for rebidding. **Districts falling into this category should contact MDE immediately to obtain this information, if you have not already received it.**

All other districts will fall into one of four other categories: (1) do not want a FSMC in 2008-09, (2) need to extend a current contract into 2008-09, (3) need to rebid a current contract for 2008-09 because the current contract is flawed or because the district has otherwise determined not to extend it, or (4) need to rebid a FSMC for 2009-10.

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Districts in category one have no further action to complete regarding FSMCs.

Districts falling in category two (need to extend a current contract) may extend their contracts, if the following conditions are met:

- a. Currently in year one, two, three, or four of a properly bid FSMC; and
- b. Any amendment/extension contains no additional costs beyond what was presented in the original bid document,
or
Any increase was outlined in the original bid document and was based on a predetermined rate, like the Consumer Price Index.

If the extension meets these requirements, the district must submit the extension documents to MDE for approval prior to the local board of education's approval of the extension.

If the extension does not meet these requirements, the district has two choices: (1) have these amendments rescinded by June 30, 2008, or (2) rebid the entire FSMC contract for 2008-09. Either way, the district must submit the extension or entire bid package (as outlined below) to MDE for approval prior to the local board of education's approval of the extension or new contract.

Districts falling in category three (need to rebid a current contract) must begin this process immediately. RFP/Contract prototypes must be obtained from MDE. Districts then will determine which type of contract to use and must modify it for its own use. Districts must submit that document to MDE for approval, issue the bid document, run the bid competition, select a bidder, submit all bid documents and proposed contracts to MDE for approval, and then take the contract to the board of education for approval.

All contracts and extensions should be in place by July 1st of each year. Due to the delay in making prototypes available to districts this year, that deadline will be extended on an "as needed" basis.

Districts falling into category four (need to rebid a contract for 2009-10) will need to begin to plan for the bidding/rebidding activities. It should be noted that the prototype documents that we have made available at this time may not be the ones that we will put in place for 2009-10. We are awaiting further guidance from USDA before those are released. We expect to have them available in October 2008, in order to allow time for districts to complete the entire process during 2008-09. Attached is a calendar of activities that districts will need to follow in order to meet the deadline for contracts with an effective date of July 1, 2009.

Page 3
April 1, 2008

A note about procurement fees: one of our earlier messages indicated that procurement fees were not allowable. This position has not changed. However, on March 12, 2008, the USDA issued a memorandum that clarified the allowability of procurement fees prior to and after the publication of their November 30, 2007, Final Procurement Rule. For contracts that pre-date the effective date of the Final Procurement Rule, procurement fees are allowable, even if they are tied directly to the amount of discounts, rebates, and applicable credits to be returned to the school district, as long as they were properly considered in the original solicitation document. If this is the case for your school district, agency, or institution, you may be able to renew your contract for one more year (2008-09) per the Final Procurement Rule, but you will have to rebid your FSMC for the 2009-10 school year.

In order to assist districts with questions regarding all aspects of the FSMC bidding process, we will offer several opportunities for technical assistance. We will be participating in the MSBO spring conference and will also set up sessions via video conferencing or webinars.

If your school district plans to bid for a contract for the upcoming school year, you will need to request a copy of prototype documents. For this or further assistance regarding the procurement process, please contact Cheryl Schubel, Supervisor, Fiscal Management and Food Distribution, at 517-241-2597.

Attachment

Michigan Department of Education

**Timetable for Contracting with a
Food Service Management Company (FSMC)**

When	What	Requirements
October - February	School district prepares RFP	Use of MDE prototype RFP is required.
October - February	MDE reviews and approves RFP bid documents School district advertises RFP School district notifies FSMCs using list provided in prototype document Bidders submit proposals	MDE must approve RFP bid document pack before it is issued. School district must submit RFP bid document for MDE approval 3 to 4 weeks prior to the pre-bid meeting or prior to the issuance date of the MDE-approved bid documents. School district must advertise legal notice in a newspaper seven to ten days prior to the pre-bid meeting or prior to the issuance date of the MDE-approved bid documents. School district must notify all potential bidders by U.S. mail or e-mail of the scheduled pre-bid meeting or issuance date of the MDE-approved bid documents. Bidders should be given 3 to 4 weeks to submit their proposals after the pre-bid meeting or issuance of the MDE-approved bid documents.
March - June	School district submits documentation of recommended bidder	School district must submit RFP bid proposal of recommended bidder and final contract to MDE. School district should allow 3 to 4 weeks for MDE review and approval. School district must use the MDE-approved prototype contract. Any addendums to the contract must be developed by the school district from the proposal submitted by the recommended bidder. No other contracts may be signed by the school district. MDE must approve the final contract before it is taken to the school district's Board of Education for approval and is signed by the school district and the successful bidder.
Effective July 1	School district awards contract	Contract will be awarded for one year with up to 4 one-year renewals.

Michigan Department of Education

**Timetable for Renewing a Contract with a
Food Service Management Contract (FSMC)**

When	What	Requirements
January - March	School district submits contract renewal agreement for FSMC to MDE School district submits signed Lobbying, Suspension and Debarment Certificates	School district must submit unsigned contract renewal agreement and any addendums to this agreement for MDE approval. No additional fees or costs may be included except as accounted for in the original bid. School district must have FSMC sign Lobbying, Suspension, and Debarment Certificates with each extension and must submit those certificates along with the renewal certificate to MDE.
April - June	MDE reviews and approves contract renewal when all requirements are satisfied.	MDE must approve contract renewal before it is taken to the school district's Board of Education for approval and is signed by the school district and the successful bidder.
Effective July 1	School district awards contract	Contract will be approved for one year.