

210.16 Food Service Management Companies Contract Checklist

Direction: Check box if included in solicitation or contract being reviewed; Record Solicitation/Contract page number to facilitate locating citation.

210.16(a) *General.* Any school food authority (including a State agency acting in the capacity of a school food authority) may contract with a food service management company to manage its food service operation in one or more of its schools. However, no school or school food authority may contract with a food service management company to operate an a la carte food service unless the company agrees to offer free, reduced price and paid reimbursable lunches to all eligible children. Any school food authority that employs a food service management company in the operation of its nonprofit school food service shall:

- Contract Page #_____ (1) Adhere to the procurement standards specified in §210.21 when contracting with the food service management company (*Use 210.21 Checklist to validate.*);
- Contract Page #_____ (2) Ensure that the food service operation is in conformance with the school food authority's agreement under the Program;
- Contract Page #_____ (3) Monitor the food service operation through periodic on-site visits;
- Contract Page #_____ (4) Retain control of the quality, extent, and general nature of its food service, and the prices to be charged the children for meals;
- Contract Page #_____ (5) Retain signature authority on the State agency-school food authority agreement, free and reduced price policy statement and claims;
- Contract Page #_____ (6) Ensure that all federally donated foods received by the school food authority and made available to the food service management company accrue only to the benefit of the school food authority's nonprofit school food service and are fully utilized therein;
- Contract Page #_____ (7) Maintain applicable health certification and assure that all State and local regulations are being met by a food service management company preparing or serving meals at a school food authority facility;
- Contract Page #_____ (8) Establish an advisory board composed of parents, teachers, and students to assist in menu planning;
- Contract Page #_____ (9) Obtain written approval of invitations for bids and requests for proposals before their issuance when required by the State agency. The school food authority must incorporate all State agency required changes to its solicitation documents before issuing those documents; and

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Contract Page # _____ (10) Ensure that the State agency has reviewed and approved the contract terms and that the school food authority has incorporated all State agency required changes into the contract or amendment before any contract or amendment to an existing food service management company contract is executed. Any changes made by the school food authority or a food service management company to a State agency pre-approved prototype contract or State agency approved contract term must be approved in writing by the State agency before the contract is executed. When requested, the school food authority must submit all procurement documents, including responses submitted by potential contractors, to the State agency, by the due date established by the State agency.

(b) *Invitation to bid.* In addition to adhering to the procurement standards under §210.21, school food authorities contracting with food service management companies shall ensure that:

Contract Page # _____ (1) The invitation to bid or request for proposal contains a 21-day cycle menu developed in accordance with the provisions of §210.10, to be used as a standard for the purpose of basing bids or estimating average cost per meal. A school food authority with no capability to prepare a cycle menu may, with State agency approval, require that each food service management company include a 21-day cycle menu, developed in accordance with the provisions of §210.10, with its bid or proposal. The food service management company must adhere to the cycle for the first 21 days of meal service. Changes thereafter may be made with the approval of the school food authority.

Contract Page # _____ (2) Any invitation to bid or request for proposal indicate that nonperformance subjects the food service management company to specified sanctions in instances where the food service management company violates or breaches contract terms. The school food authority shall indicate these sanctions in accordance with the procurement provisions stated in §210.21. (*Use 210.21 Checklist to validate.*)

Contract Page # _____ (c) *Contracts.* Contracts that permit all income and expenses to accrue to the food service management company and “cost-plus-a-percentage-of-cost” and “cost-plus-a-percentage-of-income” contracts are prohibited.

Contract Page # _____ Contracts that provide for fixed fees such as those that provide for management fees established on a per meal basis are allowed. Contractual agreements with food service management companies shall include provisions which ensure that the requirements of this section are met.

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Such agreements shall also include the following:

Contract Page #_____ (1) The food service management company shall maintain such records as the school food authority will need to support its Claim for Reimbursement under this part, and shall, at a minimum, report claim information to the school food authority promptly at the end of each month. Such records shall be made available to the school food authority, upon request, and shall be retained in accordance with §210.23(c).

Contract Page #_____ (2) The food service management company shall have State or local health certification for any facility outside the school in which it proposes to prepare meals and the food service management company shall maintain this health certification for the duration of the contract.

Contract Page #_____ (3) No payment is to be made for meals that are spoiled or unwholesome at time of delivery, do not meet detailed specifications as developed by the school food authority for each food component specified in §210.10, or do not otherwise meet the requirements of the contract. Specifications shall cover items such a grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time.

Contract Page #_____ (d) *Duration of contract.* The contract between a school food authority and food service management company shall be of a duration of no longer than 1 year; and options for the yearly renewal of a contract signed after February 16, 1988, may not exceed 4 additional years.

Contract Page #_____ All contracts shall include a termination clause whereby either party may cancel for cause with 60-day notification.