


BUSINESS OF NUMBERS & NUTRITION

CHILD NUTRITION DIRECTORS
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Like walking barefoot on a floor full of Legos:

: Navigating the Procurement Process for FSMC
Contracts

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*“The first thing we do, let’s
kill all the lawyers.”*

*-William Shakespeare
Henry VI, Part 2*

What does FSMC Procurement have to do with Legos?

**They can be
both useful
and painful!**



What is an FSMC?

Food Service Management Company

is any organization, including a commercial for-profit or nonprofit company, that contracts with a School Food Authority (SFA), “to manage any aspect of the meal service” for the school district.

What is any aspect of meal service?

Food Purchasing Activities

Purchasing Activities

Operation or management of some or all of the SFA's food service functions

BUT NOT VENDED MEAL PROVIDERS, if they are only delivering the meals.

Do we have to?

No! School Food Authorities do not have to contract with an FSMC. SFAs can self operate.



Any deadlines?

Yep.

Each FSMC must apply to TDA by August 1.

Then they are approved and placed on the list of eligible FSMCs.

And they have to sign a permanent agreement with TDA.



Required RFP Components:

- **Clearly defined Scope of Services and a reasonable procurement schedule.**
- **Evaluation/Award Criteria**
- **Appropriate Proposed Budget-included for either a *Cost Reimbursable or Fixed-Meal Rate* contract.**
- **Correct Consumer Price Index (CPI) for price or fee adjustments in each renewal year**
- **Standard Terms & Conditions along with a 21-Day Menu proposed for breakfast and lunch at all campuses in the contract.**
- **Place Holder for Financial Guarantee-by FSMC if offered and agreed to as part of the contract.**
- **All required Federal Attachments and Certifications: (1) Anti Collusion Affidavit; (2) No Debarment/Suspension; (3) No Lobbying Certification; and Description of Lobbying Activities, if any.**

And then we can contract?

Nope.

First you have to competitively solicit and award using TDA's prototype Request for Proposals.



Competitive RFP Process

- **Must publish for minimum of 14 days**
- **In a newspaper of general circulation**
- **Evaluate all eligible, responsive proposals according to the evaluation criteria in RFP**



And then after we issue an RFP, we can execute the contract?

NO!

TDA has to review and provide written approval of the FSMC contract terms and supporting documentation before the RFP is issued, and before the execution of all renewals or amendments. 7 CFR 210.16(a)(10)

And then after we get TDA approval, we can execute the contract?

Yes.

But remember, the contract is between the FSMC and the SFA. TDA will not get in the middle of disputes.

How often must an FSMC contract be solicited?

Every 5 years

Initial one year term

Up to 4 renewal options

Things that can cause pain- watch out for these!

- ◆ **Deletion and replacement of standard contract terms**
- ◆ **Missing or incomplete budgets or exhibits**
- ◆ **Missing proposal attachments**
- ◆ **Missing 21 day menus or menus with logos**

Things that can cause pain- watch out for these!

- ◆ **Material Changes between RFP and contract**
- ◆ **Poorly written Scope of Services**
- ◆ **Incorrect RFP schedules with unrealistic dates for responses or preproposal conferences**
- ◆ **Rebates, credits and discounts must be reported and credited to the non-profit school foodservice account for cost reimbursable contracts**



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COMMISSIONER SID MILLER

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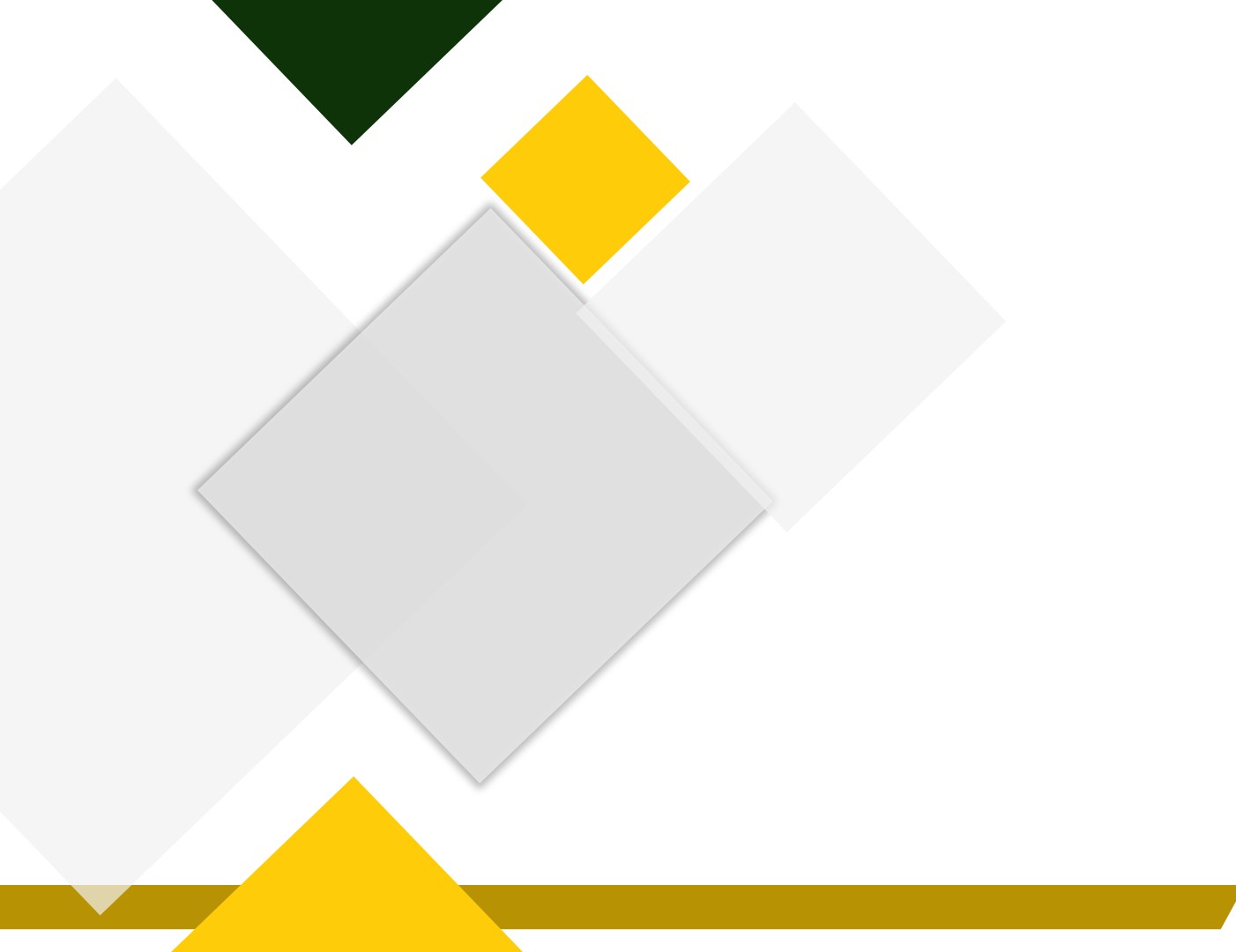
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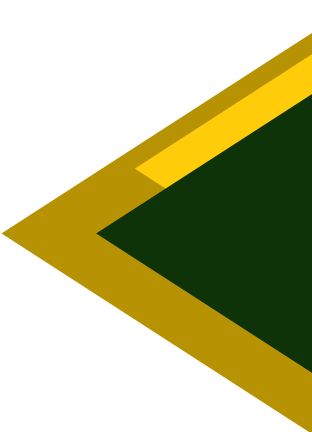
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