September 21, 2020

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST:
New School Food Authority (SFA) Summer Food Service Program (SFSP) Sponsor Review

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances.

In this waiver request, the Kansas State Department of Education Child Nutrition & Wellness team is seeking a waiver to 7 CFR 225.7(d)(2)(ii)(A) to conduct a review of every new sponsor at least once during the first year of operation.

1. **State agency submitting waiver request and responsible State agency staff contact information:**
   Kansas State Department of Education (KSDE)
   Child Nutrition & Wellness (CNW)
   900 SW Jackson Street, Suite 251
   Topeka, KS 66612
   Cheryl S Johnson, Director
   csjohnson@ksde.org
   785-224-8479 (cell)

2. **Region:**
   Mountain Plains (MPRO)

3. **Eligible service providers participating in waiver and affirmation that they are in good standing:**
   Any Kansas State Department of Education approved School Food Authority (SFA) who meets all the following requirements:
   - In good standing;
   - Current School Nutrition Program sponsor who is new to the SFSP during the COVID-19 Response;
   - Approved by KSDE to operate the SFSP due to the COVID-19 Outbreak;
   - Are only operating the SFSP due to the COVID-19 Outbreak between the first day of the 2020-2021 school year through December 31, 2020.

4. **Description of the challenge the State agency is seeking to solve, the goal of the waiver to improve services under the Program, and the expected outcomes if the waiver is granted. [Section 12(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:**
   KSDE Child Nutrition & Wellness seeks to temporarily waive the new sponsor review requirement for experienced SFAs operating the SFSP as a new sponsor with a program end date on or before December 31, 2020.
Challenge
Due to FNS COVID-19 Responses #56 and #57, since August 31st 296 experienced SFA Sponsors have or are in process to move from the National School Lunch Program (NSLP) to operating the SFSP. Of these 296 SFA sponsors, 121 are new SFSP sponsors since the release of COVID responses #56 and #57 through December 31, 2020. KSDE has previously approved 204 SFSP Sponsors during the unanticipated school closures due to COVID-19 last spring and were in the process of conducting SFSP Administrative Reviews per regulation. KSDE has 10 Child Nutrition Consultants that assist with SFSP reviews during the summer months. During the normal school year, these same 10 Child Nutrition Consultants complete the SNP Administrative Reviews between the months of October and June. On average, KSDE conducts 116 SFSP reviews. These reviews take an estimated average of 4-8 hours to complete, including review preparation, on-site review and follow-up (not including travel time). This year due to SFAs switching to the SFSP in March during the unanticipated school closures and then many continuing to provide meals to children throughout the summer, KSDE initially had scheduled 97 SFSP reviews. Since August 31 when COVID-19 Response #56 was released, an additional 121 new SFAs have decided to switch from serving meals under the NSLP to the SFSP. Due to these additional new SFA Sponsors implementing the SFSP, KSDE would need to conduct 81 additional new SFSP sponsor reviews on top of the already scheduled SFSP reviews. This total is taking into account all other available flexibilities, including removing SFAs that had an SNP Administrative Review for 2019-2020. KSDE has opted into the Nationwide Waiver of Onsite Monitoring Requirements for State Agencies in the SFSP which allows SFSP reviews to be conducted as a desk audit. Experience over the summer months has indicated that desk audits take as long or longer than on-site audits due to the amount of time it takes to get scanned documents for review from the SFAs, on average 6-12 hours per review, technical assistance as needed and follow-up. With 10 full-time Child Nutrition Consultants available to schedule and dedicate time to SFSP reviews between now and the end of the calendar year, it would be impossible to complete the additional 81 new SFA reviews by December 31st while also maintaining program integrity, providing technical assistance and necessary training so that safe meal are served per nutritional requirements and counted per program regulations.

<table>
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<tr>
<th>Summary of KSDE New SFA SFSP Sponsor Reviews</th>
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<tr>
<td>Review Schedule</td>
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<tr>
<td><strong>Before August 31</strong></td>
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<tr>
<td>Total SFSP sponsors in PY20</td>
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<tr>
<td>3-year cycle (due)</td>
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<td>Sponsors with Operational Problems in PY19 receiving review in PY20</td>
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<tr>
<td>Sponsors receiving review due to reimbursement or to hit 33% requirement</td>
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<tr>
<td>New SFSP Reviews required</td>
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<tr>
<td><strong>Total Reviews with Waiver</strong></td>
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<td><strong>Current (SFSP all sponsors)</strong></td>
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Out of the 158 Total New SFSP SFA Sponsors in PY20, 47 received a SNP Administrative Review this year bringing the New Sponsor Review Total to 111 for completion by December 31, 2020 without approval of this waiver request. If the waiver request is approved, total reviews would be 97. This would be an average of 10 reviews per Consultant to complete by December 31st in addition to providing technical assistance to opt into waivers, update Sponsor and Site applications, assist Sponsors in the process to revise claims due to the retroactive claiming available due to COVID-19 Response #57, and conduct training as scheduled. In addition to KSDE's dramatic increase in SFSP reviews to complete in a short amount of time, KS schools are also faced with an enormous amount of stress and increased work load as the school year unfolds. SFAs are faced with the unprecedented task of providing meals for on-site, remote and hybrid learners – many all at the same time. Adding a SFSP review on top of the increased workload could potentially tax the working relationships KSDE has worked hard to build with local SFAs.

Goals for Improved Services

Without the COVID-19 Responses # 56 and #57 all 121 new SFA SFSP sponsors would have been operating the NSLP. During the transition to SFSP for unanticipated school closures earlier this year KSDE provided training above minimum requirements outlined in 7 CFR 225.7(a) in the form of new sponsor training via ZOOM, On-line SFSP Administrative training, On-line SFSP Meal Pattern training, phone calls, Town Hall meetings and technical assistance follow-up calls and ZOOM meetings. KSDE also provide COVID-19 Updates at least weekly via listservs and posted at www.kn-eat.org, Summer Food Service Program, What's New. In addition, KSDE created applications in KN-CLAIM to allow Kansas Sponsors to elect waivers and to collect data for waiver reporting. Additional program technical assistance was provided by the KSDE Child Nutrition & Wellness Director, Assistant Directors and Child Nutrition Consultants based on information provided on the waivers and Sponsor and Site applications. Between now and December 31, 2020, KSDE will continue to schedule training webinars, weekly Town Hall meetings where Sponsors can ask questions and share best practices. And provide technical assistance via phone and ZOOM. For a list of Professional Development training opportunities scheduled to date go to the CNW calendar at this link: https://www.kn-eat.org/CNW/CNW_Menus/CNW_Calendar.htm.

Expected Outcomes

Per 7 CFR 225.7(d)(2) KSDE will conduct New Sponsor Reviews for the 30 new non-SFA and SFA SFSP Sponsors that have participated during Summer 2020 prior to August 31st as well as the 35 sponsors due for their 3-year review, 7 Sponsors determined to have operational problems in the previous year, and 25 additional sponsors in order to review sponsors that account for at least one-half of the total program meal reimbursements in KS from summer 2019 (50% = $2,394,488.96). The total of these 97 reviews will account for $2,678,030.92 of total program reimbursement in KS from Summer 2019. Because of KSDEs strong dedication to program integrity, customer service, training and technical assistance, regularly scheduled professional development training, written updates and technical assistance check-ins will provide opportunity to clarify program requirements and determine if additional training or monitoring is needed. If this waiver is granted, KSDE will have staff time to conduct reviews of sponsors that may be at risk of non-compliance.

5. Specific Program requirements to be waived (include statutory and regulatory citations).
[Section 12(1)(2)(A)(i) of the NSLA]:
7 CFR 225.7(d)(2)(ii)(A) to conduct a review of every new sponsor at least once during the first year of operation.
6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:

If approved, KSDE will continue to provide regularly scheduled training and Town Hall Meetings that include Q & A sessions for both returning and new SFSP Sponsors. SFSP training that includes program purpose, record keeping (meal count procedure, production records, etc); site operations; food safety and personnel safety; meal pattern requirements; and sponsor and site responsibilities. There would be no significant impacts on technology or State systems. KSDE would continue monitoring of SFSP Sponsors as required at 7CFR 225.7(d)(2)(ii):

(B) Annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half of the total program meal reimbursements in the State in the prior year;

(C) Annually review every sponsor which experienced significant operational problems in the prior year;

(D) Review each sponsor at least once every three years; and

(E) As part of each sponsor review, conduct reviews of at least 10 percent of each sponsor's sites, or one site, whichever number is greater.

KSDE would also monitor all new Non-SFA sponsors with a 2020 program end date of December 31, 2020 and provide technical assistance via phone and ZOOM to Sponsors as deemed necessary based upon waiver answers and training participation.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(l)(2)(A)(ii) of the NSLA]:

There are no state regulatory barriers.

8. Anticipated challenges State or eligible service providers may face with the waiver implementation:

KSDE CNW does not anticipate any challenges with the implementation of this waiver by either the State Agency or program sponsors. Kansas School Superintendents have been advocating for decreased administrative burden. COVID-19 Meal Service has added increased work load for Kansas SFA Sponsors who will be implementing multiple meal service models at the same time for in-person, remote and hybrid learning environments. It is essential to reduce administrative burden where possible so that children can be provided meals and that our programs truly can function as a nutrition safety net.

9. Description of how the waiver will not increase the overall cost of the Program to the Federal Government. If there are anticipated increases, confirm that the costs will be paid from non-Federal funds. [Section 12(l)(1)(A)(iii) of the NSLA]:

This waiver request will not increase cost of the program to the Federal Government. Program administration and operations will remain committed to oversight and compliance as well as technical assistance and training to help Sponsors implement programs with integrity. Program reimbursement will continue to be based on total number meals served to eligible participants by the Sponsor. There would be no need for additional State Administrative Expense Funds or Summer Administrative Funds for the State Agency.
10. **Anticipated waiver implementation date and time period:**
The anticipated statewide implementation start date is upon approval from USDA and to remain in effect through December 31, 2020.

11. **Proposed monitoring and review procedures:**
If a State-wide waiver is granted, KSDE would continue monitoring of SFSP Sponsors as required at 7CFR 225.7(d)(2)(ii):

   (B) Annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half of the total program meal reimbursements in the State in the prior year;

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12. **Proposed reporting requirements (include type of data and due date(s) to FNS):**
No later than April 30, 2021, KSDE will report to USDA the number of Sponsors that used this waiver including the number of operating days and meals claimed.

13. **Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(l)(1)(A)(ii) of the NSLA]:**
Notice is posted at www.kn-eat.org, Summer Food Service Program, What's New.

14. **Signature and title of requesting official:**

   Cheryl S. Johnson, MS, RD, LD
   Director, Child Nutrition & Wellness, Kansas State Department of Education
   Requesting official's email address for transmission of response: csjohnson@ksde.org

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**TO BE COMPLETED BY FNS REGIONAL OFFICE:**

*FNS Regional Offices are requested to ensure the questions have been adequately addressed by the State agency and formulate an opinion and justification for a response to the waiver request based on their knowledge, experience and work with the State.*

**Date request was received at Regional Office:**

☐ Check this box to confirm that the State agency has provided public notice in accordance with Section 12(l)(1)(A)(ii) of the NSLA

**Regional Office Analysis and Recommendations:**