Private Nonprofit (PNP) Organizations' Meal Service Contracting Options in the Summer Food Service Program (SFSP)

To: STATE AGENCY DIRECTORS (Special Nutrition Programs) — Colorado ED, Iowa, Kansas, Missouri DH, Montana OPI, Nebraska ED, North Dakota, South Dakota, Utah, and Wyoming DHSS

Section 13(a)(7)(B)(ii) of the National School Lunch Act requires PNPs to prepare their own meals or to obtain them from "a public facility (such as a school district, public hospital, or State university) or a [private] school participating in the school lunch program...." This language has been interpreted as preventing PNPs from obtaining meals from another PNP sponsor or group which prepared its own meals; i.e., which did not purchase unitized meals, with or without milk, from a food service management company (FSMC).

This interpretation is inconsistent with the law's intent. It imposes a particular hardship on PNPs serving rural areas, since rural schools are often closed during the summer and other types of public facilities are often nonexistent or incapable of providing meal service. This is a particularly important point to resolve since one of the primary motivations for allowing the re-entry of PNPs into the SFSP was to improve program coverage in rural areas.

The Department's research on the legislative history regarding this provision indicates that congressional intent was to prevent the "large private sponsor/private vendor combinations" which the Department's Office of Inspector General had identified as a major source of SFSP accountability problems during the late 1970s. These "combinations" involved for-profit FSMCs, not the type of small, self-preparation PNPs and other PNP groups which have been mentioned as possible meal providers in isolated rural areas.

Thus, this section of the law is designed to prohibit PNPs from contracting—either directly or through the agency of a third party—with for-profit FSMCs. It would not prohibit a PNP from contracting with another PNP sponsor or group which was capable of providing meal service, provided that the PNP entity supplying the meals did not simply purchase unitized meals from a for-profit FSMC and sell them to the PNP sponsoring the SFSP.

We recognize that this guidance is being issued well into the Program cycle, but we believe that it will facilitate the participation of PNP sponsors located in rural areas.
Please contact my staff at (303) 844–0359 if you need any clarification or information on the above subject.

Davina Sanchez
ANN C. HECTOR
Regional Director
Special Nutrition Programs