Seamless Summer Feeding Waiver Prototype Materials

As you recall, we provided information about Seamless Summer Pilot Waivers in our SFSP-435. To aid State Agencies (SA) in requesting a Seamless Summer Feeding Waiver on behalf of interested school districts, we have attached prototype materials developed for applying for a waiver.

These waiver prototype materials consist of a format to request the waiver, an attachment that describes an approvable waiver request, and a side-by-side comparison. The prototype explains the information that a SA or School Food Authority (SFA) must provide in a Seamless Summer Feeding Waiver request. The attachment, Conditions of a Seamless Summer Feeding Waiver for School Food Authorities, describes an approvable waiver. This attachment can simply be included as a description of the seamless program the SFA is requesting to operate (see item 2 of the prototype), or the SA/SFA can pull information from the attachment to put in the waiver request. The side-by-side comparison, which was developed by the Southeast Regional Office, compares aspects of the Summer Food Service Program (SFSP) with the Seamless Summer Feeding Waiver.
Our SFSP-302 provided general guidance for developing and submitting waiver applications in Child Nutrition Programs. In order to streamline the process of requesting a Seamless Summer Feeding Waiver, we have reduced the requirements of Part A and Part B of "Content of Applications" as explained in SFSP-302. Also, in lieu of the requirement in Part F of our SFSP-302 to publicize the SA's intent to waive certain program requirements, the SA/SFA must describe how each waiver site (excluding closed enrolled sites) will advertise the availability of meals to the community. We believe that this requirement speaks directly to the issue that is intended in Part F, namely, that the local community most affected by the waiver (i.e., the children and their caregivers in the neighborhood of the waiver site) be notified of the availability of free meals.

In order to be consistent with the initial Seamless waivers approved for the school districts in California and Florida, waivers may be approved to operate through Fiscal Year 2004. A SA/SFA could, of course, request a shorter time period to operate this waiver.

For those States that operate the SFSP and the National School Lunch Program (NSLP)/School Breakfast Program (SBP) through different agencies, the agency that operates the NSLP/SBP must be the agency to operate this waiver. All activity concerning this waiver is conducted through the NSLP/SBP and the SA administering those programs.

A SA/SFA may propose to conduct a waiver that is different from the conditions outlined in the prototype. Conducting a waiver that is different from the prototype requires evaluation by our office and final approval by our National Office.

Please submit waiver requests as soon as possible so that determinations may be completed timely. If you have any questions, please contact my staff at (303) 844-0359.

BRIAN ALLISON
Acting Regional Director
Child Nutrition Programs

Attachments
Prototype: Seamless Summer Feeding Waiver Request

Part A: Description of the School Food Authority (SFA) and Waiver Request

1. **Identify the State agency and SFA requesting the waiver.**
   Include the name, address, and phone number of the State agency official requesting the waiver on behalf of the SFA.

   For each SFA that is requesting the waiver provide the following:
   - Name, address, and phone number of the responsible SFA official;
   - All Child Nutrition Programs operated by the SFA;
   - Distinguishing features of the SFA, including the SFA’s size (large >40,000), urban or rural, whether approved to operate under Provision 1, 2, or 3 (or related waivers) of the National School Lunch Program (NSLP), and any other information about the SFA that pertains to this waiver request.

2. **Describe the waiver request.**
   Refer to the Attachment (Conditions of a Seamless Summer Feeding Waiver for School Food Authorities) that outlines the conditions for operating this waiver. The description of an approvable waiver is provided on pages 3-5. The State agency may include this Attachment as part of its waiver request. However, if the State agency wants a variation from the Seamless Summer Feeding Waiver as designed by FNS, the differences must be clearly explained and highlighted in this section. FNS will have to carefully consider any variation of the Seamless Summer Feeding Waiver to ensure compliance with the provisions for approving waivers in the National School Lunch Act. Therefore, we encourage State agencies to work with the FNS Regional Office in designing a variation of this waiver prototype prior to submitting an official request for approval by FNS headquarters.

3. **Identify the waiver sites that are to be included in the waiver.**
   Include the following information for each waiver site:
   - Name
   - Address
   - Percent of Free/Reduced Price enrollment eligibility for school meals
   - The type of site: open, restricted open, or closed enrolled (in non-needy areas only)
   - Organization to operate the site under the SFA sponsorship
   - Estimated number of children to be served (estimated # of meals/estimated # operating days)
   - How the waiver site (excluding closed enrolled sites) will advertise the availability of meal services (including the hours, days, and weeks that meals will be served) for children in the community.
Part B: Identification of the specific statutory or regulatory requirements to be waived.

The State agency may include the language from the Attachment (see pages 6 and 7). This includes the regulatory provisions that FNS will approve in the operation of a Seamless Summer Feeding Waiver. However, if the State agency wants a variation from the Seamless Summer Feeding Waiver as designed by FNS, the State agency must identify all regulatory provisions to be waived under its proposal.
Conditions of a Seamless Summer Feeding Waiver For School Food Authorities

Description of the waiver request

The SFA seeks approval under the waiver provisions found in section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 12(l)) to operate a Seamless Summer Feeding Waiver in specific locations within its jurisdiction (referred to as waiver sites). Waiver sites may be schools or other locations where the Summer Food Service Program (SFSP) meals would normally be served. Waiver sites must be located in needy areas, that is, where 50 percent or more of the children qualify for free or reduced price school meals, with one exception. Waiver sites may also be located in non-needy areas, provided that at least 50 percent of the children enrolled in these sites qualify for free or reduced price school meals.

The waiver combines features of the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the SFSP. The purpose of this waiver is to feed children in low-income areas during the summer months (or during extended breaks of a year-round school schedule). This waiver reduces paperwork and administrative burden that is normally associated with operating all three programs. To accomplish this, the SFA requests a waiver of significant portions of the SFSP Federal regulations at 7 CFR Part 225. Specific provisions to be waived are included in this request. In lieu of SFSP regulations that are waived, the SFA will follow corresponding requirements, where applicable, in the NSLP and SBP regulations at 7 CFR Part 210 and 220, respectively.

Special Provisions of the Seamless Summer Waiver

The SFA is committed to serving meals to the children in the community during the summer months (or in year-round school communities, at other times during the year when SFSP meals can be served) where the waiver sites are located and will adhere to the following special provisions:

1. General Program Administration and Sponsor Responsibilities
As required in §225.14(c)(1) of the SFSP regulations, the SFA demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites.
2. **Site Eligibility**
Waiver sites will be located in needy areas, that is, where 50 percent or more of the children qualify for free or reduced price school meals. All of these sites will be open to the community, except in some cases, participation at an open site may be limited for reasons of safety, security, or control. (Include this sentence if waiver sites will be located in non-needy areas: However, some waiver sites will also be located in non-needy areas in which at least 50 percent of the enrolled children qualify for free or reduced price school meals.) None of these waiver sites are residential camps. No additional sites will operate under these waiver procedures without first receiving approval from the FNS Regional Office.

Schools operating under a traditional school calendar may operate waiver sites during the summer months when summer school is in session, provided that all waiver sites are open to all children (see item 3 below) in the eligible area; these meals will be reimbursed at the free NSLP/SBP rates. However, summer school only sites must operate under the NSLP/SBP and will be reimbursed at the free, reduced price, or paid rates.

Year-round schools may operate waiver sites for off-track students, provided that the sites are open to all children in the eligible area; these meals will be reimbursed at the free NSLP/SBP rates. However, meals for on-track students in year-round schools will be reimbursed at the free, reduced price, or paid rates for NSLP/SBP.

3. **Participant Eligibility**
All persons meeting the definition of *Children* in the SFSP Federal regulations at §225.2 may receive meals at waiver sites, on a first-come, first-served basis. This includes all persons in the community who are 18 years of age and under (and as defined at §225.2, those persons over age 18 who meet the State agency definition of mentally or physically disabled persons).

4. **Meal Service**
The SFA will follow NSLP meal service requirements for lunch or snacks (§210.10) and SBP meal service requirements (§220.8) for breakfast, *except*:

The number and types of meals will comply with the SFSP requirements at §225.16(b)

*And*

Meals at approved waiver sites will be served free to all children in accordance with §225.6(e)(4) of the SFSP regulations.

Consistent with these SFSP regulatory provisions and State agency approval, the SFA will serve one or two meals at no charge, including: breakfast, lunch, snack, or supper. However, the SFA will not claim both lunch and supper meals at the same site on the same day.
Consistent with the NSLP and SBP regulations and instructions, the following provisions will apply to meal service at waiver sites:

The NSLP and SBP meal requirements will be used.
- Second meals are not reimbursable and will not be claimed.
- Production and menu records will be maintained that show compliance with the meal requirements.
- The designated lunch period will be between the hours of 10 a.m. and 2 p.m., unless otherwise exempted by FNS.
- At its option, the SFA may allow offer versus serve meals at the waiver sites.
- Off-site consumption of meals will not be allowed, except as part of a scheduled event such as a planned field trip.

5. **Claims and Reimbursements**
The SFA will claim meals at the "free" rates prescribed by USDA for the NSLP (including snacks) and SBP. The State agency will include these meals under the free category for each type of meal, based on the NSLP regulations at §210.8 and/or the SBP regulations at §220.11, using the Form FNS-10, Report of School Program Operations. For evaluation purposes, the State agency will report to FNS the total number of meals served at waiver sites, using the remarks section (item 18) on the FNS-10. All lunches and suppers will receive the standard commodity support rate available for the NSLP.

6. **Monitoring**
The SFA will review the meal counting, claiming, and meal pattern compliance for each waiver site within three weeks of the start of operations. Additionally the SFA will follow the requirements for site monitoring at §210.8 of the NSLP regulations.
- **Edit Checks**
  Regarding the requirement at §210.8(a)(3) for SFA edit checks of the meal count prior to submission of a claim for reimbursement, FNS will provide further guidance in the near future.

7. **Additional Reporting/Reviews/Evaluation**
- **State agency Oversight**
The State agency will include waiver sites operated under this waiver in the management review requirements described at §210.18 of the NSLP regulations. If a CRE is conducted of the SFA, at least one waiver site will be visited while it is in operation. FNS will provide additional CRE guidance.
- **FNS Evaluation**
FNS reserves the right to conduct an evaluation of these waiver sites. The evaluation may include periodic special reviews. The State agency and the SFA agree to cooperate as necessary, including making all applicable records and operations available for review.

- **Additional Reports**
  FNS may request additional information for evaluation purposes. In the event that additional information on waiver site operation is required, FNS will allow sufficient time for the State agency and the SFA to comply with the request. The State agency and the SFA agree to comply with FNS' requests for additional information for evaluation purposes.

**Specific regulatory requirements to be waived**

1. **Exempted SFSP Regulations**
   To operate the Seamless Summer Feeding Waiver, the SFA requests a waiver from the following regulatory provisions in 7 CFR Part 225:

   7 CFR 225.6, State agency responsibilities, paragraphs (b), (c), (e), (f), (h)
   *Except paragraphs (e)(4) and (e)(7)*;
   7 CFR 225.7, Program monitoring and assistance, entire section;
   7 CFR 225.8, Records and reports, entire section;
   7 CFR 225.9, Program assistance to sponsors, entire section;
   7 CFR 225.10, Audits and management evaluations, entire section;
   7 CFR 225.11, Corrective action procedures, entire section;
   7 CFR 225.12, Claims against sponsors, entire section;
   7 CFR 225.13, Appeal procedure, entire section;
   7 CFR 225.14, Requirements for sponsor participation, entire section
   *Except paragraphs (c)(1), (c)(2), (c)(3), and (d)(2)*;
   7 CFR 225.15, Management responsibilities of sponsor, entire section
   7 CFR 225.16, Meal service requirement, entire section
   *Except paragraph (b)*;
   7 CFR 225.17, Procurement standards, entire section;
   7 CFR 225.18, Miscellaneous administrative provision, entire section.
2. **Non-exempted SFSP provisions**

The SFSP Federal regulatory provisions, as identified in item 1 above, which remain in force include:

**§225.6(e)(4)** Section 225.6 covers State agency responsibilities. Paragraph (e) covers the State-Sponsor Agreement. Paragraph (e)(4) requires that the sponsor agree to serve meals at no cost.

**§225.6(e)(7)** Paragraph (e)(7) requires the sponsor to agree to claim reimbursement only for the types of meals agreed upon with the State agency and served without charge to children at approved sites during the approved meal service period. This paragraph also prohibits permanent changes to the serving time of any meal unless approved by the State agency.

**§225.14(c)(1)** Paragraph (c)(1) requires that sponsors demonstrate financial and administrative capability to operate the program and requires sponsors to accept final financial and administrative responsibility for the total program operations at all sites.

**§225.14(c)(2)** Paragraph (c)(2) requires that sponsors must not have been declared seriously deficient in operating the program.

**§225.14(c)(3)** Paragraph (c)(3) requires that sponsors will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist (except for camps).

**§225.14(d)(2)** Paragraph (d)(2) requires that meals served in schools must be open to children in the community as well as children enrolled in summer school.

**§225.16(b)** Section 225.16 covers the meal service requirements, and establishes limits on the number of meals that may be served.
3. **NSLP and SBP Regulations**
Although the Federal regulations governing the NSLP and the SBP are not exempted under this waiver, some provisions may be difficult to follow for waiver sites. Therefore, FNS will provide technical assistance as necessary to the State agency and the SFA in adapting requirements.
Comparison of Programs
Summer Food Service Program (SFSP) versus Seamless Summer Feeding Waiver

<table>
<thead>
<tr>
<th>TOPIC</th>
<th>SFSP</th>
<th>SEAMLESS SUMMER FEEDING WAIVER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement</td>
<td>• Agreement taken with the SFSP Administering Agency.</td>
<td>• Agreement must operate under the Department of Education.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• State submits waiver request on behalf of SFA.</td>
</tr>
<tr>
<td>Duration of Approval</td>
<td>• Per state agreement and application requirements.</td>
<td>• Approval thru FY 2004</td>
</tr>
<tr>
<td>Type of Meals</td>
<td>• Breakfast</td>
<td>• Same</td>
</tr>
<tr>
<td></td>
<td>• Lunch/Supper</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Snack (supplement)</td>
<td></td>
</tr>
<tr>
<td>Maximum Number of Meals</td>
<td>• Two</td>
<td>• Same, except no residential camps under</td>
</tr>
<tr>
<td>TOPIC</td>
<td>SFSP</td>
<td>SEAMLESS SUMMER FEEDING WAIVER</td>
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<td>---------------------------------------------</td>
</tr>
<tr>
<td>Commodity</td>
<td>• Any combination except lunch and supper.</td>
<td>the waiver.</td>
</tr>
<tr>
<td></td>
<td>• Three meals for residential camps and migrant sites.</td>
<td></td>
</tr>
<tr>
<td>Commodity FY 2002 Rate</td>
<td>• May receive bonus commodities.</td>
<td></td>
</tr>
<tr>
<td>Reimbursement Rates FY 2002 Rate</td>
<td>• SFSP Operating and Administrative Rates Apply</td>
<td>• NSLP and SBP Rates Apply</td>
</tr>
<tr>
<td></td>
<td>• Required to perform pre-operational visits before a site operates the summer program.</td>
<td>• Annual review of meal counting, claiming and meal pattern compliance within three weeks of start of operations.</td>
</tr>
<tr>
<td>TOPIC</td>
<td>SFSP</td>
<td>SEAMLESS SUMMER FEEDING WAIVER</td>
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<tr>
<td></td>
<td>• Must visit all sites once during first week of operation (waived for experienced sponsors that are school food authorities).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Must review once during first four weeks of operation and then monitor at a “reasonable” level.</td>
<td></td>
</tr>
<tr>
<td>Monitoring Required by State</td>
<td>• Subject to review by state at least once every three years. It may be more frequent based on program size and prior problems identified by the state.</td>
<td>• CRE every five years.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• At least one seamless site must be included in a CRE review of a waiver SFA.</td>
</tr>
<tr>
<td>Type of Sites and How Eligibility is Determined</td>
<td><strong>Open or Restricted-Open</strong> - Based on 50 % F/RP enrollment of the attendance area of a school or census block-group data</td>
<td><strong>Open or Restricted-Open</strong> - same as SFSP</td>
</tr>
<tr>
<td>TOPIC</td>
<td>SFSP</td>
<td>SEAMLESS SUMMER FEEDING WAIVER</td>
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<tr>
<td></td>
<td>Closed enrolled – 50% of children enrolled in needy or non-needy areas and are eligible for F/RP benefits</td>
<td>Closed enrolled – same eligibility criteria, except must be located in non-needy areas only</td>
</tr>
<tr>
<td>Residential Camps</td>
<td>Residential Camps - only meals for children that qualify for F/RP benefits are reimbursed</td>
<td>Residential Camps – not eligible for waiver</td>
</tr>
<tr>
<td>Meal Pattern</td>
<td>• Meal pattern must meet 7 CFR 225.16(d) standards. However, schools may use NSLP/SBP menu planning approaches.</td>
<td>• NSLP/SBP meal patterns</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Snacks meal pattern</td>
</tr>
<tr>
<td>Eligible Participants</td>
<td>• Children in low-income areas 18 years or younger. A person 19 or older that meets the state definition of having a physical or mental disability is eligible.</td>
<td>• Same as SFSP</td>
</tr>
<tr>
<td>TOPIC</td>
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<tr>
<td>Public Notification</td>
<td>• SFA/sponsor is required to send public media notice regarding program and eligibility.</td>
<td>• Public media notice may be done but is not required.</td>
</tr>
</tbody>
</table>
<pre><code>                                                                                     | • SFA must state in waiver request how each site (excluding closed enrolled sites) will advertise availability of meals to the neighborhood community. |
</code></pre>