Reply to Am of: SFSP-504

Subject: Summer Food Service Program (SFSP): Questions and Answers (Q & As) Including Follow-up Questions on Seamless Summer Feeding Waivers/Seamless Summer Option

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

For your information, attached is a list of policy Q & As on the SFSP and Seamless Summer Feeding Waivers that we have compiled based on questions raised by State Agencies since our last Q & A memorandum SFSP-493, issued March 3, 2004.

As you know, we periodically review questions asked by State Agencies and issue a Q & A policy memorandum such as this. We will continue to transmit any rational policies as the need arises.

If you have any questions, please contact our office.

[Signature]
DARLENE SANCHEZ
Regional Director
Special Nutrition Programs

Attachment
Summer Food Service Program (SFSP)
Questions and Answers
July 2004

Appeals

1. Q. An applicant sponsor has submitted an agreement/application to participate in the SFSP. However, this applicant has been determined seriously deficient in the Child and Adult Care Food Program. If the applicant appeals the decision to deny the agreement/application, what happens to the agreement/application during appeal?

A. Participation in the SFSP is not a “right”, but is available to applicants that have demonstrated the ability to properly operate the Program. Therefore, the State Agency (SA) is under no obligation to allow the sponsor to participate pending the appeal process.

However, if the hearing official overturns the denial, the SA must approve the applicant sponsor.

2. Q. An applicant sponsor submitted a site sheet, but never submitted the sponsor agreement or application. Technical assistance was provided timely, but the sponsor still never submitted the application. Is this applicant eligible to appeal the denial of the site sheet?

A. This applicant did not submit an application or agreement, so it was not eligible to appeal as an institution for its site.

Seamless Summer Feeding Waivers/Seamless Summer Option

3. Q. Must a school food authority (SFA) require that sites offer classes to be approved as a Seamless Summer Option site?

A. No, there is no requirement that a school/site must offer classes in the Seamless Summer Option.

4. Q. If a field trip is planned at an open Seamless Summer Option site, does the site need to feed any children who are not on the field trip? These would be children living in the neighborhood and walking to the site? All the children attending summer school will be on the field trip.

A. Yes, because this site is classified as an open site and the SFA has agreed to provide meals to neighborhood children as well as summer school children.
5. Q. A school is area eligible and is providing classes for children from other schools during the summer as well as children who attend this school in the academic year. This sponsor would like to operate an open site using the Seamless Summer Option but not all children are from area eligible schools. Is it appropriate for this site to be determined open?

A. Since the school is area eligible, it is appropriate to determine this site open.

Procurement

6. Q. An applicant SFSP sponsor operates a catering company and would like to contract with itself to vend SFSP meals to the site it operates. It does not want to be a self-preparation site keeping track of costs. Board members for the catering company include the SFSP sponsor and family members. Is this allowable?

A. No, it is not allowable for an SFSP sponsor to contract with itself to vend meals from its catering company. Contracting must be open and free and a code of conduct must be followed when Federal Funds are involved as explained in 7 CFR 3016.36 and 7 CFR 3019.42 & 43. If the SFSP sponsor director and family members also comprise the board of directors, a real or apparent conflict of interest exists. It is unlikely that a board of directors composed of family members will function as a board is intended, i.e., to provide oversight. It is also unlikely that free and open competition will exist when the same person owns the catering company and sponsors the SFSP. This arrangement would restrict or eliminate competition, restrain trade and prevent an objective evaluation of contractor performance.

Rates and Guidelines

7. Q. When are the SFSP rates published for the new Fiscal Year?

A. They are normally published in the last week of December or the first week in January.

8. Q. If a sponsor begins SFSP participation on or after July 1, does it use the income guidelines published for the previous year ending June 30, or the new guidelines that become effective on July 1?

A. Since the Regulatory deadline for submission for the SFSP agreement is June 15, or an earlier date established by the SA, the income guidelines effective when the agreement is submitted are to be used.
9. Q. A sponsor was underpaid through no fault of its own – the error occurred at the SA. Since the claim was submitted timely and records were in place to support the claim, the sponsor is entitled to the full reimbursement without requesting an exception for the operation of its Program. The SA did not discover the discrepancy before 90-Day, and final reports had been submitted. What should be done?

A. Both the 60/90-Day Guidance in IV. B. V. A. 2., and 7 CFR Section 225.8(b) & (c) explain that the SA must request an exception from the Regional Office on its behalf so that funds may be reimbursed to the sponsor, if available, and updates accepted by the Regional Office for the FNS-418 and SF-269. The 60/90-Day Guidance details the procedures for requesting an exception on behalf of the SA in VII. B.

However, if the changes are exclusively downward or only in meal categories without an increase in entitlement, no request to the Regional Office for an exception would be required when updating the FNS-418. If funds were recovered in a downward adjustment, provisions noted in Section 225.12(d) should be followed. The 60/90-Day Guidance applies to all Child Nutrition Programs and those appropriate reporting forms, i.e., the FNS-44 or FNS-10.

10. Q. Are second meals eligible for commodities and, if so are they reported on line 24 on the FNS-418?

A. Yes, all meals served that are eligible for commodities are to be reported on line 24 of the FNS-418. Commodities are not required to be used in preparation of the meals reported on Line 24. Meals eligible for commodities are those served by self-preparation sponsors, meals vended from schools, schools that competitively bid for meals from a food service management company in the National School Lunch Program during the last period in which the school was in session and all meals served to all children in residential camps as explained in Section 225.9(b).

Second meals containing all components should be reported on line 24 of the FSN-418, when the sponsor is eligible to receive commodities.
11. Q. What is the small purchase threshold in the SFSP? The Tri-numbered Memo, SFSP-420/CACFP-035/SP-01-01 seems to indicate that all three Programs are able to use the threshold cited in 7 CFR Part 3016 and 7 CFR Part 3019; however, the threshold cited in Section 225.6(g)(2) indicates a small purchase threshold of $10,000.

A. Since the small purchase threshold has been specifically provided at $10,000 through Regulation, that threshold, or the threshold established by the State or local government if lower, must be followed. The SFSP was incorrectly included in the Tri-numbered Memo listed above.

Meal Service

12. Q. When a child is unable to finish an SFSP meal, may the mother eat what the child does not eat? Or may the mother eat with the child from the child’s meal because she knows it is too much for the child to finish?

A. No, meals served in the SFSP are intended for low income children 18 years and younger to eat. If a large amount of “plate waste” is common at a given site, the sponsor might consider revising the menu to ensure that the meals served are likely to be enjoyed by children. Also, the SA may allow sponsors to provide smaller portions to children under age 6 as explained in Section 225.16(5)(2).

Policy Memo SFSP-356 explains how to determine Program and non-Program adults (not parents) and sponsor responsibilities to ensure that eligible children receive a meal before adults. This Memo also explains meal pattern changes for children under 6 years old and other meal pattern questions regarding older children and infants.

13. Q. A sponsor wants to limit children who attend its open site to those between the ages of 5 and 18. The limitation is because the general activities offered are directed toward school aged children. Is this allowable?

A. A sponsor classified as operating an open site must feed children through age 18 that come to the site. The children attending the site that are not in the age group that general activities are geared toward, do not need to stay for those activities, but should be fed. If the sponsor does not want to provide a meal to all children through age 18, it has the option of operating as a closed enrolled site and only enroll children from the age group they want to serve.