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Brian P. Kemp
Governor

Amy M. Jacobs
Commissioner

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST
SFSP Frequency and Number of Reviews
November 19, 2020

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(1) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(1), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNPs), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to SP 15-2018, CACFP 12-2018, SFSP 05-2018, *Child Nutrition Program Waiver Request Guidance and Protocol- Revised*, Month 24, 2018.

Subject of waiver request: Summer Food Service Program—Frequency and number of required reviews.

1. **State agency submitting waiver request and responsible State agency staff contact information:**

   Georgia Department of Early Care and Learning (DECAL)
   2 Martin Luther King Jr. Drive, SE Suite 754, East Tower Atlanta, GA 30334

Contact: Ben Appling, Director of Audits & Compliance

Phone: Office (404) 651-7433, Cell: (404) 308-3159.

Email: Ben.Appling@decal.ga.gov

2. **Region:** Southeast

3. **Eligible service providers participating in waiver and affirmation that they are in good standing:**

   This waiver applies to the state agency; Georgia DECAL for monitoring SFSP Sponsors. GA DECAL received no monitoring findings in our FY2019 SFSP ME. Additionally, our SFSP Risk Assessment tool was notated as a Noteworthy Initiative in our ME.

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]:**

   Problems that the State Agency faces without this waiver include:

   - Georgia DECAL faces a financial hardship to meet the federal requirement to annually review one-half of the total program meal reimbursement based on the prior year. To meet this requirement, sponsors are added to our review schedule that are not due a compliance review based on the review frequency criteria. In addition to using internal staff for these reviews, we also hire contractors to assist with this process, which costs between $120,000 and $170,000 per year.

   - To meet the one-half reimbursement requirement, DECAL often selects larger sponsors more frequently even though these sponsors may be in good standing. This has resulted in negative feedback from sponsors and has burdened us with unnecessary reviews that are being completed solely to satisfy the requirement. Essentially, we are reviewing sponsors in good standing more often just to meet the one-half reimbursement requirement.

   - DECAL conducts reviews on problematic sponsors, however, we would like to utilize our risk assessment to determine which sponsors to select for a more thorough review if necessary. However, the requirement to meet the one-half reimbursement directive prevents this type of resource planning.

   - DECAL distributed over $15 million to participating sponsors in FY2019. The current regulations do not include and account for new sponsors or sponsors not returning in the current year to calculate the one-half of total meal

reimbursement. Therefore, this results in a greater number of reviews for DECAL and our sponsors.

- Due to COVID-19, sponsor participation has been vastly impacted as we have seen a decrease in sponsor participation (new and returning sponsors), which requires the SA to conduct more frequent reviews on returning sponsors to meet the 50% reimbursement requirement. Again, these sponsors are often in good standing and are only being reviewed to comply with the one-half reimbursement requirement.

- As a result of the National Waivers for the Unanticipated School Closures and extensions of SFSP sponsors operating from March -September 2020, DECAL has distributed over $27 million to participating sponsors in FY2020 as of October 31, 2020. This is a $12.6 million dollar increase from FY2019 annual reimbursement. This increase will require that we conduct even more reviews during the next year.

- Additionally, with the National Waiver to continue and extend SFSP operations until June 2021, we anticipate a significant increase in the SFSP reimbursement in FY2021 and DECAL anticipates a vast number of required reviews in FY2022.

- In the table below, you can see DECAL is consistently reviewing 50% of SFSP sponsors each year. The current regulation serves as a barrier for the SA, requiring us to strictly focus on quantity and not quality. As a result, this impacts our participation and customer service provided to sponsors.

Federal Fiscal Year	Total Reimbursement	Total Participating Sponsors	3-year Compliance reviews due	New Sponsor Review	Sponsors added due to program operation deficiencies	Sponsors added to meet one-half of total meal reimbursement	Total Compliance Reviews	Total % of Sponsors Reviewed
FY18	$15,163,323.80	89	24	8	2	14	48	54%
FY19	$15,298,721.06	84	24	3	6	13	46	55%
FY20		65	5	6	2	20	33	51%

- The table below shows a preliminary estimate of the number of compliance reviews that will be conducted during FY2021 based on the sponsors that are due a 3-year compliance review, and sponsors with operational deficiencies. Based on this estimate, DECAL would need to conduct 11 compliance reviews and 4 additional reviews due to program operation deficiencies. However, these 15 sponsors only account for approximately $6.9 million of the prior year's reimbursement.

- Therefore, DECAL would potentially need to add 15-20 additional sponsors whose reimbursement totaled over $7 million to meet the one-half reimbursement requirement.

- Additionally, this does not account for any new sponsors participating in FY2021 that will have a compliance review.

- If the waiver is approved, DECAL could review 33.3% of 65 participating sponsors, which will total around 22 compliance reviews. Therefore, based on this preliminary estimate, DECAL would only need to select 5 additional reviews instead of the projected 15-20 additional sponsors.

Federal Fiscal Year	Total Reimbursement in FY2020	Estimated Total Participating Sponsors in FY2021	3-year Compliance reviews due	Potential New Sponsor Review	Sponsors added due to program operation deficiencies	Potential Sponsors added to meet one-half of total meal reimbursement	Estimated Total of Compliance Reviews	Estimated Total % of Sponsors to Review
FY21	$27,908,118.73	65	11	2	4	15-20	37	57%

This waiver will help the State Agency to address these problems by:

- This waiver would reduce our percentage of sponsor reviews to 33.3% annually, which would include and account for new sponsor reviews. This would allow DECAL to have flexibility to select reviews based on risk, need, and quality over quantity. We would have more time to expand the scope and have resources available when program integrity issues are found.

- DECAL would be able to limit the use of contractor staff to conduct SFSP reviews, which could result in a savings of $120,000-$170,000 in SFSP grant funds that could be used for improvements on access and participation, additional training and technical assistance measures and to improve program compliance and participation.

- This waiver would allow DECAL to make better use of our automated risk assessment tool which measures program risk. Through this tool DECAL can utilize data to target reviews to ensure better use of state and federal resources. The Nutrition module utilizes data obtained during SFSP reviews, as well as operational data, such a reimbursement amounts, budget revision statistics, application data and claim filing patterns to assign risk points. Then, based on the risk scoring profile, sponsors that might be at a higher risk for receiving improper payments are identified. The risk assessment score is constantly being updated as new data is captured in the system. This includes payment and application data.

- Improve DECAL's customer service with sponsors by focusing more on high risk sponsors and not on sponsors in good standing, just to meet the quantity requirement.

- Improve DECAL's perception sponsors have developed due to the frequency of required reviews when the regulations currently state compliance reviews are required every 3 years.

- Allow DECAL to utilize the Training and Technical Assistance (TTA) Unit to improve program administration and operations for sponsors not selected for a review in the program year. The approach would allow sponsors to improve performance without feeling the pressures of an annual SFSP compliance review.

5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]:

This request applies to:

Statutory Provision:

- Section 13. [42 U.S.C. 1761] SUMMER FOOD SERVICE PROGRAM FOR CHILDREN. **Does not address a provision regarding frequency and number of required reviews.**

- Section 17. [42 U.S.C. 1766] CHILD AND ADULT CARE FOOD PROGRAM. Section 17(A)(2)(B)(i)(I)(II) and (A)(2)(C)(i)(I)(II).

Regulatory Citation:

- **7 CFR 225.7(d)(2)(ii)(B)** *State agencies shall: (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.*

6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:

- **GA DECAL requests to annually review at least 33.3 percent of all Sponsors.** Georgia DECAL requests a waiver to allow DECAL to align frequency and number of reviews with CACFP regulation 7 CFR 226.6 (m)(6) Frequency and number of required institution reviews. The State agency must annually review at least 33.3 percent of all institutions.

- **GA DECAL would still be required to comply with 7 CFR 225.7(d)(2)(ii)** (A) Conduct a review of every new sponsor at least once during the first year of operation; (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.

- GA DECAL will utilize Training and Technical Assistance (TTA) Unit to improve performance and better equip new and participating institutions and sponsors by providing practical resources and guidance materials that strengthen internal controls and result in successful, sustainable Program administration and operation. The TTA Unit will initiate technical assistance via phone, virtual or in-person for all participating SFSP sponsors.

If approved, this request will remove the monitoring barriers placed on the SA to meet the quantity of reviews based solely on reimbursement. This will allow GA DECAL to select additional reviews based on program integrity, operational compliance and risk. This request would allow DECAL to conduct research and potentially more effectively use our federal funds to improve program operations, participation and the state system.

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]:

DECAL does not foresee any regulatory barriers at the state level for this waiver. We feel this waiver will be beneficial to increasing sponsor participation and retention, in turn providing increased access to SFSP meals.

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

DECAL does not anticipate any challenges with this waiver, it will improve monitoring and risk assessment for SFSP and improve customer service and participation for Sponsors.

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]:

The waiver will not increase the overall cost of the Program to the Federal Government. This waiver will reduce costs, if not eliminate additional costs currently used to ensure GA DECAL can meet review requirements based on 7 CFR 225.7(d)(2)(ii)(B).

Without the waiver, DECAL will continue to incur the additional costs for contractors to meet the demand and requirements of the quantity of reviews based on reimbursement. When those resources could be better used on retaining sponsors, reducing the paperwork for sponsors and outreach in our underserved areas.

10. Anticipated waiver implementation date and time period:

Requested Waiver Timeframe: 1 year (FY2021)

Waiver Request Start Date: November 2020

Waiver Request End Date: September 2021

Ideally, GA DECAL would like this waiver to be implemented through FY2022, due to the projected reimbursement due to operating SFSP a full program year.

11. Proposed monitoring and review procedures:

GA DECAL will follow the review procedures in accordance with 7 CFR 225.7(d)(2)(ii). However, if the waiver is approved, DECAL will annually review at least 33.3 percent of all Sponsors and will not use the calculation to 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 per 7 CFR 225.7(d)(2)(ii)(B).

(A) GA DECAL will annually review at least 33.3 percent of all Sponsors.

(B) Conduct a review of every new sponsor at least once during the first year of operation;

(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.

12. Proposed reporting requirements (include type of data and due date(s) to FNS):

GA DECAL will provide data to support the total number of sponsors selected for a review based on the 33.3 percent annual requirement, which include sponsors that are due a compliance review, new sponsors, and sponsors with significant operational problems. Additionally, DECAL will utilize the risk assessment tool to determine the additional sponsors selected to meet the 33.3 percent of compliance reviews. DECAL will provide data from the risk assessment tool to support our sponsor selections. Additionally, DECAL will provide data to show our total findings and total monetary adverse action taken due to this new approach on reviews.

GA DECAL will provide the data to FNS no later than November 30th of each program year. If the waiver is approved for FY21, GA DECAL will submit data by 11/30/2021.

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]:

http://www.decal.ga.gov/Nutrition/SFSPWaiverRequests.aspx

14. Signature and title of requesting official:

Ben Appling

Title: Director of Audits & Compliance
Requesting official's email address for transmission of response:
Ben.Appling@decal.ga.gov

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:**

☐ Recommend Approval

☐ Recommend Denial

Explanation:

SERO reviewed GA DECAL's waiver submission and recommends approval. In its detailed oversight plan, the SA spelled out the actions it will take to ensure compliance with Program requirements.

OLIVIA PARRIS

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Date: 2020.11.20 10:19:43 -05'00'