

## **CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE**

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. 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*, May 24, 2018.

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

New Jersey Department of Agriculture (NJDA)  
Division of Food and Nutrition  
Rose Chamberlain, Division Director  
[Rose.Chamberlain@ag.nj.gov](mailto:Rose.Chamberlain@ag.nj.gov)

**2. Region:** MARO

**3. Eligible service providers participating in waiver and affirmation that they are in good standing:** New Jersey School Food Authorities (SFAs) participating in the National School Lunch Program that contract with Food Service Management Companies (FSMCs) and are in good standing.

**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]:** New Jersey has approximately 440 School Food Authorities that contract with a Food Service Management Company. The unit that is currently responsible for the monitoring of all SFA contract types as well as Procurement Reviews is staffed by only 1 full time employee and 4 part time

employees. In addition, funding is not sufficient to complete the volume of Procurement Reviews required by the regulation even when the reviews are contracted to an external accounting firm.

The State Agency seeks to solve the challenge of effectively completing Procurement Reviews for all 440 SFAs with FSMCs every 3 years. The solution sought is to waive the 3 year frequency requirement and replace with a 5 year FSMC Procurement Review cycle.

The implementation of a 5 year Procurement Review cycle for FSMC contracts will allow for more effective reviews as the large volume can be divided over 5 years rather than 3. Further, it will allow the unit to continue to monitor and manage the annual workflow of approximately 600 contracts that are reviewed each year.

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

7 CFR 210.19(a)(5)

**6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:** The process of procuring services from an FSMC by an SFA is reviewed by the State Agency at the time of solicitation. A State Agency FSMC RFP template is mandated in New Jersey, must be submitted for review and approval prior to advertisement, and is reviewed after the contract is awarded. A contract is only approved by the State Agency after this process takes place.

Should this waiver be granted, no negative impacts on Program operations are anticipated. Rather, the State Agency expects increased efficacy in the Procurement Review process for all SFAs.

**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]:** In an effort to increase the efficiency of the Procurement Review process, the State Agency has been working to implement a Procurement Review module within the existing web-based system (SOARS) that is currently used with the Administrative Review process. The implementation process has already shown positive improvements to the process. The SOARS system provides for centralization of correspondence, ease of document upload, and a convenient user experience.

As with all new systems, the process has been gradual, and the State Agency does not foresee the module fully alleviating the challenge due to the sheer volume of FSMC contracts in New Jersey schools.

**8. Anticipated challenges State or eligible service providers may face with the waiver implementation:** No challenges are anticipated.

- 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]:** No increase in overall cost to the Federal Government is anticipated as the waiver would decrease the frequency of the FSMC Contract Procurement Reviews.
- 10. Anticipated waiver implementation date and time period:** We anticipate implementation of the waiver to begin in School Year 2023-2024.
- 11. Proposed monitoring and review procedures:** The Contracts and Procurement Reviews Unit will conduct Procurement Reviews of SFAs with FSMCs on a 5 year review cycle.
- 12. Proposed reporting requirements (include type of data and due date(s) to FNS):** Reports will be available for review by MARO on an annual basis. Reports will include the number of SFAs that have had a Procurement Review.
- 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]:** The following will be posted on the New Jersey Department of Agriculture public website:  
<https://www.nj.gov/agriculture/divisions/fn/childadult/>

The New Jersey Department of Agriculture, Division of Food and Nutrition, is requesting a waiver of the required 3-year Procurement Review cycle for School Food Authorities that contract with Food Service Management Companies for their school nutrition program(s). Questions and/or comments can be directed to [ProcurementReviews@ag.nj.gov](mailto:ProcurementReviews@ag.nj.gov).

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

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Title: Division Director

Requesting official's email address for transmission of response: [Rose.Chamberlain@ag.nj.gov](mailto:Rose.Chamberlain@ag.nj.gov)

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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:**