



State of New Jersey

DEPARTMENT OF AGRICULTURE
DIVISION OF FOOD AND NUTRITION
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NEW JERSEY CHILD NUTRITION PROGRAMS NATIONAL SCHOOL LUNCH PROGRAM WAIVER REQUEST

May 22, 2019

The New Jersey Department of Agriculture, Division of Food and Nutrition is submitting a Statewide waiver of the regulatory requirement to conduct Procurement Reviews within a 3-year Administrative Review cycle, for all School Food Authorities participating in the National School Lunch Program (including the Afterschool Snacks and the School Breakfast Program), to the Mid-Atlantic Regional Office (MARO) of the USDA Food and Nutrition Service (FNS).

The below listed waiver has been submitted for consideration:

- Waiver Request – Timing of reviews. The New Jersey State Agency respectfully requests a waiver to conduct a 4-year Procurement Review cycle that will span from SY 2018-2019 through SY 2021-2022.

The goal of this waiver is to allow for efficient and cost-effective program management, ensure program integrity, and reduce the administrative burden for the NJ Department of Agriculture and all School Food Authorities providing lunch and breakfast to children participating in the National School Lunch Program and School Breakfast Program in the state.

Upon receipt, the approval or denial of this waiver request will be posted on the department website at: www.nj.gov/agriculture/divisions/fn/childadult/school.html

For additional information, you may contact Rose Tricario, Director, Division of Food and Nutrition at (609) 984-0692.



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 (CNP), 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 XX, 2018.

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

New Jersey Department of Agriculture
Division of Food and Nutrition
Rose Tricario, Division Director
Rose.Tricario@ag.nj.gov
609-984-0692

2. Region: MARO

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

All School Food Authorities providing breakfast and lunch to children participating in the National School Lunch Program and School Breakfast Program in New Jersey will be participating in the waiver and are closely monitored to ensure 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]:**

7 CFR 210.21, 215.14a, 220.16, 2 CFR 200.318-.326 – PROCUREMENT

The School Nutrition Programs (SNP) Unit is currently in the first year of a new 3-year Administrative Review and general Procurement Review cycle. The feasibility of completing all required Procurement Reviews (PRs) within this new 3 – year review cycle is subject to several variables that will significantly limit the State Agency’s ability to meet this requirement.

There are approximately 350+ self-operated SFAs and 450+ SFAs that contract with a FSMC; even when fully staffed with 11 full time field staff members, the SNP Unit has been unable to add the federally required Procurement Reviews to their workload. To address this on-going staffing challenge, over this past three years, the State Agency has utilized the services of two part-time experienced staff members with extensive background in auditing and program compliance to develop, implement, and evaluate the launch of the Procurement Review process in New Jersey. Their efforts have resulted in the development of procurement training webinars, SFA communications and procurement documents to ensure consistent delivery of information to all SFAs along with the completion of 30 Procurement Reviews each year.

After extensive investigation with other State agencies, the decision was made to dedicate available funding to solicit an outside vendor to conduct outstanding SY 18 – 19 Procurement Reviews. The State Agency solicited proposals from State contracted auditing firms. In January 2019, we accepted PKF O’Connor Davies’ proposal. The two part-time Procurement Team staff are working with the vendor’s representative to provide an overview and orientation to the Procurement Review (PRs) requirements. The vendor is now scheduling and conducting Procurement Reviews. The goal is to accomplish the outstanding SY 18-19 Procurement Reviews by September 15, 2019. Given the fact that this effort was launched in February – March 2019, more than half-way through the current school year, the State Agency recognizes we need additional time to complete reviews. Even with the extensive orientation as well as on-going guidance to the vendor it is unrealistic to expect that this new arrangement will accomplish the required number of Procurement Reviews this first year of the new 3-year cycle.

7 CFR 210.19 (5) - ADDITIONAL RESPONSIBILITIES – FOOD SERVICE MANAGEMENT COMPANY (FSMC)

The State Agency is planning on renewing the contract with the State contracted auditing firm for SY 19 – 20 and subsequent years contingent upon availability of federal funding. The Local Agency Procurement Review Tool will be utilized by the

contracted vendor as well as the two part-time State Agency staff for all Procurement Reviews. Beginning with SY 2019-2020 the implementation and oversight of the required FSMC Base Year Procurement Review process will be administered by the two part-time Procurement Review staff supported part-time by three Contract Review staff who have not been previously involved. An annual assessment will be conducted to evaluate if adequate resources have been allocated to this effort.

New Jersey will apply this waiver, if approved, through SY 2021-2022 as follows:

4 Year Cycle	Projected # of Procurement Reviews	
	(Self-operated/FSMC renewal)	FSMC Base Year
2018-2019	180	80
2019-2020	200	183
2020-2021	206	39
2021-2022	206	63

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

7 CFR 210.21, 215.14a, 220.16, 2 CFR 200.318-.326 - PROCUREMENT –

Consistent with the statutory requirements cited above, USDA, FNS established a three-year cycle for procurement reviews.

7 CFR 210.19 – Additional Responsibilities:

(5) *Food service management companies.* Each State agency shall annually review each contract (including all supporting documentation) between any school food authority and food service management company to ensure compliance with all the provisions and standards set forth in this part before execution of the contract by either party.

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

Should this waiver be granted, there will be no alternative procedures and no anticipated negative impact on Program Operations, technology, State systems, or monitoring.

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]:

The State Agency contracted with an outside vendor to conduct procurement reviews beginning in January 2019. The State Agency uses all of its SAE funds, and utilizes FNS grant funds.

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]:

There will be no additional administrative costs.

10. Anticipated waiver implementation date and time period:

We anticipate implementation beginning in July 2019.

11. Proposed monitoring and review procedures:

The two part-time Procurement Team staff will continue to conduct their 30 Procurement Reviews annually and oversee the contracted vendors work with the aim to meet the projected number of self-operated and FSMC procurement reviews required annually.

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

The State Agency will complete the FNS-640 annually and report as required by federal regulations, or upon request by FNS.

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]:

<https://www.nj.gov/agriculture/divisions/fn/childadult/school.html>

14. Signature and title of requesting official :



Title: *Division Director*

Requesting official's email address for transmission of response:

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(I)(1)(A)(ii) of the NSLA

- **Regional Office Analysis and Recommendations:**