Proposed Rule on Summer Meal Flexibilities  
*Summary*

On Friday, January 17, 2020, USDA released a proposed rule “Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program.” The full proposed regulation and supporting resources are available online on USDA’s website.

This proposed rule is intended to update important Summer Food Service Program (SFSP) definitions, simplify the application process, enhance monitoring requirements, provide more discretion at the State agency level to manage program operations and codify several nationwide waivers and flexibilities. The proposed changes and flexibilities are summarized below:

**Reorganization of § 225.6**
- Reorganize and streamline regulations to more clearly present existing State agency and application requirements.

**Streamlining Program Requirements**
- **Application Procedures for New Sponsors:** Codify current flexibilities allowing School Food Authorities (SFAs) that administer the National School Lunch Program (NSLP) or School Breakfast Program (SBP) and Child and Adult Care Food Program (CACFP) institutions in good standing to follow condensed application requirements for experienced SFSP sponsors, rather than the more detailed requirements for new sponsors.
- **Demonstration of Financial and Administrative Capability:** Codify current flexibility allowing that SFAs and CACFP institutions in good standing applying to operate the SFSP do not have to provide further evidence of financial and administrative capabilities. State agencies would be required to develop an information sharing process if programs are administered by separate agencies within the State. USDA requests comments on the challenges and benefits of this requirement.
- **Clarifying Performance Standards for Evaluating Sponsor Viability, Capability, and Accountability:** Add performance standards for organizations applying to participate as SFSP sponsors that correspond to standards currently in place at § 226.6 for organizations applying to participate as CACFP sponsors. The rule clarifies that sponsors must demonstrate compliance with these performance standards as part of their management plan.

**Facilitating Compliance with Program Monitoring Requirements**
- **First Week Site Visits:** Provide flexibility in the timeframe during which first monitoring visits must take place and establish a tiered framework for first week site visits based on the number of sites managed by the sponsor. USDA is seeking specific comments on this framework. Allow food service reviews to occur at the same time as the first monitoring visit.
- **Establishing the Initial Maximum Approved Level of Meals for Sites of Vended Sponsors:** Clarify that sponsors of vended sites may request an adjustment to the maximum approved level of meal service at any time prior to submitting a claim for reimbursement.
- **Statistical Monitoring Procedures, Site Selection, and Meal Claim Validation for Site Reviews:**
  - Remove references to statistical monitoring for site reviews, as there are no states using statistical monitoring to select site visits.
  - Increase the effectiveness of site reviews by providing guidance to assist State agencies and sponsors in selecting a sample of sites that is generally reflective of the variety of all a sponsor’s sites.
  - Implement a multistep approach to site-based meal claim validation as part of the sponsor review. State agencies would initially validate a small sample of claims and would only be required to validate additional claims if sufficient error is detected. A detailed chart of this validation process is included.

**Providing Customer-Friendly Meal Service**
- **Meal Service Times:**
  - Remove meal service time restrictions.
  - Add a requirement that, at all sites except residential camps, a minimum of one hour must elapse between the end of one meal service and the beginning of another.
  - Allow a State agency to approve for reimbursement meals served outside of the approved meal service time if an unanticipated event occurs.
  - Clarify that meals claimed as a breakfast must be served at or close to the beginning of a child’s day and prohibit a three-component meal from being claimed for reimbursement as a breakfast if it is served after a lunch or supper is served.
  - Reorganize the regulations to improve the clarity of the text.

- **Off-site Consumption of Food Items:** Codify current flexibility for sponsors to allow children to take certain food items (i.e., fruit, vegetable, or grain items) off-site for later consumption.

- **Offer versus Serve (OVS):** Allow SFA sponsors electing to use the SFSP meal pattern to use SFSP OVS guidelines. USDA requests input on the implementation of OVS by non-SFA sponsors, when allowed under a waiver.

**Clarification of Program Requirements**
- **Reimbursement Claims for Meals Served Away from Approved Locations:** Allows sponsors the option to receive reimbursement for meals served away from the approved site in case of a field trip.

- **Timeline for Reimbursements to Sponsors:** Clarifies that even if a sponsor’s claim is determined to be potentially unlawful, the State agency must still disapprove the claim within 30 calendar days with an explanation of the reason for disapproval. State agencies may be exempt from the 45 calendar day timeframe for final action if more time is needed to complete a thorough examination of the sponsor’s claim.

- **Requirements for Media Release:** Codify current guidance allowing State agencies the discretion to issue a media release on behalf of all sponsors operating SFSP sites, including camps, in the State.

- **Annual Verification of Tax-Exempt Status:** Codify the requirement for annual confirmation of tax-exempt status at the time of application.
**Important Definitions in the SFSP**

- USDA proposes to update and clarify definitions in the following topic areas:
  - Self-Preparation Versus Vended Sites
  - Eligibility for Closed Enrolled Sites
  - Roles and Responsibilities of Site Supervisors
  - Unaffiliated Sites
  - Unanticipated School Closure
  - Nonprofit Food Service, Nonprofit Food Service Account, Net Cash Resources

**Miscellaneous**

- This rule proposes other miscellaneous provisions to help clarify program requirements including:
  - Authority to Waive Statute and Regulations: Codify USDA’s authority to waive statutory and regulatory requirements for all Child Nutrition Programs. USDA seeks comments on the process of requesting a waiver, monitoring implementation of the waiver and reporting data on waivers issued.
  - Duration of Eligibility: Require submission of eligibility documentation every five years.
  - Methods of Providing Training: Include the option for training to be conducted via the internet.
  - Meal Quality Facility Reviews: Rename the section title in current §225.7(d)(6) from “Food Service Management Company Visits” to “Meal Quality Facility Review” to clarify that each facility should be reviewed at least one time during the program year.