USDA United States Department of Agriculture | Food and Nutrition Service | Mountain Plains Region | 1244 Speer Boulevard, Suite 903 Denver, Colorado 80204-3585

FEB 25 2003

Reply to
Attn of: CACFP-690

Subject: Implementation of Interim Rule: Monitor Staffing Standards in the Child and Adult Care Food Program (CACFP) [226.16(b)(1), 226.6(b)(18)(ii)(B), and 226.6(f)(2)]

To: STATE AGENCY DIRECTORS - Colorado DPHHS, Iowa, Kansas, Missouri DH, Montana DPHS, Nebraska, North Dakota, South Dakota, Utah and Wyoming

This memorandum follows-up the e-mail sent by Mary Nielsen on February 24, 2003, transmitting the guidance concerning proper implementation of Public Law 106-224. Specifically, the guidance concerns the statutory mandate that FNS establish rules requiring sponsoring organizations to "employ an appropriate number of monitoring personnel based on the number and characteristics" of the facilities operated by the sponsor. That mandate was implemented in 226.16(b)(1), 226.6(b)(18)(ii)(B), and 226.6(f)(2) of the interim rule published June 27, 2002.

The guidance received expands on the training provided to you last fall by making several changes and clarifications to the information on monitor staffing standards that were presented at the time. These adjustments result from questions raised by State agencies during the training, and from the review of the public comments submitted on the interim rule. Attached you will find a copy of the guidance.

Because many of you will train sponsors on these requirements later this spring, it is helpful to make this guidance available now, so that it can be shared immediately with affected sponsors. This will ensure that all State agencies and sponsors properly implement these provisions in fiscal year 2004.

If you have any questions regarding this memorandum please call our office at (303) 844-0359.

Darlene Sanchez

DARLENE SANCHEZ
Regional Director
Special Nutrition Programs

Attachment

To: Regional directors, Child Nutrition Programs
State agencies, State directors

Subject: Implementation of Interim Rule: Monitor Staffing Standards in the Child and Adult Care Food Program (CACFP) [§§ 226.16(b)(1), 226.6(b)(18)(ii)(B), and 226.6(f)(2)]

The purpose of this memorandum is to transmit the enclosed guidance concerning proper implementation of Public Law 106-224. Specifically, the guidance concerns the statutory mandate that FNS establish rules requiring sponsoring organizations to "employ an appropriate number of monitoring personnel based on the number and characteristics" of the facilities operated by the sponsor. That mandate was implemented in §§ 226.16(b)(1), 226.6(b)(18)(ii)(B), and 226.6(f)(2) of the interim rule published on June 27, 2002.

The enclosed guidance expands on the training provided to State agencies last fall by making several changes and clarifications to the information on monitor staffing standards that we presented at that time. These adjustments result from questions raised by State agencies during the training, and from our review of the public comments submitted on the interim rule.

Because many State agencies will train sponsors on these requirements later this spring, it is helpful to make this guidance available now, so that it can be shared immediately with affected sponsors. This will ensure that all State agencies and sponsors properly implement these provisions in Fiscal Year (FY) 2004.

In summary, the attached guidance:

A. Extends the official deadline for implementation. We have extended the deadline for implementation of this provision, from July 29, 2003, to October 1, 2003.

B. Re-emphasizes which sponsors are subject to this requirement. As explained in our training on the interim rule, although all sponsors are subject to the regulatory requirement at § 226.15(d) to have adequate staff devoted to "management and monitoring of the Program", only sponsors of more than 50 homes or of more than 25 centers must meet the Federal staffing standards set forth at § 226.16(b)(1). In effect, this limits the regulatory provision's applicability to the roughly 60 percent of day care home sponsors that operate the Program in more than 50 homes, and to the very few sponsors of more than 25 centers. State agencies must, of course, continue to assess the adequacy of staff devoted to monitoring in all sponsorships, regardless of size.

C. Explains how to calculate and document the number of full-time equivalent staff (FTEs) that a sponsor devotes to monitoring. This portion of the guidance explains how to calculate and document FTEs. It also clarifies that an individual

monitor may be responsible for more than 150 homes, while the sponsorship as a whole still falls within the prescribed ratio, and that the ratio should be determined with reference to the sponsor's number of claiming homes, as opposed to the number of its approved homes.

D. Expands and clarifies the definition of what constitutes a monitoring-related function, for the purpose of determining the FTEs devoted to monitoring. These changes and clarifications result from State agency and sponsor input provided at the training and in public comments on the interim rule.

E. Provides State agencies with suggestions regarding the development of the "State staffing factors" required at §226.6(f)(2) of the interim rule.

F. Outlines the procedures to be used by sponsors and State agencies in requesting one-year waivers of this regulatory requirement, and explains the criteria we will use for approval of such requests. Although waivers were discussed in the training, this guidance provides more detailed information on submission procedures and approval criteria.

We are aware that the initial implementation of this provision may be difficult. Therefore, we strongly urge State agencies and sponsors to begin work on this requirement now, to avoid a logjam of paperwork in State agencies (reviewing management plans) and FNS (reviewing waiver requests) at the end of the current fiscal year.

After disseminating this guidance to all affected sponsors in their State, we recommend that the State agency develop its State staffing factors and disseminate them to sponsors as quickly as possible. We also recommend that State agencies conduct a preliminary analysis of the management plans of affected sponsors in their State, to determine the potential number of waiver requests that sponsors may ask the State agency to submit to FNS on their behalf.

We recommend that sponsors use this guidance to begin analyzing their current level of monitor staffing. The current-year (Fiscal Year 2003) budget and management plan should be reviewed to determine the sponsor's current allocation of resources. If the sponsor does not already have a way of documenting the percentage of time that each staff person devotes to monitoring-related functions, a method of documentation (such as job descriptions with the number of hours and percentage of time each staff person will devote to monitoring) will need to be developed, so that the sponsor can convert this information into monitoring-related FTEs.

We also recommend that State agencies and sponsors discuss this guidance and their preliminary analyses of each sponsor's monitor staffing. This will permit the sponsor and State agency to clear up any misunderstandings well before the sponsor's submission of a FY 2004 management plan and budget. If this preliminary process can be completed during the spring of 2003, it will provide sponsors with sufficient time to adjust their

budgets budget and staffing, and/or apply for a waiver, if necessary.

State agencies with questions concerning this memo or the enclosed guidance should contact their regional CACFP specialist, and regional CACFP staff may seek further clarification from Ed Morawetz or Keith Churchill at (703) 305-2590.

STANLEY C. GARNETT
Director
Child Nutrition Division

Enclosure

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Enclosure

Implementation of Monitor Staffing Standards

Legal and Regulatory Background

Sponsors have always had to monitor their facilities and have always had to include in their management plans a description of the staff assigned to monitoring (§§ 226.6(f)(2) and 226.15(d)). However, neither the law nor the regulations previously required a sponsor to have any specific number of monitors, or required State agencies to evaluate whether a sponsor had an appropriate number of monitors.

Public Law 106-224, the Agricultural Risk Protection Act of 2000, changed this by requiring FNS to establish rules requiring sponsors to "employ an appropriate number of monitoring personnel based on the number and characteristics" of the facilities sponsored. This statutory mandate grew out of findings in audits conducted by USDA's Office of Inspector General that suggested that some sponsors did a poor job of monitoring facilities because they devoted too small a share of their administrative resources to the monitoring function. Thus, the purpose of the statutory provision was to ensure effective oversight of the facilities. Based on this statutory requirement, we amended several parts of the regulations governing the Child and Adult Care Food Program (CACFP) on June 27, 2002.

General issues relating to staffing standards

How does the interim rule implement the standards?

The interim rule amended § 226.16(b)(1) to require that sponsors of homes employ staff sufficient to ensure that, for each 50-150 homes sponsored, at least one full-time equivalent (FTE) staff year was devoted to monitoring. Center sponsors were required to devote one FTE to monitoring for every 25-150 of their sponsored centers. The rule also amended § 226.6(b)(18)(ii)(B) to make compliance with these Federal staffing standards a condition of sponsor eligibility, by making documentation of compliance a key part of meeting Performance Standard # 2, "Administrative Capability".

In addition, State agencies were required, at amended § 226.6(f)(2), to develop "factors, consistent with § 226.16(b)(1), that the State agency will consider in determining whether a sponsoring organization has sufficient staff to perform required monitoring functions...." As explained in the training on the interim rule, these State staffing factors would be used to determine where, within the applicable range (50-150 or 25-150), a particular sponsor's staffing should be, taking into consideration the sponsor's size, the geographic dispersion of its facilities, and/or other factors.

A. Implementation date

1. When are the staffing standards effective?

The staffing standards became effective for new sponsors entering the Program after July 29, 2002. Recognizing that it would take time for participating sponsors to revise their management plans, and for State agencies to review them, the interim rule allowed a one-year implementation period for participating sponsors. Thus, the interim rule stated that, for sponsors already participating as of July 29, 2002, the standards would be in effect on July 29, 2003.

However, our primary objective in establishing this deadline was to ensure that all participating sponsors documented compliance with the standards in their budgets and management plans for Fiscal Year (FY) 2004. With this in mind, we are extending the deadline for implementation, to October 1, 2003.

B. Sponsors subject to the staffing standards

1. To which institutions do the staffing standards apply?

The Federal standards apply to sponsors of 50 or more homes, or sponsors of 25 or more centers. The standards do not apply to sponsors with fewer than this number of homes or centers, and they do not apply to independent centers. This means that approximately 40 percent of all home sponsors nationally, and roughly 95 percent of all center sponsors in the Nation, are excluded from the requirement to meet this standard. The staffing standards are a management tool to evaluate the adequacy of resources being devoted to monitoring by medium-sized and larger sponsors.

2. What monitoring standards apply to smaller sponsors of fewer than 50 homes or 25 centers?

In that situation, the regulations at § 226.15(d) require sponsors to "devote adequate supervisory and operational personnel for management and monitoring of the Program". In addition, § 226.6(f)(2) requires the State agency to review any sponsor's management plan to ensure that the sponsor has an appropriate level of monitor staffing. The only difference is that there is no minimum numerical Federal staffing standard applicable to home sponsors with fewer than 50 homes and center sponsors with fewer than 25 centers. State agencies must determine the adequacy of the resources devoted to monitoring by smaller sponsors in accordance with their established procedures for meeting the requirements of §§ 226.15(d) and 226.6(f)(2).

3. How do the standards apply to "mixed" sponsors of both homes and centers?

If the sponsor does not have a minimum of 50 homes <u>or</u> a minimum of 25 centers, the numerical Federal standards do not apply. In other words, if the sponsor operates in 73

facilities, 49 of which are homes and 24 of which are centers, the standards do not apply.

Furthermore, if the sponsor meets either the 50 home or 25 center threshold, the State agency will utilize the staffing standard for the most common type of facility operated by that sponsor. In other words, if a sponsor operates in 250 facilities, including 210 homes and 40 centers, the State agency would utilize the 50-150 range for homes in determining whether the sponsor devoted sufficient resources to monitoring, because this sponsor operates more homes than centers.

C. How to document compliance: FTEs and other numerical issues

1. What is a "FTE"?

A full-time equivalent staff year, or FTE, is the amount of work that one person, working full-time (40 hours per week) would perform in a year.

2. Do monitoring FTEs have anything to do with job titles?

No. Full-time sponsor staff with the job title of "monitor" may or may not perform monitoring-related duties on a full-time basis. In fact, it is our understanding that, in many sponsorships, persons called "monitors" often perform both monitoring and non-monitoring duties.

3. Can persons with job titles other than "monitors" be counted towards a sponsor's monitoring FTEs?

Yes. Sponsor employees who perform facility reviews may also be called "Program specialists", or may have some another general administrative job title, because they perform a variety of functions including monitoring.

In addition, supervisory, management, and other administrative staff frequently spend a portion of their time dealing with monitoring-related issues. If, for example, the sponsor's executive director develops the organization's management plan, a significant portion of that plan will be devoted to how the sponsorship will accomplish its monitoring responsibilities. This is a "monitoring-related function". So, too, is any oversight of employees who perform field monitoring, or any supervisory or management staff time devoted to provider terminations and appeals that result from review findings.

What follows is an excerpt from a hypothetical management plan. The plan shows a very plausible breakdown of FTE's for each staff person (note: a list of activities that can be counted towards monitoring FTEs is in item D, below):

Hypothetical Management Plan Excerpt

Executive director—0.20 staff years of monitoring duties

- Preparation of budget and management plan
- Involvement with termination and appeals resulting from reviews
- Staffing and oversight of the monitoring function

Executive assistant—0.30 staff years of monitoring duties (same as executive director, but works with monitoring supervisor on more monitoring issues than the director)

Office assistant/clerical—0.50 years of monitoring-related duties

- Answers calls related to monitoring, termination and appeals
- Files reports and records relating to monitoring, termination and appeals

(3) "Monitors"—0.60 years of monitoring duties each, or 1.80 staff years

- Perform all home reviews (60 percent of their time)
- Perform other tasks related to Program, but which are not "monitoring" (40 percent of their time)

Monitoring supervisor—1.00 years of monitoring duties

Accountant—0.00 years of monitoring duties

Computer systems consultant—0.25 years of monitoring duties

- Worked full-time for three months to develop an automated system for recording and tracking review findings

Although Sponsor A employed three full-time "monitors", it devoted 4.05 FTEs to the monitoring function. If Sponsor A operates the Program in 550 homes with three FTE monitors, it would not be within the Federal staffing requirements set forth at § 226.16(b)(1). However, by accurately accounting for all of the time expended by all staff in monitoring-related duties, the sponsor has documented that it actually devotes more than four FTE's to monitoring-related activities, which brings the sponsor's monitor staffing within the Federal range.

4. For purposes of calculating the monitoring FTE, how should paid leave be treated?

Paid leave (vacation, sick leave, holidays) does not have to be accounted for in the management plan unless a staff person with monitoring responsibilities is known to be

taking extended leave (e.g., maternity leave) during the budget year at the time that the plan is prepared.

5. How should the FTEs devoted to monitoring be documented?

The monitoring FTEs should be documented in the sponsor's management plan for Fiscal Year 2004. Because FNS Instruction 796-2, revision 3, already requires sponsors to have job descriptions for all of their staff, we strongly recommend that job descriptions that include the percentage of time each staff person devotes to monitoring-related activities be submitted with the management plan to document monitoring-related FTEs.

6. Does the ratio impose an upper limit on the number of homes or centers that one employee could be responsible for monitoring?

No. It is important to remember that this standard has nothing to do with how many homes or centers an individual monitor is capable of reviewing. A particular staff person might be responsible for monitoring 200 homes. That does not mean the sponsor is "over the limit" of 1:150. As illustrated in the hypothetical example above, the limit applies to the sponsorship as a whole, not to any individual staff person. The sponsor's compliance with the ratio is determined mathematically, by adding up all the staff years spent on the monitoring function and dividing that number into the number of facilities the sponsor administers.

7. How do you calculate the number of facilities operated by a sponsor? Is the ratio based on the number of "approved facilities", or the number of "claiming facilities"?

Often, sponsors actually operate the Program in fewer facilities than the total number of homes and centers with which they have agreements. That is, a sponsor that has agreements with 800 homes may, in an average month, have only 725 homes operating. Each State agency should develop its own method of determining the number of "claiming facilities" for its sponsors, and then communicate that method to all sponsors in the State. For example, a State could pick a "test month" which would be used to calculate all sponsors' claiming homes, or it could create a mathematical average of each sponsor's monthly number of claiming homes, adjusted for any growth anticipated in the sponsor's management plan.

8. Will being within the prescribed range of FTEs to facilities guarantee that the State agency will approve the sponsor's plan?

Not necessarily. The State agency's use of "staffing factors" could result in a modification to the Federal range for a particular sponsor. For example, because of a sponsor's staffing and the geographic dispersion of its facilities, the State agency could determine that a particular sponsor should devote one FTE to monitoring for each 100 facilities operated. State staffing factors are discussed in greater detail in item E, below.

9. Will being outside the prescribed range of FTEs to facilities guarantee that the State agency will deny the sponsor's plan?

Not necessarily. A State agency that believes an individual sponsor has adequate justification may choose to apply to FNS for a one-year waiver on behalf of that sponsor. The waiver process is described in greater detail in item F, below.

D. How to Document Compliance: What Counts as "Monitoring"?

1. Which staff duties count as monitoring, and which do not?

The CACFP administrative funding provided to sponsoring organizations supports a variety of management functions. For home sponsors, these include monitoring, training, technical assistance, eligibility determinations (whether the home is licensed or approved, whether it is Tier 1 or Tier 2 and, in mixed Tier 2 homes, child eligibility), claims processing, enrollment paperwork, and Program outreach. For center sponsors, these include monitoring, training, technical assistance, eligibility determinations for centers (determining that the center is licensed or meets the for-profit eligibility criteria), free and reduced price eligibility determinations, claims processing, enrollment paperwork, and Program outreach.

For purposes of determining the monitor-to-facility ratio and complying with § 226.16(b)(1), this is the relationship between each of these sponsor functions and the "monitoring" function:

NOT MONITORING-RELATED: Supervisory or non-supervisory activities related to:

- Facility eligibility: day care home tiering determinations, for-profit center determinations, facility licensing status, pre-approval visits, facility applications and agreements. Free or reduced price/tiering determinations for individual children.

- Program outreach: recruitment activities designed to bring non-participating facilities into CACFP; retention activities.

- Initial and annual training: general training of facilities and sponsor staff on Program requirements.

- Technical assistance: if provided over telephone.

- Claims processing: aggregation of facility meal counts for claims submission; edit checks.

- Enrollment paperwork: handling facilities' enrollment forms.

MONITORING-RELATED: Supervisory or non-supervisory activities related to:

- Monitoring: all activities related to conducting on-site reviews, including planning and scheduling; pre-review preparation; travel; supervisory oversight of monitors and the monitoring function; time spent in the facility during the review; writing review reports; conducting follow-up reviews; and activities relating to the serious deficiency process (issuance of notice, evaluation of corrective action, appeal, and termination).

- Parental contacts: conducting parent contacts or parent surveys to help determine the validity of a provider's claim.

- On-site/Other training: All on-site training that occurs during a facility review; initial or subsequent training of sponsor staff that relates to the monitoring function.

- Technical assistance: if provided during a review.

- Claims processing: menu reviews to determine claim accuracy and meal eligibility.

Readers should note that this listing of monitoring-related duties differs slightly from the list provided in Handout A to the Monitor Staffing Standards session in the training on the interim rule. Specifically, we have added one item that we had not previously considered (parental contacts) and also reconsidered two items from Handout A of the San Francisco training:

- Menu reviews: Handout A stated that time devoted to menu reviews conducted in the sponsor's office was not monitoring, but we have reconsidered in light of public comment. Menu reviews are monitoring-related activities.

- Required annual training if conducted during a facility review: Based on comment, we have determined that all time spent in the facility during a review is considered monitoring-related.

Please note that, for both training and technical assistance, some of the activities count as monitoring and some do not. In order to simplify the determination of FTEs for sponsors, and because we assume that training and technical assistance provided during a review are likely related to the review findings, we made this change so that all time spent in the facility by the monitor as part of the review can be counted as "monitoring-related duties".

2. How should a sponsor document compliance with the Federal staffing standards?

In order to count all staff time that contributes to the total monitoring effort, the sponsor's management plan must clearly describe the monitoring-related duties of each person on the sponsor's staff, and the number of hours and percentage of time the sponsor estimates that each staff member will spend on monitoring duties. As previously stated, we believe that employee job descriptions that include the number and percentage of hours devoted to monitoring are the best means of documenting compliance.

E. State Staffing Factors

1. Why does the interim rule require the State agency to develop "State staffing factors"?

A statutory requirement that links "effective monitoring" to the number and characteristics of a sponsor's facilities clearly implies the room for judgment on the part of State agencies in determining the adequacy of a particular sponsor's monitoring. Describing the Federal monitor-to-facility requirements as a range, rather than a single number, provides State agencies with that flexibility, but does not answer the question of what number, within that range, ensures that a particular sponsor is "adequately" monitoring its facilities. State agencies are going to be in the best position to answer that question, based on their knowledge of the characteristics of both the sponsor and the facilities in which it operates the Program.

State agencies will be aware of the unique factors affecting each sponsor's ability to conduct adequate monitoring. For example, if two different sponsors each operate 500 homes, does that mean that they will need the same number of monitors? Not necessarily. The State agency may be aware that Sponsor A's 500 homes are clustered in a metropolitan area, while Sponsor B's 500 homes are dispersed over a huge rural area, Sponsor A may need fewer FTE's devoted to monitoring, since a monitor's travel time between homes may be far less in the city. Similarly, if two sponsors' homes are located in the same city, but one sponsor has new monitors and the other has very experienced monitors, it is likely that the sponsor with newer monitors will need to devote more FTE's to the monitoring function, at least until his monitors gain Program experience.

2. What are some possible staffing factors that State agencies should take into account?

The preamble to the interim rule discusses possible staffing factors that State agencies may wish to consider. In addition, during our training on the interim rule, we discussed other possible factors that State agencies might consider. Some possible factors might include:

- The geographic location of facilities (in other words, are the facilities located in rural areas, urban areas, or both?)

- The geographic dispersion of facilities (in other words, are all of the sponsor's facilities clustered in one particular area, or are they widely scattered throughout a large area?)

- The literacy level and the language spoken by center staff or home providers.

- Previous CACFP review results. If the sponsor has had problems with provider compliance, the State agency would have reason to believe that the sponsor should be devoting more resources to monitoring than in the past.

- The experience level of providers and monitors. Sponsors likely would need to spend more time, on average, monitoring providers without significant experience in CACFP, and new monitors would likely take longer to conduct each review.

This list is not meant to be exhaustive, nor are State agencies required to include all of these items on their own lists of State staffing factors. State agencies only need to include in their State staffing factors those that are relevant to the situations facing their sponsors.

3. What are the features of good State staffing factors?

When developing State staffing factors, we recommend that State agencies:

- Develop staffing factors that are easy to understand;

- Develop defensible staffing factors (i.e., in the event of an appeal, State agencies should be able to defend their analysis and their process for determining which factors will affect sponsors in their State);

- Consistently apply the factors; and

- Clearly communicate the factors to sponsors as soon as possible.

4. How should State agencies communicate with sponsors about the State's staffing factors?

State agencies should inform sponsors of their staffing factors as soon as possible, and explain how they will be used in conjunction with the Federal staffing standards. This does not mean that States must know precisely how the factors will be applied in every circumstance. Rather, the State agency should inform sponsors that these are the staffing factors it anticipates using, in making a determination whether, within the acceptable

Federal monitor-to-facility range, an individual sponsor has devoted an adequate number of FTEs to the monitoring function.

State agencies should make this information available to sponsors well in advance of the October 1, 2003, implementation date for participating sponsors. This will allow each sponsor to make its own assessment of its staffing for monitoring, and to make any necessary staff or budget changes. Sufficient lead-time will be especially important if a sponsor must hire additional staff.

F. Waivers

1. When should the State agency seek a waiver of the Federal staffing standards on behalf of a sponsor?

The upper limit and lower limit for the Federal staffing standards are fixed. Thus, if a State agency wants to grant an exception to these limits for a particular sponsor, it must request a waiver from FNS, submitted in the normal fashion through the regional office to headquarters. When requesting a waiver, the State agency must be able to justify the need for a particular sponsor to have a ratio of FTE monitors to facilities greater than 150 facilities per full-time equivalent, or for the State agency to require a sponsor to have a ratio lower than 25 centers or 50 homes per FTE. We anticipate that most or all waiver requests will involve requests to exceed the high end of the range, or one FTE for each 150 facilities operated.

If an individual sponsor's ratio is above the Federal range (that is, above the upper limit of 1 FTE monitor to 150 facilities), the State agency will need to carefully consider the reasons. This should involve analyzing the sponsor's budget, especially compared to other sponsors with similar circumstances. Is the sponsor allocating financial resources properly? In other words, are enough resources being devoted to the monitoring function? Close analysis of the budget should help to reveal whether resources exist to hire enough monitors to adequately perform necessary program monitoring.

2. What are the minimum criteria that State agencies should use in deciding whether to apply for a waiver on behalf of a sponsor?

The State agency should seek a waiver if it identifies a sponsor with a monitoring FTE-facility ratio of over 1 to 150, and it believes that, compared to similarly-situated sponsors, this sponsor:

- effectively manages and monitors the CACFP, and
- is devoting a reasonable portion of its budget to monitoring.

3. What should a State agency do when it first begins to consider the possibility of applying for a waiver on behalf of a particular sponsor?

When it first becomes clear that a sponsor might exceed the top end of the range, and the State agency believes that the sponsor meets the minimum criteria for a waiver, the State agency should contact its regional office to ensure that it has properly calculated the sponsor's staff-to-facility ratio. If it has, then the State agency should prepare a waiver request.

4. What information must a State agency submit in support of a waiver request to exceed the staff-facility ratio?

The State agency must submit a cover memo explaining why it believes that a sponsor meets the minimum criteria stated above (effective management/monitoring of CACFP, and adequate funding of the monitoring function). The regional office will review this request and forward it to Headquarters, along with their recommendation for approval or disapproval of the waiver.

In support of its request, the State agency must include:

- A summary of the findings from the State agency's last review of the sponsor, including a specific discussion of any serious deficiencies.

- Pertinent information about the sponsor, including:

  - the type (center or home) and number of facilities sponsored in the previous two fiscal years (FY 2002-2003), and the projected type and number of facilities for FY 2004;
  - the geographic dispersion of facilities and monitors (i.e., are all facilities concentrated in one area, are all monitors housed in one central location, etc.);
  - the number of FTEs employed by the sponsor, and the number of those FTEs that will be devoted to the monitoring function in FY 2004;
  - a copy of the sponsor's documentation of its monitoring FTEs for FY 2004;
  - the sponsor's budget request, and the approved budget, for the past two fiscal years (FY 2002-2003) and the projected budget for FY 2004; and
  - any other information relevant to the determination of the appropriate level of monitor staffing (e.g., language/literacy issues, experience level of facilities and monitors, etc.)

- A dated copy of the State agency's transmission of State staffing factors to the sponsors in its State, and any explanation of how the State agency believes these factors (location or concentration of facilities, language or literacy, etc.) might affect the sponsor's ability to adequately operate the Program with the number of monitoring FTEs it proposes to utilize.

5. For how long will waivers of this provision be granted?

For Fiscal Year 2004, these will be one-year waivers.

6. How quickly will FNS respond to a waiver request?

We realize that it is critical for State agencies and sponsors to know the results of each waiver request as quickly as possible. Therefore, we will promptly review each waiver request, and will act on waiver requests within 30 days of receipt. Approval or denial will be transmitted electronically to regional offices, so that State agencies can know the decision as soon as it is made.

7. How will the State agency be able to meet the 30-day timeframe for acting on an application if FNS takes up to 30 days to approve or deny a waiver?

Sponsors that submit management plans that do not document compliance with the Federal staffing standards set forth at § 226.16(b)(1) have not submitted a "complete application". Therefore, the 30-day timeframe for State agency review of an application, set forth at § 226.6(b), will not expire until FNS has acted on a waiver request.

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