



Matthew L. Blomstedt, Ph.D., Commissioner

NEBRASKA

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RE: 5-year Administrative Review Cycle Waiver Request

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

The Nebraska Department of Education, Office of Nutrition Services, Shannon Wilkinson - 402-471-3566, Shannon.wilkinson@nebraska.gov

2. Region:

Mountain Plains

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

All SFAs currently participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP) and Special Milk Program (SMP) are included in this waiver request. All are currently in good standing at the conclusion of the 2018-19 school year.

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]:

Description of the challenge the State agency is seeking to solve:

NDE requests to extend the 3-year Administrative Review (AR) cycle to the 5-year cycle as proposed in Policy Memo *SP 02-2019 Flexibility for the Administrative Review Cycle Requirement* released on February 22, 2019.

NDE has a small staff for the AR and Procurement Review (PR) processes. The average number of ARs per year is 130. NDE traditionally begins the on-site portion of AR process in October of the current school year with intentions to complete all reviews by April, leaving

May as an opportunity to complete any outstanding work and to have additional weeks for any SFA that needs to reschedule the on-site portion of the AR.

NDE has seen a turnover in staff since the implementation of the AR. The loss of these employees has created additional burden for existing staff and has required NDE to contract ARs with a third party company because Nebraska legislation has a cap for the maximum number of state employee Personnel Service Lines, which will not allow NDE to hire additional staff to complete the required federal work.

Because of limited staff resources and the overall difficulty in fully completing the AR summary within the required 30-day timeframe, NDE contracts approximately 20-30 ARs annually with a third party contracting company to help assist in completing the work. Although the contracting company has been efficient and beneficial, NDE consistently receives feedback from SFAs that they would prefer to work with the State agency. While utilizing the contract company to complete ARs has been necessary, it has resulted in breakdown in communication between the SFAs and NDE, which has negatively impacted the SFA-NDE relationship. NDE would like to retain all ARs in house in order to maintain a positive, trusting working relationship.

Additional concerns have been raised by staff, as indicated in AR findings, that there is not enough opportunity to provide high quality technical assistance because of the increased demand of the on-site review questions and assessments. With the addition of the federally required PR, staff are not able to dedicate time to all of the issues that have been presented while conducting the on-site portion of the review.

Goal of the waiver:

The goal of this waiver request is to extend the 3-year AR cycle to a 5-year AR cycle to reduce the number of SFAs reviewed during each year of the AR cycle which would improve program and customer services provided by NDE.

Allowing more time to lapse between ARs would reduce the overall annual review load and thus improve NDE's ability to provide more targeted technical assistance and guidance to SFAs. Increasing the time between ARs will also reduce the burden placed on SFAs, which also experience significant staff time preparing for ARs.

As mentioned above, the goal of the AR cycle waiver request is to improve customer service by reducing the AR frequency, and thus burden placed on SFAs and NDE staff, while offering more opportunities for comprehensive training and targeted technical assistance to SFAs.

There are not any state statutory or regulatory barriers associated with the NSLP review cycle requirements that need to be addressed as a result of requesting this waiver.

Expected outcomes:

Nebraska's SFAs have demonstrated ability to comply with program regulations for all Child Nutrition Programs they operate. Currently, 68 SFAs receive ARs and compliance reviews for both NSLP and SFSP and 31 SFAs receive ARs and compliance reviews for both NSLP and CACFP. Results from SFSP and CACFP compliance reviews and NSLP ARs conducted over the previous three AR cycles demonstrate that SFAs are in good standing in all CNPs they operate and that targeted technical assistance instead of frequent ARs would be an effective use of NDE's and SFAs' staff time and program funds. With this in mind, NDE proposes that

a 5-year review cycle would be adequate to monitor SFAs and to ensure compliance with program regulations.

Increased time between ARs also has the potential to enhance customer service through additional program outreach efforts designed to expand program participation. Currently, 389 SFAs sponsor the School Meals Program and 66% of Nebraska's students participate in the school breakfast and lunch programs. Improving program participation would be a focus of NDE staff's time and resources if a five-year AR cycle is approved.

Transitioning to a 5-year rotation will decrease the current average of 130 reviews per school year in the 3-year rotation, to 77 ARs in a school year. This decrease in number of annual ARs will provide the NDE staff more time and opportunities to provide one-on-one and face-to-face technical assistance and instruction. The additional time between ARs will also support development of additional training NDE can offer to SFAs throughout the school year.

Decreasing the annual AR load would allow NDE to bring contracted ARs back into the State agency, thus allocating those funds in other impactful ways through the development of enhanced training opportunities (e.g., online training modules designed to provide education and technical assistance for the most commonly identified areas of technical assistance and findings identified in ARs).

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

(NDE) is requesting a state-wide waiver of the required 3-year Administrative Review (AR) cycle for all SFAs and LEAs as specified in 7 CFR 210.18(c):

(c) Timing of reviews. State agencies must conduct administrative reviews of all school food authorities participating in the National School Lunch Program (including the Afterschool Snacks and the Seamless Summer Option) and School Breakfast Program at least once during a 3-year review cycle, provided that each school food authority is reviewed at least once every 4 years. For each State agency, the first 3-year review cycle started the school year that began on July 1, 2013, and ended on June 30, 2014. At a minimum, the on-site portion of the administrative review must be completed during the school year in which the review was begun.

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

In SY 2019, NDE moved from conducting the AR from paper to an electronic based reporting system. This new process has helped streamline the AR process for both the SFA and NDE. However, because of this change in process, both SFAs and NDE need additional time to work together through this change. Having additional time between reviews will provide both parties opportunities to complete this new process in a more efficient and timely manner. This electronic method of conducting the AR will continue to be utilized to eliminate the manual process.

NDE currently has a 6-year waiver for Procurement Reviews (PRs) because conducting the PRs and ARs in tandem within a 3-year period was overwhelming for NDE staff and SFAs.

The time demand created by the Resource Management section of the AR is significant; NDE would like to align the PRs with the ARs cycle conducted both reviews simultaneously for SFAs. Having an extended review cycle for ARs would help streamline these processes. However, SFAs contracting with a FSMC will continue receiving PRs on a 3-year cycle.

NDE will create an assessment tool, along with internal policies and procedures, to assess high risk SFAs based on previous AR findings and fiscal action taken as a result of those ARs. This assessment will be stored in the online CNP system where ARs are electronically tracked. Additionally, NDE will identify and track SFAs that have demonstrated a need for unannounced visits to ensure compliance related to a previously identified review finding or observation.

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]:

NDE currently provides the following training and learning opportunities to SFAs: three annual face-to-face summer trainings for food service directors, managers, and kitchen staff; online learning modules through the Moodle learning management platform, which can be accessed at any time; and delivers monthly newsletters to help ensure that SFAs are up to date and informed of NSLP regulations and new policy updates. The current 3-year AR cycle requires significant investment of time and program funds that could otherwise be used to provide education and training to eliminate barriers SFAs face to serving more meals to more students across Nebraska.

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

No challenges have been identified at this time. This request will not impact the current budget or staffing needs. There is always potential for an SFA to misunderstand, misinterpret, or misconduct the requirements of the NLSP, regardless of an AR cycle. Increasing the time between ARs will provide additional opportunities to providing training and targeted technical assistance to support high risk SFAs' compliance with federal rules and regulations.

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]:

NDE does not anticipate implementation of a 5-year AR cycle will result in increased cost of the Program to the Federal Government. The use of the online AR module is already established and maintenance fees for the system are allocated. Nebraska state statute dictates that NDE cannot hire additional permanent staff; however, with a decrease in the number of ARs, the NSLP team could better manage the workload with the current staffing level. Funds that are currently used for contracting reviews would be used to develop training resources and materials for SFAs.

10. Anticipated waiver implementation date and time period:

If approved, this waiver will be implemented immediately upon approval for a 5-year cycle starting in SY 2019-20 and ending at the conclusion of SY 2023-24. If the waiver is successful in reducing review findings, Nebraska would anticipate a renewal of the waiver if it is available.

11. Proposed monitoring and review procedures:

NDE will continue to use the USDA's off-site and on-site review forms to conduct the ARs. For high risk SFAs, NDE will conduct unannounced visits to ensure corrective action procedures remain in place. Additionally, NDE will create an assessment tool to ensure SFAs' compliance during their 5-year cycle.

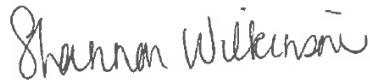
12. Proposed reporting requirements (include type of data and due date(s) to FNS):

NDE will continue to utilize the CNP system to report the number of reviews done annually, including number of observations and findings, as well as frequency, type and details of technical assistance provided. These data will be submitted to the MPRO annually within 30 days of the completion of each school year. NDE will also report to the MPRO the meals and program participation data at the end of each school year.

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.education.ne.gov/ns/nslp/administrative-review/>

14. Signature and title of requesting official:



Name: Shannon Wilkinson

Title: Assistance Administrator, Office of Nutrition Services

Requesting official's email address for transmission of response: shannon.wilkinson@nebraska.gov