FLORIDA DEPARTMENT OF ELDER AFFAIRS
ADULT CARE FOOD PROGRAM WAIVER REQUEST

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

Florida Department of Elder Affairs
Adult Care Food Program
4040 Esplanade Way
Tallahassee, FL  32399

Ginnifer Barber, Division Director  Dori Landsberg, Nutrition Program Manager
850-414-2031  850-414-2059
barberg@elderaffairs.org  landsbergd@elderaffairs.org

2. Region:
Southeast Regional Office (SERO)

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

This waiver applies to the State agency – Florida Department of Elder Affairs, Bureau of Statewide Community Based Services. The State agency is also requesting approval of this waiver on behalf of sponsoring organizations in good standing with the State agency.

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]:

As the administering state agency (SA) of the Adult Care Food Program (ACFP), The Florida Department of Elder Affairs (DOEA) is requesting the following statewide waiver due to the COVID-19 pandemic:

The ACFP serves the most vulnerable population, many of our independent institutions and sponsoring organizations have had county-imposed closures or emergency closures during the pandemic.

Due to the pandemic and the number of institution closures the State Agency is requesting the allowance to waive the scheduled FY 2021 programmatic reviews if the institution has had numerous closures during FY 2021 due to COVID-19 related issues. If approved, those reviews would be conducted in FY 2022. The SA would like the flexibility to prioritize programmatic reviews based on the independent institution or sponsoring organization’s situation during this difficult year.

The SA would also like to request to allow the State Agency and Sponsoring organizations the ability to waive the unannounced review requirement, making all reviews in FY 2021 announced. The nature of a desk review makes the ability to do a true unannounced review very difficult.
The approval of these waiver requests would allow the State Agency and Sponsoring organizations more flexibility in the review process during these uncertain times.

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

<table>
<thead>
<tr>
<th>7 CFR 226 Citation</th>
<th>Requirement to be Waived</th>
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<tbody>
<tr>
<td>7 CFR 226.6 (m)(4)</td>
<td>Review of sponsored facilities.</td>
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<tr>
<td>7 CFR 226.6 (m)(6)(i)</td>
<td>Review independent centers and sponsoring organizations of 1 to 100 facilities at least once every three years and include reviews of 10% of their facilities</td>
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<tr>
<td>7 CFR 226.16 (d)(4)(iii)(A)(B)(D)</td>
<td>Frequency and type of required facility reviews. Review each facility three times each year, unless averaging. In addition: (A) at least two reviews must be unannounced; (B) at least one unannounced review must include observation of meal service; (D) Not more that six months may elapse between reviews.</td>
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6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:

The State Agency will provide detailed information and instructions to all participating providers on the waiver process. Sponsoring organizations will be required to request approval for the use of the waiver(s). The alternative procedures would allow SA and Sponsoring organizations, in good standing, flexibility in the monitoring process as it could be affected by travel bans and institution closures.

If this waiver is approved the State Agency will still make every effort to perform desk reviews on centers whose reviews are due, however, will not perform a desk review if the center has been closed for a majority of the FY 2020 and or FY 2021. In lieu of a programmatic desk reviews the SA will provide technical assistance to institutions to ensure that proper programmatic procedures are being followed. Claim verification will regularly be done by requesting supporting documents, especially if there is a large variance in the claim amount or if the institution is working under the non-congregate waiver. Institutions that have been closed but have always been in good standing with the SA would benefit from not having to take on the Programmatic Review during this time. Providing the documents required for a desk review, for example the eligibility forms, has proven burdensome for some institutions.

By not having to perform programmatic reviews on institutions who are in good standing with the SA the ACFP staff would have more time to provide technical assistance to institutions that would benefit from it. Technical assistance would allow the ACFP staff to focus on helping the institution with issues
that are identified instead of following up on formal corrective action plans. While the number of Programmatic Reviews would increase for the FY 2022, the hope is that the number of findings would be less due to the technical assistance that could be provided. Program operations would be enhanced by allowing ACFP staff to work with institutions in a less stressful situation, such as technical assistance, instead of a formal programmatic review.

The sponsoring organizations participating in the waiver would have the flexibility to perform extra technical assistance in lieu of a formal desk review. It would allow sponsoring organizations to be relieved of the unannounced review requirement, as all reviews are currently being done as desk reviews. Many of the ACFP sponsoring organizations in Florida are affiliated, not unaffiliated, organizations. This being the case, many of the SO’s were closed along with all their adult day care centers during the COVID-19 pandemic. Adult Day Care Centers across the state are still experiencing emergency closures due to outbreaks at institutions. More flexibility in the monitoring requirement for SO who chooses to participate in the waiver would alleviate stress for the SO as well as the facilities.

Currently the ACFP has 172 total facilities. There are 154 independent centers and 18 sponsoring organizations that have between 2 and 8 centers under them. There would be 71 scheduled reviews in the fiscal year 2021 if this waiver is not approved. The independent centers and sponsoring organizations would greatly benefit from extra technical assistance during these unprecedented times, without the stress of a formal programmatic review.

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]:

No barriers have been identified at the State Agency level. There are currently no state-level regulatory barriers related to this specific issue.

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

We do not anticipate that this waiver will present any challenges to the State Agency or to ACFP contractors.

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]:

The requested waiver does not increase the overall cost of the program to the Federal Government. Due to travel bans implemented within state government, as well as institutions having strict policies on who can enter the facility during the COVID-19 pandemic the actual cost of performing monitoring and technical assistance has decreased, saving the Federal Government money. SA staff will not have to travel to perform desk reviews or technical assistance via Skype.
10. Anticipated waiver implementation date and time period:

The waiver will be implemented as soon as it is approved and is requested to remain in place through the end of the Federal Fiscal Year (September 30, 2021).

11. Proposed monitoring and review procedures:

If the waiver is approved, the SA will work with sponsoring organizations in good standing on the implementation of this waiver. If this waiver is approved the SA will perform regularly scheduled programmatic reviews by desk audits when possible. If the institution has had multiple, or extended closures, due to COVID-19 the programmatic review would be replaced with technical assistance. The provided technical assistance by the SA and SO would entail the following:

- Approved application and agreement package
- Review and feedback on enrollment/income eligibility forms
- Review and feedback of Master Enrollment Form
- Review and feedback of attendance records
- Review and feedback on daily meal counts
- Review and feedback on menus, food productions records and itemized receipts
- Review and feedback of daily labor records
- Review of monthly reimbursement claim

Sponsoring organizations that are scheduled for a programmatic review in the FY 2021 will be looked at on a case by case bases. If the SO, or many of the facilities they sponsor, have been closed for an extended period during the COVID-19 pandemic, the review would be replaced by a technical assistance. The SA will make every effort to conduct scheduled programmatic reviews on SO who have been open during the pandemic.

The SA and SO would be allowed to waive the unannounced visit requirement of the programmatic review process, as a desk review does not easily allow for the review to be unannounced. In addition, it is the SA intention to make the review process as stress-free as possible for institutions that are already under more stress than normal. If a desk review is deemed not possible, or not in the best interest of the institution, the SA will provide extra technical assistance and identify any potential problems. Claim verification will be used if there is suspected fraud or overclaiming. The SA will provide guidance to the SO when needed on the requirements of monitoring if this waiver is approved.

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

The State Agency will provide a report about the use of the waiver to USDA by December 31, 2021. This report will provide data and an analysis of the waiver impact to include:
1. A description of how the waiver impacted meal monitoring.
2. A description of how the waiver impacted the quantity of paperwork necessary to administer the program
3. The number of ACFP contractors that used the waiver
4. A summary of findings, if any, associated with the use of the waiver

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]:

http://www.elderaffairs.org/doea/nutrition.php

14. Signature and title of requesting official:

**Dori Landsberg**
Dori Landsberg, FCCM
Nutrition Program Manager
Bureau of Statewide Community Based Services
Address:  4040 Esplanade Way, Tallahassee, FL  32399
Requesting official’s email address for transmission of response: landsbergd@elderaffairs.org

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: