Date: June 29, 2007
Reference: # CACFP CCC 2007-13
To: Child and Adult Care Food Program-Child Care Centers (CACFP-CCC) Contractors
Subject: Program Management - Handbook Revisions
Effective Date: Immediately

Purpose
This Policy Alert REVISES the following sections in your CACFP-CCC handbook:

- 8132, Termination by Mutual Consent.

This Policy Alert REPLACES the following sections in your CACFP-CCC handbook:

- 2131.1, Potential Contractor Training;
- 2131.2, Annual Contractor Training;
- 2132, Staff Training;
- 2228.1, Universal Amendments;
- 2228.2, Contractor Specific Amendments;
- 2228.3, Application/Management Plan Changes;
- 8133, Termination for Cause;
- 8210, Actions Subject to Appeal; and
- 8220, Appeal Process.

This Policy Alert REPLACES Notice CACFP CCC 2005-6, Request for an Appeal Hearing.

Implementation
Immediately

Procedure
2131.1 Potential Contractor Training

Replace Section 2131.1 with the following:

A representative of your organization must complete CACFP Child Care Center Program Management Training for Potential Contractors before you receive a CACFP-CCC application package. The training includes an overview of key CACFP requirements and is held periodically throughout the program year. To locate Potential Contractor Program Management Training, go to the Special Nutrition Programs (SNP) website at www.snptexas.org. When your representative completes the training session, you will receive a training certificate. This certificate is only valid for one year from the date of the training that you complete. After you present a copy of the certificate to your Area Program Office (APO), we will send you a CACFP-CCC application.

This Policy Remains in Effect Until Further Notice
Procedure

If your representative fails to complete the entire training session, you will not be allowed to apply to participate in the program. However, a representative of your organization may enroll in the next regularly scheduled CACFP Child Care Center Program Management Training for Potential Contractors.

<table>
<thead>
<tr>
<th>If …</th>
<th>Then …</th>
</tr>
</thead>
<tbody>
<tr>
<td>You previously participated in the CACFP CCC, but withdrew for any reason.</td>
<td>A representative of your organization must complete a CACFP Child Care Center Program Management Training session prior to resuming your participation in the CACFP CCC.</td>
</tr>
<tr>
<td>Your organization experienced a complete legal identity change (i.e., the organization is sold) and the principal staff changed.</td>
<td>A representative of the new organization must complete a CACFP Child Care Center Program Management Training session prior to applying for participation in the CACFP CCC.</td>
</tr>
<tr>
<td>Your organization had a name change, but your Federal Employer’s Identification Number (FEIN), or other documentation establishing your legal identity remained the same, and the principal staff did not change.</td>
<td>Your organization would not be required to attend CACFP Child Care Center Program Management Training again.</td>
</tr>
<tr>
<td>Your organization experienced a complete legal identity change (i.e., the organization is sold) and the principal staff did not change.</td>
<td>Your organization would not be required to attend CACFP Child Care Center Program Management Training again, unless your APO determines that training would be helpful.</td>
</tr>
</tbody>
</table>

2131.2 Annual Contractor Training

Replace Section 2131.2 with the following:

After your CACFP-CCC application is approved, we may require that a representative of your organization attend one or more mandatory training sessions during each program year. You will receive notification of any mandatory training you will be required to attend. Refer to Section 4330, Training, for additional information related to annual training requirements.

2132 Staff Training

Replace Section 2132 with the following:

You must train each staff member before they assume any CACFP duty. Further, you must train each staff member during each program year thereafter.

2227.1 Universal Amendments

Replace Section 2227.1 with the following:

Universal amendments are modifications to the terms and conditions of the SNP Agreement that apply to all contractors operating under the SNP Agreement, including amendments that are specific to a particular program, regardless of whether a particular contractor has been approved to participate in that program. Universal amendments are initiated by HHSC.

2228.2 Contractor Specific Amendments

Replace Section 2228.2 with the following:

Contractor specific amendments are limited to:

- Adding participation in an SNP-administered program;
- Deleting participation in an SNP-administered program;
- Changing the name of the organization in which the FEIN remains the same under the existing SNP Agreement; or
- Changing the name of the organization in which other documentation establishing your legal identity remains the same under the existing SNP Agreement.

Whenever necessary, your APO will amend your SNP Agreement using an “amendment form” to indicate your current participating status and/or organization name. This form is identical to the last page of the SNP Agreement, with the exception that a place has been provided for your APO to enter the organization’s name (in the case of a name change) and an amendment number.

**Example (adding a program):** If a contractor is approved to participate in the National School Lunch Program/School Breakfast Program (NSLP/SBP) and is later approved to participate in the CACFP-CCC, the APO will complete an amendment form and send it to the contractor. The contractor will sign the form and return it to the APO. Upon receipt of the contractor’s signed amendment form, the APO will enter the effective date, sign the form and send a copy back to the contractor.
**Example (deleting a program):** If a contractor is approved to participate in both the NSLP/SBP and the CACFP-CCC but decides to terminate their participation in the NSLP/SBP they must notify their APO. The APO will complete an amendment form and send it to the contractor. The contractor will sign the form and return it to the APO. Upon receipt of the contractor’s signed amendment, the APO will enter the effective date, sign the form and send a copy back to the contractor.

**Example (name change):** If a contractor notifies the APO that the name of their contracting organization has changed, but the FEIN, or other documentation establishing your legal identity has not, the APO will enter the new name of the contracting organization on an amendment form and send it to the contractor. The contractor will sign the form and return it to the APO. Upon receipt of the contractor’s signed amendment, the APO will enter the effective date, sign the form and send a copy back to the contractor.

Contractor specific amendments can be initiated by either the APO or the contracting organization. Upon receipt of a contractor specific amendment, you must sign, date and return the amendment to your APO.

A contractor specific amendment initiated by a contractor to add or delete a program can be withdrawn. The contractor may decide not to participate in the program being added, or continue participation in the program being deleted. In the event that you decide to withdraw a Contractor Specific amendment, you must inform your APO in writing.

Failure to return a contractor specific amendment, or to notify your APO that you wish to withdraw the action, could result in termination of your SNP Agreement for cause. Reference Section 8133, Termination for Cause.

### 2228.3 Application/Management Plan Changes

Replace Section 2228.3 with the following:

The SNP Agreement stipulates that you will perform according to your application, supporting documents, and approved amendments. Therefore, approved changes to your Application and Management Plan do not require an amendment to your SNP Agreement.

You will request changes to your Application and Management Plan, or changes to your facilities Application and Management plans, in the following manner:

Submit Form H538, Application Between Contracting Organization and Child Care Center. Mark the “amended” box on the top of the form and indicate the items that have changed by entering the new information on the form. Sign, date and submit the form to your APO for approval. Changes submitted using Form H1538 are limited to those items contained on the form itself.

---

continued
**Procedure continued**

**Note:** Sponsoring Organizations (Sponsors) can make amendments to the form on behalf of their participating facilities without first obtaining the facility representative’s signature, with the exception of change in the “fraud” status of a facility.

All other changes must be requested on Form H1548, *Application/Management Plan Change*. You must submit Form H1548 to:

- Add or delete facilities.
- Change authorized representatives.
- Change in license status.
- Other changes affecting reimbursement.

Your claims for reimbursement may be delayed or negatively affected if you fail to properly request these changes in advance.

We must approve all changes to your budget regardless of the effect on the total amount of the budget.

**Example:** If you want to increase your expenditure on postage and shipping by an additional $100 per year and reduce your expenditure on program training by $100 per year, we must approve the proposed changes for each cost category (postage and training) in advance even though the total budget would remain unchanged.

We will not approve retroactive budget changes that increase individual budgeted cost categories or the total budget for any claim month prior to the month in which the request was received. We must have sufficient time to review and approve each request. All budget changes are effective for an entire month, and will not be prorated for part of a month.

**8132 Termination by Mutual Consent**

Add the following to Section 8132:

Termination by mutual consent will also occur when the contractor’s FEIN, or other documentation establishing the organization’s legal identity has changed.

**8133 Termination for Cause**

Replace section 8133 with the following:

Termination for cause can occur as a result of (but is not limited to):
• Failure to take and maintain required corrective action(s).
• Denial of a renewal application or update.
• Failure to return an amended SNP Agreement as the result of a contractor specific amendment.
• Any of the serious deficiencies outlined in Policy Alert CACFPCCC 2003-9, Serious Deficiency Process for Participating Contractors.
• Any other action affecting the contractor’s ability to administer the program in accordance with program requirements.

8210 Actions Subject to Appeal

Replace Section 8210 with the following:

A contractor has the right to appeal:

• Denial of a new, renewing or update application.
• Denial of a sponsored facility application.
• Notice of proposed termination and proposed disqualification.
• Termination of a contractor’s agreement (does not apply to termination by mutual consent).
• Suspension of participation (applies only in the case of imminent threat to health or safety).
• Denial of advances.
• Recovery of advances (demand from SNP for repayment of advances not covered by claims submitted or due to non-claiming for the month(s) of the advance(s)).
• Denial of a claim.
• SNP’s denial to submit the contractor’s request for a good cause exception to the United States Department of Agriculture (USDA) for consideration of payment.
• Overpayment demand.
• Other actions taken by the State agency which affect the contractor’s participation or claim for reimbursement.

A contractor **may not** appeal:

• USDA denial of a claim.
• Determination of serious deficiency.
• Disqualification and placement on the National Disqualified List.
• Termination of a participating organization’s SNP Agreement as a result of the Serious Deficiency Process, including termination of a participating organization’s SNP Agreement based on the disqualification of that organization by another State agency or USDA.
• Termination by mutual consent.
8220 Appeal Process

Replace Section 8220 with the following:

You have the right to appeal HHSC adverse actions that affect your participation in the program or claims for reimbursement. Your request for an appeal must state the basis of the appeal of the adverse action and must include a copy of the adverse action letter. A request for an appeal must be submitted in writing and received by HHSC within 15 calendar days from the date you receive a notice of adverse action from HHSC. A request for an appeal must be mailed or faxed to:

Appeals Division, MC W-613
Health and Human Services Commission
P.O. Box 149030
Austin, TX 78714-9030
Fax (512) 231-5779

You may hand-deliver or submit your request for an appeal via overnight/special delivery service to the following street address:

8407 Wall Street, Suite 300
Austin, TX 78754

The phone number for contacting staff at the Appeals Division is (512) 231-5729.

Exception: If you wish to appeal an adverse action that we based on the findings of a federal audit, you must request a hearing by USDA and submit it in writing to:

Administrative Review Division
USDA – FNS, Rm. 523
3101 Park Center
Alexandria, Virginia 22031

Contact

If you have any questions please contact your Area Program Office.