



**United States
Department of
Agriculture**

Food and
Nutrition
Service

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Alexandria, VA
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DATE: February 24, 2010

MEMO CODE: SP 19-2010

SUBJECT: Clarification on Legislative Requirements of FY2010 National School Lunch Program (NSLP) Equipment Assistance Grants for School Food Authorities

TO: Regional Directors
Child Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

The American Recovery and Reinvestment Act of 2009 (ARRA) provided a one-time appropriation of \$100,000,000 for equipment assistance to school food authorities (SFA) participating in the NSLP. Funding was available to make awards to only a limited number of applicants. Specifically, only 5,031 of the 23,725 applications (or 21%) received by the State agencies (SA) were funded. This overwhelming response led Congress to provide an additional \$25,000,000, under Section 7(a) (2) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a) (2)), for equipment assistance to schools that did not receive grants with ARRA funding.

The legislation contains language that excludes those SFAs that received funding under ARRA from receiving FY 2010 NSLP Equipment Assistance Grants. The intent of the language is to ensure other SFAs, not previously awarded ARRA funding are afforded the opportunity to receive NSLP food service equipment in FY 2010. Subsequent to the issuance of the legislation, the Food and Nutrition Service (FNS) provided Policy Memo SP-14-2010, "FY 2010 National School Lunch Program (NSLP) Equipment Assistance Grants for SFAs", dated January 14, 2010 further clarifying the funding requirements. In response to SP-14-2010, SAs informed FNS that this language significantly limits the number of low-income schools that are eligible for these new funds because their SFA was funded under ARRA.

For example, an SFA that received ARRA funding and provided grants to 30 of their 80 low-income schools would be unable to fund the remaining 50 schools under the FY 2010 NSLP Equipment Assistance Grants because the SFA under which the schools fall already received ARRA funding. The greatest impact of the current legislation can be seen within a State where all the SFAs received some level of ARRA funding or within a Territory that only has one or two SFAs and both received funding.

Clarification on Legislative Requirements of FY2010 National School Lunch Program (NSLP)

Recognizing that a remedy to this situation is desirable, FNS has informed the appropriate Congressional committees of the problem with the current statutory language. We anticipate that a technical change in the legislation may occur, though we cannot guarantee that the issue will be corrected. For the interim, the following options are available to SAs given that the NSLP equipment funds are available beyond FY 2010:

- 1) SAs may accept the FY 2010 NSLP Equipment Assistance allocation and use the funding in accordance with the restriction imposed by the legislation; or
- 2) SAs may decline the FY 2010 NSLP Equipment Assistance Grant and accept funding at a later date to delay the start of the 180 day timeframe associated with the awards.

States that would like to exercise Option 2 but may have already received their grant funds have the option of returning them to their respective regional office to hold until a later date.

CND appreciates the expressed concerns of the SAs and Regional offices regarding this matter. SAs with questions regarding this memo should contact their Regional Offices. Regional Office questions should be directed to Lynn Rodgers-Kuperman.

Original Signed

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