

Arkansas Department of Human Services

Special Nutrition Programs

Surety Bond

I. POLICY

The Department of Human Services (DHS) Division of Childcare and Early Childhood Education (DCCECE) Special Nutrition Programs (SNP) in accordance with the Agricultural Risk Protection Act of 2000 outlines the following additional requirements for participation in the SNP in order establish financial viability, administrative capability, and promote internal controls to ensure program accountability. These requirements are in addition to those outlined in law and policy, but these requirements are noted in program regulations allowed by the State to ensure and enhance program integrity. This policy is not intended to alter any obligation or remedy imposed by or available under DHS Exclusion Policy. SNP requires the following:

II. DEFINITIONS:

- (a) Covered institution means any institution that seeks to participate in any Child and Adult Care Program (CACFP), and the Summer Food Service Program (SFSP):
- (1). that has been declared as seriously deficient as defined in 7CFR Parts 225 and 226 that involve fiscal action and have not repaid in full, or
 - (2). that is excluded from any DHS program under DHS Policy 1088 and the exclusionary period has passed and all appropriate funds, costs, and penalties owed to DHS or USDA by the applicant are paid in full and the applicant has met all of its contract or grant requirements, as well as all applicant requirements in Federal laws and rules, or
 - (3). that makes initial application to be under the Child and Adult Care Food Program or as a Sponsor in the SFSP and is not covered under the previous items, or
 - (4). the covered institution has a fiscal history managing a comparable Program of less than 36 months, or
 - (5). that have not participated in CACFP or SFSP throughout the fiscal year of 2018.
- (b) Surety Bond means the standard form of performance bond such as usually and customarily written and issued by the surety companies licensed and authorized to do business in the State of Arkansas and listed in Treasury Circular 570 as a company holding Certificate of Authority as an acceptable surety on a Federal bond to pay DCCECE upon the institution's failure to comply with all SNP requirements.

III. SUBSTANTIVE RULES:

Compliance with this rule is a condition precedent to participation in any CACFP or SFSP program.

- (a) Covered CACFP institutions who fall under items (a) 1, 2, or 5 under Section II of this policy, are required to obtain a 36-month surety bond with a value of 50% of the institution's estimated annual reimbursement. The agency will calculate this estimate based on a number of factors, such as, licensed capacity, previous billings or claims and discussion with the institution. If the first year reimbursement varies from the estimate of 20% or more, a proportional change to the bond will be required for the balance of the 36 months.
- (b) Covered SFSP Sponsors/Organizations who fall under items (a) 1, 2, 3, 4, or 5 under Section II of this policy, are required to obtain a surety bond with equal value of the Sponsor's yearly approved budget. The bond shall be renewed yearly for a maximum of 3 years, provided each year's reviews reveal no regulatory violations. Should violations be found, the bonding period shall be extended each year until three consecutive successful years are completed. Reviews shall be conducted in accordance with 7CFR 225.
- (c) Covered CACFP institutions that fall under item (a) 3, are required to obtain a 36-month surety bond with a value of 25% of the organization's estimated annual reimbursement. If their actual first year reimbursement exceeds the first year estimate by 20% or more, a proportional increase to the bond will be required for the balance of the 36 months. In addition to their initial review, a second review will occur within six to nine months of the date of the first review or more frequently as deemed necessary to provide technical assistance.
- (d) Covered CACFP institutions that fall under Section II, item (a) 4, having a fiscal history of less than 36 months must meet the following criteria before an application is considered.
 - Must be licensed and operating for at least 6 months
 - An approved annual budget as required in CACFP contract policy
 - Copy of the latest two quarterly payroll tax payments
 - Copy of latest audit (if applicable)
 - Copy of latest tax return (if applicable)

After receipt of the above required documents and approval to participate in the Program new institutions will receive, in addition to their initial review, a second review that will occur within nine months of the date of the first review or more frequently as deemed necessary to provide technical assistance. Subsequent reviews will occur no less frequently than once annually for year two and year three. At the end of 36 months, the institution will be subjected to monitoring reviews following established program procedures.

- (e) Covered institution must furnish SNP copies of all correspondence with the guarantor and all records related to the surety bond.
- (f) SNP will release a surety bond within 30 calendar days after determining that the organization has no repayment obligation to an SNP program.
- (g) The requirements of this rule are cumulative with respect to any other SNP Requirement or obligation.

IV. APPEAL:

SNP Appeal Procedures establish an appeal process to challenge adverse action taken by SNP under this rule.

