

APR 21 2006

2050050 and 2060038

SUBJECT: FSP – New York Waiver Request – 7 CFR 273.24

TO: Mary Ann Ferris  
Regional Director  
Food Stamp Program  
Northeast Region

This is in response to Jane DiBiasio’s email message of April 17, 2006 forwarding the New York State Agency’s March 27, 2005 request to extend and modify its current waiver of the work requirements for able-bodied adults without dependents (ABAWDS) living in Labor Surplus Areas (LSA) and in areas in which the unemployment rate exceeds the national average by 20 percent during the given time period.

Our response approving the State agency’s request is attached. Based on email messages and telephone calls from your office indicating that the State agency would prefer 2-year waiver approvals for all of the areas that qualify for extended waivers, we have granted 2-year approvals for several areas included in the State agency’s request based on their designation as labor surplus areas (LSAs) by the Department of Labor Employment and Training Administration for both fiscal years 2005 and 2006, or based on an average unemployment rate for the 36-month period ending January 31, 2006.. We have designated the waiver for those areas eligible for 2-year exemptions as a separate waiver under no. 2060038. We also wish to note that because New York City is administered as single entity, we are not addressing the status of any of its component counties/boroughs and are limiting our determination to the eligibility of the City as whole.

If you have any questions, please contact Larry Tropp at (703) 305-2504.

**SIGNED**

Patrick Waldron  
Branch Chief  
Certification Policy Branch  
Program Development Division

Attachment

FINAL:USDA:FNS:FSP:PDD:CPB:LTropp:4/21/06:je

FILE: New York

DIR:I:CPB:Waivers: FY 2006: 2050050 and 2060038 – NY ABAWD 2006 ext

Symbol	Surname	Date	Symbol	Surname	Date
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## WAIVER RESPONSE

1. **Waiver serial number:** 2050050 and 2060038
2. **Type of request:** Extension and modification
3. **Primary regulation citation:** 7 CFR 273.24
4. **Secondary regulation citation:** None
5. **State:** New York
6. **Region:** Northeast Region (NERO)
7. **Regulatory requirements:** The Food Stamp Program regulations at 7 CFR 273.24(b), provide that no individual shall be eligible to participate in the Food Stamp Program as a member of any household if, during the preceding 36-month period, the individual received food stamp benefits for not less than 3-months (consecutive or otherwise), during which the individual did not work 20 hours or more per week, averaged monthly; did not participate in and comply with the requirements of a work program for 20 hours or more per week; or did not participate in and comply with requirements of a program under Section 20 or a comparable program established by the State.

The Food Stamp Program regulations at 7 CFR 273.24(f) also provide that, upon the request of a State agency, the Food and Nutrition Service (FNS) may waive the applicability of the above provision for any group of individuals in the State if the we make a determination that the area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals.

Under a memorandum to all regional offices issued by our office on February 3, 2006, residents of areas that have been designated as labor surplus areas (LSAs) by the Department of Labor Employment and Training Administration (DOLETA) for two consecutive areas or have experienced an unemployment rate greater 20 percent of the national average for a 36-month period ending no earlier than three months prior to the submission of a State waiver request are eligible for exemptions from the requirements of 7 CFR 273.24 for a period of two years.

8. **Description of proposed alternative procedures:** The New York State Agency is requesting a waiver for the following areas based on an unemployment rate greater than 20 percent above the national average for calendar years 2004 and 2005: Bronx County, Niagara Falls City, Buffalo City, Kings County, Rochester City, Oswego County, Hempstead Village, Lewis County, Jefferson County, Elmira City and New York City.

We also note that the State agency allows counties the option of electing or declining to utilize the exemptions approved for its residents under this waiver.

Although the State agency's request, as submitted, was for a standard 1-year waiver for all of the specified areas based on unemployment rate greater than 20 percent above the national average for 24-month period ending December 31, 2005, we have determined that most of the areas included in the waiver request are eligible for 2-year waivers based on the criteria specified in the all regions memorandum referenced in paragraph 7, above. Pursuant to telephone conversations and emails regarding the State's request, we are evaluating labor market data to determine which areas included in the request qualify for 2-year exemptions under the criteria of the February 3, 2006 memorandum.

9. **Action and reason for approval or denial:** We are approving exemptions for all of the areas included in the New York State agency's request for a waiver of the work requirements of 7 CFR § 273.24, however we are specifically not addressing the eligibility of Bronx and Kings Counties as separate entities because they are part of New York City, which is administered as a single entity, and as such, any waiver approved for the City as a whole would apply to all of the counties/boroughs included in the City. Depending on the applicable criteria (as described below) approval will be for either a 1-year or 2-year period, depending on the workforce data or LSA designation for the affected areas. We have determined that Lewis County will be exempt for a 1-year period based on an unemployment rate greater than 20 percent above the national average for 24 month period ending December 31, 2005, as indicated by the supporting data in the following table.

**24-Month Average (1/1/04-12/31/05) 6.3% Approval Threshold**

ABAWD Area	Labor Force	Unemployment	Unemployment Rate
Lewis County	301309	19545	6.5

We have evaluated 36-month labor market data for Lewis County and have determined that the county would not qualify for a 2-year waiver.

Because they have been designated as LSAs for both FY 2005 and FY 2006 we are approving a 2-year waiver, designated as no. 2060038 for Niagara Falls City, Buffalo City, Rochester City, Oswego County, and Elmira City. We are also including Jefferson County, Hempstead Village and New York City in the 2-year waiver based on an unemployment rate greater than 20 percent above the national average for the 36-month period ending January 31, 2006.

**36-Month Averages (2/1/03-1/31/06) 6.6% Approval Threshold**

<b>ABAWD Areas</b>	<b>Labor Force</b>	<b>Unemployment</b>	<b>Unemployment Rate</b>
Hempstead Village	903113	60766	6.7%
Jefferson County	1637421	107594	<b>6.6%</b>
New York City	130276010	9081089	7.0%

New York has a state supervised-county administered structure. FNS has long recognized that in such a structure, counties may elect to adopt procedures and options that do not apply in other counties in the State. Conditions for the approval are noted in Section 11.

10. **Regulatory or legislative basis for action:** This waiver is approved pursuant to 7 CFR 273.24(f)(2)(ii), which provides FNS with the authority to waive the applicability of the work requirement provision for any group of individuals in the State if FNS makes a determination that the area in which the residents reside has insufficient jobs.
11. **Conditions and reasons:**
  - The State agency has 30 days from the date of approval to provide a list of counties identifying their status with respect to the waiver.
  - The State agency must provide documentation from the responsible official in each county indicating the decision to be in or out of the waiver.
  - Lastly, if the county changes its option, the State agency must notify the Regional Office immediately.
12. **Information required for extension:** N/A
13. **Expiration dates:** April 30, 2007 (for waiver no. 2050050) and April 30, 2008 (for waiver no. 2060038)
14. **Limitation, if any, on regional office approval of like requests:** This waiver applies to New York only.
15. **Quality control procedures:** N/A
16. **Date of national office action:**
17. **Date of State agency's request:** March 27, 2006
18. **Date of regional office transmittal of request to national office:** April 17, 2006