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EXHIBITS

- A Food Distribution Program on Indian Reservations Plan of Operation Guidance
- B Sample Copy of Form FNS-74
- B-1 Sample Copy of Form AD-1049
- C Sample Copy of SF-425
- D (Reserved)
- E Sample Copy of Form FNS-101
- F (Reserved)
- G Sample Copy of Form FNS-152
- H Principles for Determining Costs Applicable to Administration of the Food Distribution Program on Indian Reservations
- I Sample Copy of SF-424
- J (Reserved)
- K Food Distribution Program Sample Worksheet for Manually Calculating an Overissuance Claim
- L Sample Demand Letter for an Overissuance Claim
- M Food Distribution Program on Indian Reservations Net Monthly Income Standards for the 48 Contiguous United States and Alaska
- N Sample Copy of Form FNS-7
- O Food Distribution Program on Indian Reservations Monthly Distribution Guide Rates by Household Size
- P (Reserved)
- Q Sample Copy of Form FNS-52
- Q-1 Sample Copy of Form FNS-53
- R (Reserved)
- S Sample Copy of Form FNS-57
- T Sample Copy of Form KC-269-A
- U (Reserved)
- V-1 Stacking - Example No. 1
- V-2 Stacking - Example No. 2
- W Identification Card for USDA Donated Foods
- X Sample Issuance Receipt Card for USDA Donated Foods
- Y 7 CFR Part 277
- Z 7 CFR Part 3016

ACRONYMS

ACH	Automated Clearing House
AIS	Automated Inventory System
ANCSA	Alaska Native Claims Settlement Act
ASAP	Automated Standards Application for Payments
CAP	Commodity Acceptability Progress (Reports)
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
DFI	Depository Financial Institution
DUNS	Data Universal Numbering System
EIN	Internal Revenue Service Employee Identification Number
FMS	United States Department of Treasury Financial Management Service
FNS	Food and Nutrition Service
GA	General Assistance
ID	Identification (as in ID Card)
IPAS	Integrated Program Accounting System
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Service
IRA	Individual Retirement Account
ITO	Indian Tribal Organization
LOC	Letter of Credit
OIG	USDA Office of the Inspector General
OMB	Office of Management and Budget
PA	Public Assistance
SDX	State Data Exchange

SF	Standard Form
SSA	Social Security Administration
SSI	Supplemental Security Income Program
TANF	Temporary Assistance to Needy Families Program
U.S.C.	U.S. Code
USDA	United States Department of Agriculture

CHAPTER I GENERAL PROVISIONS

SECTION 1 – BACKGROUND

1100 PURPOSE

The FNS Handbook 501 provides Indian Tribal Organizations (ITOs) and State agencies guidance on the administration of the Food Distribution Program. The chapters within the handbook cover all aspects of the program including financial management, certification of households, food ordering, and inventory control.

1110 DEFINITIONS

The definitions used in this handbook are listed in alphabetical order below:

"Application Form" means the form, and any attachments, completed by a responsible household member or authorized representative in applying for participation in the Food Distribution Program. The application form, which is designed by the ITOs and State agencies, must be acceptable to FNS. "Application form" may also refer to the form used to apply simultaneously for public assistance and the Food Distribution Program or general assistance and the Food Distribution Program in areas that conduct joint processing of applications.

"Assistance Household" means any household in which all members are recipients of public assistance, Supplemental Security Income (except in "cash-out" States), or certain general assistance programs that have been determined by FNS to have eligibility criteria that are the same as, or similar to, any of the Federally aided public assistance programs.

"Authorized Representative" means an individual designated by a responsible member of the household to act on behalf of the household in making an application for USDA foods and/or obtaining USDA foods.

"Boarder" means an individual to whom a household furnishes meals, or meals and lodging, for compensation.

"Categorical Eligibility" means that an assistance household will, if otherwise eligible, be determined eligible to participate in the Food Distribution Program without regards to the income and resources of the household members.

"Consignee" means a person, such as a warehouseman, to whom USDA foods are shipped for storage and/or handling until they are utilized in the Food Distribution Program.

"Disabled member" means a member of a household who:

- (1) Receives Supplemental Security Income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act;

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- (2) Receives federally- or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act;
- (3) Receives federally- or State-administered supplemental benefits under section 212(a) of Public Law 93-66;
- (4) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act;
- (5) Is a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under title 38 of the United States Code;
- (6) Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code;
- (7) Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code;
- (8) Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38 of the United States Code and has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments but are not yet receiving them;
- (9) Receives an annuity payment under: section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act; or
- (10) Is a recipient of interim assistance benefits pending the receipt of Supplemented Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits provided that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the State agency, which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR Part 416, Subpart I, Determining Disability and Blindness as defined in Title XVI).

"Disqualified Member" means an individual disqualified from participation in the Food Distribution Program.

"Dunnage" means the packing material used in shipment of USDA foods.

"Elderly member" means a member of a household who is sixty years of age or older.

"Entity Code" means a numbered code assigned by the Kansas City Commodity Office that incorporates all the necessary shipping information for each destination.

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"Exercises Governmental Jurisdiction" means (1) the active exercise of the legislative, executive, or judicial powers of government by a tribal entity on a reservation; or (2) the exercise of authorities granted to a tribal entity under the Oklahoma Indian Welfare Act of 1936 or by regulations issued by the Bureau of Indian Affairs.

"First-In, First-Out" means the first shipments of each food item should be the first food distributed to recipients.

"FNS Service Area" means the area for which FNS has approved the Food Distribution Program for Indian Households in Oklahoma. Urban places in FNS service areas cannot be served, unless FNS has granted a waiver.

"Food Distribution Program" refers collectively to the Food Distribution Program on Indian Reservations (operated pursuant to 7 CFR Part 253) and the Food Distribution Program for Indian Households in Oklahoma (operated pursuant to 7 CFR Part 254).

"General Assistance (GA) Household" means a household receiving cash or another kind of assistance, excluding in-kind assistance, financed by State or local funds as part of a program that provides assistance to cover living expenses or other basic needs intended to promote the health or well being of recipients.

"Head of Household" means a responsible household member in whose name the application is made for participation in the program.

"Indian Tribal Household" means a household that includes at least one household member who is recognized as a member of an Indian tribe. The disqualification of the only household member recognized as a member of an Indian tribe would not change the status of an Indian Tribal Household.

"Indian Tribal Organization (ITO)" means (1) the recognized governing body of an Indian tribe on a reservation; (2) an Indian tribe, band, or group organized under the Oklahoma Indian Welfare Act of 1936 that has a tribal organization approved by the Bureau of Indian Affairs; (3) a tribal entity in Oklahoma established and approved under Federal regulations issued by the Bureau of Indian Affairs; or (4) an intertribal organization authorized by the recognized governing bodies of two or more Indian tribes to operate the Food Distribution Program on their behalf.

"Indian Tribe" means (1) any tribal entity that is designated by the Bureau of Indian Affairs as eligible for Federal programs and services by virtue of its status as an Indian Tribe and either exercises governmental jurisdiction on a reservation (including Alaska Native Villages or Regional Corporations established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688)) or is a tribal entity organized under the Oklahoma Indian Welfare Act of 1936 that has a tribal organization approved by the Bureau of Indian Affairs; or (2) any Indian entity on a reservation or in Oklahoma that holds a treaty with a State government.

"Near Area" means an area approved by FNS for service by the Food Distribution Program that is outside the geographic boundaries of a reservation. Urban places in near areas cannot be served, unless FNS has granted a waiver.

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"Nonassistance Household" means any household in which one or more members do not participate in a public assistance program, Supplemental Security Income, or a general assistance program that has been determined by FNS to have eligibility criteria that is the same as, or similar to, any of the Federally aided public assistance programs.

"Perpetual Inventory" refers to inventory records for USDA foods that are updated immediately after shipments into and withdrawals out of the warehouse.

"Public Assistance (PA) Household" means a household that receives cash or another type of assistance under any of the following programs authorized by the Social Security Act of 1935, as amended: Old-age assistance, Temporary Assistance to Needy Families (TANF), including TANF for children of unemployed fathers, aid to the blind, aid to the permanently and totally disabled, and aid to aged, blind, or disabled.

"Reservation" means the geographically defined area or areas over which an ITO exercises governmental jurisdiction, so long as such area or areas are legally recognized by the Federal or a State government as being set aside for the use of American Indians.

"Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.

"Secretary" means the Secretary of Agriculture.

"Spouse" refers to either of two individuals: (1) who would be defined as married to each other under applicable State law; or (2) who are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

"State Agency" means (1) an ITO, determined by FNS to be capable of effectively administering a Food Distribution Program, that enters into an agreement with FNS for the distribution of USDA foods on all or part of an Indian reservation(s), in approved near areas, or in FNS service areas in Oklahoma; or (2) the agency of a State government, including its local offices, that enter into an agreement with FNS for the distribution of USDA foods on all or part of an Indian reservation(s), in approved near areas, or in FNS service areas in Oklahoma.

"Student" means an individual who is attending at least half-time in a preschool, kindergarten, grade school, high school, vocational school, technical school, training program, college, or university.

"Supplemental Security Income (SSI)" means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; (2) section 1616(a) of the Social Security Act; or (3) section 212(a) of Public Law 93-66.

"Urban Place" means a town or a city with a population of 10,000 or more.

"Vendor" means a food processor that sells food to USDA for use in the Food Distribution Program.

SECTION 2 – ADMINISTRATION**1200 REQUIREMENTS FOR ITO/STATE AGENCY ADMINISTRATION OF PROGRAMS****1210 PLAN OF OPERATION**

An ITO/State agency that wants to assume responsibility for administering the Food Distribution Program must submit a Plan of Operation (see Exhibit A, attached) for approval by FNS. No administrative funds or USDA foods will be available until FNS approval is obtained. Federal regulations at 7 CFR 253.5 provide details on the requirements for assurances and content of the Plan of Operation.

1211 Amendments to Plan of Operation

All amendments to the Plan of Operation must be approved by FNS prior to the initiation of any significant changes in operation that are contrary to or not embraced by the Plan. Either the ITO/State agency or FNS may initiate an amendment to the Plan of Operation.

1212 Submission of Plan of Operation to the ITO

When the administering agency is a State agency, it must submit its Plan of Operation, budget, and any subsequent amendments to the ITO for comment at least 45 days prior to submission of the Plan, budget, or amendment to FNS. Comments by the ITO must be attached to the Plan, budget, or amendment that is submitted to FNS.

1213 Agreements

Each participating ITO/State agency must execute Form FNS-74, Federal State Agreement (see Exhibit B, attached), as specified in applicable regulations.

1220 STAFFING

The ITO/State agency must employ sufficient staff to order and provide for the warehousing of USDA foods; certify households; distribute the USDA foods to eligible households; account for administrative funds; review local agency operations and provide assistance when needed; prepare and submit required reports and records; process fair hearing requests; and perform outreach activities and other program functions as specified in this Handbook and in the Plan of Operation. The ITO/State agency must be responsible for meeting quality and timeliness standards described in this Handbook.

1221 Salaries

When any part of administrative funds is used for salaries of persons employed by the ITO/State agency, salary rates must be those established under the State agency's merit personnel system; however, where there are no positions classified and no salary rates established for persons employed by the ITO/State agency, the rates must be those of positions requiring comparable skills and responsibility in the private sector. Salary paid persons employed at the local level must be commensurate with or equivalent to, but not in excess of, salaries paid for comparable positions or work in local government in the same geographic area; however, no person employed will be paid less than the Federal minimum wage scale.

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(See FNS Instruction 716-4, Administrative Budget Negotiation Guidance for the Food Distribution Program on Indian Reservations, for FNS policies on cost of living increases, merit awards, promotions, and bonuses.)

1222 Administrative Personnel

ITO/State agency personnel used in certification must be employed in accordance with the standards for a Merit System of Personnel Administration. When appropriate, the ITO personnel system may be used if its procedures are similar. ITO/State agency employees meeting the above requirements must perform the certification interviews of households applying for the Food Distribution Program.

1223 Use of Other Staff

Volunteers and other non-ITO/non-State agency employees cannot conduct certification interviews or certify food distribution applicants. ITOs/State agencies are encouraged to use volunteers in related activities such as outreach, interpreting, prescreening, assisting applicants in completing the application, and securing needed verification.

1224 Activities Prohibited by Staff

An ITO/State agency that accepts FNS administrative funds must ensure that any officer or employee who performs duties in connection with this program, does not:

- A. Use his/her authority or influence to interfere with or otherwise attempt to affect the result of an election or a nomination for office;
- B. Directly or indirectly coerce, attempt to coerce, command, or advise any other officer or employee to pay, lend, or contribute any part of his/her salary or compensation or anything else of value to any party committee, organization, agency, or person for political purposes; or
- C. Use the distribution of USDA foods to further the political interests of an individual or party. This applies to tribal elections as well as local/State/national elections (see paragraph 1350).

1230 TRAINING

The ITO/State agency must have a continuing training program for food distribution certification and distribution workers, hearing officials, field supervisors who review local Food Distribution Programs, outreach staff, individuals involved in prescreening activities, volunteers, and warehouse workers.

1231 Content of Training

ITO/State agency training programs must cover, as appropriate, eligibility criteria, certification procedures, household rights and responsibilities (including nondiscrimination rights), other job-related responsibilities concerning the certification of households (for example, interviewing skills) and USDA foods receipt, storage, distribution, and accountability practices. The content of training programs must be reviewed by the appropriate FNS

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Regional Office and changes made where necessary. Changes in policy or procedures arising from court actions or revisions to legislation and regulations must be promptly reflected in ITO/State agency training programs.

1240 ANNUAL REVIEW REQUIREMENTS

The ITO/State agency must monitor and review its operations and local agency operations, as appropriate, at least annually to ensure compliance with all the requirements for administration of the Food Distribution Program. Program deficiencies must be documented and specific plans for corrective action must be initiated to correct the deficiencies noted.

1241 Reviews

Reviews must include but not be limited to certification of households, determination of food preferences, distribution of USDA foods, compliance with Title VI of the Civil Rights Act of 1964 and other applicable civil rights legislation, fair hearing procedures, warehousing and inventories, and timeliness and accuracy of reports to FNS. Program reviews and corrective action plans must be available to FNS upon request.

1242 Technical Assistance

The ITO/State agency must provide assistance to local agencies, as needed, to prevent and/or correct program deficiencies. This assistance may include providing written instructions and on-the-job training as well as formal training sessions.

1250 NONDISCRIMINATION

ITOs/State agencies must not discriminate and must not allow discrimination against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the distribution of USDA foods, the conduct of fair hearings, or the conduct of any other program service for reasons based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Enforcement action may be brought under any applicable Federal law. Title VI compliance must be processed in accord with 7 CFR Part 15, USDA's regulations on nondiscrimination, and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities.

1260 FNS NONDISCRIMINATION COMPLAINT PROCEDURES

People who believe that they have been subject to discrimination may file a complaint by completing the [USDA Program Discrimination Complaint Form](http://www.ascr.usda.gov/complaint_filing_cust.html), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. Written letters containing all of the information requested in the form are also accepted. Send completed complaint forms or letters to the U.S. Department of Agriculture, Director, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing, or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

1261 Complaint Requirements

Written complaints should contain the following information to facilitate investigations:

- A. Name, address, and telephone number or other means of contacting the person alleging discrimination;
- B. Location and name of organization or office that is accused of discriminatory practices;
- C. The nature of the incident or action that led the complainant to allege discrimination;
- D. The reason for the alleged discrimination (age, race, color, sex, disability, religious creed, national origin, or political beliefs);
- E. The names, titles (if appropriate) and addresses of persons who may have knowledge of the alleged discriminatory acts; and
- F. The date or dates on which the alleged discriminatory action(s) occurred.

1262 Verbal Complaints

If a complainant makes allegations verbally and is unable or reluctant to put the allegations in writing, the person to whom the allegations are made must document the complaint in writing. Every effort must be made by the individual accepting the complaint to have the complainant provide the information listed in paragraph 1261.

1263 Action by Office of Civil Rights

The Director, Office of Civil Rights, will accept complaints (at the address contained in paragraph 1260) even if the information listed in paragraph 1261 is not complete. However, an inquiry can only be conducted by that office if the information listed in items B, C, and D in paragraph 1261 is provided.

1264 Time Limit for Filing a Complaint

A complaint must be filed no later than 180 days from the date of the alleged discrimination. However, the time for filing may be extended by the Director, Office of Civil Rights, at the address contained in paragraph 1260.

1265 Public Notification

ITOs/State agencies must:

- A. Publicize the procedures for handling civil rights complaints;
- B. Ensure that all offices involved in administering the program and that also serve the public display the nondiscrimination poster provided by FNS; and
- C. Ensure that participants and other low-income households have access to information

regarding nondiscrimination status and policies, complaint procedures, and the rights of participants within ten days of the date of a request.

1270 SANCTIONS

If the ITO/State agency does not comply with the Plan of Operation and the regulations, FNS has the option to withhold administrative funds and/or to disqualify the ITO/State agency from making further distribution of USDA foods to households. In addition, FNS may take other actions, including prosecution under applicable Federal statutes, when appropriate.

1280 OUTREACH

The ITO/State agency must inform potentially eligible households of the availability of the Food Distribution Program and must provide printed program information in appropriate language(s) to potential recipients and to other interested persons. The outreach material must explain eligibility requirements, contain information about a household's right to file an application on the same day it contacts the certification office, contain the required nondiscrimination statement and civil rights complaint procedures, and outline the household's right to a fair hearing.

1281 Referral

The ITO/State agency must obtain information about the general eligibility requirements of other available assistance programs and provide potentially eligible persons the addresses and telephone numbers of local program offices. Such programs include the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) or the Commodity Supplemental Food Program, if available; the Supplemental Security Income Program (SSI); and appropriate PA and GA programs. In addition, children participating in the Food Distribution Program are automatically qualified under direct certification procedures for meals under the National School Lunch Program and the School Breakfast Program.

SECTION 3 - GENERAL REQUIREMENTS**1300 AVAILABILITY OF INFORMATION**

Regulations, the Plan of Operation, Federal procedures, such as handbooks, and ITO/State agency certification and distribution manuals and supplemental instructions issued for use in certifying or distributing to households must be maintained in the ITO/State agency office and all local offices for examination by members of the public on regular workdays during regular office hours.

ITOs/State agencies must also provide clearly written information, such as brochures or pamphlets that describe basic financial and nonfinancial eligibility criteria, the application process, and participant rights and responsibilities. This written information must be distributed at Supplemental Nutrition Assistance Program (SNAP) and Food Distribution Program certification offices and distribution points, PA and GA offices, and must be made available to local Social Security offices and local offices that administer unemployment compensation programs. ITOs/State agencies must contact those offices to enlist their cooperation in distributing the written information.

1310 BILINGUAL STAFF AND MATERIALS

Where either an estimated 100 or more low-income households or the majority of low-income households speak the same non-English language (a single-language minority), the ITO/State agency must provide bilingual outreach and certification materials and staff or interpreters as specified in the regulations. Sufficient bilingual staff must be provided to assure timely processing of non-English speaking applicants. Single-language minority refers to households that speak the same non-English language and do not contain adult(s) fluent in English as a second language. If the non-English language is spoken, but not written, the ITO/State agency must provide bilingual staff, if required, but not bilingual material.

1311 Certification Materials

Certification materials must include the Food Distribution Program application form, notices to households, and forms developed by the ITO/State agency for reporting changes in household circumstances.

1312 Notices

If notices are required in only one language other than English, they may be printed in English on one side and in the other language on the reverse side. If the certification office is required to use several languages, the notice may be printed in English and may contain statements in other languages summarizing the purpose of the notice and the telephone number to call for more information. For example, a notice of eligibility could, in the appropriate language(s), state "Your application for food distribution has been approved in the amount stated above. If you need more information, please telephone 111-555-1111."

1320 DISCLOSURE OF HOUSEHOLD INFORMATION

The ITO/State agency must restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the Food Distribution Program, except that such information may be provided to agencies

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administering a Federal or federally aided means-tested assistance program, such as SNAP, the National School Lunch Program and School Breakfast Program, TANF, Medicaid, SSI, and GA programs that are subject to the joint processing requirements under Section 2, Special Application Process, of Chapter III of this Handbook.

1330 HOUSEHOLD ACCESS TO CASE FILE

If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting on its behalf to review materials contained in the household's case file, the material and information contained in the case file must be made available for inspection during normal business hours. However, the ITO/State agency may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge or the nature or status of pending criminal prosecutions.

1340 STATE AGENCY COORDINATION WITH ITO

When the administering agency is not the ITO, the ITO may receive copies of certification and/or termination notices to the extent requested or agreed upon by the household. State agencies and ITOs may establish a formal procedure to ensure ITO receipt of notices.

1350 INFLUENCE OF POLITICAL INTERESTS

The distribution of USDA foods must not be used to further the political interests of any individual or party. This applies to tribal elections as well as local/State/national elections. The ITO/State agency must not display or allow local agencies to display political materials of any kind and must not allow individuals or political parties to campaign on the Food Distribution Program grounds, in the certification office, or in the distribution warehouse (see paragraph 1224C).

1360 PAYMENT FOR USDA FOODS

Households must not be required to make any payments in money, materials, services, or in-kind to receive USDA foods and they must not be solicited for voluntary contributions for any purpose.

1370 DUAL PARTICIPATION

Dual participation by any household member in SNAP and the Food Distribution Program is prohibited. Simultaneous participation in multiple Food Distribution Programs is also prohibited. The ITO/State agency must inform each applicant household of this prohibition and must devise a method to prevent dual participation. This method must, at minimum, use lists of currently certified households provided by and provided to the appropriate State or local SNAP agency on a monthly basis. The ITO/State agency may also use computer checks, address checks, and telephone calls to prevent dual participation.

1380 REPLACEMENT OF USDA FOODS

USDA FNS permits replacement of USDA foods lost due to a household misfortune, e.g., flood, fire, tornado, hurricane, power outage (see [Policy Memorandum FD-117](#)). Latent

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defects discovered by the household should be reported in accordance with paragraph 6216. Replacements are not permitted in other circumstances.

SECTION 4 - NUTRITION EDUCATION**1400 NUTRITION EDUCATION**

The ITO/State agency must publicize the benefits of USDA foods and how they can be used to contribute to a nutritious diet. In addition, the ITO/State agency must provide participating households with information on proper storage and care of USDA foods.

1410 NUTRITION EDUCATION MATERIALS

The ITO/State agency should make use of various nutrition education materials available from FNS, USDA Food and Nutrition Information Center, other Federal and State agencies, Indian Health Service Nutritionists, Diabetes or Health Educators, County Extension home economists, and other nutrition and health organizations in providing nutritional guidance to participating households. Some of the materials that may be used include visual displays, bilingual or illustrated recipes, and menus.

1420 VOLUNTEERS AND COOPERATING ORGANIZATIONS

The ITO/State agency should make use of volunteers and work cooperatively with appropriate organizations in conducting nutrition education activities. County extension home economists, Expanded Food and Nutrition Education Program aides (if available on or near the reservation), and qualified volunteers may be used to hand out food and nutrition information, conduct taste tests and cooking demonstrations, and teach food preparation and storage methods in classroom settings or during home visits.

1430 NUTRITION EDUCATION GRANTS

Food Distribution Program funds specifically earmarked by FNS for nutrition education must be used by ITOs and State agencies to implement procedures or accomplish nutrition education objectives as identified by FNS and as appropriate on the reservations.

SECTION 5 - RECORDS AND REPORTING

1500 RECORDS AND REPORTS

The ITO/State agency must keep such records and submit such reports as required by FNS. In addition, the ITO/State agency must ensure that local agencies are keeping records and submitting reports as required.

1510 RETENTION AND MAINTENANCE OF RECORDS

All program records must be retained for a period of three years from the date of the submission of the final Form SF-425, Federal Financial Report, or until all issues are resolved. These records include applications for certification and recertification, worksheets used in computing income for eligibility, documentation of verifications of eligibility criteria, notices to the distribution unit authorizing or changing participation, notices of adverse action, other notices sent to households and responses thereto, actions related to the fair hearing process, discrimination complaints, investigations and responses, fiscal records including program expenditures, property records and financial reports, and food receipt distribution, inventory and loss records and reports. If any litigation, claim, or audit is in process, all records must be retained until all litigation, claim, or audit findings involving the records have been resolved.

All records must be maintained in an orderly manner and must be available for audit purposes. Records of different Federal fiscal years must be maintained separately to facilitate easy access. Records must be safeguarded from theft, fire, or other damage. When records are stored away from the principal office, the ITO/State agency must maintain a written index of the location of records. Microfilm copies, computer backup disks, or tapes may be substituted for original records in the event data is required for audit purposes.

1520 REPORTS – ITO/STATE AGENCY TO FNS

The ITO/State agency must submit the following reports to FNS within the specified deadlines:

- A. Form SF-425, Federal Financial Report. ITOs or State agencies receiving funds through a LOC or treasury check must submit to the FNS Regional Office quarterly reports (see Exhibit C, attached) to document the use of such funds. This report must be used by all State agencies receiving funds. Form SF-425 must be signed by an authorized ITO/State agency official and submitted to the appropriate FNS Regional Office 30 days after the end of each quarter. The reporting dates are January 30, April 30, and July 30 for the first three quarters. The fourth quarter reporting date is October 30. The final report for the fiscal year is due December 30. ITOs or State agencies receiving special Nutrition Education Grant funds must submit a separate quarterly SF-425. ITOs or State agencies receiving regular Nutrition Education or Capital Expenditure funds must submit an SF-425 no later than 90 days following the close of the fiscal year (December 30).
- B. Form FNS-101, Participation in Food Programs - By Race. This form (see Exhibit E, attached) identifies the number of households participating, by race and ethnicity that participated in the Food Distribution Program in the month of July each year. A computer-generated FNS-101 may be substituted in lieu of a printed form. The ITO/State agency must mail, fax, or electronically transmit a completed copy of Form FNS-101 to be received by the appropriate FNS Regional Office by September 15 each year.

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- C. Form FNS-152, Monthly Distribution of Donated Foods to Family Units. All ITOs/State agencies must submit a Form FNS-152 (see Exhibit G, attached), for each of their local distribution sites. Agencies of State governments, who distribute USDA foods directly to households, must submit a Form FNS-152 for their central warehouse. In addition ITOs must submit a Form FNS-152 for the ITO's central warehouse, whether the ITO distributes directly to households or not. The Form FNS-152 report shows USDA foods received, distributed, redonated, or lost during the 30-day reporting period. Form FNS-152 must be received in the appropriate FNS Regional Office by the 15th day of the month following the month in which the USDA foods were distributed, e.g., August 15th for the foods distributed in July.

1530 REPORTS - LOCAL AGENCY TO ITO/STATE AGENCY

The ITO/State agency must require the following reports from local agencies:

- A. Form FNS-152, Monthly Distribution of Donated Foods to Family Units. The ITO/State agency must require local distribution sites to submit monthly inventory reports which must include USDA foods receipts, distributions, transfers, and losses. The ITO/State agency must use the Form FNS-152 (see Exhibit G, attached) for this purpose and must provide it to the local agencies. The ITO/State agency must require that the inventory reports be received in the ITO's/State agency's office no later than the 10th day of the month following the month in which the USDA foods were distributed, e.g., August 10th for the foods distributed in July.
- B. Form FNS-101, Participation in Food Programs - By Race. Form FNS-101 (see Exhibit E, attached) identifies the number of household contacts, by race and ethnicity (Hispanic/Latino, etc.), that participated in the Food Distribution Program in the month of July each year. A computer-generated FNS-101 may be substituted in lieu of a printed form. The ITO/State agency must require all local agencies to mail, fax, or electronically transmit a completed copy of Form FNS-101 to be received by the ITO/State agency by August 20 each year. The ITO/State agency must mail, fax, or electronically transmit a completed copy of Form FNS-101 to be received by the appropriate FNS Regional Office by September 15 each year.

SECTION 6 - FNS REVIEWS OF PROGRAM OPERATIONS**1600 ITO/STATE AGENCIES**

FNS will review program operations at the ITO/State agency level to evaluate the effectiveness of the ITO/State agency in meeting the Plan of Operation and applicable policies, FNS instructions, and regulatory requirements and in providing efficient service to participants. The areas of review may include outreach activities, staffing, training, financial accountability and controls, certification and issuance procedures, program monitoring activities, complaints and fair hearing procedures, USDA foods ordering procedures, warehousing facilities and practices, recordkeeping and reporting, and civil rights compliance. FNS may conduct focused reviews on specific aspects of program operations.

The results of FNS' ITO/State agency level review must be documented in a formal Management Evaluation Report, which must contain recommendations for corrective action on program discrepancies. FNS will consult with the ITO/State agency to devise a corrective action plan on all major deficiencies and will require that appropriate steps be taken to resolve such deficiencies within a specified time frame. FNS will conduct follow-up reviews, as needed, to ensure that corrective action has been implemented and is effective.

1610 LOCAL AGENCIES

As appropriate, FNS will review program operations at the local agency level to evaluate the effectiveness of the State agency's administration of the program and ensure that it is in compliance with the State agency's Plan of Operation, applicable policy memoranda, this Handbook, FNS instructions, and regulatory requirements. These reviews may include the areas listed in paragraph 1600 as well as a review of the effectiveness of the State agency's training efforts and assistance to the local agencies. FNS will also review the State agency's monitoring reports and corrective action plans, if program deficiencies were found at the local agencies. As appropriate, FNS will conduct follow-up reviews to ensure that corrective action has been implemented and is effective.

SECTION 7 - AUDITS**1700 ITO/STATE AGENCY**

Audits are intended to ascertain the effectiveness of the financial management control and reporting systems as well as the internal procedures that have been established to meet the terms and conditions for Food Distribution Program funding.

Audit requirements for State, local, and Tribal governments and non-profit organizations that receive from USDA direct (recipient) or indirect (sub-recipient) financial assistance or cost-type contracts used to buy services or goods for the use of the Federal Government are contained in 2 CFR Part 200, Subpart F – Audit Requirements. State, local, and Tribal governments that expend \$750,000 or more in Federal awards within their respective fiscal years must have an audit made in accordance with 2 CFR Part 200, Subpart F. Specific guidance for the conduct of these audits is also provided under 2 CFR Part 200, Subpart F.

1710 AUDIT AUTHORITY

The USDA Office of the Inspector General and the U.S. Government Accountability Office have the authority to conduct audits of Food Distribution Programs at both the ITO/State agency and local agency levels and to review audit reports and related working papers of audits performed by or for ITOs/State agencies. A primary audit objective will be the continuing inspection and evaluation of the adequacy of the ITO's/State agency's financial management systems and controls. In addition, the audits may include client services, certification and distribution, fair hearings, and all other aspects of the program governed by the regulations.

CHAPTER II FINANCIAL MANAGEMENT

SECTION 1 - GENERAL PROVISIONS

2100 ADMINISTRATIVE FUNDING

Within the limitation of funds available for the administration of the Food Distribution Program by the ITOs/State agencies, FNS will provide each ITO/State agency 80 percent of the approved administrative costs. ITOs/State agencies are required to contribute 20 percent of its total approved administrative costs unless an administrative match waiver is granted.

2101 Allowable Costs

Federal administrative funds provided for the administration of the Food Distribution Program can only be used for allowable costs that are also necessary and reasonable for the proper and efficient administration of the program. The allowable cost principles for use of SNAP administrative funds, outlined in Appendix A of 7 CFR part 277 (Exhibit Y, attached), are generally applicable to the Food Distribution Program.

2102 Matching Requirement

ITOs/State agencies must contribute 20 percent of the total approved administrative cost requirements of the Food Distribution Program, unless they have received an administrative match waiver on the basis of compelling justification (see paragraph 2103).

Cash or non-cash contributions, including third party in-kind contributions, and the value of services provided by volunteers are allowable to meet the matching administrative cost requirements.

Administrative cost standards and principles for use in determining applicable Food Distribution Program costs are shown in Exhibit H, attached.

Funds provided from another Federal source may be used to meet the ITO/State agency matching requirement, provided that such use is consistent with the purpose of those funds and complies with this subsection. To use funds from another Federal source, the ITO/State agency must submit documentation for approval to the FNS Regional Office which shows the source, value, and purpose of those funds. In accordance with 7 CFR parts 253 and 277, such contributions must:

- A. Be verifiable.
- B. Be necessary and reasonable to accomplish program objectives.
- C. Be allowable under 7 CFR part 277.
- D. Be included in the approved budget.

2103 Compelling Justification

Upon request from an ITO/State agency, an FNS Regional Office may approve a waiver reducing an ITO's/State agency's matching requirement below 20 percent. To request a waiver, the ITO/State agency must submit compelling justification for the waiver to the appropriate FNS Regional Office. Compelling justification should include more than an assertion that no other funds are available to operate the program. The justification should include supporting evidence and demonstrate to the satisfaction of FNS why the Federal share of funding must be more than 80 percent of approved costs.

Compelling justification is based on either financial inability to meet the match requirement or the match requirement imposing a substantial burden. The request for the match waiver must be submitted with the following:

- A. For a waiver based on financial inability, a summary statement and recent financial documents showing that the State agency is unable to meet the 20 percent matching requirement and that additional administrative funds are necessary for the effective operation of the program.

Supporting financial documents must represent the financial status of the ITO/State agency within the last 2 years, and are limited to the following in accordance with FNS Instruction 716-4 Rev 1, Administrative Budget Negotiation Guidance for the Food Distribution Program on Indian Reservations and the Food Distribution Program for Indian Households in Oklahoma:

1. **Summary Statement.** The summary statement must include more than an assertion that no other funds are available to the ITO/State agency to operate the program. The ITO/State agency must explain why the proposed budget amount is necessary for the effective operation of the program and why the Federal share of funding should be more than 80 percent. The summary statement should include the reasons why the 20 percent match cannot be met by the ITO/State agency and how the accompanying financial documents support this position. The summary statement must be prepared by and/or cleared through tribal or state financial management staff.
2. **Supporting Financial Documents.** The supporting financial documents should represent the financial status of the ITO/State agency within the last two years, so that the FNS Regional Office can accurately assess the current financial situation of the ITO/State agency. Acceptable supporting financial documentation includes, but is not limited to, the following:
 - a. A set of audited financial statements that includes all tribal/state enterprises;
 - b. If the ITO/State agency has an audit requirement under 2 CFR part 200, Subpart F – Audit Requirements, the most recent audit reporting package submitted under 2 CFR 200.512;
 - c. A financial statement from the entity responsible for negotiating the ICR on behalf of the ITO/State agency.

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- B. For a waiver based on substantial burden, a signed letter from the leadership of the State agency or, in the case of an Indian Tribal Organization, from the leadership of the Tribal agency that oversees the Food Distribution Program, describing why meeting the 20 percent matching requirement would impose a substantial burden on the State agency, and why additional administrative funds are necessary for the effective operation of the program, along with supporting documentation, as needed.

The FNS Regional Office may not reduce any benefits or services to State agencies that are granted a waiver.

2104 Inventory Protection Requirements

In accordance with 7 CFR Part 250.12(d), ITOs and State agencies that have direct agreements with FNS to store and distribute USDA Foods, must obtain insurance to protect the value of their USDA Food inventories. ITOs and State agencies must also ensure that local recipient agencies and commercial storage facilities with which they have direct agreements obtain insurance to protect the value of their donated food inventories as well. Reasonable insurance premiums, as required by Part 250.12(d), may be paid for with program administrative funds. The amount of insurance must be at least equal to the ITO's/State agency's average monthly value of month-end donated food inventories in the previous fiscal year. Please see [Policy Memorandum FD-139](#), "Clarification on Inventory Protection Requirements," for more information.

SECTION 2 - FUNDING AND BUDGET PROCEDURES**2200 FUNDING****2210 APPLICATION FOR FUNDS**

ITOs and State agencies requesting administrative funds must submit a completed Standard Form (SF) 424, Application for Federal Assistance (see Exhibit I, attached), to the appropriate FNS Regional Office at least three months prior to October 1 of each Federal fiscal year. All ITOs/State agencies must include their Data Universal Numbering System (DUNS) number as well as their Internal Revenue Service Employee Identification Number (EIN) on the SF 424. ITOs/State agencies that do not have a DUNS number can obtain one by contacting Dun and Bradstreet by telephone at 1-866-705-5711 or on the Internet at <http://fedgov.dnb.com/webform>.

The application must include budget information that reflects the ITO's/State agency's best estimate of the amount of funding to be spent in the administration of the Food Distribution Program during the upcoming Federal fiscal year. The application must provide a breakdown of funds requested for each cost category and identify matching funds and the time period for which funds are needed. Funds can not be made available to the ITO or State agency until the application is approved by FNS. Applications for available administrative funds will be ranked for funding by FNS in the following priority: (1) applications from ITOs/State agencies that want to continue to operate a Food Distribution Program; (2) applications from ITOs/State agencies (in the order received) that FNS determines are immediately capable of effectively and efficiently administering the program; and (3) applications from other ITOs/State agencies (in the order received).

2220 BUDGET PROCEDURES

The appropriate FNS Regional Office may request additional information from the ITO/State agency to support or explain the estimated amounts shown for each cost category in the application. FNS will evaluate the budget in relation to the ITO's/State agency's plan of operation and other factors that are relevant to FNS' determination as to whether the estimated costs are reasonable and justified. The ITO/State agency will receive written notification from FNS regarding approval or disapproval of any or all of the itemized costs, the amount of funds to be made available, and the period of time the funds are available.

Grantees and subgrantees are permitted to rebudget between direct cost line items in their approved budgets to meet unanticipated requirements, provided that the cumulative transfers of funds among direct cost categories are less than ten percent of the current total approved budget. Changes in excess of ten percent must be approved by FNS.

SECTION 3 - METHODS OF PAYMENT**2300 GENERAL**

FNS will provide funds by means of a letter of credit (LOC). Payments are made through the Automated Standards Application for Payments (ASAP) system operated by the Department of the Treasury Bureau of the Fiscal Service (BFS). ASAP is an on-line web-based system that enables an ITO/State agency to request funds and to obtain such information as its LOC authorization level and the status of requests for funds. FNS establishes an ITO's/State agency's authority to draw funds through ASAP by making appropriate entries in the ITO's/State agency's ASAP account via the Integrated Program Accounting System (IPAS). An ITO/State agency must request payments only at such times and in such amounts as are necessary to pay claims and bills on hand (see paragraph 2323).

2310 ESTABLISHING THE LETTER OF CREDIT

When an ITO/State agency commences program operations, FNS will notify the BFS. The BFS will then contact the ITO/State agency to request the necessary documentation; assign the ITO/State agency a recipient/requestor organization identification number; provide logon access to the ASAP web-based system, etc. Access to ASAP will be via the web or voice response. Once these tasks have been completed, the applicable FNS Regional Office will establish the ITO's/State agency's ASAP account and assign it an account identification number.

2320 REQUESTING PAYMENT BY LETTER OF CREDIT

An ITO/State agency requests payment by accessing the ASAP payment request function and entering the necessary data. The ITO/State agency may elect either of two payment methods: FEDWIRE, which provides same day payment, or Automated Clearing House (ACH), which provides payment the next business day. The ASAP payment request function allows the State agency to direct the payment to its depository financial institution (DFI).

2321 Individual and Summary Payment Requests

The ITO/State agency may request a separate payment under each FNS program it administers (an individual payment), or it may request a summary payment covering multiple programs or other account categories. Individual payments may be requested by either FEDWIRE or ACH; summary requests may be requested only by ACH. All funds covered by a summary request must settle to the same DFI and bank account on the same settlement date.

2322 Management Control Over Payment Requests

When an ITO/State agency posts a payment request, the ASAP system validates the keyed information. This entails checking it for format, conformance to balance requirements, etc. If the system detects errors, the ITO/State agency will receive an error message and must edit the field(s) in error. If the system detects no errors, it will accept the posting. The ITO's/State agency's request can not be processed until it has been successfully posted.

2323 Payments by FNS to ITOs/State Agencies

- A. FNS is required by Federal regulations to employ methods and procedures for payments to ITOs/State agencies that minimize the time elapsing between the transfer of funds and the payout of funds by the ITO/State agency for Food Distribution Program purposes (see Department of the Treasury regulations at 31 CFR Part 205, and OMB Guidance at 2 CFR Part 200.305(b) is provided at Exhibit Z).
- B. FNS may make advance payments if the ITO/State agency maintains, or demonstrates the willingness and ability to maintain, procedures to minimize the time elapsing between the transfer of funds and its disbursement of the funds (see 2 CFR Part 200.305(b)).

2324 Payments by ITOs/State Agencies to Local Agencies

ITOs/State agencies must follow the requirements of paragraph 2323A in the transfer of administrative funds to local agencies. The ITO/State agency may make advance payments to local agencies if it receives assurances from the local agency that it employs procedures to minimize the time elapsing between the transfer of funds and the disbursement of funds by the local agency. This means that the local agency has incurred the costs, received the bill, approved it for payment, and anticipates immediate disbursement upon receipt of funds from the ITO/State agency.

SECTION 4 - FINANCIAL MANAGEMENT SYSTEM

2400 RESPONSIBILITY FOR MAINTENANCE OF RECORDS

The ITO/State agency must keep such accounts and records as may be necessary to enable FNS to determine whether there has been compliance with applicable Federal regulations (e.g., 2 CFR Part 200; 7 CFR Parts 253 and 254; etc.). This requirement embraces all accounts and records pertaining to administrative funds, whether maintained by an ITO/State agency or local agency, such as books of original entry, source documents supporting accounting transactions, the general ledger and subsidiary ledgers, personnel and payroll records, and canceled checks and related documents and records. The importance of adequate time and attendance accounting for full-time, part-time, and intermittent employees is emphasized. (See 2 CFR Parts 200.302 and 200.333)

2410 EQUIPMENT AND VEHICLE RECORDS

ITOs/State agencies are responsible for maintaining inventory control records of equipment and vehicles (i.e., tangible, nonexpendable personal property) purchased partially or entirely with funds provided by FNS.

2411 **Definition of Equipment**

The ITO/State agency may use its own definition of equipment; however, that definition must include all equipment that:

- A. Has an acquisition cost of \$5,000 or more (per unit), or a lower threshold established by the ITO/State agency for purposes of financial statement preparation; and
- B. Has a useful life of more than one year.

(See 2 CFR Part 200.33).

Tangible personal property that does not meet the definition above is considered to be **expendable personal property or supplies** (see 2 CFR Part 200.94).

2412 **Maintenance of Records**

Equipment and vehicle records maintained by the ITO/State agency must show for each vehicle or piece of equipment purchased (see 2 CFR Part 200.313(d)):

- A. A description of the equipment/vehicle;
- B. Acquisition date and cost;
- C. Source of the equipment/vehicle;
- D. Source(s) of funding to purchase the equipment/vehicle (including the Federal award identification number (FAIN));
- E. Who holds title to the equipment/vehicle;

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- F. Percentage of FNS funds used for acquisition;
- G. Manufacturer's serial number or other identification number;
- H. Location, use, and condition of the equipment/vehicle;
- I. Ultimate disposition data including sales price or method used to determine current fair market value, if applicable; and
- J. Trade-in value, if applicable.

Each item must remain on the equipment and vehicle record until sold, completely depreciated and rendered unserviceable, or otherwise disposed of. Records for equipment and vehicles acquired in whole or part with FNS funds must be retained for 3 years after final disposition. Microfilm copies, computer backup disks, and tapes may be substituted for original records.

2413 Disposition of Equipment and Vehicles

When equipment and vehicles acquired in whole or part with FNS funds are no longer needed for use in the Food Distribution Program, they must be handled as follows, in accordance with 2 CFR Part 200.313(e):

- A. Equipment and vehicles with a fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of by the ITO/State agency without obligation to FNS;
- B. Equipment and vehicles with a fair market value in excess of \$5,000 may be retained or sold by the ITO/State agency. If the equipment is sold, the ITO/State agency must reimburse FNS for its share of the proceeds (i.e., the amount of proceeds multiplied by FNS' percentage of participation in the cost of the equipment). In such a case, the ITO or State agency may deduct and retain from the Federal share the lesser of \$500 or 10 percent of the proceeds for its selling and handling expenses. If the equipment is retained but not used for another federally funded program, the ITO/State agency must reimburse FNS for its share of the fair market value of the equipment. The reimbursement amount must be remitted to FNS, which must pay it over to the U.S. Treasury in accordance with the Miscellaneous Receipts Act (31 USC 3302(b)).

2420 ACCOUNTING FOR FUNDS

Each ITO/State agency that accepts administrative funds must establish and maintain an effective system of fiscal control and accounting. Expenditures of FNS funds are restricted to allowable costs. Invoices, receipts, or similar documentation must be readily available to support such expenditures. This requirement also applies to local agencies. The ITO/State agency must keep records of all funds channeled into the Food Distribution Program whether from Federal, State, local, or other sources, so that the total cost of each program can be ascertained. Such accounting procedures must facilitate rapid preparation of reports required by FNS and accurately reflect the receipt, expenditures, and current balance of funds provided by FNS.

Accounting procedures must provide for segregation of costs identifiable to the Food Distribution Program from all other costs. If any other programs (e.g., the Commodity Supplemental Food Program) are operated simultaneously with the Food Distribution Program

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and are using the same facilities, equipment, or personnel, the costs attributable to the other programs must be identified separately and supported by appropriate cost allocation records.

The ITO/State agency may follow its established financial procedures so long as they provide the means through which full disclosure of financial transactions is achieved and can be verified.

2430 RETURN, REJECTION, AND REALLOCATION OF FUNDS

FNS may require an ITO/State agency to return unobligated funds, or it may reduce the amount of administrative funds awarded to the ITO/State agency when:

- A. The Food Distribution Program is not administered by the ITO/State agency in accordance with the Plan of Operation approved by FNS or applicable regulations;
- B. The amount of funds provided by FNS is in excess of actual need, based on expenditure reports and current projections of program needs; or
- C. Funding is reduced or not available.

At the close of each fiscal year, the ITO/State agency must return any unobligated funds to FNS within 90 days of September 30, the end of the fiscal year. Obligations incurred must be liquidated within 90 days after the end of the funding period, unless an extension has been granted by the FNS.

If an ITO/State agency terminates its participation in the Food Distribution Program for any reason, the administrative funds that are needed by the ITO/State agency to cover phase out expenses may be retained for the remainder of the fiscal year. The ITO/State agency must maintain proper documentation to show that such funds are used for allowable, necessary, and reasonable program expenses.

CHAPTER III APPLICATION PROCESSING PROCEDURES

SECTION 1 - THE APPLICATION PROCESS

3100 THE APPLICATION PROCESS

The application process begins with a request for an application form and ends with notification to the household of the ITO's or State agency's action on the household's application.

The process involves such actions as:

- A. Making the application available;
- B. Assisting a household in the completion of its application;
- C. Interviewing a member of the household or an authorized representative;
- D. Performing necessary collateral contacts and verifications;
- E. Advising the household of its rights and responsibilities; and
- F. Preparing necessary documents to authorize or deny household receipt and use of USDA foods.

This process must be completed promptly. No later than seven calendar days (excluding weekends and holidays) after an application is filed, an eligible household must be given an opportunity to receive USDA foods. Expedited service must be available to households in immediate need (see paragraph 3340).

3101 Notice of Right to Request Fair Hearing

At the time of application, each household must be informed in writing of the following:

- A. The household's right to request a fair hearing and to continue to receive the same level of benefits pending the outcome of the hearing;
- B. The method by which a hearing may be requested;
- C. That the household's case may be presented by a household member or representative, such as a legal counsel, a relative, a friend, or other spokesperson; and
- D. If available, the contact information for an individual or organization that provides free legal representation.

3110 THE APPLICATION FORM

The ITO/State agency must provide a household application form that is acceptable to the appropriate FNS Regional Office. The form must be understandable to applicants and easy to complete. Each application form, or its attachments, must contain a description of violations

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in understandable terms and in prominent and boldface lettering. Examples include: misstatement of income or household size, simultaneous participation in the Food Distribution Program and SNAP, and misuse of USDA foods. The application form, or its attachments, must include the following USDA Nondiscrimination Statement for SNAP and FDPIR state or local agencies, and their subrecipients:

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language), should contact the agency (state or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a [Form AD-3027, USDA Program Discrimination Complaint Form](#) which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (833) 620-1071, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to:

1. **mail:**
Food and Nutrition Service, USDA
1320 Braddock Place, Room 334
Alexandria, VA 22314; or
2. **fax:**
(833) 256-1665 or (202) 690-7442; or
3. **email:**
FNSCIVILRIGHTSCOMPLAINTS@usda.gov

This institution is an equal opportunity provider.

3120 FILING AN APPLICATION

An application is considered complete for filing purposes and must be accepted by the ITO/State agency if it contains the applicant's name and address and is signed by either a responsible member of the household or the household's authorized representative (see paragraph 3430).

3130 HOW APPLICATIONS CAN BE FILED

An application can be filed by the applicant or an authorized representative at a food distribution office, by mail, by email/scan or by fax (as long as it is readable, and the signature is clear).

3140 WHEN APPLICATIONS CAN BE FILED

Each household has the right to file an application on the same day it contacts the food distribution office having jurisdiction over the reservation on which the household resides, providing that the contact is made during office hours. The ITO/State agency must document the date the application was received.

3141 Right to Same-Day Filing

The ITO/State agency must advise households: 1) of their right to file an application form on the same day they contact the food distribution office; 2) that they do not have to be interviewed before filing the application; and 3) that they may file an application form as long as it contains the applicant's name, address, and the signature of either a responsible member of the household or the household's authorized representative. The ITO/State agency must encourage households to file an application form the same day the household or its representative contacts the food distribution office in person or by telephone and expresses interest in obtaining USDA foods. The ITO/State agency must include information about same day filing in outreach materials and must ensure that application forms are readily accessible to potentially eligible households and those groups and organizations involved in outreach efforts. The ITO/State agency must also provide an application form to anyone who asks for one. These requirements also apply to households applying for public assistance (PA) under the procedures found in paragraph 3200.

3150 MAILING APPLICATIONS TO HOUSEHOLDS

If the household has contacted the food distribution office by telephone but does not wish to come to the office to file the application that same day and instead prefers receiving an application through the mail, the ITO/State agency must mail an application form to the household on the same day the written request or telephone call is received.

3160 VOLUNTARY WITHDRAWAL OF APPLICATIONS

The household may voluntarily withdraw its application at any time prior to the ITO's/State agency's determination of eligibility. Voluntary withdrawal means the household, on its own initiative, has contacted the food distribution office, either orally or in writing, and asked that its application not be processed any further. The ITO/State agency must document in the case file the reason for withdrawal, if given, and that contact was made with the household to confirm the withdrawal. The household must be advised by the ITO/State agency of its right to reapply.

3170 REFUSAL OF SERVICE TO ABUSIVE CLIENTS

The ITO/State agency may refuse service to clients who are verbally or physically abusive to Food Distribution Program staff. Every effort should be made to safeguard the safety of Food Distribution Program staff, including the physical removal of abusive clients from the food distribution office by security officers or local law enforcement.

SECTION 2 - SPECIAL APPLICATION PROCESS

3200 APPLICATION PROCESSES FOR PA AND GA HOUSEHOLDS

ITOs/State agencies that are responsible for and administer both the Food Distribution Program and PA or GA programs on Indian reservations may allow a household to apply for the Food Distribution Program at the same time the household applies for PA or GA benefits. PA households are categorically eligible for USDA foods; however, for GA households to be categorically eligible, they must satisfy Food Distribution Program eligibility criteria, unless the GA program meets the need requirements of federally aided public assistance programs. The determination of need will be made by the appropriate FNS Regional Office.

If the ITO/State agency elects joint processing, it must use joint application forms that contain all the information necessary to determine eligibility. Alternatively, the ITO/State agency may attach a form to the PA/GA application for other information required to determine eligibility for the Food Distribution Program. ITOs/State agencies opting for joint processing must process all PA or GA applications as applications for the Food Distribution Program, unless the household clearly indicates on the application that it does not want USDA foods. To the extent that processing standards for the Food Distribution Program can be met, ITOs/States must conduct a single interview for PA or GA and the Food Distribution Program. If it appears that processing standards can not be met under the single interview procedure, the ITO/State agency must do a separate interview for PA or GA and Food Distribution Program eligibility. ITOs/States using joint processing may verify those factors of eligibility necessary for PA or GA but must follow the Food Distribution Program rules for all other program requirements.

3210 JOINT PA/FOOD DISTRIBUTION PROGRAM APPLICATION PROCEDURES

The ITO's/State agency's application for PA must contain all the information necessary to determine a household's eligibility for the Food Distribution Program. Information relevant only to food distribution eligibility must either be contained in the PA form itself or attached to it. The PA application must have a place for the household to indicate if it does not wish to apply for food distribution. The application must clearly indicate that the household is providing information for both programs.

3220 GA HOUSEHOLDS APPLYING FOR FOOD DISTRIBUTION BENEFITS

Households in which all members are applying for ITO/State agency administered GA must, at a minimum, be provided with applications for food distribution benefits and be referred to the appropriate food distribution office for an eligibility determination. Under certain circumstances (discussed below) those households may be able to apply jointly for their GA and food distribution benefits. Eligibility for GA households follows procedures described in paragraph 3200.

3221 Joint GA/Food Distribution Application Procedures

When applicable, ITOs/State agencies must use the same joint application procedures specified for PA household for GA households when the following criteria are met:

- A. The ITO/State agency administers a GA program that uses formalized application procedures and eligibility criteria that test levels of income; and

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- B. Administration of the GA program is integrated with the administration of the PA or Food Distribution Programs in that the same eligibility workers process applications for GA benefits and PA or food distribution benefits.

3222 Nonintegrated Administration

ITOs/State agencies that have not integrated the administration of their GA program, but otherwise meet the criteria specified for joint PA/food distribution procedures, may, with the approval of the appropriate FNS Regional Office, jointly process GA and Food Distribution Program applications. If approved, ITOs/State agencies must adhere to the joint application processing procedures for PA/Food Distribution Program applications.

3223 No Joint GA/Food Distribution Application Procedures

ITOs/State agencies that have not integrated the administration of their GA program and that do not elect or are not approved to use the joint application processing procedures must, at a minimum, advise all GA applicant households of their potential eligibility for food distribution benefits and provide these households with food distribution applications. In addition, ITOs/State agencies must allow households in which all members are applying for GA benefits to leave a signed food distribution application which contains, at a minimum, the household's name and address at the GA office. The GA office must forward these applications that same day to the appropriate food distribution office for processing. The procedural and timeliness requirements that apply to the application process must begin when the food distribution office receives the application. Since there may be a delay involved in transferring applications from GA offices to food distribution offices, households must be advised that they may receive faster service if they take the application directly to the food distribution office.

3224 Local GA Programs

In areas where GA programs are administered by local agencies or agencies such as the Department of Interior's Bureau of Indian Affairs, the ITO/State agency must endeavor to gain their cooperation in referring GA applicants to the Food Distribution Program. Where possible, this referral should consist of informing the GA applicants of their potential eligibility for food distribution benefits, providing them with food distribution applications, and directing them to the local food distribution office.

SECTION 3 - PROCESSING TIME STANDARDS**3300 TIME STANDARDS FOR PROCESSING OF APPLICATIONS**

The ITO/State agency must provide eligible households with an opportunity to obtain USDA foods as soon as possible but not later than 7 calendar days, excluding weekends and holidays, after an application was filed. An application is considered filed the day the ITO/State agency receives an application that contains, at a minimum, the applicant's name and address and is signed by either a responsible member of the household or the household's authorized representative (see paragraph 3120).

3310 TIME STANDARDS FOR SPECIAL APPLICATION PROCESSES

PA and GA applications, except those on which the household has indicated it does not want food distribution, must be processed as food distribution applications in accordance with all timeliness standards and procedures specified in paragraph 3300. If the household's intention to apply for food distribution is unclear, the ITO/State agency must determine at the interview, or in other contact with the household, whether the household wants the PA or GA application processed for food distribution purposes.

3311 Action When Food Distribution Determination Precedes PA or GA Determination

As a result of differences in PA or GA and food distribution application processing procedures and timeliness standards, the ITO/State agency may have to determine food distribution eligibility prior to determining eligibility for PA or GA payments. Action on the food distribution portion of the application can not be delayed nor the application denied on the grounds that the PA and GA determination has not been made.

3320 DELAY IN PROCESSING DUE TO LACK OF VERIFICATION

If the ITO/State agency can not process the application within 7 calendar days, excluding weekends and holidays, after the application was filed due to a lack of verification as required in paragraph 3504, the ITO/State agency must authorize the distribution of USDA foods for one month pending verification, but only if the application appears to contain all necessary financial information (i.e., total household income) **and** it appears that the household will, in all likelihood, be eligible for the Food Distribution Program. No further distribution of USDA foods will be made without obtaining required verification and completing the eligibility determination.

3330 INCOMPLETE APPLICATIONS

An application is considered incomplete for **filing purposes** if it does not contain the applicant's name and address and is not signed by either a responsible member of the household or the household's authorized representative (see paragraph 3120). If the application is incomplete and the ITO/State agency is unable to contact the household the ITO/State will take no further action on the application. (See paragraph 3620 if the household does not respond to a request for an interview or fails to cooperate during the interview.)

3340 EXPEDITED SERVICE

Households that report no income in the current month and those households that, in the judgment of the ITO/State agency, would likely be eligible and would otherwise suffer hardship must be provided with an opportunity to obtain USDA foods within one calendar day, excluding weekends and holidays, after the date the application was filed. The basis for the determination that the household qualifies for expedited service must be recorded in the case file. The ITO's/State agency's application processing procedures must be designed to identify households eligible for expedited service at the time such households request assistance. ITOs/State agencies must provide same day service, if possible, to households eligible for expedited service that would likely suffer hardship if required to return to the office the next day. While warehouses or other distribution points may not be open during all certification hours to accommodate expedited processing provisions, certification or other personnel must have access to USDA foods for distribution to households in immediate need.

3341 Verification Requirements

To expedite the certification of households in immediate need, the verification provisions under paragraphs 3504 and 3505 may be postponed (see paragraph 3509). However, the ITO/State agency must verify the household's identity and address through a collateral contact or readily available documentary information ((see paragraph 3502). If possible, the household's income statements should be verified at the same time. In addition, the ITO/State agency should make every effort to check for dual participation in SNAP within the expedited service processing time frame. Verification for households certified on an expedited basis must be completed prior to any subsequent distribution of USDA foods to the household.

SECTION 4 - HOUSEHOLD CONCEPT**3400 COMPOSITION OF A HOUSEHOLD FOR APPLICATION PURPOSES**

Household means any of the individuals or groups of individuals listed below:

- A. An individual living alone;
- B. An individual living with others but customarily purchasing food and preparing meals for home consumption separate and apart from the others; or
- C. A group of individuals living together who customarily purchased food in common and who prepare meals together for home consumption (see paragraph 4220).

NOTE: Separate household status can not be granted to a spouse of a household member or to children under eighteen years of age that are under the parental control of a household member.

3401 Temporary Absences

An individual may still be considered a household member during temporary absences from home for such reasons as vacations, family emergencies, work trips, school breaks, etc. The ITO/State agency may further define “temporary absences” in terms of duration but must apply the definition equally to all participating households.

3410 NONHOUSEHOLD MEMBERS AND INELIGIBLE PERSONS

Nonhousehold members are persons residing with a household who are not considered part of the household for application or eligibility purposes. Nonhousehold members are not considered in determining the household's eligibility or the amount of USDA foods it will receive.

Ineligible persons are individuals who are prohibited from participating in the Food Distribution Program, but their income may be considered in determining the eligibility of other household members.

Nonhousehold members and ineligible persons are specified in paragraphs 3411 through 3416.

3411 Roomers

Roomers are persons to whom a household furnishes lodging for compensation but not meals. Roomers are considered nonhousehold members but may be eligible to participate as a separate household.

3412 SSI Recipients in "Cash-Out" States

Recipients of Supplemental Security Income (SSI) benefits who live in a State where the Secretary of the Department of Health and Human Services has determined that the SSI payments have been specifically increased to include the value of the SNAP allotment are considered nonhousehold members and are not eligible for Food Distribution Program benefits in any month they receive SSI.

3413 Disqualified Individuals

Part of the income of a disqualified household member is counted in determining the eligibility of the remaining household members (see paragraph 4730). The following persons are not eligible for Food Distribution Program benefits until their period of disqualification expires:

- A. All members of a household that failed to pay a claim under the Food Distribution Program (see paragraph 5710);
- B. Persons determined by the ITO/State agency to have committed an intentional program violation under the Food Distribution Program (see paragraph 5720);
- C. Persons who have been convicted in a court of law for fraud under the Food Distribution Program (see paragraph 5730); and
- D. Persons who have been disqualified for an intentional program violation under SNAP (see paragraph 5740).

A pending disqualification hearing will not affect the individual's or the household's right to be certified and participate in the Food Distribution Program. An individual or household may continue to participate until they have been officially disqualified.

3414 Unqualified Aliens

The ITO/State agency may choose to either provide or deny program benefits and services to persons who are not U.S. citizens or do not meet the definition of “qualified alien” at 8 U.S.C. 1641(b) (see paragraph 4211).

3415 Foster Care Children and/or Adults

Households that contain foster children and/or adults may opt to:

- A. Count one or more of the foster children/adults as members of the household. The foster care payments of those children/adults counted as household members must be counted as unearned income to the household;
- B. Classify one or more of the foster children/adults as boarders (see definition of “boarder” under paragraph 1110). The foster children/adults are not counted as part of the household. The foster care payments are excluded from the household's income, and the foster children/adults are not included in determining the amount of USDA foods the household is to receive.

3416 Boarders and Residents of Institutions

Individuals who are boarders or residents of an institution are not eligible for Food Distribution Program benefits.

3417 Others

Persons who share living quarters with the household but who do not customarily purchase food or prepare meals with the household are considered nonhousehold members. If, for example, an

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applicant household shares its living quarters with another family to save rent but does not purchase and prepare meals with that family, the members of the other family are not members of the applicant household but may be considered as a separate household for eligibility purposes.

3420 HEAD OF HOUSEHOLD

ITOs/State agencies may designate the head of household or permit the household to do so. ITOs/State agencies must not impose additional requirements based on who has been selected as head of household, such as requiring that the head of household, rather than another responsible adult member of the household, appear at the food distribution office to make application for benefits. In the event that the head of the household or the spouse is unable to file the application, another responsible household member or an authorized representative may apply for the household.

3430 AUTHORIZED REPRESENTATIVE

There may be instances when the head of the household or the spouse can not apply for the household. In such instances, another responsible household member may apply or an adult, nonhousehold member may be designated as the authorized representative for that purpose.

3431 Who Can Be an Authorized Representative

Adults who are nonhousehold members may be designated as authorized representatives for certification purposes only if they are:

- A. Designated in writing by the head of household, the spouse, or another responsible member of the household; and
- B. Sufficiently aware of relevant household circumstances.

In the event that the only adult member of a household is classified as a nonhousehold member, that person may be designated as the authorized representative for the minor household members.

3432 Who Can Not Be an Authorized Representative

The following individuals can not be designated as authorized representatives:

- A. ITO/State agency employees who are involved in the certification and/or distribution processes, unless he or she has the specific written approval of the designated ITO/State agency official such as county welfare director or local food distribution supervisor and only after a determination has been made that no one else is available to serve; and
- B. Disqualified individuals can not act as authorized representatives during the period of disqualification, unless a disqualified individual is the only adult member of the household able to act on its behalf and the ITO/State agency has determined that no one else is available to serve. The ITO/State agency must separately determine whether these persons are permitted to apply or to obtain USDA foods on behalf of the household.

3433 Liability for Designation

It is important that the head of the household or the spouse prepares or reviews the application, whenever possible, even though another household member or the authorized representative will actually be interviewed. The ITO/State agency must inform the household that it will be held liable for any excess distribution of USDA foods that results from erroneous information given by the authorized representative.

3434 Authorized Representatives for Obtaining USDA Foods

An authorized representative may be designated for obtaining USDA foods on behalf of the household. These designations must be made at the time the application is completed. The authorized representative for picking up USDA foods may be the same individual designated to make application for the household or may be another individual. Even if a household member (i.e., the head of the household, spouse, or other member) is able to make application and obtain the food, he or she should be encouraged to name an authorized representative for obtaining the food in case of illness or other circumstances that might result in an inability to obtain the USDA foods.

3435 Documentation and Control of Authorized Representatives

The ITO/State agency must ensure that authorized representatives are properly designated. The name of the authorized representative(s) must be maintained as part of the household's case file. An authorized representative may represent one or more households.

SECTION 5 - VERIFICATION AND DOCUMENTATION OF ELIGIBILITY CRITERIA

3500 GENERAL PROVISIONS

Verification is the use of third-party information or documentation to establish the accuracy of statements on the application. Below are the general requirements for verification of financial and nonfinancial eligibility factors.

3501 Responsibility for Providing Verification

The household has primary responsibility for providing documentary evidence to support its income statements and resolve any questionable information. Households may supply documentary evidence in person, through the mail, or through an authorized representative. The ITO/State agency must accept any reasonable documentary evidence provided by the household but must be satisfied that the verification adequately proves the statements. If it would be difficult or impossible for the household to obtain documentary evidence in a timely manner or the ITO/State agency can do so more quickly than the household, the ITO/State agency must offer assistance to the household in obtaining the documentary evidence.

3502 Sources of Verification

- A. Documentary Evidence. The ITO/State agency must use documentary evidence as the primary source of verification for all items. Documentary evidence consists of a written confirmation of a household's circumstances. Although documentary evidence must be the primary source of verification, acceptable verification must not be limited to any single type of document and may be obtained through the household or from other sources. **Whenever documentary evidence can not be obtained, the ITO/State agency must use alternate sources of verification such as collateral contacts and home visits.** In all cases, the methods of verification must be recorded in the case file.
- B. Collateral Contact. A collateral contact is a verbal confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the phone. The acceptability of a collateral contact can not be restricted to a particular individual, but may be anyone that can be expected to provide an accurate third-party verification of the household's statements. Examples of acceptable collateral contacts are employers, community action groups, neighbors of the household, or other persons outside the household.

The ITO/State agency must rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. However, the ITO/State agency is not required to use a collateral contact designated by the household if the collateral contact can not be expected to provide accurate third-party verification. When the collateral contact designated by the household is unacceptable, the ITO/State agency must ask the household to designate another collateral contact. The ITO/State agency is responsible for obtaining verification from the collateral contact.

Once the household has supplied the name of a collateral contact or has asked the ITO/State agency for assistance in locating a collateral contact, the ITO/State agency must promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification.

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- C. Home Visits. Home visits may be used as verification only if documentary evidence and collateral contacts can not be obtained. The ITO/State agency must attempt to schedule a visit in advance with the household.

3503 Discrepancies

Where information from another source contradicts statements made by the household, the household must be given a reasonable opportunity to resolve the discrepancy prior to an eligibility determination.

3504 Mandatory Verification

- A. **ITOs/State agencies must verify all gross nonexempt income prior to certification.** Verification does not need to be to the exact dollar amount unless the household's eligibility would be affected. However, where all attempts to verify income have been unsuccessful either because the person or organization providing the income has failed to cooperate or because sources of verification are unavailable, the ITO/State agency must determine an amount to be used for certification based on the best available information.
- B. **ITOs/State agencies must verify the household expenses to support the allowance of the child support deduction, the medical expense deduction, and the shelter and utility expense deduction** (see paragraph 3539).

3505 Verification of Questionable Information

Eligibility criteria, other than income, including residency on or near the reservation must be verified prior to certification only if they are questionable. To be considered questionable, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information on the application or previous applications, or inconsistent with information received by the ITO/State agency (see paragraph 3510).

3506 Verification for Joint PA or GA and Food Distribution Program Applications

For households filing a joint PA or GA and food distribution application, the verification procedures described in Section 5 of this Chapter must be used for eligibility factors which concern only the household's eligibility for food distribution. Those factors that concern both PA and food distribution eligibility or both GA and food distribution eligibility may be verified according to PA or GA procedures.

3507 Verification of Reported Changes

Changes reported during the certification period must be subject to the same verification procedures as apply at initial certification, except that the ITO/State agency is not required to verify income if the source has not changed and the amount has changed by \$100 or less since the last verification.

3508 Verification at Recertification

In recertifying a household, the ITO/State agency must verify a change in income if the source

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has changed or the amount has changed by more than \$100 since it was last verified.

If the ITO/State agency has reason to question a household's report that income is unchanged or that it has changed by less than \$100, it must verify the income. The ITO/State agency must use the same verification procedures employed at initial certification to check on all other changes reported at the time of recertification. The verification requirements for households applying for recertification within 30 days after the expiration of the certification period will remain the same as for those households making timely recertification.

3509 Verification for Expedited Service

To expedite the certification of households in immediate need, the ITO/State agency may postpone the verification required in paragraphs 3504 and 3505 except that the households' identity and address must be verified by collateral contact or other readily available documentary evidence. If possible, the household's income statements must be verified at the same time. The ITO/State agency must complete the verification for households certified on an expedited basis prior to the distribution of USDA foods to the households for any subsequent month.

3510 VERIFICATION OF NONFINANCIAL ELIGIBILITY CRITERIA

Where questionable, the household's identity and residency must be verified through readily available documentary evidence, collateral contact, or home visit, if necessary, prior to certification. Certification can not be delayed to obtain verification of questionable nonfinancial eligibility criteria. However, verification of the questionable nonfinancial eligibility criteria must be obtained prior to the household's receipt of a second month's issuance of USDA foods. As it is difficult to verify if a group of individuals customarily purchase and prepare meals together, the ITO/State agency must generally accept the household's statement regarding food preparation and purchasing.

3511 Verification of Identity

When necessary, examples of acceptable documentary evidence that the household may provide include but are not limited to:

- A. A driver's license;
- B. Work or school identification card;
- C. Voter registration card;
- D. Birth certificate; and
- E. Identification card for health benefits, other programs, or other social services.

Household identity is that of the applicant. If an authorized representative applies for the household, the head of the household should be identified.

3512 Verification of Residency

Where appropriate, documents with the household's address will be the primary source of verification, although collateral contacts and/or home visits may be used if documentary evidence can not be obtained.

3530 VERIFICATION OF INCOME

The ITO/State agency must use documentary evidence as the primary source of verification for income.

3531 Earned Income

For earned income, the household must provide a full month's wage statements. If a full month's wage statements are not available (e.g., applicant was recently hired for work), then the applicant must provide wage statements received to date and provide employment information that can be verified by collateral contacts (e.g., name of employer, employer phone number, hourly wage rate, hours worked per pay period, amount of time on the payroll, prospects for continued employment, etc.). Whenever documentary evidence can not be obtained, is insufficient to make a firm determination of eligibility, or appears to be falsified, collateral contacts or home visits must be used. For example, documentary evidence may be considered insufficient when the household presents pay stubs that do not represent an accurate picture of the household's income (such as out-dated pay stubs) or identification papers that appear to be falsified. If other types of verification are used, the ITO/State agency must document in the case file why an alternate source was needed. Benefits can not be delayed beyond the processing time standards described in paragraph 3300 if income has not been verified. However, benefits can not be provided for more than one month in cases where verification of income has not been completed (see paragraph 3320).

The following are documents that can be used to verify earned income:

- A. From Applicant:
 - 1. Pay stubs;
 - 2. Pay envelope;
 - 3. Employee's W-2 form;
 - 4. Wage tax receipts; and
 - 5. State or Federal income tax return.
- B. From Others:
 - 1. Employer's wage records;
 - 2. Statement from employer;
 - 3. Employment Security Office; and
 - 4. State Income Tax Bureau.

3532 Self-Employment Income

- A. If the household reports fairly consistent self-employment income and expenses from year to year, the ITO/State agency may choose to use the household's Internal Revenue Service filings as a guide in determining the household's anticipated self-employment income for the

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certification period. Below is a list of the forms generally used to report self-employment income for tax purposes:

1. Schedule F, Profit or Loss from Farming;
 2. Schedule C, Profit or Loss from Business, or Schedule C-EZ, Net Profit from Business;
 3. Schedule E, Supplemental Income and Loss.
- B. In many cases self-employment income may vary from month to month or from year to year. If the household experiences a recent increase or decrease in business, the previous year's tax return may not be an accurate reflection of the income and expenses the household anticipates for the coming months or year. In such cases, it may be necessary to review other documentary evidence, such as the actual income and expense receipts received in recent months or the household's self-employment bookkeeping records.

3533 Household Reporting Zero Income

Households who report zero income month after month must be questioned as to how they are able to sustain themselves and other household members. The ITO/State agency must design a standard form for FNS Approval to document the case file in these cases. The form must include a statement that the household has received no income; questions on how the household obtains shelter, clothing, personal items, laundry services, etc.; signature of the head of household and collateral contact, if needed; and date. No other form may be accepted. See Section 3502 of this Chapter for information on sources of verification, including third-party verification through a collateral contact.

3534 Unearned Income

In verifying unearned income, the following documents are generally available from the applicant:

- A. Social Security award letter (changes in benefits will not always be reflected);
- B. Benefit payment check;
- C. Unemployment Compensation award letter;
- D. Pension award notice;
- E. Department of Veterans Affairs award notice or records;
- F. Correspondence on benefits;
- G. Income tax records;
- H. Railroad Retirement award letter or Railroad Retirement Board records;
- I. Support and alimony payments evidenced by court order, divorce or separation papers, or contribution check;
- J. State Data Exchange (SDX) System (see paragraph 3535);
- K. Social Security (Form SSA-1610);
- L. Social Security District Office files;
- M. Bureau of Employment Security - Unemployment Compensation Section;
- N. Union records;
- O. Workman's Compensation records;
- P. Insurance company records; and
- Q. Tax records.

3535 State Data Exchange (SDX) System--Social Security Benefits

If documentary evidence of Social Security benefits is not readily available from the applicant, the ITO/State agency may verify, where possible, the income through the SDX. The amount of Social Security benefits reported on the application is used to compute the household's eligibility, pending receipt of verification from SDX. Prior to submission of the ITO's/State agency's request for verification, any household member whose Social Security benefits are verified through SDX must sign an information release statement that is valid only during the certification period.

3536 Verification of Loans

Loans are excluded as income to the household (see paragraph 4545). The ITO/State agency is not required to verify a loan unless it is questionable. In verifying a questionable loan, a legally binding agreement is not required. A simple statement signed by both parties that indicates that the payment is a loan and must be repaid will be sufficient verification. However, the ITO/State agency may also require that the provider of the loan sign an affidavit that states repayments are being made or that payments will be made in accordance with an established repayment schedule if the applicant household receives payments on a recurrent or regular basis from the same source.

3537 Verification of Nonexcluded Educational Income

Verification of the amounts received from nonexcluded scholarships, deferred loans, or grants may be obtained directly from the household or other sources, such as the agency or institution providing the monies (see paragraph 4544).

3538 Unreported Income

In addition to verifying reported income, the ITO/State agency may have occasion to explore the possibilities of unreported income. When income information on the application is inconsistent with statements made by the applicant, other information on the current or previous applications, or other information received by the ITO/State agency, further verification must be provided. For example, if a household reports its unemployment compensation (UC) has stopped but a record in the case file shows that the UC benefits are available for several additional months, further verification would be needed. Another situation possibly requiring further verification is if a household reported filing for PA, SSI, Social Security, or similar benefits on previous applications but still reports not receiving them. If the ITO/State agency knows that the average waiting period has passed, a determination must be made as to whether the household has unusual circumstances delaying the benefits or if, in actuality, the benefits have begun.

3539 Verification of Income Deductions

Verification is required for the child support deduction, the medical expense deduction, and the shelter and utility expense deduction. For all other deductible expenses, verification is necessary only when the claimed expense is questionable.

A. Child Support Deduction - This income deduction applies only to child support payments **to or for a nonhousehold member**. The ITO/State agency must obtain verification of:

1. The household's legal obligation to pay child support;

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2. The amount of the obligation; and
3. The monthly amount of child support the household actually pays.

A court order or similar documentation may be used to verify the household member's legal obligation to pay the child support, but it cannot be used to verify the household's actual monthly child support payments. Since some non-custodial parents fail to fully meet their court-ordered obligation each month, it is necessary that the ITO/State agency obtain documentation, such as canceled checks or money order receipts, that verify the amount of monthly child support actually paid by the household.

In many cases, the amount of child support paid may fluctuate each month. In such instances, the ITO/State agency should average the payments. For example: Mr. Smith is legally obligated to pay \$350 in child support each month. In December, he paid \$350; in January, he paid \$250; in February, he paid \$400; and in March he paid \$300. If you average the total amount of child support paid from December-March ($\$1300 \div 4$ months), you get an average of \$325, which would be the amount used for the income deduction. The purpose of averaging is to use a history of payments to establish an anticipated pattern of payment for a future period of time (i.e., the upcoming certification period). Therefore, it is not necessary that the number of months used in the averaging process equal the number of months of the assigned certification period.

- B. Medical Expense Deduction- This income deduction applies to households that incur monthly medical expenses in excess of \$35 by any household member who is elderly or disabled. The ITO/State agency must obtain verification that the incurred cost is an allowable medical expense. See paragraph 4554 for a list of allowable medical expenses. NOTE: Persons younger than 65-years old that are eligible for Medicare qualify for this deduction (e.g., persons with chronic kidney disease or other disabilities).
- C. Shelter and Utility Expense Deduction – This income deduction applies to households that incur shelter or utility expenses. The ITO/State agency must obtain verification that at least one allowable shelter or utility expense is incurred by the household on a monthly basis. See paragraph 4555 for a list of allowable shelter and utility expenses,
- D. Dependent Care Deduction – Verify only if questionable. This income deduction applies to the actual cost of dependent care paid to a non-household member for a child or other dependent when necessary for a household member to search for, accept, or continue employment or to attend training or pursue education that is preparatory to employment. Acceptable documentation would include canceled checks, money order receipts, or dated receipts provided to the household by the dependent care provider. If the amount of dependent care fluctuates each week, the ITO/State agency shall determine an average monthly amount based on the anticipated future need for dependent care and using past expenses as a guide.

3540 NONCOOPERATION OF A DISQUALIFIED MEMBER OF THE HOUSEHOLD

If a disqualified member of the household refuses to provide information needed to certify the remaining members, alternate methods of verification should be used. For example, if the disqualified member refuses to provide income information, a collateral contact may be used. The ITO/State agency may also, if no other means of verification are available, base the income

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on the best available information. (See paragraph 4730 for further information on determining eligibility and benefit levels for households with disqualified members.)

3550 DOCUMENTING THE VERIFICATION

Case files must be documented to support eligibility, ineligibility, and level of USDA foods distributed to the household. The documentation must be in sufficient detail to permit a reviewer to determine the reasonableness, accuracy, and date of the determination. Where verification was required to resolve questionable information, the ITO/State agency must document why the information was considered questionable and what documentation was used to resolve the questionable information. The ITO/State agency must also document the reason why a non-documentary source of verification, such as a collateral contact or home visit, was needed. Also, the case file must be properly documented to reflect why a collateral contact supplied by the household was rejected by the ITO/State agency and an alternate collateral contact was requested and used.

SECTION 6 - INTERVIEWING

3600 STANDARDS FOR INTERVIEWS

All applicant households, including those submitting applications by mail, email/scan, or fax, must have an interview by a certification worker prior to certification. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The interview must be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy must be protected during the interview. Facilities must be adequate to preserve the privacy and confidentiality for the interview, especially at tailgate sites.

The ITO/State agency should not simply review the information that appears on the application but must explore and resolve unclear and incomplete information. In addition, the ITO/State agency must fully advise households of their rights and responsibilities during the interview, including an explanation of the appropriate application processing time and the household's responsibility to report changes.

At ITO/State agency discretion, applicants may be interviewed by telephone or in the home. No household can be interviewed by telephone for any two consecutive certifications without a face-to-face interview at the food distribution office, tailgate site, or home. ITOs/State agencies must attempt to schedule home visits in advance. Home visits may not extend required time limits for processing.

3610 JOINT PA OR GA AND FOOD DISTRIBUTION PROGRAM INTERVIEW

The ITO/State agency must conduct a single interview at initial application for PA or GA and food distribution purposes unless the ITO/State agency is unable to do so within the Food Distribution Program processing time standards (see paragraph 3200).

3620 HOUSEHOLD FAILURE OR REFUSAL TO COOPERATE

- A. Failure to Cooperate. If the household fails to respond to the ITO's/State agency's attempts to arrange an interview and the application does not provide enough information for the ITO/State agency to make a determination of eligibility, the ITO/State agency will take no further action on the application (see paragraph 3330).

If the household fails to provide verification required in paragraph 3504 and 3505 within the 7-calendar day processing standard (excluding weekends and holidays), the ITO/State agency may certify the household for one month pending completion of the verification, but only if the application appears to contain all the necessary financial information (i.e., total household income) **and** it appears that the household will, in all likelihood, be eligible for the Food Distribution Program (see paragraph 3320). No further distribution of USDA foods can be made without obtaining required verification and completing the eligibility determination.

- B. Refusal to Cooperate. If the household refuses to cooperate with the ITO/State agency in completing any part of the application process, the application must be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate but clearly demonstrate that it will not take actions that it can take and which are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely fail to show up for the interview. If

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there is any question as to whether the household has merely **failed** to cooperate, as opposed to **refused** to cooperate, the household must not be denied solely for that reason. The household must also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility. Once denied or terminated for refusal to cooperate, the household may reapply but can not be determined eligible until it cooperates.

CHAPTER IV ELIGIBILITY CRITERIA

SECTION 1 - DETERMINING HOUSEHOLD ELIGIBILITY

4100 DETERMINING HOUSEHOLD ELIGIBILITY

The following steps will lead to the final eligibility determination of a household.

- A. Establish household composition (membership).
- B. Establish the household's residency on the reservation or status as an Indian Tribal Household if living in a near area.
- C. Determine if the household automatically meets the financial eligibility criteria requirements without testing income (PA, GA, and SSI households).
- D. Determine if the nonassistance household meets financial eligibility criteria requirements by testing the household's net food distribution income against the food distribution income standards (see Exhibit M for the contiguous United States and Alaska, attached) for the appropriate household size.

4101 Determining Eligibility and Benefit Level for Households with a Disqualified Member(s)

The disqualified member is not included when determining the household's size for purposes of assigning the level of USDA foods to be received by the household or for purposes of comparing the household's net monthly income with the income eligibility standards. See paragraph 4730 for instructions on the handling of the income of a disqualified household member.

SECTION 2 - NONFINANCIAL ELIGIBILITY CRITERIA

4200 NONFINANCIAL ELIGIBILITY STANDARDS

This section provides a description of the nonfinancial criteria (i.e., residency and household composition) that all households must meet.

4210 RESIDENCY

A household must be living on the reservation in which it files an application for participation. Households living in approved near areas or in FNS service areas in Oklahoma (see paragraph 4212) must qualify as an Indian Tribal Household to participate in the program.

For the purposes of determining residency, a household's place of residence does **not** have to be a permanent structure at a fixed address, such as a house, apartment, mobile home or trailer, hogan, or pueblo. Also, an ITOs/State agency cannot impose any durational residency requirements. However, persons must be living on the respective reservation, near area, or FNS service area the majority of the time as their primary residence. Persons on the reservation solely for vacation, including weekend and holiday stays, cannot be considered residents. No household may participate in SNAP or in the Food Distribution Program in more than one geographical area at the same time.

4211 Citizenship

ITOs/State agencies may choose to either provide or deny program benefits and services to persons who are not U.S. citizens or do not meet the definition of qualified alien at 8 U.S.C. 1641(b). If a State agency chooses to expand participation to unqualified aliens, it should consult with State or tribal legal counsel in the development of any new procedures.

ITOs/State agencies that choose to continue to limit participation to qualified aliens should be aware that section 289 of the Immigration and Nationality Act (INA) provides permanent resident status to persons born in Canada who have at least 50 percent Native American blood. Therefore Canadian Indians who fulfill the requirements of section 289 of the INA are considered to have legal resident status and must be treated the same as qualified aliens for Food Distribution Program purposes. To demonstrate qualification under section 289 of the INA, individuals must show proof of birth in Canada and certification of at least 50 per centum Native American blood. The following documents issued by the Immigration and Naturalization Service (INS) identify the holder as qualifying for permanent resident status under section 289 of the INA: INS Form I-551 with the code S13 or unexpired temporary I-551 stamp in Canadian passport or on INS Form 1-94 with the code S13.

4212 Near Area or FNS Service Area

The Food Distribution Program may operate in areas near a reservation and in FNS service areas in Oklahoma as specified in the ITO's/State agency's Plan of Operation and approved by FNS. Households living in these approved areas may participate in the program as an Indian Tribal Household if at least one household member is recognized as a tribal member of any Indian tribe (see definition of "Indian Tribal Household" in paragraph 1110). The Bureau of Indian Affairs of the U.S. Department of Interior periodically publishes a notice in the Federal Register listing the federally recognized Indian tribes in the United States.

4213 Urban Places

Households living in urban places within a reservation may, if otherwise eligible, participate in the Food Distribution Program. However, participation is prohibited in urban places outside a reservation (in accordance with 7 CFR 253.4(d)) and in FNS service areas in Oklahoma (in accordance with 7 CFR 254.5(b)). ITOs/State agencies may request a waiver of these requirements. Waiver requests, with appropriate justification, must be submitted to the appropriate FNS Regional Office.

4220 HOUSEHOLD COMPOSITION

Households must list on their applications the various members to be considered for food distribution benefits. The ITO/State agency must examine each application to determine if there are members who may not be eligible to participate in the household (see paragraph 3410 for a listing of nonhousehold members and ineligible persons).

The ITO/State agency must verify any questionable information provided by the household about the composition of the household, such as the household's size. However, as it is difficult to verify if a group of individuals customarily purchases and prepares meals together and, therefore, constitutes a household, the ITO/State agency will generally accept the household's statement regarding food preparation and purchasing (see paragraph 3400).

**SECTION 3 - FINANCIAL ELIGIBILITY CRITERIA
CATEGORICALLY ELIGIBLE HOUSEHOLDS****4300 CATEGORICALLY ELIGIBLE HOUSEHOLDS****4310 PA AND SSI HOUSEHOLDS**

Households in which all members are included in a federal public assistance or SSI grant, except those SSI participants discussed in paragraph 3412, automatically meet income eligibility requirements for the Food Distribution Program. Therefore, the ITO/State agency will not test any of the incomes of the households against the Food Distribution income standards.

4320 GA HOUSEHOLDS

Households in which all members are included in an FNS approved general assistance grant (see paragraph 3220) or a combination of GA, PA, and SSI grants, automatically meet income eligibility requirements for the Food Distribution Program. The ITO/State agency will not test any of the incomes of these households against the Food Distribution income standards.

4330 NONASSISTANCE HOUSEHOLDS

The ITO/State agency must test the incomes of all households in which one or more members do not participate in PA, SSI, and/or GA grants against the Food Distribution Program income standards. Nonassistance households must meet the financial as well as the nonfinancial eligibility criteria in order to receive USDA foods.

SECTION 4 - RESOURCES**4400 RESOURCES**

Household resources (e.g., cash on-hand, money in checking or saving accounts, stocks, bonds, saving certificates) are excluded when determining household eligibility.

SECTION 5 - INCOME**4500 INCOME**

This section defines nonexcluded and excluded income and allowable deductions.

Household income includes all income from whatever source except for the exclusions listed in paragraph 4540. Income is categorized as earned or unearned. The ITO/State agency must count nonexcluded income that is reasonably anticipated to be received over the proposed certification period.

4510 BASIS OF NATIONAL INCOME ELIGIBILITY STANDARDS

In accordance with 7 CFR 253.6(e), the income eligibility standards for the Food Distribution Program are the net monthly eligibility standards for SNAP increased by the amount of the applicable standard deduction. The income eligibility standards are adjusted each October 1, as necessary, to reflect changes in SNAP income eligibility limits and standard deductions. The income eligibility standards are listed in Exhibit M of this handbook. Revised exhibits will be provided annually by the appropriate FNS Regional Office.

4511 Income Eligibility Standards for Nonassistance Households

The ITO/State agency must apply the uniform national income eligibility standards for the Food Distribution Program to nonassistance households. Households that are categorically eligible are treated in accordance with the provisions in paragraphs 4310 and 4320.

4520 EARNED INCOME

The following types of income are considered earned:

- A. Wages. All wages and salaries of an applicant household. The portion of wages that is garnished for court-ordered support or alimony is considered income (see paragraph 4542.1).
- B. Self-employment. The gross income from a self-employment enterprise, including the net profit from the sale of any capital goods or equipment related to the business. Payments from roomers and returns on rental property are considered self-employment income (see paragraph 4720).
- C. Training Allowances. Training allowances from vocational and rehabilitative programs sponsored by Federal, State, or local governments to the extent they are not a reimbursement.
- D. Work Study Earnings. College work study earnings are considered earned income unless excluded by law. Work study programs authorized by Title IV of the Higher Educational Act (20 U.S.C. 1087uu) are excluded; however, some Federal work study programs are not Title IV programs.

4530 UNEARNED INCOME

The following types of income are considered unearned. (This list is not inclusive.)

- A. Assistance Payments. Assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or Temporary Assistance for Needy Families (TANF), general assistance (GA) programs, or other assistance programs based on need.
- B. Pensions, Disability Payments, and Social Security. Annuities; pensions; retirement accounts; veteran's or disability benefits; workman's or unemployment compensation; old-age, survivors' or social security benefits; and strike benefits. The gross amount of these payments is always used, even if taxes and/or other amounts are withheld.
- C. Foster Care, Support, and Alimony. Foster care payments for children or adults counted as members of the household in which they reside. However, foster care payments for individuals that are categorized as boarders would not be counted as unearned income (see paragraph 3415). Support such as child support or alimony payments made directly to the household from nonhousehold members.
- D. Student Financial Assistance. Scholarships, educational grants, fellowships, deferred payment loans for education, veteran's educational benefits, and the like unless excluded by law. Student financial assistance provided under Title IV of the Higher Educational Act (20 U.S.C. 1087uu) is excluded (see paragraph 4543D).
- E. Grants, Interest Payments. Payments from government-sponsored programs, dividends, interest, royalties, and all other direct money payments from any source that can be construed to be a gain or benefit.
- F. Income from Disqualified Members. The earned income (less the 20 percent earned income deduction) and unearned income of a disqualified household member less the pro rata share for the disqualified individual. If, for example, there are six members of a household and one of those persons is disqualified, the pro rata share is one-sixth of the income. The household receives five-sixths of the disqualified member's income for Food Distribution Program eligibility purposes.
- G. Federal Housing Administration's "Family Living Plan". Payments received on a monthly basis for household expenses.
- H. Per Capita Payments from Gaming and Other Tribal Enterprises. Profits from gaming and other tribal enterprises paid to tribal members on a regular monthly basis. Per capita payments received less frequently than monthly (e.g., quarterly, semiannually, annually) are excluded from consideration as income.
- I. Land-Lease and Treaty Income. Land lease and treaty income payments if payments are received more frequently than annually. See paragraph 4549E for treatment of land-lease and treaty income distributed on an annual basis.
- J. Adoption Subsidies. Adoption subsidies if they are received on a recurring basis.

4540 EXCLUDED INCOME

The following types of income are excluded when computing a household's total income for testing against the Food Distribution Program income standards. No other income will be excluded.

4541 In-Kind Income

Any gain or benefit, not in the form of money, that is payable directly to the household, such as in-kind benefits. For example, meals, clothing, public housing, or produce from a garden are not considered income for eligibility purposes.

4542 Vendor Payments

A payment made in money on behalf of a household must be considered a vendor payment whenever a person or organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household. For example, if a relative or friend who is not a household member pays the household's rent directly to the landlord, the payment is considered a vendor payment and is not counted as income to the household.

4542.1 Exception to Vendor Payment Rule - Legally Obligated Payments

Monies that are legally obligated and otherwise payable to the household that are diverted by the provider of the payment to a third party for a household expense must be counted as income and not considered as a vendor payment. The distinction is whether the person or organization making the payment on behalf of a household is using funds that would otherwise have been paid to the household. Such funds include wages earned by a household member and, therefore, are owed to the household, a public assistance grant to which a household is legally entitled, and support or alimony payments that legally must be paid to a household member.

If an employer, agency, or former spouse who owes these funds to a household diverts them instead to a third party to pay for a household expense, these payments are counted as income to the household. However, if an employer, agency, former spouse, or other person makes payments for household expenses to a third party from funds that are not owed to the household, these payments are considered vendor payments.

A. Example 1.

1. Income. Wages earned by a household member that are garnished or diverted by an employer and paid to a third party for a household's expenses, such as rent.
2. Vendor Payment. The employer pays a household's rent directly to the landlord in addition to paying the household its regular wages or the employer provides housing to an employee. The value of the housing is not counted as income.

B. Example 2.

1. Income. All or part of a public assistance grant that would normally be provided to the household is diverted to a third party or to a protective payee for purposes such as managing a household's expenses.

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2. **Vendor Payment.** A payment by the State agency that would not normally be provided to the household, that is over and above normal public assistance grant, and that is made directly to a third party for a household expenses. This rule applies even if the household has the option of receiving a direct cash payment.

C. Example 3.

1. **Income.** Money deducted or diverted from a court-ordered support or alimony payment (or other binding written support or alimony agreement) to a third party for a household expense.
2. **Vendor Payment.** Support payments not required by a court order or other legally binding agreement (including payments in excess of the amount specified in a court order or written agreement) that are paid to a third party rather than the household, even if the household agrees to the arrangement.

4543 Income Excluded by Law

The ITO/State agency will not count any income that is specifically excluded by any other Federal statute from consideration as income. The following laws provide exclusion. (This list is not inclusive.):

- A. See http://www.fns.usda.gov/fdd/programs/fdpi/fdpi_guidance.htm for a listing of Federal payments to American Indians and Alaska Natives that are excluded by law from consideration as income under a federal or federally-assisted means tested program.
- B. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646, Section 216). The following payments are included under Title II of this Act:
 1. Payments to persons displaced as a result of the acquisition of real property;
 2. Relocation payments to a displaced homeowner toward the purchase of a replacement dwelling. Such payment may only be made to a displaced owner who purchases and occupies a dwelling within one year following displacement; and
 3. Replacement housing payments to displaced persons not eligible for a homeowner's payments.
- C. Payments to volunteers under the Domestic Volunteer Services Act of 1973 (Public Law 93-113, as amended), including the Retired and Senior Volunteer Program (RSVP), Foster Grandparent Program, Senior Companion Program, and Americorps*VISTA are excluded as income. Also, payments received by individuals participating in the Senior Community Service Employment Program authorized under the Older American Act of 1965 (Public Law 89-73) are excluded as income. Under these programs participants may receive an hourly tax-free wage, a reimbursement for transportation expenses, an end-of-service stipend, or an education award.

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- D. Student financial assistance received from a program under Title IV of the Higher Education Act and/or funds received under a Bureau of Indian Affairs student assistance program (20 U.S.C.1087uu).
- E. Payments made as a result of an emergency or major disaster (e.g., payments to farmers during natural disasters) in accordance with Section 312(d) of the Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1988 (Public Law 100-707).
- F. Allowances, earnings, and payments received by individuals participating in programs under the Workforce Investment Act of 1998.
- G. Stipends paid to Indian vocational training students under the Carl D. Perkins Vocational and Applied Technology Education Act (Public Law 101-392). Stipends are defined as a subsistence allowance to cover attendance costs. Attendance costs are tuition and mandatory fees, rental or purchase of any equipment required of all students in the same course of study, books, materials, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a halftime basis, as determined by the institution.
- H. Payments provided under Public Law 104-204 to cover the health care of children with spina bifida who were born to Vietnam veterans.
- L. Additional pay received by military personnel as a result of being deployed to a combat zone (i.e., combat pay) that is made available to the applicant or participating household via a direct deposit, military allotment, or other means. Only combat pay is excluded; other types of incentive, bonus, or special military pay are not excluded.

The source and amount of the payments received under any of the authorities identified above must be verified before they are excluded.

4544 Allowable Educational Expenses Paid From Nonexcluded Student Financial Assistance

Student financial assistance includes deferred educational loans, grants, scholarships, fellowships, and veterans' educational benefits. The portion of student financial assistance not excluded in paragraph 4543D which is used to pay allowable educational expenses is excluded from income. Allowable educational expenses include tuition and mandatory fees, books, supplies, transportation, and miscellaneous personal expenses other than normal living expenses. Mandatory fees are those charged to all students or charged to all students within a certain curriculum. For example, uniforms, lab fees, or equipment charged to all students in order to enroll in a chemistry course would be excluded. (See paragraph 4710.)

Student financial assistance used for or earmarked by the provider for normal living expenses is counted as income. Also, the exclusion in this paragraph does not apply to allowable education expenses paid from sources other than student financial assistance, such as student earnings or public assistance.

4545 Loans

All loans, including loans from private individuals as well as commercial institutions, other than deferred educational loans.

4546 Reimbursement for Expenses

Reimbursements for past or future expenses are excluded to the extent that they do not exceed actual expenses. For example, household members may receive reimbursements or flat allowances for travel expenses they incur (e.g., mileage, lodging, and meals) while attending training or working a temporary duty assignment. Household members may also be reimbursed for books, uniforms, equipment, tools, and other job or training related expenses.

4547 Third Party Payments

Monies received and used for care and maintenance of a third party beneficiary who is not a member of the household.

4548 Earnings of Children

The earned income of members of the household who are students at least halftime and who are not yet 18 years old. Their income is excluded even during temporary interruptions in school attendance due to semester or vacation breaks provided the child's enrollment will resume following the break. Individuals are considered children for this exclusion if they are under the parental control of another household member. Emancipated minors are not considered children for the purposes of this provision.

4549 Miscellaneous Exclusions

- A. Irregular Income. Any income in the certification period that is received too infrequently or irregularly to be reasonably anticipated but not in excess of \$30 in a quarter.
- B. Costs of Self-Employment. The cost of producing self-employment income. See paragraphs 4723 and 4724 for the procedures on computing the cost of producing self-employment income.
- C. Recoupments. Monies withheld from an assistance payment, earned income, or other income source that are voluntarily or involuntarily returned to repay a prior overpayment received from that income source.
- D. Lump-Sum Payments. Money received in the form of a non-recurring lump-sum payment, including but not limited to income tax refunds, Tribal per capita payments received less frequently than monthly, rebates, or credits; retroactive lump-sum social security, SSI, PA, and railroad retirement pension or other payment; retroactive lump-sum insurance settlements; or refunds of security deposits on rental property or utilities.
- E. Land-Lease or Treaty Income. If annual payments are distributed to tribal members, such payments are considered nonrecurring lump-sum payments. If received more frequently than annually, the payments must be counted as income (see paragraph 4530I).

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- F. Title IV-D Payments. Child support payments received by TANF recipients that must be transferred to the agency administering Title IV-D of the Social Security Act of 1935, as amended, to maintain TANF eligibility.

4550 DEDUCTIONS FROM INCOME

The deductions allowed for the Food Distribution Program are listed below. See paragraph 4630 on determining deductions.

Under paragraphs 4552, 4553, 4554 and 4555, expenses covered by excluded reimbursements or vendor payments are not deductible.

4551 Earned Income Deduction

A 20 percent deduction is applied to gross earned income, including self-employment income.

- A. Self-Employment Income. The 20 percent earned income deduction is applied after the costs of doing business are subtracted from the gross self-employment income (see paragraph 4640).
- B. Unearned Income Subject to Withholdings. The 20 percent earned income deduction is not applied to unearned income that is subject to withholdings (e.g., unemployment compensation).
- C. Disqualified Household Member. The 20 percent earned income deduction is applied to the earned income of a disqualified household member (see paragraph 4731B).

4552 Dependent Care

Households may deduct the actual cost of care for a child or other dependent when necessary for a household member to search for, accept, or continue employment or to attend training or pursue education that is preparatory to employment. Dependent care expenses are only deductible if the care is provided by a non-household member and the household makes a money payment for the service. For example, a deduction is not allowed if another household member provides the care or compensation for the care is provided in the form of an in-kind benefit such as food. If dependent care expenses are incurred on a weekly or bi-weekly basis, the expense shall be converted to a monthly amount in accordance with paragraph 4621.

4553 Child Support

Legally required child support payments paid by a household member to or for a nonhousehold member, including payments made to a third party on behalf of the nonhousehold member (vendor payments). The ITO/State agency must allow a deduction for amounts paid towards overdue child support (arrearages). Alimony payments made to or for a nonhousehold member cannot be included in the child support deduction. See paragraph 3539A on verification requirements for the child support deduction.

4554 Medical Expenses

Households receive an income deduction for medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in paragraph 1110. Spouses or other persons receiving benefits as a dependent of a Supplemental Security Income (SSI) or disability and blindness recipient are not eligible to receive this deduction. However, persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. The allowable medical costs are those permitted by SNAP under 7 CFR 273.9(d)(3) and are as follows:

- A. Medical and dental care, including psychotherapy and rehabilitation services, provided by a licensed practitioner authorized by State law or other qualified health professional.
- B. Hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home, provided by a facility recognized by the State.
- C. Prescription drugs when prescribed by a licensed practitioner authorized under State law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental), or other prescribed equipment are deductible.
- D. Health and hospitalization insurance policy premiums. Costs that are not deductible include health and accident policies such as those payable in lump sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled.
- E. Medicare premiums related to coverage under Title XVIII of the Social Security Act; any cost-sharing or spend down expenses incurred by Medicaid recipients. Note: An income deduction for Medicare premiums is not allowed in situations where the household member is not required to pay a premium. In some instances, the premiums are paid on behalf of the Medicare beneficiary. Also, a household member may not be a Medicare beneficiary because they receive their healthcare through the Indian Health Service.
- F. Dentures, hearing aids, and prosthetics.
- G. Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills.
- H. Eye glasses prescribed by a physician skilled in eye disease or by an optometrist.
- I. Reasonable cost of transportation and lodging to obtain medical treatment or services.
- J. Maintaining an attendant, homemaker, home health aide, child care services, or housekeeper necessary due to age, infirmity, or illness. If the household furnishes the majority of the attendant's meals, then a meal-related deduction is allowed for the attendant. The amount of the meal-related deduction is based on the maximum SNAP allotment for a one-person household (see Exhibit M). If a household incurs attendant care costs that could qualify under

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both the medical deduction and the dependent care deduction, the ITO/State agency must treat the cost as a medical expense.

K. See paragraph 3539B on verification requirements for medical expenses.

4555 Shelter and Utility Expenses

Households that incur monthly shelter and/or utility expenses will receive a shelter/utility standard deduction, subject to the provisions below.

- A. The household must incur, on a monthly basis, at least one allowable shelter or utility expense. The allowable shelter/utility expenses are those permitted for SNAP under 7 CFR 273.9(d)(6)(ii) and include:
1. Continuing charges for the shelter occupied by the household, including rent, mortgage, condominium and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.
 2. Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.
 3. The cost of fuel for heating or cooling (i.e., the operation of air conditioning systems or room air conditioners); electricity or fuel used for purposes other than heating or cooling; water; sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; all service fees required to provide service for one telephone, including, but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, and taxes; and fees charged by the utility provider for initial installation of the utility. One-time deposits are not deductible.
 4. The shelter costs for the home if temporarily not occupied by the household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss. For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for program purposes; and the home must not be leased or rented during the absence of the household.
 5. Charges for the repair of a home that was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs cannot include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

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- B. The shelter/utility standard deduction amounts are set and adjusted annually by FNS on a regional basis (See Exhibit M). FNS will advise the ITO/State agencies of the updates prior to October 1 of each year.
- C. If eligible to receive a shelter/utility standard deduction, the applicant household may opt to receive the appropriate deduction amount for the State in which the household resides or the State in which the ITO/State agency's central administrative office is located.

SECTION 6 - DETERMINING HOUSEHOLD INCOME

4600 GENERAL STANDARDS FOR DETERMINING INCOME

For the purpose of determining the household's eligibility for the Food Distribution Program the ITO/State agency must take into account the income the household is currently receiving and any anticipated income the household and the ITO/State agency are reasonably certain will be received during the certification period.

- A. If the amount of or the timing of income that will be received is uncertain, the ITO/State agency must not count that portion of the household's income that is uncertain. For example, a household anticipating income from a new source, such as a new job or recently applied for PA benefits, may be uncertain as to the timing and amount of the initial payment. These monies would not be counted by the ITO/State agency unless there is reasonable certainty concerning the month in which the payment will be received and the amount.
- B. If the exact amount of the income is not known, that portion of it that is anticipated with reasonable certainty is counted as income.
- C. In cases where the receipt is reasonably certain, but the monthly amount may fluctuate, the household may elect to average the income as described in paragraph 4622.

4610 DETERMINING INCOME

4611 **Income in the Past 30 Days.**

Income received during the past 30 days must be used as an indicator of the income that is available to the household during the certification period, unless changes in income have occurred or can be anticipated.

- A. Steady Employment. In cases where the head of the household is steadily employed, income from the previous month is usually a good indicator of the amount of income that can be anticipated in the month of application and subsequent months. If information supplied by the household or a collateral contact indicates that future income will differ from the previous month's income, the ITO/State must use such information to make a reasonable estimate of anticipated income. The method used to determine income must be fully documented in the case file.
- B. Hourly and Piece-Work Wages. When income is received on an hourly wage or piece-work basis, weekly income may fluctuate if the wage earner works less than eight hours some days or is required to work overtime on others. In this case the ITO/State agency should consult with the household to determine the "normal" amount of income expected as a result of one-week's work and if this is reasonably certain to be available on a regular basis during the certification period. This amount should be used to determine monthly income.

4612 **Seasonal Income**

If the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The ITO/State agency must exercise particular caution in using income from a past season as an indicator of income for the certification period. The income may fluctuate

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from one season in one year to the same season in the next year. In no event will the ITO/State agency automatically attribute to the household the amounts of any past income.

4613 Withheld Wages

Wages held by the employer at the request of the employee must be considered income to the household in the month the wages would otherwise have been paid by the employer. However, wages held by the employer as a general practice, even if in violation of law, are not counted as income to the household unless the household anticipates that it will receive an advance or income from wages that were previously held by the employer.

4614 Self-Employment Income

Monies received from a self-employment enterprise less the allowable costs of doing business are to be considered when determining eligibility for the Food Distribution Program. Procedures for establishing countable self-employment earnings are discussed in more detail in paragraphs 4720 through 4727.

4615 Anticipated Income

Income anticipated during the certification period must be counted as income only in the month it is expected to be received unless the income is averaged.

4620 ASSIGNING INCOME FOR THE CERTIFICATION PERIOD

The following paragraphs describe the rules and procedures to be used for assigning monthly income levels.

4621 Actual Versus Converted Income

The ITO/State agency must choose from among the following options to determine monthly income when a full month's income is anticipated and income is received on a weekly or biweekly basis:

- A. Convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15;
- B. Convert the income to a monthly amount by multiplying weekly and biweekly amounts by the ITO's/State agency's conversion standard; or
- C. Use the exact figure if it can be anticipated for each month of the certification period.

4622 Averaging Income -- Optional

In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate and the household's income is close to the income eligibility limit, the ITO/State agency may elect to average income provided that such averaging does not disadvantage the household. The averaging must be based on income that is anticipated to be available to the household during the certification period.

4623 Averaging Income -- Mandatory

- A. Contract or Self-Employment Annual Income. Contract employees or households whose self-employment income represents the household's annual support, including the net profit from the sale of any capital goods or equipment related to the business, must be annualized over a 12-month period. These households may include school employees, share croppers, farmers, and other self-employed households. The procedures for averaging self-employed income are described in paragraph 4725.
- B. Non-Annual Contract or Self-Employment Income. Households whose contract or self-employment income represents only a part of the household's annual support, must have their income averaged over the period of time it is intended to cover. For example, self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year must have their self-employment income averaged over the summer months rather than a 12-month period.
- C. Educational Grants, etc. Households receiving scholarships, deferred education loans, or other educational grants must have such income, after exclusions, averaged over the period for which it was provided. See paragraph 4710 for instructions on handling student income.

4630 DETERMINING DEDUCTIONS**4631 Limitation on Allowable Deductions**

The income deductions allowed under the Food Distribution Program are limited to those listed in paragraph 4550.

4632 Billed Expenses Deducted in Month Due

Deductions are allowed in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. Amounts carried forward from past billing periods are not deductible even if included with the most recent billing and actually paid by the household. Expenses can only be deducted once.

4633 Fluctuating Expenses and Converting to a Monthly Amount

If the expense fluctuates, the household may elect to have the expenses averaged.

If the household is billed on a weekly or biweekly basis, the ITO/State agency must use the applicable conversion procedure in paragraph 4621.

4640 CALCULATION OF NET MONTHLY INCOME

The following steps lead to the determination of a household's net monthly income. See paragraphs 4710 and 4720 for more details on determining monthly income for households with student financial assistance or self-employment income.

- A. Total Gross Earned Income. Add together the gross monthly income earned by all household members to determine the household's total gross earned income. Do not round at this point.

(4640)

- B. Total Self-Employment Income. If applicable, add together the self-employment income (as calculated at paragraph 4727) from the various enterprises engaged in by all household members to determine the household's total self-employment income. Do not round at this point.
- C. Total Gross Earned and Self-Employment Income. Add together the total gross earned income from 4640A and the total self employment income from 4640B. Do not round at this point.
- D. Net Monthly Earned Income. Subtract 20 percent from the total amount from 4640C to determine the net monthly earned income. Do not round at this point.
- E. Unearned Income. Add to net monthly earned income (4640D), the total monthly unearned income of all household members, minus income exclusions allowed under paragraph 4540. Do not round at this point.
- F. Student Financial Assistance. If applicable, add the average monthly student financial assistance (as calculated at paragraph 4711). Do not round at this point.
- G. Other Allowable Deductions. Subtract allowable monthly expenses for dependent care, child support, medical expenses, and region-specific standard amounts for shelter/utility expenses, if applicable. Do not round at this point.
- H. Round the total amount from 4640G. Use one of the following two rounding procedures: 1) Round down an amount that ends in 1 through 49 cents and round up an amount that ends in 50 through 99 cents; or 2) Apply the rounding procedure that is currently in effect for the Tribe's/State's Temporary Assistance for Needy Families (TANF) program.
- I. Compare the rounded amount from 4640H to the income standards at Exhibit M, attached.

SECTION 7 - DETERMINING INCOME OF SPECIAL HOUSEHOLDS

4700 GENERAL STANDARDS

This section addresses the eligibility of households with difficult determinations and/or for which there are special policies or procedures:

- A. Households receiving student financial assistance;
- B. Household with self-employment income;
- C. Households with disqualified members; and
- D. Households with nonhousehold members, such as persons receiving SSI in cash-out States.

4710 HOUSEHOLDS RECEIVING STUDENT FINANCIAL ASSISTANCE

Households with students may have unusual sources of income. Income peculiar to student households includes scholarships, fellowships, educational grants, deferred payment loans, veteran's educational benefits, cash gifts or awards for educational expenses, and cash from parents. Such sources of income result in an uneven cash flow. Student financial assistance payments may be received in one payment but are intended to cover a specific period of time--a semester, school year, etc. Likewise, the major expenses of education--tuition and mandatory fees--are also paid at one time, again emphasizing the uneven cash flow. Students under 18 years of age are granted an exemption for any income earned through employment or self-employment, except for emancipated minors that are no longer under parental control of another household member (see paragraph 4548).

4711 **Determining Average Monthly Amount of Student Financial Assistance**

The following method is used to determine the average monthly amount of student financial assistance received by a household member. This calculation must be done separately for each household member that has student financial assistance:

- A. Total the household member's student financial assistance not excluded by law (see paragraph 4543F), e.g., educational loans on which repayment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and work study earnings. **Do not include in this step** funds received by the student from other sources, such as earnings or public assistance. Earned income and unearned income are included in the calculation of the household's monthly income at paragraph 4640.
- B. Subtract the portion of the student financial assistance used for or earmarked by the provider for allowable educational expenses (see paragraph 4544). Allowable educational expenses include tuition and mandatory school fees, books, supplies, transportation, and miscellaneous personal expenses other than normal living expenses. Mandatory school fees include the rental or purchase of equipment, material, and/or supplies related to the pursuit of the course of study involved. **Do not subtract in this step** student financial assistance used for or earmarked by the provider for normal living expenses.
- C. Average the remaining funds over the period the student financial assistance is intended to cover (e.g., divide by 9 for a 9-month school year).

(4711)

- D. This amount is household member's average monthly student financial assistance. Apply this amount to the calculation of the household's monthly income at paragraph 4640F.

4720 HOUSEHOLDS WITH INCOME FROM SELF-EMPLOYMENT

A household may engage in one or more type of self-employment enterprise. For example, a husband may be a self-employed landscaper while his wife may make and sell crafts. The costs of doing business are subtracted from the income produced by a self-employment enterprise in determining the monthly self-employment income amount. However, the income and costs of doing business for each enterprise must remain separate. For example, the costs of making and selling crafts can only be subtracted from the income produced by the crafts enterprise. Therefore, a separate calculation for each self-employment enterprise must be done, as described in paragraph 4727.

4721 Income from Rental Property

Income derived from rental property is considered self-employment income. The cost of doing business, such as advertising fees and repairs, may be deducted from the rental income (see paragraph 4727D).

4722 Income from Capital Gains

The term "capital gains" refers to the profit from the sale or transfer of capital assets used in a self-employment enterprise or securities, real estate, or other real property held as an investment for a set period of time. For Food Distribution Program purposes only the net profit from the sale or transfer is considered income.

Net income is determined by subtracting allowable costs related to that sale or transfer (see paragraph 4727D). The following rules apply to allowable (excludable) costs of doing business related to capital gains:

- A. Proceeds from the sale of farm products that are reinvested in the farm are excludable;
- B. Sale proceeds that are used to buy food for livestock are excludable;
- C. Sale proceeds used to purchase land or make payments on the mortgage principal are **not** excludable.

4723 Costs of Producing Self-Employment Income -- Allowable Exclusions

Allowable costs of producing self-employment income include, but are not limited to:

- A. Labor;
- B. Stock, raw materials, seed, and fertilizer;
- C. Interest paid to purchase income producing property;
- D. Insurance premiums;

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- E. Taxes paid on income producing property;
- F. Proceeds from the sale of farm products that are reinvested in the farm. The proceeds from the sale must be counted as income, but the proceeds that are reinvested are excluded as an allowable cost of doing business;
- G. The separate and identifiable costs related to the portion of a home used for a self-employment enterprise (except for payments on the mortgage principal).

4724 Costs of Producing Self-Employment Income - Unallowable Exclusions

The following items are not excludable costs of producing self-employment income:

- A. Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods;
- B. Net losses from previous periods;
- C. Depreciation; and
- D. The Federal, State, and local income taxes and retirement plan of the self-employed individual. Also, work-related expenses for that individual, such as transportation to and from work. These expenses are accounted for by the 20 percent earned income deduction (see paragraph 4551).

4725 Prorating Self-Employment Income

- A. When Self-Employment Income Represents Annual Income. Self-employment income that represents a household's annual income must be prorated over a 12-month period even if the income is received at one time. For example, the self-employment income received by a farmer is prorated over a 12-month period if the income is intended to support the farmer on an annual basis. This self-employment income must be annualized even if the household receives income from other sources in addition to self-employment (see 4725C).
- B. When Self-Employment Income is Received Monthly. Self-employment income that is received on a monthly basis, but represents a household's annual support, is normally prorated over a 12-month period. For example, a self-employed landscaper may receive income each month from the various jobs he does throughout the year. However, if the averaged amount from past months does not accurately reflect the household's actual or anticipated circumstances because the household has recently experienced or expects a substantial increase or decrease in business, the ITO/State agency must calculate the self-employment income based on anticipated earnings.
- C. When Self-Employment Income is Part of Total Annual Household Income. Self-employment income that is intended to meet the household's needs for only part of the year must be prorated over the period of time the income is intended to cover. For example, self-employed vendors that work only in the summer and supplement their income with other types of employment during the balance of the year must have their self-employment income prorated over the summer months rather than a 12-month period.

(4725)

- D. **When Self-Employment Enterprise is a New Business.** If a household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise must be prorated over the period of time the business has been in operation and the monthly amount projected for the coming year. However, if the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household may be certified for less than a year until the business has been in operation long enough to be able to base a longer projection.

4726 Stable and Unstable Self-Employment Income

- A. **Stable Self-Employment Income.** Self-employment income and expenses may be fairly consistent on a monthly or annual basis. If the household anticipates that its self-employment income and expenses will not change significantly, then the ITO/State agency may choose to use the household's Internal Revenue Service (IRS) filings as a guide in determining the household's anticipated self-employment income for the proration period (see paragraph 3532).
- B. **Unstable Self-Employment Income.** Self-employment income and expenses may vary from month to month, or year to year, and the previous year's tax return may not reflect the household's anticipated circumstances for the proration period. The ITO/State agency should review the household's most recent income and expense receipts and attempt to determine, with the household, what its anticipated income and expenses will be for the proration period. When determining anticipated self-employment income, the ITO/State agency must include any capital gains the household anticipates it will receive during the proration period (see paragraph 4722).

4727 Determining Monthly Self-Employment Income

The following steps should be followed in determining the monthly income for each self-employment enterprise engaged in by the household:

- A. Determine the period over which the self-employment income will be prorated (see paragraph 4725). For example, a landscaper works 10 months out of the year but this income represents his annual income, so his self-employment income will be prorated over a 12-month period.
- B. Total the gross self-employment income (including capital gains) for the period of proration. For example, the landscaper received payments totaling of \$20,965.34 over the 10 months that he worked.
- C. Subtract the total costs of doing business from the total gross self-employment income. For example, the landscaper had receipts totaling \$9,784.85 for allowable costs of doing business (e.g., lawnmowers and other equipment, gas and oil for the equipment, business advertisements, business cards, etc.). This leaves self-employment income of \$11,180.49 (\$20,965.34 – \$9,784.85 = \$11,180.49).

Reminder: Only allowable business expenses associated with this enterprise can be subtracted from the income of this enterprise. Business expenses from another self-employment enterprise cannot be subtracted from the landscaping business income.

(4727)

- D. Divide the result from 4727C by the number of months determined in 4727A. For example, the landscaper's monthly self-employment amount would be \$931.71 ($\$11,180.49 \div 12$ months = \$931.71).
- E. This amount is the monthly self-employment amount. Apply this amount (and the monthly self-employment amount from any other self-employment enterprise) to the calculation of the household's monthly income at paragraph 4640B.

NOTE: When using the household's most recent tax return as a guide, certain business deductions that are allowed for income tax purposes are not considered allowable costs of doing business for Food Distribution Program purposes. For example, depreciation is an allowable business deduction for IRS purposes, but **is not** an excludable cost of doing business under the Food Distribution Program.

Also, certain items are counted as income for income tax purposes that are not counted as income for Food Distribution Program purposes. The following are items listed as income for income tax purposes that are not considered income for Food Distribution Program purposes:

Schedule C: Line 6 – Federal and State gas or fuel tax credit or refund

Schedule F: Line 7 - Loans
 Line 8 - Crop insurance proceeds/disaster payments
 Line 10 - Federal and State gas or fuel tax credit or refund

4730 HOUSEHOLDS WITH DISQUALIFIED MEMBERS

Individual household members may be disqualified from the Food Distribution Program for several reasons (see paragraph 3413). During the period of time a household member is disqualified, the following procedures must be used to determine the eligibility of any remaining household members for participation in the Food Distribution Program.

4731 Applying Financial Eligibility Standards

A pro rata share of the nonexcludable income of the disqualified member is counted as income to the remaining members. This pro rata share is calculated by first subtracting the 20 percent earned income deduction from the disqualified member's earned income, if applicable, and dividing the total income evenly among the household members, including the disqualified member. All but the disqualified member's share is counted as income to the remaining household members. For example, if the disqualified individual was a member of a four-person household, 3/4 of the income of the disqualified member (after the earned income deduction is subtracted, if applicable) would be counted as income to the household.

4740 HOUSEHOLDS WITH NONHOUSEHOLD MEMBERS

See paragraph 3410 for a description of nonhousehold members.

- A. Income. The income of the nonhousehold member is not considered available to the household. Cash payments from the nonhousehold member to the household are considered income unless the nonhousehold member is making vendor payments. Vendor payments are excluded as income (see paragraph 4542).

(4740)

- B. Income Deductions. If the household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household is deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses must be prorated evenly among persons actually paying or contributing to the expense and only the household's pro rata share is deducted.

CHAPTER V CERTIFICATION PROCEDURES

SECTION 1 - ACTIONS RESULTING FROM ELIGIBILITY DETERMINATIONS

5100 ACTION ON ELIGIBLE HOUSEHOLDS

When a household has met both the nonfinancial and financial Food Distribution Program eligibility requirements, the ITO/State agency must issue the household its USDA foods within the appropriate processing time standard. The household's monthly level of USDA foods must be based on the household's size and must be adjusted at any time the size changes.

5101 Certification Pending Verification

If the ITO/State agency cannot determine a household's eligibility within 7 calendar days, excluding weekends and holidays, of the date the application was filed due to a lack of verification, the ITO/State agency must authorize the distribution of USDA foods to the household for one month pending verification (see paragraph 3320). Benefits can not be issued if the application is not acceptable (i.e., contains the information listed in paragraph 3120,) **or** if it does not appear that the household will, in all likelihood, be eligible. No further distribution of USDA foods can be made without completing required verification.

5110 ESTABLISHING CERTIFICATION PERIODS

ITOs and State agencies must certify eligible households to receive USDA foods for a specific period of time (i.e., certification period). The household's certification period must not exceed the period of time during which the household's circumstances (e.g., income, household composition, and residency) are expected to remain stable. The household's entitlement to USDA foods ends at the expiration of each certification period, and continued participation must be established through a recertification based upon a newly completed application, an interview, and verification required in paragraph 3508. However, whenever a certification period is terminated as a result of a notice of adverse action, the household may continue to receive USDA foods beyond the end of the certification period if it requests a fair hearing (see paragraph 5550).

5111 Conformance with Calendar Months

Certification periods must conform to calendar months. At initial application, the first month in the certification period is the month in which eligibility is determined. For example, if a household files an application late in January and the household is determined eligible on the fifth working day of February, a six-month certification would include February through July. Upon recertification the certification period will begin with the month following the last month of the previous certification period. For example, if the household cited above is recertified in July for a three month certification period, the new period of eligibility would include August through October.

5112 Length of Certification Periods

- A. Elderly/Disabled Households. Households in which all adult members are elderly and/or disabled may be certified for up to 24 months. Households assigned certification periods that are longer than 12 months must be contacted by the State agency at least once every 12 months to determine if the household wishes to continue to participate in the program and

(5112)

whether there are any changes in household circumstances that would warrant a redetermination of eligibility or a change in benefit level. The State agency may use any method it chooses for this contact, including a face-to-face interview, a telephone call, or a home visit. Contact with the household's authorized representative would not satisfy this requirement; the State agency must contact a household member. The case file must document the contact with the household and include the date of contact, method of contact, name of person contacted, whether the household wishes to continue to participate, and whether changes in household circumstances would warrant a redetermination of eligibility or a change in benefit level.

B. All Other Households. For households that do not contain all elderly and/or disabled members, certification periods may vary depending on the household's stability of membership and income. ITOs/State agencies must use their best judgment in assigning certification periods; however, in no event may a certification period exceed 12 months. The certification period must be based on the period of time that a household's circumstances are expected to remain stable. For example:

1. Households with stable income and stable membership might be given a 12-month certification period if the household's circumstances are not expected to change.
2. Households that has frequent changes in membership or frequent changes in sources of income might be given a shorter certification period.
3. Households reporting zero income but with circumstances that are verified to be stable and not likely to change soon should be assigned certification periods consistent with their circumstances, but generally no less than three months.
4. Households reporting zero income with unstable circumstances, e.g., households who could receive income soon, must be assigned one- or two-month certification periods.
5. For self-employed households that receive their annual income in a short period of time, it is recommended that the ITO/State agency assign a certification period that will bring the household into the annual cycle. For example, the ITO/State agency may provide for a recertification at the time the household normally receives all or a majority of its annual income or have the annual cycle coincide with the filing of the household's income tax return. If it is anticipated that the household's income will fluctuate significantly, a shorter certification period should be assigned.

5120 OBTAINING USDA FOODS

5121 Requirements for Identification

The ITO/State agency may distribute USDA foods to only those household members or authorized representatives presenting an Identification (ID) Card or appropriate identification so long as the ITO/State agency is satisfied with the identification of the member obtaining USDA foods.

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ITOs/State agencies that choose to issue ID cards must limit the issuance of ID cards to the time of initial certification, with replacements made only in the instance of loss, mutilation, destruction, or changes in persons authorized to obtain USDA foods for the household.

5122 Improper Use of USDA Foods

USDA foods distributed under the Food Distribution Program can not be sold, exchanged, or otherwise disposed of without the approval of USDA. In addition, the ITO/State agency must encourage households to take only those USDA foods they will use each month.

5130 PROVIDING NOTICES OF ELIGIBILITY

The ITO/State agency must provide each applicant with a written notice of eligibility as soon as a determination is made but no later than 7 calendar days, excluding weekends and holidays, after the date of the initial application.

5131 Notice of Eligibility

The notice of eligibility must explain in easily understandable language:

- A. The level of benefits the household will receive;
- B. The beginning and ending dates of the certification period;
- C. The household's right to request a fair hearing;
- D. The telephone number of the Food Distribution Program office and the name and address of the person to contact for additional information;
- E. If there is an individual or organization available that provides free legal representation, the notice must also advise the household of the availability of the service; and
- F. A reminder of the household's obligation to report changes in circumstances and of the need to reapply for continued participation at the end of the certification period.

5132 Notice of Eligibility for Expedited Cases

In cases where a household's application is approved on an expedited basis (see paragraph 3340), the notice of eligibility must also explain that the verification must be completed prior to any subsequent distribution of USDA foods.

5140 CHANGES DURING THE CERTIFICATION PERIOD

The ITO/State agency must take appropriate action when changes occur within the certification period that affect a household's eligibility or level of benefits.

5141 Reporting Requirements

Certified households are required to report the following changes within 10 days of the date the change becomes known to the household.

(5141)

- A. A change in household composition, such as the addition or loss of a household member;
- B. An increase in gross monthly income of more than \$100;
- C. A change in residence;
- D. When the household no longer incurs a shelter or utility expense; or
- E. A change in the legal obligation to pay child support.

The ITO/State agency must not impose any additional reporting requirements other than those stated above.

5142 Reporting Requirements for PA or GA Households

When the application for a PA or GA (if approved by FNS) are jointly processed with the Food Distribution Program application, PA or GA households have the same requirements to report changes as any other Food Distribution Program household. A Food Distribution Program change report form may be used for this purpose unless a similar PA or GA form is used. PA or GA households that report changes in circumstances to the PA or GA worker must be considered as having reported the changes for Food Distribution Program purposes.

5143 How Changes Are Reported

- A. Report Form. The ITO/State agency may provide households with a form for reporting the changes covered in paragraph 5141. The form may be provided to households:
 - 1. At the time of certification and recertification;
 - 2. Whenever a change report form is submitted by the household;
 - 3. At a household's request; or
 - 4. On a more frequent basis at the ITO's/State agency's discretion.
- B. Telephone, Email/Scan, Fax, or In Person. Changes reported over the telephone, by email/scan, by fax, or in person must be acted on in the same manner as those reported on the change report form.

5150 ITO/STATE ACTION ON HOUSEHOLD CHANGES

The ITO/State agency must take prompt action on all changes to determine if the change affects the household's eligibility and benefit level. Even if there is no change in eligibility, the ITO/State agency must document the reported change in circumstance in the case file. The household must be notified of the effect of any change on its benefits. The ITO/State agency must also document the date a change is reported, which is the date the ITO/State agency receives a report form or is advised of the change over the telephone or by a personal visit.

5151 Increase in Benefits

For changes that result in an increase in a household's USDA foods, the ITO/State agency must make the change effective no later than the month following the date the change was reported. At its option, the ITO/State agency may make the change effective earlier.

5152 Decrease in Benefits or Ineligibility

If the change results in a decrease in the household's level of USDA foods or the ineligibility of the household, the ITO/State agency must issue a notice of adverse action within 10 days of the date the change was reported. The decrease in benefit level or termination for ineligibility must be made effective no later than the month following the month in which the notice of adverse action period expires.

Example 1: If the notice of adverse action expires on March 3 and the household has not picked up its USDA foods for the month of March, the ITO/State agency would decrease the household's benefit level for the March issuance or terminate the household as of March 3 (i.e., the household would not be eligible to receive USDA foods for March), as appropriate.

Example 2: If the notice of adverse action expired on March 23 after the household picked up its USDA foods for March, the ITO/State agency would decrease the household's benefit level for the April issuance or terminate the household as of March 23 (i.e., the household would not be eligible to receive USDA foods for April), as appropriate. If the household requests a continuation of its benefits pending the resolution of a fair hearing on the adverse action the ITO/State agency must not implement a decrease in benefit level or termination, unless the condition of paragraph 5552 are met. Also, see paragraphs 5161 and 5162 for additional information on time requirements for the notice of adverse action.

5153 Failure to Report Changes

If the ITO/State agency discovers that the household failed to report a change (as required in paragraph 5141) and, as a result, the household received USDA foods to which it was not entitled, the ITO/State agency must file an overissuance claim against the household (see Section 6 of this Chapter). If the discovery is made within the certification period and the change will result in a decrease in the benefit level or a termination for ineligibility, the ITO/State agency must issue a notice of adverse action to the household. An overissuance claim can not be issued to a household for a change in circumstances that the household is not required to report.

5160 NOTICE OF ADVERSE ACTION

Prior to any action to decrease a household's benefit level or terminate its participation within the certification period, the ITO/State agency must provide the household timely and adequate advance notice before the adverse action is taken.

5161 Timing of Notice

The advance notice period is considered timely if the advance notice period includes at least 10 and no more than 20 days from the date the notice is mailed to the date upon which the action becomes effective. Also, if the adverse notice period ends on a weekend or holiday and a request for a fair hearing and continuation of benefits is received the day after the weekend or holiday, the ITO or State agency will consider the request.

(5161)

If an overissuance claim is warranted, the notice of adverse action and the initial demand letter must be provided to the household at the same time. The notice of adverse action may be combined with the initial demand letter.

5162 Timing of Notice for Joint PA or GA and Food Distribution Processing

The notice of adverse action is considered timely if the advance notice period conforms to that period of time defined by the ITO/State agency as an adequate notice period for its PA caseload, provided that the period includes at least 10 days from the date the notice is mailed to the date upon which the action takes effect. For example, if a notice is mailed October 10, the effective date would be October 20 at the earliest.

5163 Contents of the Notice of Adverse Action

The notice of adverse action is considered adequate if it explains in easily understandable language:

- A. The reason for the adverse action and the date it will take effect;
- B. The household's right to request a fair hearing and to continue to receive USDA foods pending the outcome of the fair hearing (see paragraph 5550);
- C. The timeframe in which the household must request the fair hearing in order to continue to receive USDA foods at the current authorized level pending the outcome of the fair hearing;
- D. That the household will be liable for any over issued benefits received while awaiting the outcome of the fair hearing if the fair hearing official's decision upholds the adverse action;
- E. Contact information to obtain additional information; and
- F. Contact information of an individual or organization, if available, that provides free legal representation.

**SECTION 2 - ACTIONS RESULTING FROM DETERMINATIONS
OF INELIGIBILITY****5200 ACTION ON INELIGIBLE HOUSEHOLDS**

When the ITO/State agency makes a determination that a household is ineligible for Food Distribution Program benefits based on financial and/or nonfinancial criteria, a notice of denial must be sent to the household.

5210 NOTICE OF DENIAL

A household denied eligibility must be provided a written notice of denial explaining:

- A. The basis for the denial;
- B. The household's right to request a fair hearing;
- C. The telephone number of the Food Distribution Program office and the name and address of the person to contact for additional information; and
- D. If there is an individual or organization available that provides free legal representation, the notice must also advise the household of the availability of the service.

5211 Time Limit for Providing Notice

Households that are found to be ineligible must be sent a notice of denial as soon as possible but no later than 7 calendar days, excluding weekends and holidays, following the date the application was filed.

SECTION 3 - RECERTIFICATION

5300 GENERAL REQUIREMENTS

- A. The ITO/State agency must develop a procedure for notifying a household that it must reapply to be recertified for participation near to the end of its certification period.
- B. Households applying for recertification in the last month of the current certification period must be provided an opportunity to obtain USDA foods on an uninterrupted basis.
- C. If a household that has been denied recertification requests a fair hearing, the ITO/State agency must at the request of the household (see paragraph 5550) continue distribution of USDA foods to the household pending the resolution of the fair hearing.
- D. The joint processing requirements for PA or GA households continue to apply for recertification procedures.

5310 NOTICE OF EXPIRATION OF CERTIFICATION

The ITO/State agency may provide each household with a notice of expiration of its certification in the last or next-to-last month of the certification period.

5311 **Contents of Notice**

Each ITO/State agency may use a notice of expiration. The notice of expiration should include:

- A. The date the current certification period ends;
- B. The date by which the household must file an application to continue to receive USDA foods on an uninterrupted basis;
- C. The address of the office where the application must be filed;
- D. The consequences of failure to comply with the notice of expiration (i.e., loss of right to uninterrupted benefits unless the household has good cause); and
- E. The household's right to file the application in person, by mail, by email/scan, by fax (as long as it is readable and the signature is clear), or through an authorized representative.

The ITO/State agency is encouraged to include an application form with a notice of expiration if one is used by the ITO/State agency.

5320 HOUSEHOLD FAILURE TO SUBMIT A TIMELY REAPPLICATION

A household that fails to submit a timely application for recertification loses its right to uninterrupted benefits. Any application not submitted in a timely manner must be treated as an application for initial certification, **except**, applications received within thirty days after the certification period expires need not be verified **if** the source of previously verified income has not changed **and** the amount has not changed by more than \$100 per month.

Households that refuse to cooperate in providing information must be denied benefits.

SECTION 4 - CHOICE OF PROGRAMS**5400 CHOICE OF PROGRAMS**

Households eligible for either SNAP or Food Distribution Program, where both programs are available, may elect to participate in either program.

A pending disqualification hearing for a SNAP intentional program violation will not affect the individual's or household's right to be certified and participate in the Food Distribution Program. The individual or household may continue to participate in either program until they have been officially disqualified.

5410 DUAL PARTICIPATION

No household will be permitted to receive SNAP and Food Distribution Program benefits in the same month. A household certified to receive SNAP benefits must terminate its participation in SNAP before certification in the Food Distribution Program can be granted. However, please note the following exceptions:

- A. SNAP Disaster Benefits. A household that has received USDA foods under the Food Distribution Program may be eligible to receive SNAP disaster benefits in the same month, in accordance with 7 CFR Part 280.
- B. SNAP Households Receiving Zero SNAP Benefits. A household certified under SNAP but receiving zero SNAP benefits may participate in the Food Distribution Program. Households that qualify for zero SNAP benefits in any month are not considered to be participating in the SNAP for that month. Those households can apply for and receive Food Distribution Program benefits for that month, if otherwise eligible. Prior to certifying the household for Food Distribution Program benefits, the ITO/State agency must verify with the local SNAP office that the household qualified for zero SNAP benefits. The ITO/State agency must assign these households a one-month certification period. The household must reapply for Food Distribution Program benefits for any subsequent month that it received zero SNAP benefits if it wishes to continue to receive USDA foods.

5420 ALLOWABLE TIMES FOR CHANGING PROGRAMS

Households may elect to switch from one program to another within their certification period. However, households switching from one program to another can not receive benefits from both programs in any month. Households certified in either SNAP or the Food Distribution Program on the first day of the month can only receive benefits in the program for which they are currently certified during that month.

5430 NOTIFICATION TO THE ITO/STATE AGENCY

A household participating under the Food Distribution Program that wants to switch to SNAP must contact the ITO/State agency to request a termination of its participation in the Food Distribution Program. The notification may be either verbally or in writing.

5440 ITO/STATE AGENCY ACTION AND BENEFIT ENTITLEMENT

Households that have notified the ITO/State agency of their intent to switch programs must have their eligibility terminated for the Food Distribution Program on the last day of the month in which they notified the ITO/State agency. However, the household's request for termination of Food Distribution Program benefits would not change the household's eligibility for USDA foods. For example, a household participating in the Food Distribution Program contacts the ITO/State agency on May 15 and requests termination of its eligibility so the household can apply for SNAP. The household continues to be eligible for USDA foods until May 31.

Entitlement for SNAP, if all eligibility criteria are met, would begin in the month following the month of termination from the Food Distribution Program. For example, a household participating in the Food Distribution Program contacts the ITO/State agency on January 15 and requests termination of its eligibility so the household can apply for SNAP. If otherwise eligible, the household would begin to receive SNAP benefits in February.

SECTION 5 - FAIR HEARINGS**5500 GENERAL**

This section describes the fair hearing process for households that believe they have been aggrieved by the following adverse actions by the ITO/State agency:

- A. A refusal to accept an application;
- B. A denial of eligibility;
- C. A disqualification;
- D. A decrease in benefit level; or
- E. A termination of eligibility.

This process requires the review of the adverse action by an impartial third party. Each ITO/State agency must provide a fair hearing to any household that timely requests a fair hearing because they believe that they have been aggrieved by an action of the ITO/State agency that affects the participation of the household in the program. Hearing procedures must be published by the ITO/State agency and made available to any interested party.

5510 NOTIFICATION OF RIGHT TO REQUEST A FAIR HEARING

- A. At the time of application, each household must be informed in writing of the following:
 - 1. The household's right to request a fair hearing in response to an adverse action;
 - 2. The method by which a hearing may be requested;
 - 3. That the household's case may be presented by a household member or representative, such as a legal counsel, a relative, a friend or other spokesperson; and
 - 4. If available, the contact information for an individual or organization that provides free legal representation.
- B. The ITO/State agency must also advise the household of its right to a fair hearing any time it takes an adverse action against the household (see paragraph 5163), or any time the household expresses to the ITO/State agency that it disagrees with an action by the ITO/State agency.

5520 REQUEST FOR FAIR HEARING

A request for a hearing is a clear expression, oral or written, by the household or its representative that it wishes to appeal a decision or present its case to a higher authority. If it is unclear from the household's request what action it wishes to appeal, the ITO/State agency may request the household to clarify its grievance. **The right to request a hearing must not be limited or interfered with in any way.**

5521 Fair Hearing Request Form

The ITO/State agency may provide households with a form to request a fair hearing and continuation of benefits. The form should contain space for the household to indicate whether or not continued benefits are requested. Also, the form should advise households that they will be liable for the value of benefits issued to them while awaiting the outcome of the fair hearing if the hearing decision is not in their favor.

5522 Time Period for Requesting a Fair Hearing and Continuation of Benefits

A household may request a hearing on any action by the ITO/State agency that occurred in the past ninety days or that affects current benefits. When a notice of adverse action is issued, the household must request a fair hearing within the time frame specified in the notice in order to continue to receive benefits at the prior authorized level.

5530 AGENCY CONFERENCES

An agency conference provides an immediate opportunity for a household to present its case for resolution by a higher authority and may lead to an informal resolution of the dispute. ITOs/State agencies must provide households that are denied eligibility with an opportunity to request an agency conference. The ITO/State agency must advise households that use of an agency conference is optional and that it will in no way delay or replace the fair hearing process. At the ITO's/State agency's option, agency conferences may also be offered to households aggrieved by other adverse actions.

5531 Time Limit for Agency Conferences

If a household indicates it wishes to have an agency conference, the ITO/State agency must schedule it within 4 working days, unless the household requests that it be scheduled later.

5532 Conduct of Agency Conferences

The agency conference must be attended by an eligibility supervisor and/or the agency director, as well as the household and/or its representative. The eligibility worker responsible for the agency action may also attend the conference. ITOs/State agencies should document the household's case record with the date of the agency conference and a brief statement regarding the issue and outcome.

5533 Agency Conference Outcomes

The agency conference does not delay or replace the fair hearing process. Therefore, if the agency conference resolves the dispute to the household's satisfaction, the household must submit a written withdrawal of its request for a fair hearing. If a written withdrawal is not submitted, the ITO/State agency must proceed with the fair hearing.

If the agency conference does not resolve the dispute, the ITO/State agency must proceed with the fair hearing.

5540 ITO/STATE AGENCY RESPONSIBILITIES ON FAIR HEARING REQUESTS

Within 60 days of receipt of a request for a fair hearing, the ITO/State agency must conduct the hearing, arrive at a decision, and notify the household (and local agency, as appropriate) of the decision.

5541 Household Request for Materials or Assistance in Preparing for the Fair Hearing

Upon request by the household, the ITO/State agency must make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing. The ITO/State agency must also respond to a request from a household for help with its hearing request. The ITO/State agency must advise the household of any free legal service available that can provide representation at the hearing.

5542 Need for Bilingual Services

If the individual making the request speaks a language other than English and the ITO/State agency is required to provide bilingual staff or interpreters who speak the appropriate language, the ITO/State agency must ensure that the hearing procedures are verbally explained in that language.

5543 Household Requests for Postponement

The ITO/State agency must approve a household's request for a postponement of the hearing. The postponement can not exceed 30 days. The time limit for action on the decision must be extended for as many days as the hearing is postponed. For example, if a fair hearing is postponed by the household for 10 days, notification of the hearing decision will be required within 70 days from the date of the request for a hearing.

5544 Rules of Procedure

The ITO/State agency must publish clearly written uniform rules of procedure that conform to the regulations and must make the rules available to any interested party. At a minimum, the uniform rules of procedures must include all time limits for filing requests and appeals, advance notification requirements, hearing timeliness standards, and the rights and responsibilities of persons requesting a hearing.

5545 Denial or Dismissal of Request for Hearing

The ITO/State agency can not deny or dismiss a request for a hearing unless the:

- A. Request is not received within the time period specified in paragraph 5522;
- B. Request is withdrawn in writing by the household or its representatives; or
- C. Household or its representative fails, without good cause, to appear at the scheduled hearing.

5546 Notification of the Hearing

The time, date, and place of the hearing must be arranged so the hearing is accessible to the household. At least 15 days prior to the hearing, advance written notice with hearing meeting information (e.g., time, date, and place) must be provided to all parties involved to permit

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adequate preparation of the case. However, the household may request less advance notice to expedite the scheduling of the hearing. The notice must contain the following:

- A. Name of the Agency Contact Person. The notice must contain the name, address, and phone number of the person to notify in the event it is not possible for the household to attend the scheduled hearing.
- B. Possibility of Dismissal for Failure to Appear. The notice must advise the household that the ITO/State agency will dismiss the hearing request if the household or its representative fails to appear for the hearing without good cause.
- C. ITO/State Hearing Procedures. The notice must include the ITO/State agency hearing procedures and any other information that would provide the household with an understanding of the proceedings and would contribute to the effective presentation of the household's case.
- D. Right to Examine the Case File. The notice must explain that the household or representative may examine the case file prior to the hearing.

5550 CONTINUATION OF BENEFITS

When a household requests a fair hearing, it also has the option to request the continuation of benefits at the same level it was authorized to receive immediately prior to the notice of adverse action. The ITO/State agency must assume that the continuation of benefits is desired and issue the benefits accordingly, unless it is clear that the household has waived continuation of benefits. If the ITO/State agency action is upheld by the hearing decision, a claim against the household must be established for USDA foods over issued to the household pending the outcome of the fair hearing (see paragraph 5610E).

5551 Denial of Request for Continuation of Benefits

If a hearing request is not made within the period provided by the notice of adverse action, benefits must be decreased or terminated as provided in the notice. However, if the household establishes that it has good cause for failure to make the request within the advance notice period, the ITO/State agency must continue to issue benefits at the prior authorized benefit level.

If benefits are to be decreased or terminated due to a mass change, the ITO/State agency must not continue benefits at the prior authorized level, unless the fair hearing request alleges that eligibility or the benefit level were improperly computed, or that Federal law or regulation is being misapplied or misinterpreted by the ITO/State agency.

The ITO/State agency must promptly inform the household in writing if its request for continuation of benefits pending a fair hearing is denied.

5552 Decrease in Benefit Level or Termination of Eligibility Pending Fair Hearing Outcome

Once benefits have been continued at the prior authorized benefit level, they can not be decreased or terminated prior to the outcome of the fair hearing, except as follows:

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- A. The hearing official makes a preliminary determination, in writing and at the hearing that the sole issue is one of Federal law or regulation and that the household's claim that the ITO/State agency misapplied such law or regulation is invalid; or
- B. A change affecting the household's eligibility or level of benefits occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of the adverse action.

5560 THE HEARING OFFICIAL

Hearings must be conducted by an impartial official(s) who:

- A. Does not have any personal stake or involvement in the case;
- B. Was not directly involved in the initial determination of the action that is being contested; and
- C. Was not the immediate supervisor of the eligibility worker who took the action.

5561 Designation and Qualifications of the Hearing Official

The hearing official can be any of the following:

- A. An employee of the ITO/State agency;
- B. An individual under contract with the ITO/State agency;
- C. An employee of another public agency designated by the ITO/State agency to conduct hearings;
- D. A member or official of a statutory board or other legal entity designated by the ITO/State agency to conduct hearings; or
- E. An executive officer of the ITO/State agency, a panel of officials of the ITO/State agency, or a person or persons expressly appointed to conduct hearings or to review hearing decisions.

5562 Powers and Duties of the Hearing Official

The hearing official has the following powers and duties:

- A. Administer Oaths. The hearing official administers oaths of affirmation if required by the ITO/State.
- B. Ensure Consideration of Issues. The hearing official ensures that all relevant issues are considered.
- C. Record Evidence. The hearing official requests, receives, and makes part of the record all evidence determined necessary to decide the issues being raised.

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- D. Regulate the Conduct of the Hearing. The official regulates the conduct and course of the hearing consistent with due process.
- E. Render a Hearing Decision. The hearing official provides a hearing record and recommendation for final decision by the hearing authority or, if the hearing official is the hearing authority, renders a decision in the name of the ITO/State agency, in accordance with paragraph 5580, which will resolve the dispute.

5563 Hearing Authority

The hearing authority must be the person designated to render the final administrative decision in a hearing. The same person may act as both the hearing official and the hearing authority. The hearing authority must be subject to the requirements specified in paragraph 5561.

5570 CONDUCT OF THE HEARING

The hearing must be attended by a representative of the ITO/State agency or local agency, if applicable, that initiated the adverse action being contested and by the household or its representative or both. The hearing may also be attended by friends and relatives of the household if the household so chooses. The hearing official is authorized to limit the number of persons in attendance at the hearing, if space is limited.

5571 Household's Rights

The household may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the household feel most at ease. The household or its representatives have the following rights during the hearing process:

- A. Examine Documents. The household or its representative must be given adequate opportunity to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the ITO/State agency or local agency to establish the household's ineligibility or eligibility and level of benefits must be made available. However, confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, must be protected from release. If requested by the household or its representative, the ITO/State agency must provide a free copy of the relevant portions of the case file. Confidential information that is protected from release and other documents or records that the household will not otherwise have the opportunity to contest or challenge must not be presented at the hearing or affect the hearing official's decision.
- B. Present Case. The household may present the case itself or have it presented by a legal counsel or other person.
- C. Bring Witnesses. The household or its representative may bring witnesses to support its case in the appeal.
- D. Advance Arguments. The household or its representatives must be allowed to advance arguments without undue interference.

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- E. Question Evidence. The household or its representative may question or refute any testimony or evidence and may confront and cross-examine adverse witnesses.
- F. Submit Evidence. The household or its representative may submit evidence to establish all pertinent facts and circumstances in the case.

5580 THE HEARING DECISION

Decisions of the hearing authority must comply with Federal law or regulations and must be based on the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, must constitute the exclusive record for a final decision by the hearing authority. This record must be retained in accordance with the regulations. This record must also be available for copying and inspection to the household or its representative at any reasonable time.

5581 Effect and Content of the Hearing Decision

A decision by the hearing authority is binding on the ITO/State agency and must summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent Federal regulations. The decision is a part of the official record.

5582 Notification of the Hearing Decision

Within 10 days of the date that the fair hearing decision is issued, the ITO/State agency must issue a notice to the household advising it of the decision.

If the decision upheld a disqualification or a termination, the notice must include:

- A. The reason(s) for the decision;
- B. The date the disqualification or termination will take effect; and
- C. The household's right to pursue judicial review, in accordance with paragraph 5583.

In instances of upheld disqualifications, the notice must also advise the household of the duration of the disqualification (i.e., 12 months, 24 months, or permanent) and whether the disqualification of the household member will result in a change or termination of benefits for the remaining household members.

5583 Judicial Review

The household has the right to pursue judicial review of a fair hearing decision that upheld the ITO/State agency action.

5584 Public Access to ITO/State Agency Hearing Records

All ITO/State agency hearing records and decisions must be available for public inspection and copying, subject to the disclosure safeguards provided in paragraph 1330; however, the

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identifying names and addresses of household members and other individuals must be kept confidential.

5590 IMPLEMENTATION OF HEARING DECISIONS

The ITO/State agency is responsible for ensuring that all final hearing decisions are reflected in the household's next scheduled distribution following receipt of the hearing decision.

Example: A fair hearing decision issued on May 15 upheld the disqualification of a member of a household that normally receives its USDA foods between the first day of the month and the tenth day of the month. The effective date of the disqualification will be the first day of June.

If the fair hearing decision upheld the action of the ITO/State agency to decrease the benefit level or terminate eligibility and the household requested and received continued benefits, the ITO/State agency must issue a claim for the value of the USDA foods overissued to the household pending the outcome of the fair hearing (see paragraph 5610E).

5591 Retroactive Benefits

The Food Distribution Program does not provide retroactive benefits. Issuing retroactive benefits could lead to food waste or encourage the sale of USDA foods for cash.

SECTION 6 – ITO/STATE AGENCY CLAIMS PROCEDURES AGAINST HOUSEHOLDS

5600 CLAIMS AGAINST HOUSEHOLDS

The ITOs/State agencies must establish a claim against a household that has received an overissuance of more than \$125 of USDA foods. Overissuance means the dollar value of USDA foods issued to a household that exceeds the dollar value of USDA foods it was eligible to receive. The ITO/State agency must fully document all actions taken in establishing and collecting a claim.

5601 Responsibility for Repayment

All adult household members are jointly and separately liable for the repayment of the claim. However, collection action will be initiated against the head of the household or against the individual who was the head of the household at the time of the overissuance (see paragraph 5651). Responsibility for repayment continues even in instances where the household becomes ineligible or is not participating in the program.

5602 Disposition of a Claim

A claim remains active until paid. Collection on a claim may be suspended if the claim is temporarily uncollectible for one of the reasons listed in paragraph 5660. If not suspended, the claim remains subject to payment. Households that fail to pay a claim will be disqualified in accordance with procedures in paragraph 5670 and Section 7, Disqualifications, of this Chapter.

5610 INSTANCES REQUIRING A CLAIM DETERMINATION

Instances that may result in a claim include, but are not limited to, the following:

- A. The overissuance amount is over \$125, and
- B. The household provided incorrect or incomplete information on the application at the time of certification; or
- C. The household failed to report an increase in gross monthly income of more than \$100, changes in household composition, a change in residence, or when the household no longer incurs a shelter/utility expense, that affected eligibility or benefit levels (see paragraph 5153); or
- D. The household participated simultaneously in both SNAP and the Food Distribution Program or participated simultaneously in more than one Food Distribution Program. In instances of simultaneous participation, the last program to certify a household bears the responsibility for claims activity against the household, when it is determined the household was previously certified in another program; or
- E. The household requested continuation of benefits pending a fair hearing decision and the fair hearing official upheld the adverse action taken by the ITO/State agency; or
- F. The ITO/State agency failed to take immediate action on changes reported by households and the household received USDA foods to which it was not entitled; or

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- G. The ITO/State agency erroneously calculated the household's eligibility during certification and the household received USDA foods to which it was not entitled; or
- H. At the time of distribution, the ITO/State agency issued USDA foods to the household to which it was not entitled.

5620 INSTANCES WHEN A CLAIM WILL NOT BE ESTABLISHED

A claim will not be established if an overissuance occurred as a direct result of the following errors:

- A. The household failed to sign the application form; or
- B. The ITO/State agency continued to issue USDA foods to the household after its certification period had expired without a recertification determination.

5630 TIME FRAME FOR CALCULATING A CLAIM

All overissuances occurring within the 12-month period before discovery of an error must be included in the claim determination. Any overissuance which occurred prior to 12 months before discovery of an error is excluded.

Example: During a recertification interview on June 25, 2010, an error is found in the eligibility determination of a household which was not discovered during a previous recertification action. As a result of the error, the household received an overissuance of USDA foods from April 2009 to June 2010. The only period counted as part of the claim would be from July 2009 to June 2010.

5640 DETERMINING THE AMOUNT OF CLAIM

After excluding those months that are more than 12 months prior to the date the overissuance was discovered, the ITO/State agency must determine the correct amount of USDA foods the household should have received based on the number of months the household participated while receiving the overissuance. The methodologies for determining the amount of the claim are described in paragraphs 5641 and 5642. If the claim amount is \$125 or less, no claim must be issued. However, the claim determination must be documented and placed in the appropriate household record.

5641 Automated Inventory System (AIS) Methodology

The AIS methodology involves the generation of reports from AIS. The Value of Commodities Issued Report identifies the value of USDA foods issued to the household in any given month.

5642 Manual Calculation Methodology

Use the methodology below to manually calculate the claim amount for each food distributed. Then add the individual claim amounts for all the USDA foods overissued to obtain the total value of the claim. To determine the value of each USDA food item issued in error, the certifier will need:

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- A. The Estimated Cost per Pound for each food item. The Estimated Cost per Pound can be found in the USDA Commodity File listing available in the USDA electronic ordering system or can be obtained from the FNS Regional Offices.
- B. Since USDA foods vary in weight, a Pound Conversion Factor is needed to determine the estimated value of each food item. The Pound Conversion Factor can be determined by dividing the net case weight by the number of units per case for each food item. The net case weight and the number of units per case can be found in the Commodity File Listing available in the USDA electronic ordering system or can be obtained from the FNS Regional Offices.

See paragraph 5643 for an example of a claim calculation.

The formula for calculating the value of overissuance for each food item is as follows:

Units of Food Item Overissued (Column A) x Estimated Cost Per Pound (Column B) x Pound Conversion Factor (Column C) = Value of Overissuance (Column D)

5643 Example of Manual Claim Calculation

A household failed to report an increase in income that would have made the household ineligible. The household received an overissuance from March 2010 to August 2010. Below is a chart that shows how the claim would be calculated:

USDA Food	A Units Overissued March 2010- August 2010	B Estimated Cost Per Pound	C Pound Conversion Factor	D Value of Overissuance (A x B x C)
Cereal, Corn Flakes	18	\$1.2200	1.1250	\$24.71
Rice	18	\$0.3735	2.0000	\$13.45
Spaghetti Sauce	18	\$0.3435	0.9375	\$5.80
Tomato Soup	18	\$0.5298	0.6717	\$6.41
Vegetable Soup	18	\$0.6522	0.6717	\$7.89
Frozen Ground Beef	36	\$1.6543	2.1500	\$128.04
Frozen Cut-up Chicken	18	\$0.8994	4.0000	\$64.76
Chunky Beef Stew	12	\$0.7530	1.5000	\$13.55
Egg Mix	18	\$4.4248	0.3750	\$29.87
Peanut Butter	18	\$1.0485	1.1250	\$21.23
Total				\$315.71

A sample worksheet for manually calculating the value of the claim is attached as Exhibit K.

5650 COLLECTION ACTION**5651 Demand Letters**

- A. Content of Demand Letter. The ITO/State agency must initiate collection action by sending the household a written letter that informs the household of the following information. A sample demand letter is attached as Exhibit L.
 - 1. The amount owed;
 - 2. The reason for the claim;
 - 3. Information about how to pay the claim (e.g., by making payments or lump sum); and
 - 4. The right to request a fair hearing.
- B. Coordination with Notice of Adverse Action. The initial demand letter for repayment must be provided to the household at the same time as the notice of adverse action is issued, if a notice of adverse action is warranted. The demand letter may be combined with a notice of adverse action.
- C. Head of Household. The ITO/State agency must initiate collection against the head of the household or against the individual who was the head of the household at the time of the overissuance (see paragraph 5601). If the head of the household is no longer living or cannot be located, the ITO/State agency must pursue collection against the remaining household members. If the head of household moves to another Food Distribution Program household, the claim will follow the head of household.
- D. Additional Demand Letters. The ITO/State agency must send the household a minimum of two additional demand letters in no more than 30-day intervals, unless suspension is warranted based on criteria listed in paragraph 5660. At the ITO's/State agency's option additional demand letters may be sent to the household after three letters have been issued. Households that are to be disqualified for failure to pay a claim must be sent at least two demand letters before action is taken to disqualify the household (see paragraph 5710).

5652 Revision of Claim Following a Fair Hearing When Continuation of Benefits Was Requested

Households may be liable for USDA foods they received while awaiting the outcome of a fair hearing. If the fair hearing official upholds the adverse action taken by the ITO/State agency, the household must pay back the value of the USDA foods it received during the appeal process (see paragraph 5550). In these instances, the ITO/State agency must adjust the original claim amount to include the value of USDA foods provided to the households during the appeal process and issue a demand letter for the new claim amount.

5653 Method of Collection

Payments of claims must be made by check or money order payable to FNS. Monies received by the ITO/State agency must be forwarded to USDA-FNS-HQ, P.O. Box 953807, St. Louis, MO 63195-3807. Payments can not be made in returned USDA foods nor can households be allowed to refuse their current monthly food allotment in payment of the claim amount.

5660 SUSPENSION OF COLLECTION ACTION

After one demand letter has been issued, ITO/State agency may suspend further demand letters **if** the household has not misrepresented its household status in order to receive benefits or increase benefits **and** any of the following conditions apply:

- A. The household is unable to pay the claim or the entire amount of the claim because the household has little or no income or resources; or
- B. The household cannot be located; or
- C. Cost of additional collection procedures would likely exceed the amount to be recovered.

A claim may only remain in suspense as long as the conditions above apply. Therefore, the ITO/State agency must review the status of a suspended claim periodically to determine if suspension of collection action is still warranted.

5661 Terminating a Suspended Claim

A claim may be terminated if it remains in suspense for 3 years.

5670 DISQUALIFICATION FOR FAILURE TO PAY A CLAIM

All adult members of a household must be disqualified from participation **if**:

- A. The amount of the claim is greater than \$125; **and**
- B. The overissuance is not the result of an administrative error on the part of the ITO/State agency; **and**
- C. The household has **refused** to pay the claim or has agreed to pay according to a payment schedule but has **failed** to pay the claim.

The period of disqualification must continue until the household pays the claim.

The ITO/State agency may waive the disqualification if in the opinion of the ITO/State agency the disqualification would cause undue hardship to the household. However, collection action on the claim must be pursued in accordance with paragraphs 5650 unless suspension is warranted (see paragraph 5660).

5680 FNS APPROVAL OF ALTERNATIVE CLAIMS PROCEDURES

Any alternative procedures developed by the ITO/State agency for establishing and resolving claims must be approved by FNS.

SECTION 7 - DISQUALIFICATIONS**5700 DISQUALIFICATIONS**

The ITO/State agency must take action to disqualify an individual or households from participation for the program violations listed below. Any individual or household whose participation will be ended due to a disqualification must be given advance notice (see paragraph 5160) and may request a fair hearing.

5710 FAILURE TO PAY A CLAIM

All adult members of the household must be disqualified from participation for failure to pay an active claim. (See paragraph 5670).

5720 FOOD DISTRIBUTION PROGRAM INTENTIONAL PROGRAM VIOLATIONS

Any individual who is found to have committed a Food Distribution Program intentional program violation (IPV) must be disqualified from participation for a period of 12 months for the first violation, 24 months for the second violation, and permanently for the third violation (see definition of IPV in Section 8 of this Chapter).

5730 TRIBAL, STATE, OR LOCAL PROSECUTION FOR FRAUD

Any household or individual that has been convicted of committing fraud under the Food Distribution Program by a court must be disqualified for the length of time imposed by the court. If the court does not impose a disqualification period, the ITO/State agency must impose the penalty prescribed in paragraph 5720 for an IPV (i.e., 12 months for the first known fraud conviction; 24 months for the second known fraud conviction; and permanently for the third known fraud conviction). The ITO/State agency must not delay collection of a claim while an individual or household suspected of fraud is investigated or is undergoing court procedures. The ITO/State agency may, however, postpone collection of a claim if the prosecutors of the case request such a delay. Unless otherwise instructed by the court, the ITO/State agency must establish a claim for the overissued USDA foods whether or not the court fined or penalized the individual or household. If possible, repayment for USDA foods received fraudulently should be considered at the court hearings.

5740 SNAP INTENTIONAL PROGRAM VIOLATION

Any individual who has been disqualified for an IPV under SNAP is ineligible for Food Distribution Program benefits until the SNAP disqualification has expired. Please note that the SNAP regulations require disqualifications for several program violations other than IPV's. If the ITO/State agency determines that a Food Distribution Program applicant has been disqualified under SNAP, the ITO/State agency must determine the reason for the disqualification by contacting the SNAP office or reviewing the SNAP disqualification letter provided to the individual. If the SNAP disqualification was for a violation other than an IPV (e.g., failure to comply with a SNAP work requirement), the individual may participate in the Food Distribution Program if otherwise eligible.

SECTION 8 - INTENTIONAL PROGRAM VIOLATIONS**5800 INTENTIONAL PROGRAM VIOLATIONS**

An intentional program violation (IPV) is considered to have occurred when a household member knowingly, willingly, and with deceitful intent:

- A. Makes a false or misleading statement or misrepresents, conceals, or withholds facts in order to obtain Food Distribution Program benefits that the household is not entitled to receive; or
- B. Commits any act that violates a Federal statute or regulation relating to the acquisition or use of Food Distribution Program foods.

Only the household member determined to have committed the IPV will be disqualified--not the entire household.

5810 PENALTIES

Household members determined by the ITO/State agency to have committed an IPV will be ineligible to participate in the program:

- A. For a period of 12 months for the first violation;
- B. For a period of 24 months for the second violation; and
- C. Permanently for the third violation.

5820 ITO/STATE AGENCY RESPONSIBILITIES

- A. Each ITO/State agency must implement administrative disqualification procedures for IPV's that conform to this section.
- B. The ITO/State agency must inform households in writing of the disqualification penalties for IPV's each time they apply for benefits, including recertifications. This notice must also advise households that an IPV may be referred to authorities for prosecution.
- C. The ITO/State agency must attempt to substantiate all suspected cases of IPV. An IPV is considered to be substantiated when the ITO/State agency has clear and convincing evidence demonstrating that a household member committed one or more acts of IPV, as defined in paragraph 5800.
- D. Within 10 days of substantiating that a household member has committed an IPV, the ITO/State agency must provide the household member with a notice of disqualification. A notice must still be issued in instances where the household member is not currently eligible or participating in the program.
- E. The ITO/State agency must advise any remaining household members if the household's benefits will change or if the household will no longer be eligible as a result of the disqualification.

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- F. The ITO/State agency must provide the household member to be disqualified with an opportunity to appeal the disqualification through a fair hearing (see Section 5 of this Chapter).
- G. The ITO/State agency must refer all substantiated cases of IPV to Tribal, Federal, State, or local authorities for prosecution under applicable statutes. However, an ITO/State agency that has conferred with its legal counsel and prosecutors to determine the criteria for acceptance for possible prosecution is not required to refer cases that do not meet the prosecutors' criteria.
- H. The ITO/State agency must establish claims and pursue collection, as appropriate, on overissuances related to suspected and substantiated cases of IPV (see Section 6 of this Chapter).

5830 NOTICE OF DISQUALIFICATION

Within 10 days of substantiating the IPV, the ITO/State agency must issue to the household member a notice of disqualification. The notice must allow an advance notice period of at least 10 days. The disqualification must begin with the next scheduled distribution of USDA foods that follows the expiration of the advance notice period, unless the household member requests a fair hearing. A notice must still be issued in instances where the household member is not currently eligible or participating in the program. The notice must conform to the requirements of paragraph 5163 for notices of adverse action.

5840 APPEAL PROCEDURES

A household member may appeal a disqualification by requesting a fair hearing (see paragraph 5500).

The ITO/State agency must provide the household member with a notification of the time and place of the fair hearing as described in paragraph 5546. The notice must also include a statement that the hearing does not prevent the Tribal, Federal, State, or local government from prosecuting the household member in a civil or criminal court action, or from collecting any overissuance(s).

5850 APPLICATION OF PENALTIES

- A. If the household member did not request a fair hearing, the disqualification must begin with the next scheduled distribution of USDA foods that follows the expiration of the advance notice period of the notice of adverse action.
- B. If the household member requested a fair hearing and the disqualification was upheld by the fair hearing official, the disqualification must begin with the next scheduled distribution of USDA foods that follows the date the hearing decision is issued.

Example: A fair hearing decision issued on May 15 upheld the disqualification of a member of a household that normally receives its USDA foods between the first day of the month and the tenth day of the month. The effective date of the disqualification will be the first day of June.

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- C. The ITO/State agency must apply the disqualification period (i.e., 12 months, 24 months, or permanent) specified in the notice of disqualification.
- D. No further administrative appeal procedure exists after an adverse ITO/State level fair hearing decision. The decision by an ITO/State level fair hearing official is binding on the ITO/State agency. The household member, however, may seek relief in a court having appropriate jurisdiction.
- E. The ITO/State agency must advise any remaining household members if the household's benefits will change or if the household is no longer eligible as a result of the disqualification.
- F. Once a disqualification has begun, it must continue uninterrupted for the duration of the penalty period (i.e., 12 months, 24 months, or permanent). Changes in the eligibility of the disqualified household member's household will not interrupt or shorten the disqualification period.
- G. The same act of IPV continued over a period of time can not be separated so that more than one penalty can be imposed.

Example: A household intentionally fails to report that a household member left the household, resulting in an overissuance of USDA foods for 5 months. Although the violation occurred over a period of 5 months, only one penalty will apply to this single act of IPV.

- H. If the case was referred for Tribal, Federal, State, or local prosecution and the court of appropriate jurisdiction imposed a disqualification penalty, the ITO/State agency must follow the court order.

CHAPTER VI ORDERING AND RECEIPT OF USDA FOODS

SECTION 1 - USDA FOODS ORDERING PROCEDURES

6100 DESIGNATION OF A DESTINATION FOR DELIVERY OF USDA FOODS

The ITO/State agency must order USDA foods on a monthly, bi-monthly, or quarterly basis for shipment to a destination(s) designated by the ITO/State agency with the assistance of the appropriate FNS Regional Office. The destination(s) must be selected prior to ordering any USDA foods and will remain in effect until formally changed or deleted by the ITO/State agency.

6101 Selection Criteria

Selection of a destination for USDA food shipments must be based on the following factors:

- A. Adequacy of available storage facilities, including dry, cool and/or freezer capabilities;
- B. Accessibility to local distribution warehouse(s) in the service area;
- C. Minimization of shipping costs to USDA; and
- D. Ability to accept deliveries.

6102 Notification of Destination Selection

The ITO/State agency must notify the appropriate FNS Regional Office of its destination selection(s) using Form FNS-7, Destination Data for Delivery of Donated Foods (see Exhibit N, attached). An "entity" code (item 4) will be assigned by USDA. The entity code and destination city (item 2) must be entered on all orders which are to be shipped to the specified destination. Changes to any of the information on Form FNS-7 must be reported immediately to the appropriate FNS Regional Office. The ITO/State agency must maintain the current Form FNS-7 in its files.

6110 ESTIMATING USDA FOOD NEEDS

The ITO/State agency must base the kinds and amounts of USDA food orders on the following factors:

- A. Participation
 - 1. Initial start-up participation data will be obtained by averaging SNAP participation for the 3 months prior to the month in which the order is placed;
 - 2. After the program is operative, participation data will be obtained by averaging Food Distribution Program participation for the first 2 months of the quarter in which the order is being placed.

(6110)

- B. Maintenance of a supply of available USDA foods sufficient for up to 3 month's distribution for each food group. Local agencies must maintain a minimum of 1 month's supply of available USDA foods for each food group. (Note: ITOs/State agencies participating in food ordering/distribution pilot programs may be advised to maintain a different level of foods for each food group.)
- C. Distribution rates as stated in the Food Distribution Program on Indian Reservations - Monthly Distribution Guide Rate by Household Size (see Exhibit O, attached).
- D. Household preferences for the various foods offered in the food package.
 - 1. Prior to implementation, the ITO/State agency must survey potential households to determine which varieties of USDA foods they would prefer to receive. To the maximum extent possible, food orders will be placed in accordance with the results of the survey. It is important to explain to the potential households that all of their food selections may not be available because of procurement, shipping, storage, and other related problems.
 - 2. After the Food Distribution Program has been implemented, food preferences may be obtained by the following methods:
 - a. During distribution, households may be interviewed by the distribution clerk, or other program personnel, to determine which varieties of USDA foods they prefer, and which foods they would like to see distributed. Specific brand requests cannot be processed or guaranteed.
 - b. During distribution, a printed list may be given to the households listing the varieties of foods that may be available for distribution the following month. The information provided should also contain maximum amounts of food authorized by family size. Households may fill in the types and amounts of food they would prefer to receive at the next distribution.
 - 3. After the program has been in operation for a few months, the refusal and acceptance of each USDA food should be analyzed to determine which foods are the most and least preferred by the household.
- E. The amount of inventory in the ITOs/State agency's storage for each food item.

6120 ORDERING USDA FOODS**6121 Ordering Options**

- A. Direct Shipment. A shipment consisting of a full truckload of a single food item to be delivered directly from a vendor or USDA storage facility to an ITO/State agency.

Full truckloads may be split among up to a maximum of three destinations, within a reasonable distance.

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It is recommended that ITOs/State agencies order direct shipments when:

1. Sufficient storage space is available for supplying a full food package; and
2. Inventories relative to participation do not exceed a 3-month supply for each food group (see subparagraph 7431, below).

- B. Multi-Food Shipment. A truckload shipment consisting of a combination of three or more food items. The orders are filled from Federal inventory, and are consolidated to be shipped as one unit.

ITOs/State agencies should utilize the multi-food ordering option when:

1. Storage space is limited; or
2. When only partial quantities of individual foods are needed.

6122 Submission of Food Orders

Food orders are submitted and managed via the USDA electronic ordering system.

6150 TRANSFER OF EXCESS INVENTORY

If an ITO/State agency has USDA foods in inventory that it cannot effectively use in the program it must immediately contact the appropriate FNS Regional Office to arrange a transfer. Upon FNS' request, the ITO/State agency must ensure that the USDA food is inspected to determine if the product is fit for human consumption. The ITO/State agency must maintain a record of all transfers from its inventories, and of any inspections related to such transfers.

6151 Assumption of Transfer Costs

The ITO/State agency will assume all transportation and related costs (including inspection) if it cannot satisfactorily demonstrate that the need for the transfer did not result from fault or negligence on its part. If the need for a transfer is not the fault of the ITO/State agency or due to negligence on its part, USDA will assume all appropriate costs for the transfer.

6152 At FNS' Request

Whenever a transfer of USDA foods is made at the request of FNS, USDA will have the foods inspected and pay all appropriate transportation and related costs (unless the transfer is necessary to prevent loss through fault or negligence on the part of the ITO/State agency).

6160 TRANSFER OF BONUS USDA FOODS

Bonus foods (i.e., USDA foods purchased with funds authorized by Section 32 of Public Law 74-320 that are not provided as part of the approved food package) may be transferred from an ITO/State agency Food Distribution Program to a food bank or other entity eligible to receive Section 32 bonus foods. Prior FNS approval is not required for the transfer.

6170 FOOD ORDERING PROCEDURES FOR A LOCAL AGENCY

The ITO/State agency must provide the local agency with instructions and forms on making estimates of food needs and ordering. The shipment periods may vary from 1 to 3 months depending on the ITO's/State agency's warehouse and transportation facilities. Therefore, the inventory in storage requirements may vary. For example, if the ITO/State agency ships the foods on a monthly basis, at least a 1 month supply per food group should be maintained at the local agency. If shipments are to be made every 3 months, a 3 month supply should be maintained at the local agency.

Regardless of the system the ITO/State agency employs, the local agency must base food estimates and orders on the following factors:

- A. Participation data;
- B. Inventory in storage;
- C. Distribution rates as stated in the Food Distribution Program on Indian Reservations - Monthly Distribution Guide Rate by Household Size (see Exhibit O);
- D. History of local food preferences; and
- E. Local storage capacity and conditions.

SECTION 2 - USDA FOODS RECEIPT PROCEDURES**6200 GENERAL**

- A. When direct shipments of USDA foods are shipped by the vendor or transported from Federal storage, USDA will provide written notification to the ITO/State agency via the KC-269(A), Forwarding Notice (see paragraph 6217, below, and Exhibit T, attached), which provides the following information:
1. The delivery order, contract/warehouse code, and notice to deliver numbers;
 2. The origin and destination of the shipment;
 3. The food, pack size, and quantity; and
 4. The delivery period.
- B. For multi-food shipment orders, written notification is provided via the PPCR71, Multi-Food Consignee Report (see paragraph 6218, below). In addition to the above information, this report also includes a consolidation number for identifying the shipment.

6210 ITO/STATE AGENCY RESPONSIBILITIES

Within 24 hours of the day the USDA foods are scheduled to arrive at the destination, the carrier must notify the ITO/State agency by telephone, email, or data fax. It is the ITO's/State agency's responsibility to ensure that the truck is inspected and unloaded within a reasonable time in order to avoid demurrage charges. In addition, if a part of the shipment is intended for another destination, it is the responsibility of the vendor or carrier to ensure that the load is properly leveled and braced prior to its departure for the next stop.

6211 Shipment Inspection Procedures

The ITO/State agency or consignee must examine all shipments, prior to accepting or unloading the USDA foods, to determine the following:

- A. If temperatures for refrigerated and frozen products are adequate to assure that the foods are in good condition;
- B. If there is damage to canned goods, such as dented, bulging, discolored, or disfigured cases or cans, which might indicate spoilage or deterioration;
- C. If dry foods, such as nonfat dry milk, flour, and other grain products, show signs of insect or rodent infestation;
- D. If there is a shortage or overage in the shipment; and
- E. If seals are intact or broken when the shipment is the first of several stops to be made by the carrier.

6212 Over, Short, or Damaged Shipments

When a shipment is received and found to be over or short in quantity or containing damaged food the ITO/State agency must notify the delivering carrier immediately. All overages, shortages, and damages must be documented on all copies of the delivery receipt, prior to signature by the ITO's/State agency's representative.

If the issues are extensive, the ITO/State agency must immediately contact the appropriate FNS Regional Office (see paragraph 6213, below). The ITO/State agency must not refuse the shipment without prior approval from the appropriate FNS Regional Office.

The ITO/State agency must also prepare Form FNS-57, Report of Shipment Received Over, Short and/or Damaged (See Exhibit S, attached), and forward it to the appropriate FNS Regional Office. Form FNS-57 will not be accepted as a valid claim if the signed delivery receipt does not document the reported overages, shortages, and/or damaged products.

6213 Receipt of Out-of-Condition Food

When a shipment is received in which all or a major part of the food appears to be unfit for human consumption, the ITO/State agency must immediately notify the appropriate FNS Regional Office. It may be appropriate to refuse the shipment; however, this action must not be taken without prior consent of the appropriate FNS Regional Office.

6214 Notification of Out-of-Condition Shipment of USDA Foods

When reporting the shipment of out-of-condition USDA foods, the ITO/State agency must communicate the information listed below to the appropriate FNS Regional Office by telephone **and** in writing. ITOs/State agencies are encouraged to also submit photographs of the foods that are out-of-condition.

- A. Name of the USDA food;
- B. Delivery order number;
- C. Date the shipment was received;
- D. Date of discovery;
- E. Description of the condition of the food;
- F. Location of the food;
- G. Name of the person having custody of the food;
- H. Quantity that is in questionable condition; and
- I. Protection given the food after receipt.

6215 Salvage of USDA Foods

If some of the USDA foods in a damaged shipment are salvageable, it is the ITO's/State agency's responsibility to save as much of the food as practicable. Out-of-pocket expenses, such as labor or packaging costs, incurred by the ITO/State agency or by the local consignee during a salvage operation are reimbursable by USDA.

6216 USDA Foods with Latent Defects

- A. How to Report Food Complaints. USDA foods that are found to be defective after they are received at the ITO/State agency warehouse, or after they have been issued to a household, should be reported to FNS as soon as the problem is detected. Food complaints may be reported to FNS in any of the following ways:
1. Web-Based Supply Chain Management System;
 2. USDA Foods Complaint Hotline at 1-800-446-6991; or
 3. Email at USDAFoodsComplaints@fns.usda.gov.
- B. Complaint Information Needed. The following information is needed to resolve food problems with the vendors. ITOs/State agencies are encouraged to also submit digital photographs of the defects.
1. Delivery order number;
 2. Notice to Deliver Number;
 3. Contract Number (5 digit number on the case);
 4. Name and address of the ITO or State agency;
 5. Contact person's name, phone number, and email address;
 6. Food name and commodity code;
 7. Description of the problem and quantity of the product affected;
 8. Date product was received by the ITO or State agency; and
 9. How the ITO or State agency would like the problem resolved (e.g., replacement).
- C. USDA Foods that Go Out-of-Condition While in Storage by the ITO/State agency. The ITO/State agency should make every effort to maintain proper inventory levels and issue foods in a timely manner to avoid having foods go out-of-condition (see paragraphs 7430, 7431 and 7432, below). The ITO/State agency must contact the appropriate FNS Regional Office if it has USDA foods that are expected to go out-of-condition before they can be effectively used in the program (see paragraph 6150, above, on transfers). Out-of-condition food must not be disposed of or destroyed unless they create a hazard for other food stored nearby; however, they should be segregated from other foods immediately. If immediate disposal is necessary, the ITO/State agency must request permission from the appropriate

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FNS Regional Office and document approval. The quantity of the food and the manner in which it was disposed must be included in the ITO's/State agency's report to the appropriate FNS Regional Office.

6217 Form KC-269(A), Forwarding Notice, as a Consignee Receipt

Form KC-269(A), Forwarding Notice, provides advance notice of the quantities of donated food ordered for shipment by USDA for the order(s) shown (See Exhibit T, attached). The notice usually includes the mode of transportation. The Report of Cargo Over, Short, and/or Damage (on the reverse side of Form KC-269(A)) must be completed by the ITO/State agency when there is an overage, shortage or damage to the shipment.

Two copies for each order shown on Form KC-269(A) will be sent to the ITO/State agency. When an over, short or damaged shipment is received, Section III, the Distributing Agency Consignee Receipt, is to be completed, and a copy returned to USDA accompanied, when necessary, by Form FNS-57 (Over, Short, and Damaged Report) and other supporting documentation.

6218 Form PPCR71 - Multi-Food Consignee Receipt

Form PPCR71, Multi-Food Consignee Receipt, eliminates paperwork relative to shipments of mixed donated foods. It lists the names of foods and quantities requested for shipment under the designated consolidation number. Any shipment in which there was a shortage, overage, or damage must be reported on Form FNS-57 (Over, Short, and Damaged Report) and provided to USDA.

6220 LOCAL AGENCY RESPONSIBILITIES

The ITO/State agency must notify the local agency when USDA foods are to be delivered and in what quantities. The local agency must be prepared to accept and store the foods and must inspect and count them, as they are unloaded. The ITO/State agency must provide the local agency with forms for the receipt of the foods, and for reporting any overages, shortages, or damage.

CHAPTER VII WAREHOUSING AND INVENTORY CONTROL

SECTION 1 - WAREHOUSING OF USDA FOODS

7100 GENERAL

The ITO/State agency must provide storage space for USDA foods that:

- A. Is of adequate size;
- B. Protects against the elements, infestation, and theft;
- C. Has temperature controlled areas for perishable foods;
- D. Is accessible to program participants; and
- E. Can be reached by carriers delivering USDA foods.

Listed below are the warehousing and storage practices that are required to assure proper protection and efficient management of USDA foods.

7110 STORAGE SPACE

The amount of storage space needed will be determined by the volume, types of food, quantity, packaging and allowable floor loads. The ITO/State agency must provide sufficient floor space to allow air circulation and to permit ease of cleaning, inventory, inspection, and handling of foods.

7120 DETERMINATION OF SIZE AND SPACE

The ITO/State agency must use the following factor to determine the amount of storage space required: The minimum amount of storage space needed to store one case or bag of food is 1.5 cubic feet.

7130 STANDARDS FOR STORAGE FACILITIES

- A. ITOs and State agencies must ensure that storage facilities have obtained all required Federal, State and/or local health inspections and/or approvals and that such inspection/approvals are current.
- B. Facilities for the handling and storage of USDA foods must:
 - 1. Be sanitary and free from rodent, bird, insect and other animal infestation;
 - 2. Include safeguards against theft, spoilage and other loss;
 - 3. Provide for the maintenance of foods at proper storage temperatures;

(7130)

4. Provide for the stocking and spacing of foods in a manner so that USDA foods are readily identified;
 5. Provide for the storage of food off the floor in a manner to allow for adequate ventilation; and
 6. Include other protective measures as may be necessary.
- C. Storage facilities must be structurally sound and provide protection from the elements and extremes of temperature. The warehouse must be:
1. Tightly constructed;
 2. Waterproof;
 3. Well-ventilated;
 4. Insulated (if practical);
 5. Well-lighted; and
 6. Accessible for deliveries.

7131 Warehouse Floors

Warehouse floors must be smooth and level to facilitate operation of the hand and/or mechanically powered equipment used to handle and transport food. Floors must be capable of supporting the maximum weight of the heaviest foods stacked floor to ceiling. The ITO/State agency must procure the services of a safety engineer to determine and certify the load bearing capacity of the floor prior to use of the warehouse.

7132 Warehouse Windows and Doors

The ITO/State agency must provide screens for windows and doors to prevent entry by rodents, insects, and birds. In addition, windows must be shielded adequately to protect the food from direct sunlight. Windows and doors must have strong locking devices to prevent theft.

7133 Fire Prevention Equipment

The ITO/State agency must provide hand or power operated fire extinguishers to meet the minimum standards of the National Fire Protection Association (NFPA). More information on these standards can be found at the NFPA web site at www.nfpa.org.

7140 TYPES OF STORAGE FACILITIES

The ITO/State agency must provide three types of storage facilities to assure proper protection of USDA foods. The three types of facilities are dry, refrigerated, and freezer storage. The allocation notice will include the temperature requirement for each food item.

7141 Dry Storage Areas

The majority of USDA foods can be adequately warehoused in dry storage areas. The desirable temperature to maintain in dry storage areas is 50° to 70° Fahrenheit (F). In hot humid climates where temperatures of 50° F to 70° F cannot be maintained, it may be necessary to install air-conditioning to keep the temperature from going above 70° F. Temperatures above 70° F in dry storage areas may result in increased insect activity in grain products and bulging and swelling of canned goods. In climates where the temperatures may drop below freezing, a heating system may be necessary to keep canned goods from freezing. Temperature below 32° F can result in the freezing of canned goods and render the food unfit for human consumption.

7142 Refrigerated Storage Areas

Some USDA foods, such as cheese and fresh produce, require refrigerated storage. However, the storage life of many other foods such as grain products and dried fruits is greatly prolonged by the use of the refrigerated storage. The desirable temperature to maintain in refrigerated storage is 36° F to 40° F. Temperatures above 50° F can result in deterioration such as rancidity, loss of flavor, and loss of texture. Temperatures below 32° F can result in clumping of products and loss of flavor.

7143 Freezer Storage Areas

Several USDA foods require freezer storage. The required temperature for freezer storage is 0° F and below. Temperatures above 0° F can result in butter becoming rancid and off flavor, and also result in oil seepage from the product.

7144 Temperature Controls

Wherever USDA foods are stored, reliable thermometers must be provided by the ITO/State agency to assure that proper temperatures are maintained. Temperature readings must be taken and recorded at least daily both outside and inside refrigerated and freezer storage, and more often if there is difficulty in maintaining the desired temperature.

7150 TRIBAL/STATE/LOCAL HEALTH DEPARTMENT POLICIES

The ITOs/State agencies should consult with their Tribal, State, and/or local Health Departments on policies concerning warehouse management and the storage and handling of food.

SECTION 2 - STACKING USDA FOODS**7200 STACKING USDA FOODS**

The ITO/State agency must ensure that USDA foods are stacked in accordance with USDA's recommendations. The proper stacking of food can help prevent damage from excess weight on the bottom layers, and facilitate physical inventory counts. When stacking is not a viable option a racking system may be engineered to address storage requirements. Proper handling of food will help to ensure the safety of persons working in the warehouse. Recommended stacking procedures are as follows:

- A. Stack foods of a kind together (i.e., canned goods next to canned goods, bagged foods next to bagged foods, etc.);
- B. Food must be stacked on pallets or dunnage in uniform quantities to allow easy inventory counts (see Exhibits V-1 and V-2, attached, for illustrations); and
- C. Food must not be stacked to a height that would create unstable pallets or that would endanger the food handlers.

7210 VENTILATION OF STORAGE FACILITIES

The ITO/State agency must store foods in such a way to allow air circulation in the warehouse. Good ventilation retards growth of bacteria and molds, prevents mustiness and rusting of metal containers, and minimizes caking of powdered foods. Maximum air circulation can be achieved by the following storage methods:

- A. All food must be stacked off the floor on pallets or dunnage;
- B. All food must be stacked at least 18 inches from any walls and at least 2 feet from the ceiling; and
- C. All stacks of food must be separated by at least 6 inches.

SECTION 3 - HOUSEKEEPING PRACTICES**7300 HOUSEKEEPING PRACTICES**

Cleanliness and sanitation are essential to proper storage of USDA foods. The ITO/State agency must practice the following housekeeping methods:

- A. On a weekly basis or whenever there has been a movement of food, clean and sweep the entire storage facility;
- B. At least weekly, clean areas that harbor insects, such as corners, window sills, under pallets, and behind and between stacks of food;
- C. Immediately clean up foods that have been spilled;
- D. On a daily basis, dispose of refuse, garbage, and debris;
- E. On a daily basis, remove empty cartons and sacks from the storage area; and
- F. Keep the area around the exterior of the warehouse free of debris, garbage, and excess vegetation.

7310 INSECT CONTROL

Insects destroy or render unfit for human consumption enormous quantities of food each year. Infestation may occur even under ideal warehouse conditions; therefore, the ITO/State agency must give continuous attention to proper storage procedures. The following foods are susceptible to insect infestation:

- A. Dried beans and peas;
- B. Grain products (e.g., flour, cornmeal, rice, cereals, etc.);
- C. Dried fruits (e.g., dried plums, raisins, apricots, etc.); and
- D. Nonfat dry milk.

7311 Sources of Insect Infestation

The chief sources of infestation are:

- A. Live insects, eggs or larva undetected in the product at the time of harvest;
- B. Cracks in floors and walls;
- C. Live insects, eggs or larva undetected in the pallets, dunnage, or packaging of foods received in shipment from federal inventory or the vendor; and
- D. Unsanitary conditions, such as spilled food, dirt, or garbage in the warehouse.

7312 Detecting Insect Infestation

Methods of detecting infestation include:

- A. Inspections for infestation at frequent intervals and especially in warm weather. Adult insects are attracted to light, and can be found around windows and window sills; and
- B. Opening and examining boxes and bags for live larvae, webbing, moths, holes, or partially consumed foods.

7313 Methods of Reducing and Eliminating Insect Infestation

Following are storage practices that reduce or eliminate insect infestation:

- A. Good housekeeping practices eliminate areas where insects live;
- B. The most effective way of eliminating insects is by fumigation. Fumigation services should be rendered by a reputable licensed company on a regular basis at a minimum of at least once per month. Improper use of some fumigants may result in an explosion or fire or in ill effects to food handlers from exposure to the chemicals used. Before contracting with a fumigating company, the firm should be required to show evidence of public liability, property and fire insurance, and workmen's compensation; and
- C. Foods susceptible to infestation may be placed in a cooler or chilled storage space as a means of reducing insect activity. This type of storage is highly recommended, especially during the summer months when the temperature in dry storage areas can not be controlled.

7320 RODENT CONTROL

Rodents destroy or render unfit for human consumption large quantities of food each year. Federal Food and Drug Administration regulations prohibit the use of foods that have been contaminated by rodents. Because rodents are a menace to health by spreading disease, the ITO/State agency must take every precaution to protect food from rodents.

7321 Sources of Rodent Infestation

Rodents enter storage areas through:

- A. Open windows and doors;
- B. Ventilation and drainpipes;
- C. Burrowing under floors; and
- D. Carried into storage areas with containers of food.

7322 Methods of Reducing or Eliminating Rodent Infestation

The ITO/State agency must take the following steps to reduce or eliminate rodent infestation:

- A. Maintain good housekeeping practices. Rodents will not remain where food and shelter are not available;
- B. Seal and screen all outside openings to the warehouse that are 1/4 inch or larger;
- C. Screen fans and ventilation openings; and
- D. Install traps, the standard method for eradication of rodents. However, in an area with heavy rodent infestation, a combination of trapping and poisoning may be necessary. If rodent poisons are used, it must be done by a reputable licensed company.

SECTION 4 - INVENTORY CONTROL**7400 INVENTORY CONTROL**

The ITO/State agency must keep accurate records of the amount of each USDA food in inventory and the quantities of each item moving in and out of storage.

7410 PERPETUAL INVENTORY RECORD

The ITO/State agency must maintain a perpetual inventory record for each food item. If one kind of food is received in different size containers, a separate inventory record must be maintained for each container size. The perpetual inventory records must include the following information:

- A. USDA food item;
- B. Unit size;
- C. Date received;
- D. Amount received;
- E. Date withdrawn;
- F. Amount withdrawn;
- G. Purpose for withdrawal; and
- H. Balance on hand.

The ITO/State agency must provide a perpetual inventory record form that is acceptable to the appropriate FNS Regional Office. Perpetual inventory records may be automated at the discretion of the ITO/State agency provided it is acceptable to the Regional Office.

7420 PERSON(S) DESIGNATED TO MAINTAIN INVENTORY RECORDS

The ITO/State agency or local agency must designate one person to keep the inventory records. The ITO/State agency must also assign a backup person capable of maintaining the inventory records during any absence of the primary inventory keeper. The person(s) maintaining the inventory must set aside a specific time for posting the entries on a daily basis.

7430 INVENTORY CONTROL PROCEDURES

The ITO/State agency or local agency must date stamp or mark in pen the date received on the containers of food as they are placed in storage. This is an effective method to ensure that the first-in, first-out (oldest stock used first) distribution procedure is followed. Food must not be removed from cartons until they are to be distributed. The amount of each food received and placed in storage must be added to the perpetual inventory records.

7431 Maintaining a Supply

The ITO/State agency must maintain a supply of available food sufficient for up to 3 month's distribution for each food group. Local agencies must maintain a minimum of 1 month's supply of available food. (Note: ITOs/State agencies that are participating in food ordering/distribution pilot programs may be advised to maintain a different level of food for each food group.)

7432 Withdrawal of USDA Foods from Inventory

The ITO/State agency or local agency must inspect each food before releasing it for distribution to ensure that it is in good condition. If a food item was processed on one or more different dates, the oldest item must be removed from storage first (i.e., first-in, first-out). If the USDA food is being removed from a central storage facility for shipment to a distribution center, the ITO/State agency must count the containers as they are removed and record the amount withdrawn on the perpetual inventory record.

7440 PHYSICAL INVENTORY

The ITO/State agency or local agency must take a monthly physical inventory of each food item (preferably after the distribution to eligible households), and record the quantities counted of each food item and the date the count was taken.

7441 Reconciliation of Physical and Perpetual Inventories

The ITO/State agency or local agency must reconcile the physical inventory with the perpetual inventory, and record any overage and shortages in each food item. The ITO/State agency must submit Form FNS-152, Monthly Distribution of Donated Foods to Family Units, (see Exhibit G, attached) that documents the data obtained in the physical inventory with the perpetual inventory record. Shortages must be reported to the appropriate FNS Regional Office in accordance with Chapter IX, below.

7442 Reconciliation of Issuances and Physical Inventory

The ITO/State agency or local agency must determine, at least monthly, the amounts of each food distributed by totaling the recorded amounts of each of the issuance sheets. The total amount of each food distributed must be reconciled with the physical inventory, and any overage and shortage recorded.

CHAPTER VIII DISTRIBUTION OF USDA FOODS

SECTION 1 - MANUAL DISTRIBUTION SYSTEM

8100 GENERAL

An efficient and well-managed distribution system is essential to the success of the Food Distribution Program. Four different types of distribution systems will be discussed in this chapter. The distribution system, or combination of distribution systems, that will be the most effective will depend upon several factors. After determining the specific needs of the ITO's/State agency's participant and eligible population, the ITO/State agency will select the type(s) of distribution system(s) that will be used.

8110 MANUAL DISTRIBUTION SYSTEM

Under a manual distribution system, food packages are assembled by food distribution staff working in the warehouse and distributed to the clients.

8120 FOOD DISTRIBUTION CENTER FACILITIES AND SERVICES

8121 Size of Food Distribution Center

The manual food distribution center must be large enough to allow the following equipment and facilities:

- A. A private area for certification;
- B. Nutrition education area;
- C. Seating area for households that are waiting for certification or food;
- D. Orderly stacking of USDA foods (a full order of food for each program participant requires three cubic feet of space);
- E. A long table or counter to place and package food orders;
- F. A desk for the distribution clerk;
- G. A table or desk for checkout; and
- H. Public rest rooms.

The ITO/State agency must provide a heating device to maintain comfortable temperatures for program participants and staff during cold weather, and a ventilation system to control temperature during the summer months.

8122 Certification and Waiting Areas

The certification area must be a separate room or enclosure to ensure privacy to the applicant or participant being interviewed. The certification room should include a desk and a chair for the certification worker, file cabinets for certification records, and two or more chairs for household

(8122)

members. The waiting room/area must be neat and clean and contain sufficient seating to accommodate participants.

8123 Nutrition Education Area

A nutrition education area must be provided. The activities that may be conducted in the nutrition education area include:

- A. Taste testing of USDA foods;
- B. Cooking demonstrations using USDA foods;
- C. Visual displays or the distribution of materials about the proper storage and care of USDA foods in the home;
- D. Distribution of recipes, sample menus, or other food and nutrition information; and
- E. Obtaining food preferences from participants.

8130 PREPARATION OF USDA FOODS FOR DISTRIBUTION

The following procedures should be followed in the food distribution center for easy access of USDA foods on the day of distribution:

- A. USDA foods should be placed near the distribution counter/table prior to the day of actual distribution;
- B. Each food should be stacked in individual rows and in the same sequence as shown on the issuance receipt card or automated invoice;
- C. Foods requiring refrigeration may be removed from the coolers in small quantities that can be distributed in less than thirty minutes; and
- D. With the exception of foods requiring refrigeration, several cases of each USDA food should be opened prior to distribution.

8140 DISTRIBUTION OF FOODS

Participants may be issued a numbered card by the food distribution clerk to maintain an orderly and controlled distribution sequence.

The distribution of USDA foods will generally follow the process outlined below:

- A. The participant will present his/her food distribution identification card (see Exhibit W, attached) or other acceptable identification to the food distribution clerk;
- B. The food distribution clerk will review the participant's issuance receipt card (see Exhibit X, attached) or automated invoice, and determine if recertification is necessary. If recertification is necessary, the food distribution clerk will refer the participant back to the certification office;

(8140)

- C. If recertification is not necessary, the food distribution clerk will inform the participant of the maximum amounts of each choice of food items that the household is entitled to receive;
- D. The participant will make his/her selection of food items, and the food distribution clerk will write in the desired amounts of each food item on the issuance receipt card or enter this information into the automated inventory system. The pre-posting of issuance is authorized providing that adequate safeguards are outlined in the Plan of Operation;
- E. The food distribution clerk will forward the participant's food order to the food handlers;
- F. The food handlers will place the participant's food order on the distribution table;
- G. Both the participant and the food handler will verify that the food order on the table agrees with the issuance receipt card or the automated invoice. The participant will sign the issuance receipt card or automated invoice in the presence of the food handler, and the food handler will package the food order; and
- H. Foods not accepted by participants will be placed back into the physical inventory and entered appropriately in the automated inventory system.

Alternative procedures may be employed by the ITO/State agency with approval of the appropriate FNS Regional Office.

8150 ASSISTANCE TO PROGRAM PARTICIPANTS

The ITO/State agency must provide staff or volunteers to assist participants who are unable to carry their food from the distribution center to their vehicle.

8160 HOUSEKEEPING

The ITO/State agency or local agency must maintain the same housekeeping, rodent, insect control, and receiving procedures outlined in Chapter VII, above.

SECTION 2 - SELF-SERVICE DISTRIBUTION SYSTEM**8200 SELF-SERVICE DISTRIBUTION SYSTEM**

Under a Self-Service Distribution System, clients may take a grocery cart and select food items they desire from the full array of USDA foods available in inventory, similar to how they would shop in a commercial food store.

8210 FOOD DISTRIBUTION CENTER FACILITIES AND SERVICES**8211 Food Distribution Center Size**

The self-service distribution center must be large enough to allow:

- A. A private area for certification;
- B. Seating area for households that are waiting for food or certification;
- C. Nutrition education area;
- D. Orderly stacking of USDA foods (a full order of USDA food for each program participant requires three cubic feet of space);
- E. A desk for the distribution clerk;
- F. A checkout table;
- G. Storage area for approximately ten grocery carts; and
- H. Public rest rooms.

The ITO/State agency must provide a heating device to maintain comfortable temperature for program participants and staff during cold weather and a ventilation system to control temperature during the summer months.

8212 Certification and Waiting Areas

The certification area must be a separate room or enclosure to ensure privacy to the applicant or participant being interviewed. The certification room must include a desk and chair for the certification workers, file cabinet for the certification records, and two or more chairs for household members. The waiting room/area must be neat and clean and contain sufficient seating to accommodate participants and applicants.

8213 Nutrition Education Area

A nutrition education area must be provided. The activities that may be conducted in the nutrition education area include:

- A. Taste testing of USDA foods;

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- B. Cooking demonstrations using USDA foods;
- C. Visual displays or the distribution of materials about the proper storage and care of USDA foods in the home;
- D. Distribution of recipes, sample menus, or other food and nutrition information; and
- E. Obtaining food preferences from participants.

8220 PREPARATION OF USDA FOODS FOR DISTRIBUTION

The following procedures should be followed in the food distribution center for easy access of USDA foods on days of distribution:

- A. Shelves should be stock with sufficient food prior to the day of distribution;
- B. Shopping carts or baskets should be readily available for participant use;
- C. Food should be shelved in the same sequence as shown on the issuance receipt card or automated invoice; and
- D. Food requiring refrigeration should be placed in coolers that are accessible to participants in the self-serve area.

8230 DISTRIBUTION OF USDA FOODS

Participants may be issued a numbered card by the food distribution clerk to maintain an orderly and controlled distribution sequence.

The distribution of USDA food will generally follow the process outlined below:

- A. The participant will present his/her food distribution identification card (see Exhibit W, attached) or other acceptable identification to the food distribution clerk;
- B. The food distribution clerk will review the participant's issuance receipt card (see Exhibit X, attached) or automated invoice, and determine if recertification is necessary. If recertification is necessary, the food distribution clerk will refer the participant back to the certification office;
- C. If recertification is not necessary, the food distribution clerk will inform the participant of the maximum amounts of each choice of food items that the household is entitled to receive;
- D. When the participant has completed selection of his/her USDA foods, he/she will place the foods on the checkout counter;
- E. Both the checkout clerk and the participant will verify that the participant's selection of USDA foods agrees with the distribution guide rates for the household size indicated on the issuance receipt card or automated invoice. The ITO/State agency may use a scanning device that is linked to the automated inventory system to verify/record the issuance; and

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- F. The participant will sign the issuance receipt card or automated invoice in the presence of the checkout clerk, and the checkout clerk will package the food order

Alternative procedures may be employed by the ITO/State agency with approval of the appropriate FNS Regional Office.

8240 ASSISTANCE TO PROGRAM PARTICIPANTS

The ITO/State agency must provide staff or volunteers to assist participants who are unable to carry their USDA foods from the distribution center to the vehicle.

8250 HOUSEKEEPING

The ITO/State agency or local agency must maintain the same housekeeping, rodent, and insect control, and food receiving procedures outlined in Chapter VII, above.

SECTION 3 - TAILGATE (MOBILE) DISTRIBUTION SYSTEM**8300 TAILGATE (MOBILE) DISTRIBUTION SYSTEM**

In a tailgate distribution system, all functions are performed at the site(s) where the actual distribution takes place. Instead of clients coming to a distribution center to be qualified and receive their food packages, the distribution center goes to the clients. Households can be certified and receive their food packages at a convenient site nearer to their home. Household selections of USDA foods are filled by Food Distribution Program staff on site.

A tailgate distribution system is an expensive method of distributing USDA foods. Some of the expenses involved in tailgate distribution include the cost of a suitable truck and normal operating expenses for the vehicle such as fuel, repairs, tires, and insurance.

8310 NEED FOR TAILGATE DISTRIBUTION

A tailgate distribution system should be considered for use when the systems discussed in paragraphs 8100 and 8200, above, are not practical or do not provide sufficient service to participant and eligible households. The ITO/State agency should consider implementing tailgate distribution in the following situations:

- A. On large sparsely populated reservations where small communities are located long distances from the main distribution center; or
- B. On reservations where recipients would not be able to obtain transportation to the main distribution center.

8320 SCHEDULING OF TAILGATE DISTRIBUTION

The ITO/State agency must schedule tailgate distribution to provide maximum service to current participants and eligible persons. Additional cases of USDA foods must be transported to all tailgate distribution sites to accommodate new program participants who are certified on the day of distribution.

8321 Distribution Times

Food distribution personnel must schedule tailgate distributions in such a manner that it will not require participants to wait long periods of time for the truck to arrive. This may involve scheduling no more than two tailgate distributions during any day.

8322 Distribution Locations

The location of tailgate distribution sites must be:

- A. Near or in small communities so that participants may have easy access to the truck;
- B. Near chapter houses, community centers, or other appropriate facilities so that participants may be protected in the event of poor weather conditions.

8323 Notification to Participants

The ITO/State agency must inform all program participants of the times and locations of tailgate distributions. In addition, the ITO/State agency must advise participants that if they cannot get to the scheduled distribution, they may pick up their USDA foods at the main distribution center or at another tailgate distribution site. Methods of notification of participants include:

- A. Informing participants of the distributions schedule at the time of certification;
- B. Posting the locations and dates for distributions in chapter houses, community centers, religious centers, and other public places; and
- C. Publicizing the locations and dates of distributions in local newspapers or radio stations.

8330 FOOD DISTRIBUTION FACILITIES AND SERVICES**8331 Severe Weather**

In severe weather, the ITO/State agency must provide adequate temporary shelter at the tailgate site for program participants and applicants.

8332 Certification

The certification clerk must be available at each distribution site to certify new recipients and for recertification. The interviewing of recipients for certification purposes must be done in private. At tailgate distribution sites, interviews may be conducted in a vehicle.

8333 Nutrition Education

The ITO/State agency must provide nutrition education services to tailgate distribution participants if such services are normally provided to participants who pick up USDA foods at the central distribution center.

8334 Food Distribution

The ITO/State agency must provide a table and chair for the food distribution clerk.

8340 DISTRIBUTION OF USDA FOODS

Participants may be issued a numbered card by the food distribution clerk to maintain an orderly and controlled distribution sequence.

The distribution of USDA foods will generally follow the process outlined below:

- A. The participant will present his/her food distribution identification card (see Exhibit W, attached) or other acceptable identification to the food distribution clerk;
- B. The food distribution clerk will review the participant's issuance receipt card (see Exhibit X, attached) or automated invoice and determine if recertification is necessary. If recertification is necessary, the food distribution clerk will refer the participant to a certification clerk on site;

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- C. If recertification is not necessary, the food distribution clerk will inform the participant of the maximum amounts of each choice of food items that the household is entitled to receive;
- D. The participant will make his/her selection of food items, and the food distribution clerk will write in the desired amounts of each food item on the issuance receipt card or enter this information into the automated inventory system. The pre-posting of issuance is authorized providing that adequate safeguards are outlined in the Plan of Operation;
- E. The food distribution clerk will forward the participant's food order to the food handlers;
- F. The food distribution clerk will inform the participant of the exact time and location of the next month's distribution;
- G. The food handler will place the participant's order on the distribution table or tailgate;
- H. Both the participant and the food handler will verify that the actual food order agrees with the issuance receipt card or the automated invoice. The participant will sign the issuance receipt card or automated invoice in the presence of the food handler; and
- I. USDA foods not taken by participants will be placed back into the physical inventory and entered appropriately in the automated inventory system.

Alternative procedures may be employed by the ITO/State agency with approval of the appropriate FNS Regional Office.

8350 ASSISTANCE TO PROGRAM PARTICIPANTS

The ITO/State agency will provide staff or volunteers to assist participants who are unable to carry their USDA foods from the tailgate distribution vehicle to their vehicle.

8360 TRUCK SPACE REQUIRED FOR FULL ORDERS

Approximately six cubic feet of truck space is required for the effective handling and distribution of a full order of USDA foods for each program participant.

8370 STACKING OF USDA FOODS IN THE TRUCK

USDA foods should be stacked in the following manner:

- A. Each food item should be stacked in individual rows along the sides and front of the truck;
- B. Individual rows of food items should be stacked in the same sequence as shown on the issuance receipt card or automated invoice; and
- C. When the truck is moving from one distribution site to another the food must be leveled to prevent any food damage.

SECTION 4 – HOME DELIVERY**8400 HOME DELIVERY**

ITOs/State agencies are encouraged to respond, whenever possible, to reasonable requests for home delivery services to elderly, disabled, and other homebound individuals who have been determined eligible to participate in the Food Distribution Program.

8410 VERIFICATION OF RECEIPT OF FOODS

The participant or his/her authorized representative must verify receipt of the USDA foods by signing the issuance receipt card or automated invoice. USDA foods not accepted by participants will be placed back into the physical inventory and entered appropriately in the automated inventory system.

8420 NUTRITION EDUCATION

The ITO/State agency must provide nutrition education services to home delivery recipients if such services are normally provided to participants who pick up USDA foods at the central distribution center or at tailgate distribution sites.

8430 ALLOWABLE COSTS

All necessary and reasonable costs associated with home delivery services are considered allowable for administrative funding purposes.

8440 USE OF VOLUNTEERS AND AUTHORIZED REPRESENTATIVES

In accordance with paragraph 1223, above, volunteers may be used to assist in home delivery of USDA foods. In addition, an authorized representative may be designated by a household to obtain food on behalf of the household (see paragraph 3434, above).

CHAPTER IX LOSS OF USDA FOODS

SECTION 1 – ITO/STATE AGENCY RESPONSIBILITIES

9100 GENERAL

The ITO/State agency is responsible for all USDA foods it receives and, therefore, is accountable for any losses that may occur while in storage and during distribution. Instructions for reporting losses of donated foods are contained in FNS Instruction 410-1, Rev. 1, Non-Audit Claims - Food Distribution Program. USDA retains the authority to determine if a loss is due to fault or negligence on the part of the ITO/State agency. If such a determination is made, USDA may pursue a claim against the ITO/State agency for the value of the loss. ITOs/State agencies are responsible for pursuing claims against local agencies (see paragraph 9110, below). However, if the ITO/State agency fails to pursue a claim against a local agency, the ITO/State agency may be held responsible for the claim.

9110 CLAIM DETERMINATIONS FOR USDA FOOD LOSSES

A claim determination (a determination of fault or negligence) for a food loss must be based on the facts reported (see paragraph 9300, below) and on the other facts known or observed by ITO/State agency personnel. The claim decision must be documented with the reasons for the determination.

- A. **Losses Due to Fraud.** For a food loss that is the result of fraud, regardless of the value or location of the loss, the ITO/State agency must make a tentative claim determination, and submit a written report of the loss to the appropriate FNS Regional Office within 30 days of the discovery of the loss. The report must contain the information indicated in paragraph 9300, below. If the loss occurred at the local agency, the report must also include the ITO's/State agency's recommendation as to whether the local agency is at fault for the loss. The FNS Regional Office is responsible for the further handling of losses that result from fraud and will instruct the ITO/State agency on the disposition of the claim.
- B. **Nonfraud Losses Less than \$100.** For food losses that are not the result of fraud, no claim determination is required if the value of the loss is less than \$100.
- C. **Nonfraud Losses from an ITO/State Agency Warehouse or Distribution Facility.**
 - 1. For a food loss that does not exceed \$500, the ITO/State agency must make the final claim determination and submit a written report of the loss to the appropriate FNS Regional Office within 30 days of the discovery of the loss. The report must contain the information indicated in paragraph 9300, below.
 - 2. For a food loss that exceeds \$500, the ITO/State agency must make a tentative claim determination and submit a written report of the loss to the appropriate FNS Regional Office within 30 days of the discovery of the loss. The report must contain the information indicated in paragraph 9300, below. The FNS Regional Office is responsible for the further handling of the loss and will instruct the ITO/State agency on the disposition of the claim.

(9110)

- D. Nonfraud Losses from a Local Agency Warehouse or Distribution Facility.** The ITO/State agency must require that its local agencies report all losses of USDA foods, and must provide a form, acceptable to FNS, for that purpose.
1. For a food loss that does not exceed \$500, the ITO/State agency must make the final claim determination and submit a written report of the loss to the appropriate FNS Regional Office within 30 days of the discovery of the loss. The report must contain the information indicated in paragraph 9300, below.
 2. For a food loss that exceeds \$500, the ITO/State agency must make a tentative claim determination and submit a written report of the loss to the appropriate FNS Regional Office within 30 days of the discovery of the loss. The report must contain the information indicated in paragraph 9300, below, and must include the ITO's/State agency's recommendation as to whether the local agency is at fault for the loss. The FNS Regional Office is responsible for the further handling of the loss and will instruct the ITO/State agency on the disposition of the claim.

9120 ITO/STATE AGENCY COLLECTION OF CLAIMS FOR USDA FOOD LOSSES

The ITO/State agency must maintain records on all claims actions, including a claims register, and substantiating documentation, such as purchasing documentation, in accordance with FNS Instruction 410-1.

A. Losses from an ITO/State Agency Warehouse or Distribution Facility.

1. For fraudulent losses (which are forwarded to the appropriate FNS Regional Offices in accordance with paragraph 9110A, above), the ITO/State agency must submit payment for the claim immediately upon receiving instructions from the appropriate FNS Regional Office.
2. For nonfraud losses that do not exceed \$500, the ITO/State agency must submit payment for the claim immediately upon finalizing the claim determination (see paragraph 9110C, above).
3. For nonfraud losses that exceed \$500 (which are forwarded to the appropriate FNS Regional Offices in accordance with paragraph 9110C, above), the ITO/State agency must submit payment for the claim immediately upon receiving instructions from the appropriate FNS Regional Office.

B. Losses from a Local Agency Warehouse or Distribution Facility.

1. The ITO/State agency must aggressively pursue collection action on all claims against a local agency. In establishing procedures for the collection of claims against a local agency, the ITO/State agency may either:
 - a. Follow Tribal/State procedures for collecting debts owed to the Tribe/State; or
 - b. Issue two written demand letters at a minimum of 30-day intervals. The letters must include language on the consequences for failure to cooperate.

(9120B)

2. For fraudulent claims (which are forwarded to the appropriate FNS Regional Offices in accordance with paragraph 9110A, above), the ITO/State agency must pursue collection action immediately upon receiving instructions from the appropriate FNS Regional Office to proceed with the claim.
3. For nonfraud losses that do not exceed \$500, the ITO/State must make the final claim determination and submit a written report of the loss to the appropriate FNS Regional Office within 30 days of the discovery of the loss. The report must contain the information indicated in paragraph 9300, below.
4. For nonfraud losses that exceed \$500, the ITO/State agency must make a tentative claim determination and submit a written report of the loss to the appropriate FNS Regional Office within 30 days of the discovery of the loss. The report must contain the information indicated in paragraph 9300, below, and must include the ITO's/State agency's recommendation as to whether the local agency is at fault for the loss. The FNS Regional Office is responsible for the further handling of the loss and will instruct the ITO/State agency on the disposition of the claim.
5. If the local agency fails to respond to the ITO's/State agency's collection actions, the ITO/State agency must refer the outstanding claim to the appropriate FNS Regional Office for further action.

SECTION 2 - LOCAL AGENCY RESPONSIBILITIES**9200 LOCAL AGENCY RESPONSIBILITY FOR USDA FOOD LOSSES**

The local agency must receive, store and distribute USDA foods in accordance with applicable provisions in Chapters VI, VII, and VIII, above. The local agency must report all food losses to the ITO/State agency using a form, acceptable to FNS, for that purpose (see paragraph 9110D, above).

SECTION 3 - LOSS REPORTING REQUIREMENTS**9300 LOSS REPORTING REQUIREMENTS**

All reports of losses of USDA foods must include the following information:

- A. Description and quantity of each lost USDA food;
- B. Package date;
- C. Date of receipt;
- D. Time and place of the loss;
- E. Name of the person(s) having possession of the food at the time of the loss;
- F. Date of the discovery of the loss;
- G. Current inventory on hand of the item found to be out-of-condition;
- H. Apparent cause of the loss;
- I. Description of the condition of the food;
- J. General storage conditions -- i.e., temperature, pallet, sanitation, cool or dry storage, etc.;
- K. Schedule, including dates, of extermination treatments, if applicable;
- L. Precautions against theft or fire, if applicable;
- M. Certificate of inspection by a health official;
- N. Copy of the local fire or police department's report, if applicable;
- O. Manner of disposal of the out-of-condition food; and
- P. Amount of the claim.

**FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS
PLAN OF OPERATION GUIDANCE**

A cover sheet should be attached to the Plan of Operation which identifies the State agency by name and address; effective Fiscal Year; authority citation; name and location of each reservation served; statement that the State Agency will abide by pertinent legislation, regulations, instructions, and FNS Handbook 501 (or other approved operating manual); and joint FNS and State agency signature blocks. A sample cover sheet is shown below.

**FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS
Plan of Operation and Budget**

State Agency:

(Name)

(Address)

Authority Citation:

Reservation(s) Served

Location(s)

The State agency responsible for program operations of the Food Distribution Program on Indian Reservations agrees to abide by all pertinent legislation, regulations, instructions, and FNS Handbook 501.

Submitted by:

Approved By:
Food and Nutrition Service

JOHN DOE
Chairman

JOHN SMITH
Regional Administrator

(Date)

(Date)

I SCOPE OF OPERATION

Required: A detailed description of the geographic boundaries of the relevant areas to be served including tribal reservation land, near area(s), and urban place(s).

Regulation cite: 7 CFR 253.4(d)

Guidance: This section of the plan should include:

- A. Narrative description and maps of defined reservation boundaries;
- B. Narrative description and maps of near reservation area(s);
- C. Description of previously approved urban area(s) and dates of FNS approval, including name of city or town and population; and
- D. (Optional) Tribes which will be served in each defined area.

II STORAGE AND DISTRIBUTION

Required: A detailed description of the manner in which commodities will be distributed, including, but not limited to, the storage and distribution facilities to be used.

Regulation cite: 7 CFR 253.5(a) (2)

Guidance: This section of the plan should include:

- A. Location of each storage facility;
- B. Floor and height dimensions of cold and dry storage areas;
- C. Description of type of each storage facility (i.e., commercial, tribal building, etc.);
- D. Procedures taken to ensure that the handling, storage, and distribution of foods are safeguarded against theft, spoilage, infestation, fire, and other losses;
- E. Frequency and estimated number of participants to be served at each distribution site;
- F. Type of distribution offered to participants at each distribution site (i.e., manual, over-the-counter, or tailgate);
- G. Procedures used to ensure issuance of commodities to households on a 1-day expedited basis for hardship cases; and
- H. Procedures for controlling disposition of damaged commodities (i.e., list of emergency contacts and telephone numbers).

III DUAL PARTICIPATION

Required: A detailed description of the State agency's procedures for preventing simultaneous participation of households in both the Food Stamp Program and the Food Distribution Program on Indian reservations.

Regulation cite: 7 CFR 253.5(a) (2)

Guidance: This section of the plan should include:

- A. Procedures used to control simultaneous participation of households in the Food Stamp Program and other Food Distribution Program on Indian Reservations, including a list of offices contacted; and
- B. Procedures used to permit households to smoothly switch participation from the Food Stamp Program to the Food Distribution Program on Indian Reservations and vice versa.

IV FOOD PREFERENCES

Required: A detailed description of the State agency's system used to determine food preferences of households.

Regulation cite: 7 CFR 253.5(a) (2)

Guidance: This section of the plan should include a description of methods used to collect food preferences from households, including the frequency of collection.

V NONDISCRIMINATION

Required: A detailed description of the procedures for complying with the nondiscrimination requirements, and any applicable nondiscrimination requirements specified by the Department.

Regulation cite: 7 CFR 253.5(a) (2)

Guidance: This section of the plan should include:

- A. Description of procedures for handling civil rights complaints; and
- B. Location of nondiscrimination posters.

VI PROGRAM MONITORING

Required: A detailed description of the State agency's procedures for monitoring the program to ensure compliance with the regulations and guidance provided by FNS.

Regulation cite: 7 CFR 253.5(i)

Guidance: This section of the plan should include:

Procedures for detecting program deficiencies, including frequency of internal reviews;

- A. Procedures for documenting all program deficiencies found and related corrective action procedures;
- B. Description of procedures for handling program complaints; and
- C. Name and title of the fair hearing official.

VI PROGRAM TRAINING

Required: A detailed description of the State agency's procedures for training personnel involved in the Food Distribution Program on Indian Reservations activities.

Regulation cite: 7 CFR 253.5(f)

Guidance: This section should include:

- A. Procedures for detecting training needs; and
- B. Description of training sessions to be held.

VIII STAFFING

Required: A list of all employees, by job title, working on the Food Distribution Program on Indian Reservations.

Regulation cite: 7 CFR 253.5(c)

Guidance: This section of the plan should include:

- A. Description of organizational structure;
- B. Description of each employee's responsibilities, including staff persons responsible for conducting nutrition education; and

- C. Explanation of how a contract with an outside agency for any portion of program administration will work with staff.

IX NUTRITION EDUCATION

Required: A detailed description of the procedures used for making food and nutrition education information and materials available to participating households.

Regulation cite: 7 CFR 253.5(g)

Guidance: This section of the plan should include:

- A. Explanation of how participants will be informed of the commodity foods in the food package (i.e., visual aids, printed materials, home demonstrations, etc.); and
- B. Location and description of applicable posters and other materials.

X FINANCIAL MANAGEMENT

Required: Any State agency administering an ongoing Food Distribution Program on Indian Reservations which desires to receive administrative funds shall submit an SF-424, Application for Federal Assistance, and supporting narrative to the appropriate FNS regional office at least 3 months prior to the beginning of each Federal Fiscal Year. The budget information required in Part III of the application shall reflect by category of expenditures, the State agency's best estimate of the total amount to be expended in the administration of the Food Distribution Program on Indian Reservations during a Federal Fiscal Year.

Regulation cite: 7 CFR 253.9

Guidance: This section of the plan should include:

- A. Budget
 - 1. All sources of funding for the program;
 - 2. Categorization of State agency expenditures in Part III, Sections A and B of SF-424 by indicating the division of funds among the following categories: Certification; Storage and Distribution; Nutrition Education; and Other;
 - 3. Indication of whether equipment expenses are for maintenance, rental fees, or new purchases;

4. Estimation of caseload for ongoing programs reflecting the program's 12-month average participation, as reported on Form FNS-152; and
5. A copy or detailed summary of the current indirect cost agreement.

B. Narrative

1. Description of procedures and controls in effect that ensure accounting records reflect the Fiscal Year authorized administrative funds;
2. Description of how the financial management system accommodates drawdowns on Letters of Credit; and
3. Description of the checks and balances used in making disbursements.

XI EXHIBITS

Guidance: The exhibits to the Plan of Operation should include:

- A. A detailed list of all approved program forms including, complete title and FNS approval date of each form;
- B. Any new forms which need approval;
- C. Organizational charts;
- D. Reservation maps; and
- E. Memorandum(s) of understanding (if applicable).

SAMPLE COPY OF FORM FNS-74

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a Collection of Information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0067. The time required to complete this information collection is estimated to average 15 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

INSTRUCTIONS: Sign and submit the original and one copy of this Agreement to your FNS regional office. You must have original signatures on both copies of the agreement and the following attachments, which become part of this Agreement: Certification Regarding the Drug-Free Workplace Requirements (Form AD-1049); Certification Regarding Lobbying; and Disclosure of Lobbying Activities (Form SF-LLL).

FEDERAL-STATE AGREEMENT CHILD NUTRITION AND FOOD DISTRIBUTION PROGRAMS FOOD AND NUTRITION SERVICE U.S. DEPARTMENT OF AGRICULTURE

1. What is the purpose of this agreement?

This agreement sets out the requirements for administering the Child Nutrition Programs and the Food Distribution Programs.

2. Who are the parties to this agreement?

The Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA) _____
(State agency). In consideration of the funds and commodities provided by FNS to the State agency and the services provided by the State agency, the parties agree to the provisions of this agreement.

3. What programs does this agreement cover?

This agreement covers the programs noted with an "x" in the chart below. If the State agency decides to discontinue or begin administration of any of these programs after signing this agreement, the State agency must provide FNS advance written notice, including the proposed effective date of the change. Upon approval of the request, FNS will enter into a new agreement or amend this agreement.

	National School Lunch Program	School Breakfast Program	Special Milk Program	Com- modity School Program	Child and Adult Care Food Program	Summer Food Service Program	Nutrition Education Training	Food Distri- bution Programs
Public schools	☐	☐	☐	☐	☐	☐	☐	☐
Private schools	☐	☐	☐	☐	☐	☐	☐	☐
Public residential child care institutions	☐	☐	☐	☐	☐	☐	☐	☐
Private residential child care institutions	☐	☐	☐	☐	☐	☐	☐	☐
Nonresidential child care institutions	☐	☐	☐	☐	☐	☐	☐	☐
Nonresidential adult care institutions	☐	☐	☐	☐	☐	☐	☐	☐
Service institutions (including camps)	☐	☐	☐	☐	☐	☐	☐	☐
Charitable institutions	☐	☐	☐	☐	☐	☐	☐	☐
Disasters and situations of distress	☐	☐	☐	☐	☐	☐	☐	☐
CSFP	☐	☐	☐	☐	☐	☐	☐	☐
FDPIR and FDPI in Oklahoma	☐	☐	☐	☐	☐	☐	☐	☐
Nonprofit summer camps	☐	☐	☐	☐	☐	☐	☐	☐
TEFAP	☐	☐	☐	☐	☐	☐	☐	☐
Other (describe)	☐	☐	☐	☐	☐	☐	☐	☐

4. What are the definitions for the terms used in this agreement?

The terms in this agreement have the same meaning as they are defined in the program statutes, program regulations, and the glossary in Appendix A to this agreement.

5. What is the authority for this agreement?

This agreement is authorized by the program statutes listed in Appendix A to this agreement.

6. What is the duration of this agreement?

This agreement is effective for the Federal Fiscal Year from October 1 _____ to September 30, _____. This agreement may be extended by FNS. The extension will be in the form of the annual grant award document announcing the grant amounts for each program for each Federal Fiscal Year.

7. How may this agreement be terminated?

This agreement may be terminated in accordance with the program statutes, program regulations, and 7 CFR Parts 3015.124, 3016.43 and 3016.44.

8. May this agreement be amended?

This agreement may be amended only by FNS. However, either FNS or the State agency may propose amendments. FNS amendments are not subject to approval by the State agency. By continuing to operate the covered programs after an amendment to this agreement, the State agency agrees to comply with the amendment.

If the State agency does not wish to comply with an amendment, the State agency must seek to terminate the agreement in accordance with Section 7 of this agreement.

9. What are the requirements for FNS?

Subject to available appropriations, FNS will provide funds and commodities to the State agency for the programs covered by this agreement. In addition and also subject to available appropriations, FNS will provide State Administrative Expense funds and Cash-in-Lieu of Donated Foods (7 CFR Part 240) when the State agency is approved to administer a program for which those funds are available.

FNS will provide the funds and commodities in accordance with program statutes, program regulations, any FNS instructions, policy memoranda, guidance, and other written directives interpreting the program statutes and program regulations, and the other statutes and regulations cited in this agreement.

10. What are the requirements for the State agency?

A. Program Statutes, Program Regulations, Instructions, Policy Memoranda, and Guidance

The State agency will comply with the program statutes and program regulations applicable to the programs covered by this agreement. The State agency also will comply with any FNS instructions, policy memoranda, guidance, and other written directives interpreting the program statutes and program regulations applicable to those programs.

B. Departmental Regulations on Grants and Cooperative Agreements

The State agency will comply with the following USDA Regulations:

- i. 7 CFR Part 3015, Uniform Federal Assistance Regulations;
- ii. 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements;
- iii. 7 CFR Part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and Institutions;
- iv. 7 CFR Part 3051, Audits of Institutions of Higher Education and Other Nonprofit Institutions;
- v. 7 CFR Part 3052, Audits of States, Local Governments, and Nonprofit Organizations.

C. Debarment and Suspension

The State agency will comply with 7 CFR Part 3017, Subparts A-E, Governmentwide Debarment and Suspension (Nonprocurement). If this agreement covers Food Distribution Programs other than food distribution related to the Child Nutrition Programs, and the State agency has signed and attached to this agreement the Certificate Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions, the SA must submit an additional Certification to FNS by October 1 of each year.

D. Nondiscrimination and Equal Employment Opportunity

The State agency will comply with the following nondiscrimination statutes and regulations, any other related regulations, and any FNS and USDA nondiscrimination directives:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d et seq.), USDA regulations at 7 CFR Part 15, Nondiscrimination, and Department of Justice regulations at 28 CFR Part 42, Nondiscrimination; Equal Employment Opportunity; Policies and Procedures;
- ii. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and USDA regulations at 7 CFR Part 15a, Education Programs or Activities Receiving or Benefitting from Federal Financial Assistance;
- iii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), USDA regulations at 7 CFR Part 15b, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance, and Department of Justice regulations at 28 CFR Part 41, Implementation of Executive Order 12250, Nondiscrimination On The Basis of Handicap In Federally Assisted Programs; and
- iv. The Age Discrimination Act of 1975 42 (U.S.C. 6101 et seq.),

The State agency assures that it will immediately take any measures necessary to effectuate the requirements in the laws, regulations, and directives. The State agency gives this assurance in consideration of and for the purpose of obtaining the funds and commodities provided under this agreement.

E. Lobbying

The State agency will comply with the 7 CFR Part 3018, New Restrictions on Lobbying and has signed and attached to this agreement the Certificate Regarding Lobbying and, if applicable, the Disclosure of Lobbying Activities (Forms SF-LLL) and annually will sign and submit a certificate, if applicable, Form SF-LLL to FNS.

F. Drug-Free Workplace

The State agency will comply with 7 CFR Part 3017, Subpart F, Drug-Free Workplace and will maintain a drug-free workplace in accordance with (check one):

- ☐ The current annual single State or State agency drug-free workplace certification statement that is on file with USDA.
- ☐ The Certification Regarding the Drug-Free Workplace Requirements (Form AD-1049) that the State agency has signed and attached to this agreement.

11. How do changed or new statutes, regulations, instructions, policy memoranda, and guidance affect this agreement?

By continuing to operate the covered programs after the enactment or issuance of any changed or new statutes or regulations applicable to the programs covered by this agreement and any changed or new instructions, policy memoranda, guidance, and other written directives interpreting these statutes or regulations, the State agency agrees to comply with them.

If the State agency does not wish to comply with any changes or new items, the State agency must seek to terminate the agreement in accordance with Section 7 of this Agreement.

12. Signatures

STATE AGENCY	USDA
By (Signature)	By (Signature)
TITLE	TITLE
DATE	DATE

FNS-74 (04-2003) Previous Editions Obsolete

Electronic Form Version Designed in JetForm 5.01 version

Appendix A -- Glossary

"Child Nutrition Programs" means:

National School Lunch Program (NSLP)
Special Milk Program for Children (SMP)
School Breakfast Program (SBP)
Commodity School Program
Summer Food Service Program (SFSP)
Child and Adult Care Food Program (CACFP)
Nutrition Education and Training Program (NET)
State Administrative Expense Funds (SAE)

"Food Distribution Programs" means:

The commodity donation portion of the Child Nutrition Programs
Commodity assistance for charitable institutions
Commodity Supplemental Food Program (CSFP)
Commodity assistance for disasters and situations of distress
Food Distribution Program for households on Indian reservations (FDPIR)
Food Distribution Program for Indian households (FDPI) in Oklahoma
Commodity assistance for nonprofit summer camps
The Emergency Food Assistance Program (TEFAP)

"Program Statutes" means:

for the Child Nutrition Programs

Richard B. Russell, National School Lunch Act (42 U.S.C. 1751-69h)
Child Nutrition Act of 1966 (42 U.S.C. 1771-91)

for the Food Distribution Programs

general and charitable institutions

Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note)
Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c)
Section 416(a) of the Agricultural Act of 1949 (7 U.S.C. 1431(a))

CSFP

Sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note)

Disasters and Situations of Distress

Section 412 and 413 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5179-80)
Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note)

FDPIR

Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b))
Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note)

FDPI for Oklahoma

Section 1336 of the Food Stamp and Commodity Distribution Amendments of 1981

Nonprofit Summer Camps for Children

Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note)

TEFAP

Emergency Food Assistance Act of 1983 (7 U.S.C. 7501-16)

"Program Regulations" means the regulations noted below:

- 7 CFR Part 210 National School Lunch Program
- Part 215 Special Milk Program for Children
- Part 220 School Breakfast Program
- Part 225 Summer Food Service Program
- Part 226 Child and Adult Care Food Program
- Part 227 Nutrition Education and Training Program
- Part 235 State Administrative Expense funds
- Part 240 Cash in Lieu of donated foods
- Part 245 Determining eligibility for free and reduced price meals and free milk in schools
- Part 247 Commodity Supplemental Food Program
- Part 250 Donation of foods for use in the United States, its territories and possessions and areas under its jurisdiction
- Part 251 The Emergency Food Assistance Program
- Part 253 Administration of the Food Distribution Program for households on Indian reservations
- Part 254 Administration of the Food Distribution Program for Indian households in Oklahoma

SAMPLE COPY OF FORM AD-1049

U.S. DEPARTMENT OF AGRICULTURE

**CERTIFICATION REGARDING
DRUG-FREE WORKPLACE REQUIREMENTS (GRANTS)
ALTERNATIVE I - FOR GRANTEEES OTHER THAN INDIVIDUALS**

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), 7 CFR Part 3017, Subpart F, Section 3017.600, Purpose. The January 31, 1989, regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the grant.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON PAGE 3)

Alternative I

- A. The grantee certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about --
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position

Form AD-1049 (REV 5/90)

title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant:

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted -

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, State, zip code)

Check ☐ if there are workplaces on file that are not identified here.

_____ Organization Name	_____ Award Number or Project Name
_____ Name and Title of Authorized Representative	
_____ Signature	_____ Date

Form AD-1049 (REV 5/90)

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the grantee is providing the certification set out on pages 1 and 2.
2. The certification set out on pages 1 and 2 is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) all "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Form AD-1049 (REV 5/90)

FNS HANDBOOK 501 EXHIBIT C

FEDERAL FINANCIAL REPORT

(Follow form instructions)

1. Federal Agency and Organizational Element to Which Report is Submitted		2. Federal Grant or Other Identifying Number Assigned by Federal Agency (To report multiple grants, use FFR Attachment)		Page 1	of pages		
3. Recipient Organization (Name and complete address including Zip code)							
4a. DUNS Number	4b. EIN	5. Recipient Account Number or Identifying Number (To report multiple grants, use FFR Attachment)	6. Report Type ☐ Quarterly ☐ Semi-Annual ☐ Annual ☐ Final	7. Basis of Accounting ☐ Cash ☐ Accrual			
8. Project/Grant Period From: (Month, Day, Year) To: (Month, Day, Year)			9. Reporting Period End Date (Month, Day, Year)				
10. Transactions				Cumulative			
(Use lines a-c for single or multiple grant reporting)							
Federal Cash (To report multiple grants, also use FFR Attachment):							
a. Cash Receipts							
b. Cash Disbursements							
c. Cash on Hand (line a minus b)							
(Use lines d-o for single grant reporting)							
Federal Expenditures and Unobligated Balance:							
d. Total Federal funds authorized							
e. Federal share of expenditures							
f. Federal share of unliquidated obligations							
g. Total Federal share (sum of lines e and f)							
h. Unobligated balance of Federal funds (line d minus g)							
Recipient Share:							
i. Total recipient share required							
j. Recipient share of expenditures							
k. Remaining recipient share to be provided (line i minus j)							
Program Income:							
l. Total Federal program income earned							
m. Program income expended in accordance with the deduction alternative							
n. Program income expended in accordance with the addition alternative							
o. Unexpended program income (line l minus line m or line n)							
11. Indirect Expense	a. Type	b. Rate	c. Period From	Period To	d. Base	e. Amount Charged	f. Federal Share
			g. Totals:				
12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation:							
13. Certification: By signing this report, I certify that it is true, complete, and accurate to the best of my knowledge. I am aware that any false, fictitious, or fraudulent information may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)							
a. Typed or Printed Name and Title of Authorized Certifying Official						c. Telephone (Area code, number and extension)	
						d. Email address	
b. Signature of Authorized Certifying Official						e. Date Report Submitted (Month, Day, Year)	
						14. Agency use only:	

Standard Form 425
OMB Approval Number: 0348-0061
Expiration Date: 10/31/2011

Paperwork Burden Statement
According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 0348-0061. Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0060), Washington, DC 20503.

Federal Financial Report Instructions

Report Submissions

- 1) Recipients will be instructed by Federal agencies to submit the *Federal Financial Report (FFR)* to a single location, except when an automated payment management reporting system is utilized. In this case, a second submission location may be required by the agency.
- 2) If recipients need more space to support their *FFRs*, or *FFR* Attachments, they should provide supplemental pages. These additional pages must indicate the following information at the top of each page: Federal grant or other identifying number (if reporting on a single award), recipient organization, Data Universal Numbering System (DUNS) number, Employer Identification Number (EIN), and period covered by the report.

Reporting Requirements

- 1) The submission of interim *FFRs* will be on a quarterly, semi-annual, or annual basis, as directed by the Federal agency. A final *FFR* shall be submitted at the completion of the award agreement. The following reporting period end dates shall be used for interim reports: 3/31, 6/30, 9/30, or 12/31. For final *FFRs*, the reporting period end date shall be the end date of the project or grant period.
- 2) Quarterly and semi-annual interim reports shall be submitted no later than 30 days after the end of each reporting period. Annual reports shall be submitted no later than 90 days after the end of each reporting period. Final reports shall be submitted no later than 90 days after the project or grant period end date.

Note: For single award reporting:

- 1) Federal agencies may require both cash management information on lines 10(a) through 10(c) and financial status information lines 10(d) through 10(o).
- 2) 10(b) and 10(e) may not be the same until the final report.

Line Item Instructions for the Federal Financial Report

FFR Number	Reporting Item	Instructions
Cover Information		
1	Federal Agency and Organizational Element to Which Report is Submitted	Enter the name of the Federal agency and organizational element identified in the award document or as instructed by the agency.
2	Federal Grant or Other Identifying Number Assigned by Federal Agency	For a single award, enter the grant number assigned to the award by the Federal agency. For multiple awards, report this information on the <i>FFR</i> Attachment. <i>Do not complete this box if reporting on multiple awards.</i>
3	Recipient Organization	Enter the name and complete address of the recipient organization including zip code.
4a	DUNS Number	Enter the recipient organization's Data Universal Numbering System (DUNS) number or Central Contract Registry extended DUNS number.
4b	EIN	Enter the recipient organization's Employer Identification Number (EIN).
5	Recipient Account Number or Identifying Number	Enter the account number or any other identifying number assigned by the recipient to the award. This number is for the recipient's use only and is not required by the Federal agency. For multiple awards, report this

FNS HANDBOOK 501
EXHIBIT C

FFR Number	Reporting Item	Instructions
		information on the <i>FFR</i> Attachment. <i>Do not complete this box if reporting on multiple awards.</i>
6	Report Type	Mark appropriate box. <i>Do not complete this box if reporting on multiple awards.</i>
7	Basis of Accounting (Cash/Accrual)	Specify whether a cash or accrual basis was used for recording transactions related to the award(s) and for preparing this <i>FFR</i> . Accrual basis of accounting refers to the accounting method in which expenses are recorded when incurred. For cash basis accounting, expenses are recorded when they are paid.
8	Project/Grant Period, From: (Month, Day, Year)	Indicate the period established in the award document during which Federal sponsorship begins and ends. Note: Some agencies award multi-year grants for a project period that is funded in increments or budget periods (typically annual increments). Throughout the project period, agencies often require cumulative reporting for consecutive budget periods. Under these circumstances, enter the beginning and ending dates of the project period not the budget period. <i>Do not complete this line if reporting on multiple awards.</i>
	Project/Grant Period, To: (Month, Day, Year)	See the above instructions for "Project/Grant Period, From: (Month, Day, Year)."
9	Reporting Period End Date: (Month, Day, Year)	Enter the ending date of the reporting period. For quarterly, semi-annual, and annual interim reports, use the following reporting period end dates: 3/31, 6/30, 9/30, or 12/31. For final <i>FFRs</i> , the reporting period end date shall be the end date of the project or grant period.
10	Transactions Enter cumulative amounts from date of the inception of the award through the end date of the reporting period specified in line 9. Use Lines 10a through 10c, Lines 10d through 10o, or Lines 10a through 10o, as specified by the Federal agency, when reporting on single grants. Use Line 12, Remarks, to provide any information deemed necessary to support or explain <i>FFR</i> data.	
Federal Cash (To report multiple grants, also use <i>FFR</i> Attachment)		
10a	Cash Receipts	Enter the cumulative amount of actual cash received from the Federal agency as of the reporting period end date.
10b	Cash Disbursements	Enter the cumulative amount of Federal fund disbursements (such as cash or checks) as of the reporting period end date. Disbursements are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expenses charged to the award, and the amount of cash advances and payments made to subrecipients and contractors. For multiple grants, report each grant separately on the <i>FFR</i> Attachment. The sum of the cumulative cash disbursements on the <i>FFR</i> Attachment must equal the amount entered on Line 10b, <i>FFR</i> .
10c	Cash On Hand (Line 10a Minus Line 10b)	Enter the amount of Line 10a minus Line 10b. This amount represents immediate cash needs. If more than three business days of cash are on hand, the Federal agency may require an explanation

FNS HANDBOOK 501
EXHIBIT C

FFR Number	Reporting Item	Instructions
		on Line 12, Remarks, explaining why the drawdown was made prematurely or other reasons for the excess cash.
Federal Expenditures and Unobligated Balance: Do not complete this section if reporting on multiple awards.		
10d	Total Federal Funds Authorized	Enter the total Federal funds authorized as of the reporting period end date.
10e	Federal Share of Expenditures	Enter the amount of Federal fund expenditures. For reports prepared on a cash basis, expenditures are the sum of cash disbursements for direct charges for property and services; the amount of indirect expense charged; the value of third-party in-kind contributions applied; and the amount of cash advance payments and payments made to subrecipients. For reports prepared on an accrual basis, expenditures are the sum of cash disbursements for direct charges for property and services; the amount of indirect expense incurred; the value of in-kind contributions applied; and the net increase or decrease in the amounts owed by the recipient for (1) goods and other property received; (2) services performed by employees, contractors, subrecipients, and other payees; and (3) programs for which no current services or performance are required. Do not include program income expended in accordance with the deduction alternative, rebates, refunds, or other credits. (Program income expended in accordance with the deduction alternative should be reported separately on Line 10o.)
10f	Federal Share of Unliquidated Obligations	Unliquidated obligations on a cash basis are obligations incurred, but not yet paid. On an accrual basis, they are obligations incurred, but for which an expenditure has not yet been recorded. Enter the Federal portion of unliquidated obligations. Those obligations include direct and indirect expenses incurred but not yet paid or charged to the award, including amounts due to subrecipients and contractors. On the final report, this line should be zero unless the awarding agency has provided other instructions. <i>Do not include any amount in Line 10f that has been reported in Line 10e. Do not include any amount in Line 10f for a future commitment of funds (such as a long-term contract) for which an obligation or expense has not been incurred.</i>
10g	Total Federal Share (Sum of Lines 10e and 10f)	Enter the sum of Lines 10e and 10f.
10h	Unobligated Balance of Federal Funds (Line 10d Minus Line 10g)	Enter the amount of Line 10d minus Line 10g.
Recipient Share: Do not complete this section if reporting on multiple awards.		
10i	Total Recipient Share Required	Enter the total required recipient share for reporting period specified in line 9. The required recipient share should include all matching and cost sharing provided by recipients and third-party providers to meet the level required by the Federal agency. This amount should not include cost sharing and match amounts in excess of the amount required by the Federal agency (for example, cost overruns for which the recipient incurs additional expenses and, therefore, contributes a greater level of cost

FNS HANDBOOK 501
EXHIBIT C

FFR Number	Reporting Item	Instructions
		sharing or match than the level required by the Federal agency).
10j	Recipient Share of Expenditures	Enter the recipient share of actual cash disbursements or outlays (less any rebates, refunds, or other credits) including payments to subrecipients and contractors. This amount may include the value of allowable third party in-kind contributions and recipient share of program income used to finance the non-Federal share of the project or program. Note: On the final report this line should be equal to or greater than the amount of Line 10i.
10k	Remaining Recipient Share to be Provided (Line 10i Minus Line 10j)	Enter the amount of Line 10i minus Line 10j. If recipient share in Line 10j is greater than the required match amount in Line 10i, enter zero.
Program Income: Do not complete this section if reporting on multiple awards.		
10l	Total Federal Program Income Earned	Enter the amount of Federal program income earned. Do not report any program income here that is being allocated as part of the recipient's cost sharing amount included in Line 10j.
10m	Program Income Expended in Accordance With the Deduction Alternative	Enter the amount of program income that was used to reduce the Federal share of the total project costs.
10n	Program Income Expended in Accordance With the Addition Alternative	Enter the amount of program income that was added to funds committed to the total project costs and expended to further eligible project or program activities.
10o	Unexpended Program Income (Line 10l Minus Line 10m or Line 10n)	Enter the amount of Line 10l minus Line 10m or Line 10n. This amount equals the program income that has been earned but not expended, as of the reporting period end date.
11	Indirect Expense: Complete this information only if required by the awarding agency and in accordance with agency instructions.	
11a	Type of Rate(s)	State whether indirect cost rate(s) is Provisional, Predetermined, Final, or Fixed.
11b	Rate	Enter the indirect cost rate(s) in effect during the reporting period.
11c	Period From; Period To	Enter the beginning and ending effective dates for the rate(s).
11d	Base	Enter the amount of the base against which the rate(s) was applied.
11e	Amount Charged	Enter the amount of indirect costs charged during the time period specified. (Multiply 11b. x 11d.)
11f	Federal Share	Enter the Federal share of the amount in 11e.
11g	Totals	Enter the totals for columns 11d, 11e, and 11f.
Remarks, Certification, and Agency Use Only		
12	Remarks	Enter any explanations or additional information required by the Federal sponsoring agency including excess cash as stated in line 10c.
13a	Typed or Printed Name and Title of Authorized Certifying Official	Enter the name and title of the authorized certifying official.
13b	Signature of Authorized Certifying Official	The authorized certifying official must sign here.
13c	Telephone (Area Code, Number and Extension)	Enter the telephone number (including area code and extension) of the individual listed in Line 13a.
13d	E-mail Address	Enter the e-mail address of the individual listed in Line 13a.

**FNS HANDBOOK 501
EXHIBIT C**

FFR Number	Reporting Item	Instructions
13c	Date Report Submitted (Month, Day, Year)	Enter the date the <i>FFR</i> is submitted to the Federal agency using the month, day, year format.
14	Agency Use Only	This section is reserved for Federal agency use.

Line Item Instructions for the Federal Financial Report Attachment
(To be completed if reporting on cash management activity for multiple grants.)

Box Number	Reporting Item	Instructions
1	Federal Agency and Organizational Element to Which Report is Submitted	Enter the name of the Federal agency and organizational element identified in the award document or otherwise instructed by the agency. (This information should be identical to that entered in Box 1, <i>FFR</i> .)
2	Recipient Organization	Enter the name and complete address of the recipient organization including zip code. (Same information as entered in Box 3, <i>FFR</i> .)
3a	DUNS Number	Enter the recipient organization's Data Universal Numbering System (DUNS) number or Central Contract Registry extended DUNS number. (Same information as entered in Box 4a, <i>FFR</i> .)
3b	EIN	Enter the recipient organization's Employer Identification Number (EIN). (Same information as entered in Box 4b, <i>FFR</i> .)
4	Reporting Period End Date: (Month, Day, Year)	Enter the ending date of the reporting period of this report. (Same information as entered in Box 9, <i>FFR</i> .)
5	Federal Grant Number	Enter the grant number assigned to each award by the Federal agency.
	Recipient Account Number	Enter the account number or any other identifying number assigned by the recipient to each award. This number is for the recipient's use only and is not required by the Federal agency.
	Cumulative Federal Cash Disbursement	Enter the cumulative amount of the Federal share of cash disbursed for each award. Cash disbursements are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expenses charged to the award, and the amount of cash advances and payments made to subrecipients and contractors.
	Total	Enter the total for the Cumulative Cash Disbursement. This column should equal the amount reported on Line 10b, <i>FFR</i> .

FNS HANDBOOK 501
EXHIBIT D

(RESERVED)

**FNS HANDBOOK 501
EXHIBIT E**

SAMPLE COPY OF FORM FNS-101

FORM APPROVED OMB NO. 0584-0025

U.S. DEPARTMENT OF AGRICULTURE - FOOD AND NUTRITION SERVICE

PARTICIPATION IN FOOD PROGRAMS - BY RACE

FNS Instruction 113-1

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0025. The time required to complete this information collection is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

1. STATE/CTO	2. PROGRAM ("X" one only). Use separate form for each program. ☐ FOOD STAMP ☐ FDIPIR	3. NAME OF PROJECT AREA AND PROJECT AREA CODE	4. NAME & ADDRESS OF REPORTING WELFARE AGENCY OR DISTRIBUTING AGENCY			
5. REPORTING YEAR July _____						
	BLACK (Not of Hispanic Origin)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	WHITE (Not of Hispanic Origin)	TOTAL (See Note Below)
6. NO. OF HOUSEHOLDS PARTICIPATING BY RACE						0

NOTE: Total number of participating households should agree with the data reported on the respective monthly report (July) submitted for the Food Stamp Program (Form FNS-388A) or the Food Distribution Program on Indian Reservations (Form FNS-152).

7. REMARKS		
DATE	TITLE	SIGNATURE

FORM FNS-101 (9-95) Previous editions obsolete
Electronic Form Version Designed in JetForm 5.01

ORIGINAL - FNS Regional Office

No further monies or other benefits may be paid out under these programs unless this report is completed and filed as authorized by existing law (Title VI of the Civil Rights Act of 1964).

INSTRUCTIONS

This report will be prepared annually covering the month of July.

REPORTING UNITS - Send the original and one copy to reach the State Agency as soon as possible, but no later than the 20th of August.

STATE AGENCIES AND INDIAN TRIBAL ORGANIZATIONS (ITOs) - shall determine that reports have been received from all reporting units. The original copy shall be forwarded to the appropriate FNS Regional Office to reach that office as soon as possible, but no later than the 19th of September.

REGIONAL OFFICES - shall determine that reports have been received from all State Agencies, Indian Tribal Organizations, and reporting units. *The regional office shall enter all local agency information into FSPIIS and SNPIIS databases by the 20th of November.*

Items 1 thru 5 and 7 - self explanatory.

Item 6 - Report the number of households that participated (received coupons or commodities) during July for each racial group.

**FNS HANDBOOK 501
EXHIBIT F**

(RESERVED)

(Rev. 8/2005)

SAMPLE COPY OF FORM FNS-152

U.S. DEPARTMENT OF AGRICULTURE FOOD AND CONSUMER SERVICE				FORM APPROVED OMB NO. 0584-0293												
MONTHLY DISTRIBUTION OF DONATED FOODS TO FAMILY UNITS				Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, D.C. 20250.												
1. HOUSEHOLDS CERTIFIED				3. NUMBER OF PARTICIPANTS		5. NAME OF SDA/ITO				6. DA CODE						
2. HOUSEHOLDS PARTICIPATING				4. STATE						7. REPORT MONTH						
LINE NO.	8. USDA COMMODITY			9. RECEIPTS				10. WITHDRAWALS				11. INVENTORY				
	COMMODITY (8a)	CODE (8b)	REPORTING UNIT (8c)	AMOUNT ON HAND FIRST OF MONTH (9a)	AMOUNT RECEIVED (9b)	AMOUNT REDONATED IN (9c)	TOTAL AMOUNT AVAILABLE DURING MONTH (9a) + (9b) + (9c) = (9d)	AMOUNT ISSUED (10a)	AMOUNT REDONATED OUT (10b)	AMOUNT USED FOR NUTRITION EDUCATION (10c)	FOOD LOSS (10d)	TOTAL WITHDRAWALS (10a) + (10b) + (10c) + (10d) = (10e)	BOOK INVENTORY END OF MONTH (9d) - (10e) = (11a)	PHYSICAL INVENTORY END OF MONTH (11b)		ADJUSTMENTS POSITIVE/NEGATIVE (11a) - (11b) = (11c)
1	BEANS GREEN 300	A059	#300 can													1
2	BEANS GREEN 303	A060	#303 can													2
3	BEANS VEG. 300	A090	#300 can													3
4	CARROTS	A095	#303 can													4
5	CARROTS 300	A098	#300 can													5
6	CORN KERNEL 300	A119	#300 can													6
7	CORN CREAM	A120	#303 can													7
8	CORN KERNEL	A121	#303 can													8
9	CORN CREAM 300	A122	#300 can													9
10																10
11																11
12	LENTILS	A135	2# pkg.													12
13	PEAS 300	A144	#300 can													13
14	PEAS 303	A145	#303 can													14
15	PUMPKIN	A163	#303 can													15
16	PUMPKIN 300	A164	#300 can													16

FORM FCS-152 (8-96) Previous editions obsolete.

Electronic Form Version Designed in E-Form 2.5 Version

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Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

FORM APPROVED OMB NO. 0584-0293

8. USDA COMMODITY			9. RECEIPTS				10. WITHDRAWALS					11. INVENTORY				
LINE NO.	COMMODITY (8a)	CODE (8b)	REPORTING UNIT (8c)	AMOUNT ON HAND FIRST OF MONTH (9a)	AMOUNT RECEIVED (9b)	AMOUNT REDONATED IN (9c)	TOTAL AMOUNT AVAILABLE DURING MONTH (9a) + (9b) + (9c) = (9d)	AMOUNT ISSUED (10a)	AMOUNT REDONATED OUT (10b)	AMOUNT USED FOR NUTRITION EDUCATION (10c)	FOOD LOSS (10d)	TOTAL WITHDRAWALS (10a) + (10b) + (10c) + (10d) = (10e)	BOOK INVENTORY END OF MONTH (9d) - (10e) = (11a)	PHYSICAL INVENTORY END OF MONTH (11b)	ADJUSTMENTS POSITIVE 11a - 11b = (11c)	LINE NO.
17	SPINACH	A166	24/#303 can													17
18	SPINACH 300	A167	24/#300 can													18
19	POTATOES 303	A169	24/#300-303													19
20	POTATOES SLC 300	A170	24/#300 can													20
21	POTATOES DEHY 12	A196	12/1 # pkg													21
22																22
23	SWT POTATOES 303	A221	24/#303 can													23
24	SWT POTATOES 300	A223	24/#300 can													24
25	TOMATOES 300	A240	24/#300 can													25
26	TOM SAUCE 300	A244	24/#300-303													26
27	TOMATOES 303	A248	24/#303 can													27
28	SYRUP P	A251	12/24 oz													28
29	SYRUP P 12/24	A258	12/24 oz													29
30																30
31	GRAPEFRUIT J	A280	12/46 oz													31
32	APPLE J	A282	12/46 oz													32
33	GRAPE J	A285	12/46 oz													33
34	PINEAPPLE J	A286	12/46 oz													34
35	TOMATO J	A290	12/46 oz													35
36	ORANGE J	A300	12/46 oz													36
37																37
38	APPLESAUCE 303	A355	24/#303 can													38
39	F COCKTAIL 303	A401	24/#303 can													39
40	F COCKTAIL 300	A403	24/#300 can													40
41	PEACHES CLG 300	A411	24/#300 can													41
42	PEACHES CLG 303	A412	24/#303 can													42
43																43
44																44

FORM FCB-152 (8-88) Previous editions obsolete. Electronic Form Version Designed in E-Form 2.5 Version Page 2

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EXHIBIT G

B. USDA COMMODITY			9. RECEIPTS				10. WITHDRAWALS					11. INVENTORY			F A C T S
COMMODITY (8a)	CODE (8b)	REPORTING UNIT (8c)	AMOUNT ON HAND FIRST OF MONTH (9a)	AMOUNT RECEIVED (9b)	AMOUNT REDONATED IN (9c)	TOTAL AMOUNT AVAILABLE DURING MONTH (9a) + (9b) + (9c) = (9d)	AMOUNT ISSUED (10a)	AMOUNT REDONATED OUT (10b)	AMOUNT USED FOR NUTRITION EDUCATION (10c)	FOOD LOSS (10d)	TOTAL WITH- DRAWALS (10a) + (10b) + (10c) + (10d) = (10e)	BOOK INVENTORY END OF MONTH (9d) - (10e) = (11a)	PHYSICAL INVENTORY END OF MONTH (11b)	ADJUST- MENTS POSITIVE/ NEGATIVE (11a) - (11b) = (11c)	
45	PEARS 300	A437	24/#300 can												45
46	PEARS 303	A439	24/#303 can												46
47	PINEAPPLE 2	A446	24/#2 can												47
48	PLUMS 303	A461	24/#303 can												48
49															49
50															50
51															51
52	FIGS 24	A476	24/1 lb.												52
53	PRUNES 1	A480	24/1 lb.												53
54	PRUNES 24	A489	24/1 lb.												54
55															55
56															56
57	RAISINS 48	A502	48/#1 can												57
58															58
59															59
60	CARROTS 5	F111	10/5 lb.												60
61	CARROTS 1	F113	48/1 lb.												61
62	ONIONS 3	F120	16/3 lb.												62
63	POTATOES RUS BN	F130	200/5 lb.												63
64	POTATOES RUS 5	F131	8/5 lb.												64
65	POTATOES RED	F140	16/3 lb.												65
66	SQUASH YEL	F151	1/24 lb.												66
67	TURNIPS 3	F171	16/3 lb.												67
68	APPLES FRESH	F511	8/5 lb.												68
69	GRAPEFRUIT 5	F521	8/5 lb.												69
70	ORANGE FRESH	F530	8/5 lb.												70
71															71
72															72

FORM FCS-162 (8-98) Previous editions obsolete. Electronic Form Version Designed in E-Form 2.5 Version Page 3

5/14/110

DA CODE

REPORT MONTH

LINE NO.	8. USDA COMMODITY			9. RECEIPTS				10. WITHDRAWALS					11. INVENTORY			E A B
	COMMODITY (8a)	CODE (8b)	REPORTING UNIT (8c)	AMOUNT ON HAND FIRST OF MONTH (9a)	AMOUNT RECEIVED (9b)	AMOUNT REDONATED IN (9c)	TOTAL AMOUNT AVAILABLE DURING MONTH (9a) + (9b) + (9c) = (9d)	AMOUNT ISSUED (10a)	AMOUNT REDONATED OUT (10b)	AMOUNT USED FOR NUTRITION EDUCATION (10c)	FOOD LOSS (10d)	TOTAL WITHDRAWALS (10a) + (10b) + (10c) + (10d) = (10e)	BOOK INVENTORY END OF MONTH (9d) - (10e) = (11a)	PHYSICAL INVENTORY END OF MONTH (11b)	ADJUSTMENTS POSITIVE/NEGATIVE (11a) - (11b) = (11c)	
73	CHICKEN CND	A562	24/29 oz.													73
74	EGG MIX 6	A570	48/6 oz.													74
75	STEW CND	A587	24/24 oz.													75
76	STEW 24/15	A589	24/15 oz.													76
77	BEEF 1	A598	36/#1													77
78	BEEF NJ	A610	24/29 oz.													78
79	LUNCHMEAT P 24	A617	24/30 oz.													79
80	PORK NJ	A630	24/29 oz.													80
81	TUNA 12.5	A740	24/12.5 oz.													81
82	TUNA 12.25	A741	24/12.25 oz.													82
83	SALMON PINK	A800	48/14.75 oz.													83
84	SALMON 24	A803	24/14.75 oz.													84
85																85
86	BEANS DK R KIDNEY	A906	12/#2													86
87	BEANS BLUKEYE 2	A910	12/#2													87
88	BEANS B LIMA 2	A912	12/#2													88
89	BEANS PRITO 2	A914	12/#2													89
90	BEANS R KIDNEY 2	A915	12/#2													90
91	BEANS GRI NORTH 2	A917	12/#2													91
92	BEANS NAVY PEA 2	A918	12/#2													92
93	BEANS LT KIDNEY 2	A920	12/#2													93
94	PEAS SPLIT 2	A922	12/#2													94
95																95
96	BUTTER 36	B050	36/1 lb.													96
97	CHEESE 30	B060	6/5 lb.													97
98																98
99	EVAP 12	B081	48/12 fl oz.													99
100	INSTANT 24	B090	6/4 lb.													100

FORM FCS-152 (8-98) Previous editions obsolete.

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SJA/110

DA CODE

REPORT MONTH

LINE NO.	8. USDA COMMODITY			9. RECEIPTS				10. WITHDRAWALS					11. INVENTORY			PAGE
	COMMODITY (8a)	CODE (8b)	REPORTING UNIT (8c)	AMOUNT ON HAND FIRST OF MONTH (9a)	AMOUNT RECEIVED (9b)	AMOUNT REDONATED IN (9c)	TOTAL AMOUNT AVAILABLE DURING MONTH (9a) + (9b) + (9c) = (9d)	AMOUNT ISSUED (10a)	AMOUNT REDONATED OUT (10b)	AMOUNT USED FOR NUTRITION EDUCATION (10c)	FOOD LOSS (10d)	TOTAL WITHDRAWALS (10a) + (10b) + (10c) + (10d) = (10e)	BOOK INVENTORY END OF MONTH (11a)	PHYSICAL INVENTORY END OF MONTH (11b)	ADJUSTMENTS POSITIVE/NEGATIVE (11a) - (11b) = (11c)	
101	EVAP 24	B117	24/12 fl oz.												73	
102	CORNMEAL 5 DEG	B137	10/5 lb.												74	
103	CORNMEAL 8/5 DEG	B138	8/5 lb.												75	
104	CORNMEAL 10 DEG	B141	5/10 lb.												76	
105	CORNMEAL 40 DEG	B142	4/10 lb.												77	
106															78	
107	FORMULA PWDR 14.1	B158	24/14 oz.												79	
108															80	
109	FARINA	B160	24/14 oz.												81	
110															82	
111	CEREAL INFANT RB	B161	12/8 oz.												83	
112	FORM SOY DRY 6/14	B162	6/14 oz.												84	
113	FORMULA SOY 12	B163	12/13 fl oz.												85	
114	FORMULA 12	B164	12/13 fl oz.												86	
115	FORMULA A	B165	24/13 fl oz.												87	
116	FORMULA SOY	B166	24/13 fl oz.												88	
117	FORMULA POWDER	B167	12/1 lb.												89	
118	FORMULA POWDER B	B168	6/1 lb.												90	
119	FORM SOY PWDR B	B169	6/1 lb.												91	
120															92	
121	FLOUR AP 5	B179	10/5 lb.												93	
122	FLOUR AP 10	B180	5/10 lb.												94	
123	FLOUR AP 10 UNBL	B181	5/10 lb.												95	
124	FLOUR AP 8/5	B182	8/5 lb.												96	
125	FLOUR AP 40	B183	4/10 lb.												97	
126	FLOUR AP 40 UNBL	B188	4/10 lb.												98	
127	FLOUR B 10	B230	5/10 lb.												99	
128	FLOUR B 8/5	B232	8/5 lb.												100	

FORM FCS-152 (8-88) Previous editions obsolete.

Electronic Form Version Designed in E-Form 2.9 Version

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FORM APPROVED OMB NO. 0584-0292

DA CODE REPORT MONTH

LINE NO.	8. USDA COMMODITY			9. RECEIPTS				10. WITHDRAWALS				11. INVENTORY			LINE NO.
	COMMODITY (8a)	CODE (8b)	REPORTING UNIT (8c)	AMOUNT ON HAND FIRST OF MONTH (9a)	AMOUNT RECEIVED (9b)	AMOUNT REDONATED IN (9c)	TOTAL AMOUNT AVAILABLE DURING MONTH (9a) + (9b) + (9c) = (9d)	AMOUNT ISSUED (10a)	AMOUNT REDONATED OUT (10b)	AMOUNT USED FOR NUTRITION EDUCATION (10c)	FOOD LOSS (10d)	TOTAL WITHDRAWALS (10a) + (10b) + (10c) + (10d) = (10e)	BOOK INVENTORY END OF MONTH (9d) - (10e) = (11a)	PHYSICAL INVENTORY END OF MONTH (11b)	
129	FLOUR B 40	B233	4/10 lb.												129
130	FLOUR WWW 10	B350	5/10 lb.												130
131	FLOUR WWW 40	B351	4/10 lb.												131
132	FLOUR MIK	B367	6/5 lb.												132
133	FLOUR MIK LOFAT	B368	6/5 lb.												133
134															134
135	GRITS CW 5	B381	10/5 lb.												135
136	GRITS CW 40	B382	8/5 lb.												136
137															137
138	HONEY 24	B403	24/24 oz.												138
139															139
140	MACARONI 1	B425	24/1 lb.												140
141	MAC N CHEESE	B436	12/26 oz.												141
142	OATS 3	B445	12/3 lb.												142
143	PB 2	B470	24/2 lb.												143
144	PB ROU-FAT 2	B471	24/2 lb.												144
145	CHUNKY ROU-FAT 2	B488	24/2 lb.												145
146	ROASTED 12	B501	24/12 oz.												146
147	RICE 2	B510	24/2 lb.												147
148															148
149	VEG. OIL 48	B666	8/48 oz.												149
150	SHORT 5	B720	12/3 lb.												150
151	SPAGHETTI 2	B835	12/2 lb.												151
152															152
153	CER CORN RTE 17.5	B847	14/17.5 oz.												153
154	CEREAL RICE 15	B848	12/15 oz.												154
155	CEREAL CORN 18	B849	12/18 oz.												155
156	CEREAL OATS 18	B851	14/18 oz.												156

FORM FCS-182 (8-98) Previous editions obsolete. Electronic Form Version Designed in E-Form 2.5 Version Page 6

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EXHIBIT G

FORM APPROVED OMB NO. 0584-0293

SDA/HO			DA CODE				REPORT MONTH									
LINE NO.	8. USDA COMMODITY			9. RECEIPTS				10. WITHDRAWALS				11. INVENTORY			C.R.	
	COMMODITY (8a)	CODE (8b)	REPORTING UNIT (8c)	AMOUNT ON HAND FIRST OF MONTH (9a)	AMOUNT RECEIVED (9b)	AMOUNT REDONATED IN (9c)	TOTAL AMOUNT AVAILABLE DURING MONTH (9a) + (9b) + (9c) = (9d)	AMOUNT ISSUED (10a)	AMOUNT REDONATED OUT (10b)	AMOUNT USED FOR NUTRITION EDUCATION (10c)	FOOD LOSS (10d)	TOTAL WITHDRAWALS (10a) + (10b) + (10c) + (10d) = (10e)	BOOK INVENTORY END OF MONTH (11a)	PHYSICAL INVENTORY END OF MONTH (11b)		ADJUSTMENTS POSITIVE/NEGATIVE (11a) - (11b) = (11c)
157	CEREAL CORN 17.5	BB52	12/17.5 oz.													157
158	CEREAL OATS 15.5	BB54	12/15.5 oz.													158
159	CEREAL OATS	BB60	24/15 oz.													159
159	CEREAL OATS 16	BB61	12/16 oz.													159
160	CEREAL RICE 12	BB66	12/12 oz.													160
161	CEREAL RICE 17.5	BB67	12/17.5 oz.													161
162	CER RICE RTE 17.5	BB68	14/17.5 oz.													162
163	CEREAL WHEAT 16	BB71	12/16 oz.													163
164	CER WHEAT RTE 16	BB72	14/16 oz.													164
165																165
166																166
167																167
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SPECIMEN

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FCS-152 INSTRUCTIONS

SUBMISSION: Forward the original of this document to the appropriate Food and Consumer Service (FCS) office no later than 30 calendar days following the last day of the month being reported. SDAs do not complete items 1, 2, 3; or Column 10c. SDAs are those facilities which hold FDCR inventory but do not issue commodities to program participants.

ITEM

1. **Number of Households Certified.** Enter the number of households (not individual persons) which have been certified eligible to receive commodities from this Distribution Center during the report month.
2. **Number of Households Participating.** Enter the total number of households (not individual persons) which actually received commodities from this Distribution Center during the report month.
3. **Number of Participants.** Enter the total number of persons in households which actually received commodities from this Distribution Center during the report month.
4. **State.** Enter the name of the State in which the SDA or ITO is located.
5. **Name of State Distributing Agency (SDA) or Indian Tribal Organization (ITO).** Enter the name of the SDA or the reporting ITO acting as the SDA.
6. **Distributing Agency Code.** Enter the 4 digit SNPIIS code for the reporting SDA or ITO.
7. **Report for the Month of.** Enter the month and year for which data is reported.

COLUMNS

(8a) (8b) & (8c) Preprinted.

All commodities being reported must agree with the commodity title and commodity code as preprinted on the form. If a specific commodity is not preprinted, it must be written in along with the correct commodity short title, commodity code and reporting unit (e.g., #300 can, 16 oz. box, 2 lb. bag). Blank spaces are provided for this purpose. For all commodities, report the number of individual units, such as bags, boxes, cans, rolls, etc., not the number of containers in which multiple units are packed.

(9a) Amount on hand first of month. This amount must be the same as the previous month's "Physical Inventory end of month (11b)." Include all foods held in storage by the SDA or reporting ITO.

(9b) Amount received. Indicate in this column the quantity of individual units received in good condition from USDA during the month.

(9c) Amount redonated in. Indicate the quantity of individual units redonated from another SDA, program or ITO.

(9d) Total amount available during month. Enter the total of columns: (9a) amount on hand first of month, (9b) amount received, and (9c) amount redonated out.

(10a) Amount issued. ITOs enter the total number of commodity units actually issued to and accepted by participants during the report month as specified below. This figure should exclude (1) those commodities not accepted by the participant at the time of food pick-up, and (2) any commodities returned to the ITO by participants during the report month. If a participant has refused a commodity at pick-up, it should not be considered issued. SDAs enter commodity units delivered to ITOs for distribution to program participants.

(10b) Amount redonated out. When a commodity is redonated to another SDA, program or ITO, indicate the amount redonated.

(10c) Amount used for nutrition education. When a commodity is used for food demonstrations or taste testing as part of the SDA's or ITO's nutrition education program, indicate the amount (in units) used for this purpose.

(10d) Food loss. Provide the appropriate explanation code for all lost food. Enter the number of commodities that are actual food losses. These would include foods that: (A) after consignee receipt were found to have concealed damage (B) were damaged in the warehouse or during transit from the State warehouse to the local site; (C) were found to be out of condition or unfit for human consumption; or (D) were known to have been stolen or lost due to fraud, misuse or embezzlement. Additional details may be provided in the REMARKS section. (Attach additional pages if necessary)

(10e) Total withdrawals. Enter the total of columns: (10a) issued to participants, (10b) redonated out, (10c) used for nutrition program, and (10d) lost.

(11a) Book Inventory end of month. Column (9d) minus Column (10e).

(11b) Physical Inventory end of month. Report total number of individual units for each commodity which a physical inventory determines to be in warehouse.

(11c) Inventory Adjustments - Positive/Negative. Column (11a) minus/plus equal Column (11b).

12. Signature. The approving official signs the form here to certify that a physical inventory was taken and that the report is true and accurate.

13. Title. Enter the approving official's title.

14. Date. Enter the date the report is signed.

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PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO
ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM
ON INDIAN RESERVATIONS

This Exhibit sets forth the procedures implementing uniform requirements for the negotiations and approval of cost allocation plans with State agencies, in accordance with the provisions of Federal Management Circular 74-4 and OASC-10, "Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government," U.S. Department of Health, Education and Welfare. This material is adapted substantially from the circular; changes have been made only when necessary in order to conform with legislative constraints.

A. Purpose and scope.--(1) Objectives. This Exhibit sets forth principles for determining the allowable costs of administering the Food Distribution Program by State agencies under FNS approved State Plans of Operation. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of the Program. They are designed to provide that all Federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

(2) Policy guides. The application of these principles is based on the fundamental premises that: (a) State agencies are responsible for the efficient and effective administration of the Food Distribution Program through the application of sound management practices.

(b) The State agency assumes the responsibility for seeing that Food Distribution Program funds have been expended and accounted for consistent with underlying agreements and program objectives.

(c) Each State agency, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques as may be necessary to assure proper and efficient administration.

(3) Application. These principles will be applied by FNS in determining costs incurred by State agencies receiving FNS payments for administering the Food Distribution Program.

B. Definitions. Approval or authorization by FNS means documentation evidencing consent prior to incurring specific costs.

Cognizant Federal Agency means the Federal agency recognized by OMB as having the predominate interest in terms of program dollars.

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Cost allocation plan means the documentation identifying, accumulating, and distributing allowable costs of program administration together with the allocation methods used.

Cost, as used herein, means cost as determined on a cash, accrual, or other basis acceptable to FNS as a discharge of the State agency's accountability for FNS funds.

Cost center means a pool, summary account, objective or area established for the accumulation of costs. Such areas include objective organizational units, functions, objects or items of expense, as well as ultimate cost objective(s) including specific costs, products, projects, contracts, programs and other operations.

Federal agency means FNS and also any department, agency, commission, or instrumentality in the executive branch of the Federal Government which makes grants to or contracts with State, local, or Indian tribal governments.

Payments for administrative costs means reimbursement or advances for costs to State agencies pursuant to any agreement whereby FNS provides funds to carry out programs, services, or activities in connection with administration of the Food Distribution Program. The principles and policies stated in this Exhibit as applicable to program payments in general also apply to any State agency obligations under a cost reimbursement type of agreement performed by a subagency, including contracts and subcontracts.

Food Distribution Program administration means those activities and operations of the State agency which are necessary to carry out the purposes of the Food Stamp Act of 1977 and 1304(a) of the Food and Agriculture Act of 1977, including any portion of the Program financed by the State agency.

Local unit means any political subdivision of government below the State agency level.

Other agencies of the State means departments or agencies of the State or local unit which provide goods, facilities, and services to a State agency.

Subagencies means the organization or person to which a State agency makes any payment for acquisition of goods, materials or services for use in administering the Food Distribution Program and which is accountable to the State agency for the use of the funds provided.

Services, as used herein, means goods and facilities, as well as services.

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Supporting services means auxiliary functions necessary to sustain the direct effort of administering the Food Distribution Program. These services may be centralized in the State agency or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing mail and messenger service, and the like.

C. Basic guidelines.—(1) Factors affecting allowability of costs. To be allowable under the Food Distribution Program, costs must meet the following general criteria:

(a) Be necessary and reasonable for proper and efficient administration of the Program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State, local, or Indian tribal governments.

(b) Be authorized or not prohibited under State, local, or Indian tribal laws or regulations.

(c) Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

(d) Be consistent with policies, regulations, and procedures that apply uniformly to both Federally-assisted and other activities of the unit of government of which the State agency is a part.

(e) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

(f) Not be allocable to or included as a cost to any other Federally financed program in either the current or a prior period.

(g) Be the net of all applicable credits.

(2) Allocable costs. (a) A cost allocable to a particular cost objective to the extent of benefits received by such objective.

(b) Any cost allocable to a particular program or cost objective under these principles may not be shifted to other Federal programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

(c) Where an allocation of joint cost will ultimately result in charges to the Program, an allocation plan will be required as prescribed in Section 1 of these principles.

(3) Applicable credits. (a) Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to programs as direct or indirect costs. Examples

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of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

(b) Applicable credits may also arise when Federal funds are received or are available from sources other than FNS to finance operations or capital items donated or financed by the Federal Government to fulfill matching requirements under another program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given program.

D. Composition of cost.--(1) Total cost. The total cost of a program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

(2) Classification of costs. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to a program or other ultimate cost objective. However, it is essential that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under the Food Distribution Program are provided in the section which follows.

E. Direct costs.--(1) General. Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to the Food Distribution Program, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of cost pending distribution in due course to programs and other ultimate cost objectives.

(2) Application. Typical direct costs chargeable to the Food Distribution Program are: (a) Compensation of employees for the time and effort devoted specifically to the administration of the Program.

(b) Cost of materials acquired, consumed, or expended specifically for the purpose of the Program.

(c) Equipment and other approved capital expenditures.

(d) Other items of expense incurred specifically for efficiently and effectively administering the Food Distribution Program.

(e) Services furnished specifically for the Program by other agencies, provided such charges are consistent with criteria outlined in Section G of these principles.

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F. Indirect costs.--(1) General. Indirect costs are those:

(a) Incurred for a common or joint purpose benefiting more than one cost objective.

(b) Not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the result achieved.

The term indirect cost as used herein applies to costs of this type originating in the State agency, as well as those incurred by other departments in supplying goods, services, and facilities to the State agency. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a State agency or in other agencies providing services to a State agency. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

(2) State agency indirect costs. All State agency indirect costs, including the various levels of supervision, are eligible for allocation to the Program provided they meet the conditions set forth in their principles. In lieu of determining the actual amount of State agency indirect cost allocable to the Program, the following methods may be used:

(a) Predetermined fixed rates for indirect costs. A predetermined fixed rate for computing indirect costs applicable to program administration may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties to reach an informed judgement: (1) as to the probable level of indirect costs, in the State agency during the period to be covered by the negotiated rate, and (2) that the amount allowable under the predetermined rate would not exceed actual indirect costs.

(b) Negotiated lump sum for overhead. A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a State agency's indirect services cannot be readily determined as in the case of a small self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the State agency before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

(3) Limitation on indirect costs. Some Federal programs may be subject to laws that limit the amount of indirect cost that may be allowed. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under these principles, the amount not recoverable as indirect costs under a program may not be shifted to the Food Distribution Program.

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G. Cost incurred by other agencies of the State.--(1) General. The cost of service provided by other agencies may only include allowable direct costs of the service plus a pro rata share of allowable supporting costs and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

(2) Alternative methods of determining indirect cost. In lieu of determining actual indirect cost related to a particular service furnished by other agencies of the State, either of the following alternative methods may be used, provided only one method is used for a specific service during the fiscal year involved.

(a) Standard indirect rate. An amount equal to ten percent of direct labor cost in providing the service performed by other agencies of the State (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

(b) Predetermined fixed rate. A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in Section F(2) of these principles.

H. Cost incurred by State agency for others. The principles provided in Section G will also be used in determining the cost of services provided by the State agency to another agency.

I. Cost Allocation Plan.--(1) A cost allocation will be required to support the distribution of any indirect costs. All costs allocable to the Food Distribution Program under cost allocation plans will be supported by formal accounting records which will substantiate the propriety of eventual charges.

(2) There are two types of cost allocation plans: (a) Statewide or central service cost allocation plan identifies and distributes the cost of services provided by support organizations to those departments or units participating in Federal programs.

(b) Indirect Cost proposals distribute the administrative or joint costs incurred by the State agency and the cost of service allocable to it under the Statewide or central service cost allocation plan in a ratio to all work performed by the State agency. The process involves applying a percentage relationship of indirect cost to direct cost.

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(3) Requirements. The cost allocation plan of the State agency shall cover all allocated costs of the department, as well as cost to be allocated under plans of other agencies or organizational units, which are to be included in the costs of Federally-sponsored programs. The cost allocation plans of all the agencies rendering services to the State agency, to the extent feasible, should be presented in a single document.

(4) Instructions for Preparation of Cost Allocation Plans. In most cases, the Department of Health, Education and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State agencies in preparation of cost allocation plans. The responsibility applies to both central support services at the State, local, and Indian tribal government level and indirect cost proposals of individual State agencies.

(5) Submitting Plans for Approval. (a) Responsibility for approving cost allocation plans for individual State agencies has been assigned by the Office of Management and Budget to the cognizant Federal agency.

(b) State cost allocation plans must be submitted to the cognizant Federal agency within six months after the last day of the State's fiscal year. Upon request by the State agency, an extension of time for submittal of the cost allocation plan may be granted by the cognizant Federal agency. It is essential that cost allocation plans be submitted in a timely manner. Failure to submit the plans when required will cause the State agency to become delinquent. In the event a State becomes delinquent, FNS will not provide for the recovery of central service and indirect costs, and such costs already made and claimed against Food Distribution Program funds will be subject to disallowance.

(5) Negotiation and Approval of Cost Allocation Plans for States. The cognizant Federal agency, in collaboration with Federal agencies concerned, will be responsible for negotiation, approval, and audit of cost allocation plans.

(6) Negotiation and Approval of Cost Allocation Plans for Local Governments. Cost allocation plans will be retained at the local government level for audit by the cognizant Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

(7) A current list of cognizant Federal agencies is maintained by the Office of Management and Budget.

(8) Resolution of Problems. The Office of Management and Budget will lend assistance in resolving problems encountered by Federal agencies on cost allocation plans.

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(9) Approval by FNS. FNS reserves the right to disapprove costs not meeting the general criteria outlined in Section C of these principles. FNS shall promptly notify the State agency in writing of the disapproval, the reason for the disapproval and the effective date. Costs incurred by State agencies after disapproval may not be charged to FNS unless FNS subsequently approves the cost.

Standards for Selected Items of Cost

A. Allowable Cost. Standards for allowability of costs are established by Federal Management Circular 74-4. These standards will apply regardless of whether a particular item of cost is treated as direct or indirect. Failure to mention a particular item of cost in these standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles as stated in Attachment A to Federal Management Circular 74-4.

(1) Accounting. The cost of establishing and maintaining accounting and other information systems required for the management of the Food Distribution Program is allowable. This includes costs incurred by central service agencies of the State or Indian tribal government for these purposes. The cost of maintaining central accounting records required for overall State, local, or Indian tribal governments purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

(2) Advertising. Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

- (a) Recruitment of personnel required for the Program;
- (b) Solicitation of bids for the procurement of goods and services required;
- (c) Disposal of scrap or surplus materials acquired in the performance of the agreement; and
- (d) Other purposes specifically provided for by FNS regulations or approved by FNS in the administration of the Food Distribution Program.

(3) Advisory Councils. Cost incurred by State advisory councils or committees established to carry out Food Distribution Program goals are allowable. The cost of like organizations is allowable when used to improve the efficiency and effectiveness of the Program.

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(4) Audit Service. The cost of audits necessary for the administration and management of functions related to the Program is allowable.

(5) Bonding. Costs of premiums on bonds covering employees who handle Food Distribution Program funds are allowable. The amount of allowable coverage shall be limited to the anticipated maximum amount of food distribution administrative funds handled at one time by that employee.

(6) Budgeting. Cost incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the State agency's budget process, the costs of services identifiable to the Food Distribution Program are allowable.

(7) Building Lease Management. The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

(8) Central Stores. The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for the Food Distribution Program is allowable.

(9) Communications. Communication costs incurred for telephone calls or service, telegraph, teletype service, wide area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

(10) Compensation for Personal Services.--(a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance in the administration of the Program including, but not necessarily limited to, wages, salaries, and supplementary compensation and benefits as defined in Section A(13) of these principles. The cost of such compensation are allowable to the extent that total compensation for individual employees is reasonable for the services rendered; follows an appointment made in accordance with State, local, or Indian tribal government laws and rules and which meets Federal Merit System or other requirements, where applicable; and is determined and supported as provided in Section A of these principles. Compensation for employees engaged in Federally-assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State, local or Indian tribal government. In cases where the kinds of employees required for the Food Distribution Program activities are not found in the other activities of the State, local, or Indian tribal government, compensation will be considered reasonable to the extent that it is comparable to that paid for

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similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

(b) Payroll and Distribution of Time. Amounts charged to the Program for personal services regardless of where treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with the generally accepted practice of the State, local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Distribution of salaries and wages of employees chargeable to more than one program or other cost objective will be supported by appropriate time reports or approved time study methodologies. The method used should be included in the cost allocation plan and should be approved by FNS.

(11) Depreciation and Use Allowance.—(a) State agencies may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

(b) The computation of depreciation or use allowances will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost of any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of acquisition of land or buildings.

(c) Where the depreciation method is followed, adequate property records must be maintained, and any general accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected Federally-sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

(d) In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding six and two-thirds percent of a acquisition cost of usable equipment.

(e) No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if

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warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(12) Disbursing Service. The cost of disbursing program funds by the State Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to reconciliation of such records with related cash accounts.

(13) Employee Fringe Benefits. Costs identified are allowable to the extent that total compensation for employees is reasonable as defined in paragraph (10)(a) of these principles.

(a) Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (1) provided pursuant to an approved leave system, and (2) the cost thereof is equitably allocated to all related activities, including Federally-assisted programs.

(b) Employee benefits in the form of employers' contributions or expense for social security, employees' life and health insurance plans, unemployment insurance coverage, workers' compensation insurance pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to programs and to other activities.

(14) Employee Morale, Health and Welfare Costs. The cost of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State, local or Indian tribal policy, are allowable. Income generated from any of these activities will be offset against expenses.

(15) Exhibits. Cost of exhibits relating specifically to the Food Distribution Program are allowable.

(16) Legal Expenses. The cost of legal expenses required in the administration of the Program is allowable. Legal services furnished by the chief legal officer of a State, local or Indian tribal government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

(17) Maintenance and Repair. Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

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(18) Materials and Supplies. The cost of materials and supplies necessary to carry out the Program is allowable. Purchases made specifically for the Program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the State agency. Withdrawals from general stores or stockrooms should be charged to cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

(19) Memberships, Subscriptions and Professional Activities.--(a) The cost of membership in civic, business, technical and professional organizations is allowable, provided:

- (i) The benefit from the membership is related to the Program,
- (ii) The expenditure is for agency membership,
- (iii) The cost of the membership is reasonably related to the value of the services or benefits received, and
- (iv) The expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

(b) Reference Material. The cost of books, and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the Program.

(c) Meetings and Conferences. Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the Program and they are consistent with regular practices followed for other activities of the State agency.

(20) Motor Pools. The costs of a service organization which provides automobiles to user State agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services are allowable.

(21) Payroll Preparation. The cost of preparing payrolls and maintaining necessary related wage records is allowable.

(22) Personnel Administration. Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for the Program are allowable.

(23) Printing and Reproduction. Cost for printing and reproduction services necessary for program administration, including but not limited to forms, reports, manuals, and information literature, is allowable. Publication costs of reports or other media relating to Program accomplishments or results are allowable.

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(24) Procurement Service. The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities and services for the Program is allowable.

(25) Taxes. In general, taxes or payments in lieu of taxes which the State agency is legally required to pay are allowable.

(26) Training and Education. The cost of in-service training, customarily provided for employee development which directly or indirectly benefits the Program is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by FNS.

(27) Transportation. Cost incurred for freight, cartage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

(28) Travel. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to the Program. Such costs may be charged on an actual basis, on a per diem or mileage based in lieu of actual costs incurred, or on a combination of the two. The charges must be consistent with those normally allowed in like circumstances in nonfederally-sponsored activities. The difference in cost between first-class air accommodations and less-than-first class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available.

B. Costs Allowable with Approval of FNS.--(1) Automatic Data Processing. The cost of data processing services for Food Distribution Program administration is allowable. This cost may include rental of equipment or depreciation on State agency owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of FNS as provided under the selected item for capital expenditures. The conditions for Food Distribution Program funding of the acquisition of Automatic Data Processing equipment and services are contained in these principles in accordance with OMB Circular No. A-90.

(2) Definitions.--(a) "Acceptance Documents" means written evidence of satisfactory completion of an approved phase of work or contract, and acceptance thereof by the State agency.

(b) "Advance Planning Document" or "APD" means a written plan of action to acquire the proposed ADP services, system, or equipment, the APD must contain a statement of needs and objectives:

(i) The feasibility study;

(ii) A preliminary cost/benefit analysis including lease/purchase options;

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(iii) A personnel resource statement indicating availability of qualified and adequate staff including a project director to accomplish the project objectives;

(iv) A detailed description of the nature and scope of the activities to be undertaken and the methods to be used;

(v) A proposed schedule;

(vi) A proposed budget; and

(vii) A statement indicating the period of time for which the services, system, or equipment described are expected to be used; for integrated computer systems, a statement of the percentage allocated to FNS and a breakdown or explanation of how the percentage was determined.

(c) "Automatic Data Processing" or "ADP" means data processing performed by a system of electronic or electrical machines so interconnected and interacting as to minimize the need for human assistance or intervention.

(d) "Automatic Data Processing Equipment" or "ADP Equipment" means:

(i) Electronic digital computers, regardless of size, capacity or price, that accept data input, store data, perform calculations and other processing steps, and prepare information.

(ii) All peripheral or auxiliary equipment used in support of electronic computers whether selected and acquired with the computer or separately;

(iii) Data transmission or communications equipment that is selected and acquired solely or primarily for use with a configuration of ADP equipment which includes an electronic computer; and

(iv) "Data input equipment" means equipment used to enter data directly or indirectly into an electronic digital computer; peripheral or auxiliary equipment; or data transmission or communication equipment.

(e) "Automatic Data Processing Services" or "ADP Services" means:

(i) Services to operate ADP equipment, either by private sources, or by employees of the State agency, or by State or local organizations other than the State agency; and/or

(ii) Services provided by private sources or by employees of the State agency or by State and local organizations other than the State agency to perform such tasks as feasibility studies, system studies, system design efforts, development of system specifications, system analysis, programming and system implementation.

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(f) "Data Processing" means the preparation of source media containing data or basic elements of information and the use of such sources media according to precise rules of procedures to accomplish such operations as classifying, sorting, calculating, summarizing, recording and transmitting.

(g) "Feasibility Study" means a preliminary study to determine whether it is sufficiently probable that effective and efficient use of ADP equipment or systems can be made to warrant the substantial investment of staff, time, and money. The study shall project for a three year period the requirements for ADP equipment, services, and systems.

(h) "Request for Proposal" or "RFP" means the document used for public solicitations of competitive proposals from qualified sources as outlined in 7 CFR 277.14.

(i) "Service Agreement" means a document signed by the State or local agency and a second State or local organization providing ADP services to the State or local agency which:

(i) Identifies those ADP services to be provided by the provider agency;

(ii) Includes, preferably as an amendable attachment, a schedule of charges for each identified ADP service, and a certification that these charges apply equally to all users;

(iii) Includes a description of the method(s) of accounting for the services rendered under the agreement and computing services charges;

(iv) Includes assurances that services provided shall be timely and satisfactory; and

(v) Requires the provider agency to obtain prior State agency approval and to follow competitive procurement procedures equivalent to those contained in 7 CFR 277.14 for the acquisition of any ADP services in support of or in addition to the service agreement.

(j) "Software" means a set of computer programs, procedures, and associated documentation by which ADP equipment is used and operated.

(k) "System Design" means the putting together of a new or more efficient ADP system which avoids the deficiencies and discrepancies in the old system.

(l) "System Specifications" means information about the new ADP system--such as workload descriptions, input data, information to be maintained and processed, data processing techniques, and output data--which is required to determine the ADP equipment and software necessary to implement the system design.

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(m) "System Study" means the examination of existing information flow and operational procedures within an organization to determine how to provide more timely, accurate, and meaningful information for management decision-making and to develop new or improved ADP systems to service, control and coordinate the activities of the organization to improve operational efficiency. The study essentially consists of three basic phases: Data gathering or investigation of the present system and new information requirements; analysis of the data gathered in the investigation; and synthesis, or refitting, of the parts and relationships uncovered through the analysis into an efficient system.

(3) Obtaining Approval. Prior approval by FNS is required for costs of ADP equipment or ADP services in support of the Food Distribution Program which exceed \$25,000 in combined Federal and State funds per project. Requests for approvals must be forwarded through the State agency prior to submittal to FNS. Approval by FNS will be based on a review of the studies conducted by or for the agency that will justify the acquisition of the proposed ADP equipment or ADP services. Written approval of the Advance Planning Document must be obtained from FNS by the State agency prior to entering into contractual agreements or making any other commitment for acquisition of ADP equipment or ADP services.

(4) Approval by the State Agency. Approval by the State agency is required for all documents specified in this regulation prior to submittal for FNS approval. In addition, State agency approval is also required for those acquisitions of ADP equipment and ADP services not requiring prior approval by FNS.

(5) Competitive Procurement. Acquisition of ADP equipment and purchase of ADP services shall be based on competitive procurement procedures specified in 7 CFR 277.14 when Food Distribution Program funds are involved. State agency officials responsible for such procurement will ensure that formal advertising is the method of procurement unless the conditions for negotiation in 7 CFR 277.14 are met. Notwithstanding the existence of circumstances justifying negotiation, competitive procurement shall be obtained to the maximum extent practicable. The competitive procurement policy shall be applicable except for ADP services provided by the agency itself, or by other State or local agencies.

(6) Submittal of Documents.—(a) Prior to claiming funding under the Food Distribution Program the State agency will be required to submit:

(i) The advance planning document;

(ii) The service agreement (when data processing services are to be provided by a State central data processing facility or by another State or local agency);

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(iii) The request for proposal, prior to its issuance when service or equipment proposals are being solicited from commercial sources; and

(iv) The contract, prior to signature of the contracting officer when services or equipment are to be acquired commercially.

(b) Voluntary submittal, or when requested by FNS, will be made of:

- (i) The system study,
- (ii) The system design,
- (iii) The system specifications,
- (iv) The acceptance document.

(7) Methods for Charging Costs. Methods and procedures for properly charging the costs of all systems whether acquired from public or private sources shall be in accordance with this regulation and applicable FNS instructions.

(8) Access. Access to the system by FNS in all of its aspects, including design, development, and operation, including work performed by any source, and including cost records of contractors and subcontractors, shall be made available by the State at intervals as are deemed necessary by FNS to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system. Failure to provide full access by appropriate State and Federal representatives to all parts of the system shall result in termination of Food Distribution Program funds in the costs of the system and its operation.

(9) Ownership Rights.--(a) Software. The State will have all ownership rights in software or modification thereof and associated documentation designed, developed or installed with Food Distribution Program funds except that FNS reserves a royalty-free, non-exclusive license to reproduce, publish, or otherwise use, and to authorize others to do so, such software, modification and documentation. Proprietary software which is provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions of this section.

(b) Automatic Data Processing Equipment. The policies and procedures governing title, use and disposition of property purchased with Food Distribution Program funds, which are covered in 7 CFR 277.13 are applicable to automatic data processing equipment.

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EXHIBIT H

(10) Use of ADP Systems. ADP systems designed, developed or installed with Food Distribution Program funds shall be used for a period of time consistent with the Advance Planning Document as approved, or which FNS shall determine is sufficient to justify the Federal funds invested.

(11) Basis for Continued Federal Financial Participation. Periodic onsite surveys and reviews of State and local agency ADP methods and practices may be conducted by or for FNS to determine the adequacy of such methods and practices and to assure that ADP equipment and services are utilized for the purposes for which Federal funds were authorized. Such surveys may include:

(a) Pre-installation Readiness. A pre-installation survey including an on-site evaluation of the physical site and the State agency's readiness to use the proposed ADP services, equipment or system when installed and operational.

(b) Post-installation. A review conducted after installation of ADP equipment or systems to assure that the objectives for which Federal financial participation was approved are being accomplished.

(c) Utilization. A continuing review of ADP facilities to determine whether or not the ADP equipment or services are being efficiently and effectively utilized in support of the Food Distribution Program. Should FNS determine from such surveys or reviews or otherwise that the State agency has improperly used Food Distribution Program funds, termination of Food Distribution Program funding may be invoked. Such termination would be limited to the costs of the data processing services or equipment in question as specified in the written notification of termination by FNS.

(12) Application of This Section. The conditions of this section apply for initial and continuing authority to claim Food Distribution Program funding for automatic data processing services and equipment. Due to the procurement of ADP equipment and services, approved cost allocation plans will not be valid unless documentation required under B(1) of this Section is submitted and approvals under B(1) of the Section are obtained.

(13) Building Space and Related Facilities. The cost of space in privately or publicly owned buildings used for the benefit of the Program is allowable subject to the following conditions.—(a) The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality.

(b) The cost of Space may not be charged to FNS for periods of nonoccupancy, without authorization of FNS.

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(i) Rental Cost. The rental cost of space in a privately-owned building is allowable.

(ii) Maintenance and Operation. The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space.

(iii) Rearrangements and Alternations. Costs incurred for rearrangement and alternation of facilities required specifically for the Program or those that materially increase the value or useful life of the facilities (Section B(3) of these principles) are allowable when specifically approved by FNS.

(iv) Depreciation and Use Allowances on Publicly owned Buildings. These costs are allowable as provided in paragraph A(11) of these principles.

(v) Occupancy of Space Under Rental-purchase or a Lease with Option-to-purchase Agreement. The cost of space procured under such arrangements is allowable when specifically approved by FNS.

(14) Capital Expenditures. The cost, net of any credits, of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets, and/or nonexpendable personal property, having a useful life of more than one year and a net acquisition cost of more than \$5,000 per unit after allocation to FNS as projected for one year after purchase, is allowable when such procurement is specifically approved by FNS. No such approval shall be granted unless the State agency shall demonstrate to FNS that such a cost is:

(a) Necessary and reasonable for proper and efficient administration of the Program, and allocable thereto under the principles provided herein, and

(b) That procurement of such item or items has been or will be made in accordance with the standards set out in 277.14. In no case shall such a cost become a program charge against FNS prior to approval in writing by FNS of the procurement and the cost. When assets acquired with Food Distribution Program funds are:

(i) Sold,

(ii) No longer available for use in a Federally-sponsored program, or

(iii) Used for purposes not authorized by FNS, FNS's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

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(15) Insurance.—(a) Cost of insurance to secure the State agency against financial losses involved in the acceptance, storage, and issuance of commodities is allowable with FNS approval.

(b) Cost of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage will be in accordance with general State, local, or Indian tribal government policy and sound business practice.

(ii) Cost of insurance or contributions to any reserve covering the risk of loss of, or damage to, Federal government property are unallowable except to the extent that FNS approves such cost.

(16) Management Studies. The cost of management studies to improve the effectiveness and efficiency of program management for the Food Distribution Program is allowable. However, FNS must approve cost in excess of \$2,500 for studies performed by outside consultants or agencies other than the State agency.

(17) Preagreement Costs. Costs incurred prior to the effective date of approval of the amended indirect cost proposal or the revised Statewide cost allocation plan, whether or not they would have been allowable thereunder if incurred after such date, are allowable only when subsequently provided for in the plan or approved indirect cost proposal.

(18) Professional Services. Cost of professional services rendered by individuals or organizations not a part of the State agency is allowable. Prior authorization must be obtained from FNS for costs exceeding a total of \$2,500.

(19) Proposal Costs. Costs of preparing indirect cost proposals or amendments for allocating, distributing, and implementing provisions for payment of portions of the costs of administering the Food Distribution Program by the State agency are allowable.

(20) Cost Incurred by Agencies Other than the State. The cost of services provided by other agencies (including municipal governments) may only include allowable direct costs plus a pro rata share of allowable supporting costs and supervision directly required in performing the service. Allowable supporting costs are those services which may be centralized and includes such functions as procurement, payroll, personnel services, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service and the like. Supervision costs will not include supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in the operation of the Program.

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In lieu of determining actual indirect cost related to a particular service performed by another agency, either of the following alternative methods may be used during the fiscal year involved and is specifically provided for in the indirect cost proposal:

(a) Standard indirect rate equal to ten percent of direct labor cost in providing the service (excluding overtime, shift, or holiday premiums, and fringe benefits) may be allowed in lieu of actual allowable cost.

(b) A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated.

C. Unallowable Costs. The following costs shall not be allowable:

(1) Bad Debts. Any losses arising from uncollectable accounts or other claims, and related costs, are unallowable.

(2) Contingencies. Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

(3) Contributions and Donations. Unallowable.

(4) Entertainment. Costs whose purchase is for amusement, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities are unallowable.

(5) Fines and Penalties. Costs resulting from violations of or failure to comply with Federal, State, local or Indian tribal laws and regulations are unallowable.

(6) Governor's Expense. The salaries and expenses of the Office of the Governor of a State or the Chief executive of a political subdivision are considered a cost of general State, or local government and are unallowable. However, for a Federally-recognized Indian tribal government, only that portion of the salaries and expenses of the office of the chief executive that is a cost of general government is unallowable. The portion of salaries and expenses directly attributable to managing and operating programs is allowable.

(7) Indemnification. The cost of indemnifying the State against liabilities to third parties and other losses not compensated by insurance is unallowable.

(8) Interest and Other Financial Costs. Interest on borrowings, bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable.

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(9) Legislative Expenses. Salaries and other expenses of the State legislature or similar local governmental bodies are unallowable.

(10) Losses. Losses which could have been covered by permissible insurance are unallowable.

(11) Underrecovery of Cost Under Agreements. Any excess of cost over Federal contribution under one agreement is unallowable under another agreement.

**FNS HANDBOOK 501
EXHIBIT I**

SAMPLE COPY OF SF 424; SF 424A; SF 424B; SF 424C AND SF 424D

**APPLICATION FOR
FEDERAL ASSISTANCE**

Version 7/03

1. TYPE OF SUBMISSION: Application ☐ Pre-application ☐ ☐ Construction ☐ ☐ Construction ☐ Non-Construction ☐ ☐ Non-Construction		2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier	

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:																							
Organizational DUNS:	Department:																							
Address: Street:	Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: First Name:																							
City:	Middle Name																							
County:	Last Name																							
State: Zip Code	Suffix:																							
Country:	Email:																							
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 		Phone Number (give area code) Fax Number (give area code)																						
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.)		7. TYPE OF APPLICANT: (See back of form for Application Types) Other (specify)																						
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program):		9. NAME OF FEDERAL AGENCY:																						
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:																						
13. PROPOSED PROJECT Start Date: Ending Date:		14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project																						
15. ESTIMATED FUNDING: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">a. Federal</td> <td style="width: 10%;">\$</td> <td style="width: 60%;"></td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td></td> </tr> </table>		a. Federal	\$		b. Applicant	\$		c. State	\$		d. Local	\$		e. Other	\$		f. Program Income	\$		g. TOTAL	\$		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$																							
b. Applicant	\$																							
c. State	\$																							
d. Local	\$																							
e. Other	\$																							
f. Program Income	\$																							
g. TOTAL	\$																							
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes if "Yes" attach an explanation. ☐ No																						

a. Authorized Representative

Prefix	First Name	Middle Name
Last Name	Suffix	
b. Title	c. Telephone Number (give area code)	
d. Signature of Authorized Representative	e. Date Signed	

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Standard Form 424 (Rev. 9-2003)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Select Type of Submission.	11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).	12.	List only the largest political entities affected (e.g., State, counties, cities).
3.	State use only (if applicable).	13.	Enter the proposed start date and end date of the project.
4.	Enter Date Received by Federal Agency Federal identifier number: If this application is a continuation or revision to an existing award, enter the present Federal Identifier number. If for a new project, leave blank.	14.	List the applicant's Congressional District and any District(s) affected by the program or project
5.	Enter legal name of applicant, name of primary organizational unit (including division, if applicable), which will undertake the assistance activity, enter the organization's DUNS number (received from Dun and Bradstreet), enter the complete address of the applicant (including country), and name, telephone number, e-mail and fax of the person to contact on matters related to this application.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
7.	Select the appropriate letter in the space provided. A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School District I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) O. Not for Profit Organization	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
8.	Select the type from the following list: • "New" means a new assistance award. • "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. • "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision enter the appropriate letter: A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		

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BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

SECTION B - BUDGET CATEGORIES					
6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	\$	\$	\$	\$	\$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges (sum of 6a-6h)		0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS (sum of 6i and 6j)	\$	0.00	0.00	0.00	0.00

7. Program Income	\$	\$	\$	\$	\$ 0.00
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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

FNS HANDBOOK 501
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Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

(Rev. 8/2005)

SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8.	\$	\$	\$	\$ 0.00	
9.				0.00	
10.				0.00	
11.				0.00	
12. TOTAL (sum of lines 8-11)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$ 0.00	\$	\$	\$	\$
14. Non-Federal	0.00				
15. TOTAL (sum of lines 13 and 14)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT					
(a) Grant Program	FUTURE FUNDING PERIODS (Years)				
	(b) First	(c) Second	(d) Third	(e) Fourth	
16.	\$	\$	\$	\$	
17.					
18.					
19.					
20. TOTAL (sum of lines 16-19)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
SECTION F - OTHER BUDGET INFORMATION					
21. Direct Charges:		22. Indirect Charges:			
23. Remarks:					

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INSTRUCTIONS FOR THE SF-424A

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PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For *new* applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

FNS HANDBOOK 501
EXHIBIT I

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED August 17, 2005

Standard Form 424B (Rev. 7-97) Back

BUDGET INFORMATION - Construction Programs			
NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.			
COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)
1. Administrative and legal expenses	\$.00	\$.00	\$.00
2. Land, structures, rights-of-way, appraisals, etc.	\$.00	\$.00	\$.00
3. Relocation expenses and payments	\$.00	\$.00	\$.00
4. Architectural and engineering fees	\$.00	\$.00	\$.00
5. Other architectural and engineering fees	\$.00	\$.00	\$.00
6. Project inspection fees	\$.00	\$.00	\$.00
7. Site work	\$.00	\$.00	\$.00
8. Demolition and removal	\$.00	\$.00	\$.00
9. Construction	\$.00	\$.00	\$.00
10. Equipment	\$.00	\$.00	\$.00
11. Miscellaneous	\$.00	\$.00	\$.00
12. SUBTOTAL (sum of lines 1-11)	\$ 0.00	\$ 0.00	\$ 0.00
13. Contingencies	\$.00	\$.00	\$.00
14. SUBTOTAL	\$ 0.00	\$ 0.00	\$ 0.00
15. Project (program) income	\$.00	\$.00	\$.00
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$.00	\$.00	\$.00
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.		Enter eligible costs from line 16c. Multiply X _____%	\$ 0.00

Previous Edition Usable

Authorized for Local Reproduction

Standard Form 424C (Rev. 7-97)
Prescribed by OMB Circular A-102

ASSURANCES - CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7j), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED August 17, 2005

SF-424D (Rev. 7-97) Back

(RESERVED)

FOOD DISTRIBUTION PROGRAM SAMPLE WORKSHEET FOR MANUALLY CALCULATING AN OVERISSUANCE CLAIM

Date: _____

Head of Household: _____

Address: _____

Casefile Number
(if appropriate): _____

Claim Period: _____

[illegible]

(Rev. 2/2010)

SAMPLE DEMAND LETTER FOR AN OVERISSUANCE CLAIM

Demand Letter for an Overissuance Claim

Date:

First Letter _____

Name:

Second Letter _____

Third Letter _____

Address:

Case Number:

Dear _____:

After carefully reviewing your file, we found that your household received \$_____ more in USDA foods than your household was eligible to receive during the month(s) of _____.

_____ . That is because _____.

You should make every effort to pay the full amount your household owes. If you can't pay the full amount now, we can arrange for installment payments. Please call the office at _____

_____ to discuss a payment plan. It is important that you pay this claim amount or explain why you can't pay. **If you fail to pay the claim amount in full, the adult members of your household may be disqualified from the Food Distribution Program.**

You may request a fair hearing if you do not agree that you owe the amount above. At the hearing you will be given an opportunity to explain why you disagree. A hearing officer will then render a decision. To request a fair hearing, please call the telephone number listed above or fill out the attached form and return it to our office. Also, please call the telephone number above if you have any questions about the fair hearing process.

Sincerely,

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, religion, political beliefs, or disability. To file a complaint of discrimination, write USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). TDD users can contact USDA through local relay or the Federal Relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice users). USDA is an equal opportunity provider and employer.

(Rev. 2/2010)

FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS (FDPIR)

FY 2026 NET MONTHLY INCOME STANDARDS

Effective October 1, 2025, to September 30, 2026

The net monthly income standard for each household size is the sum of the applicable Supplemental Nutrition Assistance Program (SNAP) net monthly income standard and the applicable SNAP standard deduction.

48 Contiguous United States:

Use this Amount

Household Size	SNAP Net Monthly Income Standards		SNAP Standard Deduction		FDPIR Net Monthly Income Standards
1	\$1,305	+	\$209	=	\$1,514
2	\$1,763	+	\$209	=	\$1,972
3	\$2,221	+	\$209	=	\$2,430
4	\$2,680	+	\$223	=	\$2,903
5	\$3,138	+	\$261	=	\$3,399
6	\$3,596	+	\$299	=	\$3,895
7	\$4,055	+	\$299	=	\$4,354
8	\$4,513	+	\$299	=	\$4,812
Each additional member					\$459

Alaska:

Use this Amount

Household Size	SNAP Net Monthly Income Standards		SNAP Standard Deduction		FDPIR Net Monthly Income Standards
1	\$1,630	+	\$358	=	\$1,988
2	\$2,203	+	\$358	=	\$2,561
3	\$2,776	+	\$358	=	\$3,134
4	\$3,350	+	\$358	=	\$3,708
5	\$3,923	+	\$358	=	\$4,281
6	\$4,496	+	\$374	=	\$4,870
7	\$5,070	+	\$374	=	\$5,444
8	\$5,643	+	\$374	=	\$6,017
Each additional member					\$574

(Rev. 09/2025)

FY 2026 FDPIR INCOME DEDUCTIONS (see 7 CFR 253.6(e))

Effective October 1, 2025, to September 30, 2026

Earned Income Deduction	Households with earned income are allowed a deduction of 20 percent of their earned income.
Dependent Care Deduction	Households that qualify for the dependent care deduction are allowed a deduction of actual dependent care costs paid monthly to a non-household member.
Child Support Deduction	Households that incur the cost of legally required child support to or for a non-household member are allowed a deduction for the amount of monthly child support paid.
Medical Expense Deduction	Households that incur monthly medical expenses by any household member who is elderly or disabled are allowed a deduction in the amount of out-of-pocket medical expenses paid in excess of \$35 per month. Allowable medical expenses are provided at 7 CFR 273.9(d)(3) .
Home Care Meal-Related Deduction	Households who furnish the majority of meals for a home care attendant are allowed an income deduction equal to the maximum SNAP benefit for a one-person household. The home care meal-related deduction amounts are as follows: 48 Contiguous U.S. States = \$298 Alaska by Area Designations • Urban = \$385 • Rural 1 = \$491 • Rural 2 = \$598 See 7 CFR 272.7(b) for area designations in Alaska.
Standard Shelter/Utility Expense Deduction	Households that incur at least one monthly shelter or utility expense are allowed a shelter/utility deduction. Allowable shelter/utility expenses are provided at 7 CFR 273.9(d)(6)(ii) . Households may choose to receive either : 1. The Shelter/utility standard deduction, as follows: • 48 Contiguous U.S. States = \$744 • Alaska = \$1,189 Or 2. A deduction of actual shelter/ utility expenses up to 50 percent of net monthly income, with verification of expenses.

(Rev. 09/2025)

**FNS HANDBOOK 501
EXHIBIT N**

SAMPLE COPY OF FORM FNS-7

U.S. DEPARTMENT OF AGRICULTURE - FOOD AND NUTRITION SERVICE DESTINATION DATA FOR DELIVERY OF DONATED FOODS FNS Instruction 709-5 SEE INSTRUCTIONS ON REVERSE		FORM APPROVED OMB NO. 0584-0293 TYPE OF ACTION ☐ NEW ☐ CHANGE ☐ DELETE	
According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0293. The time required to complete this information collection is estimated to average .5 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.			
1. NAME OF STATE DISTRIBUTING AGENCY		2. DESTINATION (CITY) RECEIVING POINT	
4. CONSIGNEE		3. STATE IN WHICH DISTRIBUTING AGENCY IS LOCATED	
5. CARE OF (Please provide Fax No. and E-mail address if available)			
6. DELIVER TO (Street address, team track, warehouse, etc. Please provide Fax and E-Mail address if available)			
A. FOR RAIL DELIVERY		LIMITATIONS	
B. FOR TRUCK DELIVERY		LIMITATIONS	
7. SHIP BY (Shipment may be made by rail or truck unless one of the following is checked) ☐ RAIL ONLY ☐ TRUCK ONLY		EXPLANATION OF NEED FOR THE RESTRICTION SHOWN	
8. TITLE AND ADDRESS ONLY OF PERSON TO WHOM THE FORWARDING NOTICE AND DISTRIBUTION AGENCY CONSIGNEE RECEIPT (Form MP-329A) SHOULD BE SENT		9. TITLE AND ADDRESS ONLY OF PERSON TO WHOM THE NOTICE OF SHIPMENT SHOULD BE SENT	
10. OUTLET(S) SERVED ☐ NUTRITION PROGRAM FOR THE ELDERLY (NPE) ☐ CHARITABLE INSTITUTIONS ☐ CHILD AND ADULT CARE FOOD PROGRAM (CACFP) ☐ SUMMER CAMPS ☐ SCHOOLS ☐ COMMODITY SUPPLEMENTAL FOOD PROGRAM (CSFP) ☐ SUMMER FOOD SERVICE PROGRAM ☐ FOOD DIST. PRGM ON INDIAN RESERVATIONS (FDPIR) ☐ OTHER (Specify) _____ ☐ EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)			
IF DESTINATION IS A WAREHOUSE, COMPLETE ITEMS 11 THROUGH 14			
11. TYPE OF WAREHOUSE ☐ STATE OWNED AND OPERATED ☐ COMMERCIAL		12. IF COMMERCIAL WAREHOUSE DELIVERY ACCEPTABLE BY ☐ TRANSFER OF TITLE ☐ LOCAL PICKUP	
13. TYPE(S) OF STORAGE PROVIDED ☐ DRY ☐ REFRIGERATED ☐ FREEZER		14. HANDLING OF PERISHABLE FOODS (Check one) ☐ SHIPMENT ALWAYS ENTIRELY UNLOADED AND PLACED IN STORAGE ☐ PART OF SHIPMENT ALWAYS OR SOMETIMES DISTRIBUTED FROM CAR OR WAREHOUSE PLATFORM	
The above information is true and correct to the best of my knowledge and belief.			
15. DATE		16. SIGNATURE OF AGENCY REPRESENTATIVE	
DESTINATION DISTRIBUTING AGENCY - Send a fax copy to the Food and Nutrition Service Regional Office. FNS REGIONAL OFFICE - Send a fax copy to the Kansas City Commodity Office.			

FORM FNS-7 (12-98) Previous editions obsolete

Electronic Form Version Designed in JetForm 5.01 Version

INSTRUCTIONS

It is important that a separate form be prepared for each destination (item 2) when delivery conditions require changes in elements of information in items 5, 6, 7, 8, or 9.

In the "Type of Action" entry, check one box only indicating whether the form is to provide data for: (1) a *NEW* destination, (2) notification of *CHANGE* in data for an existing receiving point, or (3) *DELETION* of a destination receiving point.

ITEM

- 1 Self-explanatory.
- 2 Name of the city to which shipment is to be made. Show State only if different from item 3.
- 3 Self-explanatory.
- 4 Enter the title of the Distributing Agency's representative who is accountable for distribution of donated foods. Names are not to be shown unless essential to the Distributing Agency's operation. The Entity Number is the code designation assigned by USDA for a destination receiving point, and will be filled in by the Distributing Agency each time the form is submitted. *(Prior to submitting the form for establishment of a new destination receiving point, the Distributing Agency will contact the FNS Regional Office and obtain an Entity Number.)*
- 5 If delivery at destination is to be accepted by the Distributing Agency's representative (shown in item 4), enter "Same as item 4." If delivery at destination is to be accepted by someone other than the representative shown in item 4, that person's title is inserted here. Names are not to be shown unless essential to the Distributing Agency's operation.
- 6 This item is used jointly with item 7 since the information to be supplied is dependent upon the method of shipment indicated in item 7.

A. For Rail Delivery - No entry is to be made unless delivery to a specific location is essential to program operations, e.g., the receiving warehouse is located on a rail siding. When an entry is necessary, the address shown shall include the specific location at which the car is to be placed for unloading. When reciprocal switching is not in

effect at the point of delivery, the name of the railroad which serves this location shall be shown. For example "Blank's Warehouse, ACL," or "Industrial siding, PPP." Where reciprocal switching is in effect at the point of delivery, no delivering carrier shall be specified. If delivery is to be made on a team track, the name of a specific team track shall not be shown unless it is essential to program requirements.

Limitations. Show limiting conditions, if any, at the destination point, e.g., "Cannot handle care over maximum length of 53 feet."

B. For Truck Delivery. Show exact street address for location at which delivery will be accepted. If same as for "Rail Delivery," enter "Same as for rail delivery."

Limitations. Show limiting conditions, if any, at the destination point, e.g., "12 1/2-foot clearance."

- 7 It is desirable that shippers be allowed to make shipment by either rail or truck so that the means of transportation can be selected which will result in least transportation costs. Distributing agencies may restrict the method of shipment only when necessary to their program operations. If a specific mode of transportation is shown, an explanation must be made of the need for the restriction.
- 8 If this person is the same as the one to whom the Notice of Shipment is sent, enter "Same as item 9." Names are not to be shown unless essential to the Distributing Agency's operations.
- 9 Self-explanatory. Names are not to be shown unless essential to the Distributing Agency's operations.
- 10 Indicate the outlet(s) to which distributions are made from this destination point.
- 11 12, 13, and 14 self-explanatory.
- 15 & 16 The Distributing Agency's representative (item 4) will complete these entries.

**FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS
MONTHLY DISTRIBUTION GUIDE RATES BY HOUSEHOLD SIZE**

Effective Date: October 1, 2024

NOTE: The availability of individual products is subject to market conditions.

USDA Food	Number of Items Per Month
GRAINS, CEREAL, RICE, AND PASTA	
Ready-to-Eat Cereal, Dry (all sizes) Quick Oats (18 oz.) Farina (18 oz.)	Up to 2 units per person
Macaroni & Cheese (7.25 – 10.2 oz) Macaroni (1 lb.) Whole Grain Rotini (1 lb.) Spaghetti (1 lb.) Egg Noodles (1 lb.) Rice (1 lb.) Saltine Crackers (1 lb.) Whole Grain Tortillas (1 lb.)	Any combination of options cannot exceed 5 units per person: - Three 7.25-10.2 oz. boxes or pouches of Macaroni & Cheese are treated as 1 unit. Limit of 1 unit of Macaroni & Cheese per person. - Wild Rice (1 lb.) is subject to availability and is not considered to be part of the 5 units of pasta, rice, crackers, and tortillas. It is treated as bonus and cannot be exchanged with other grain products.
Yellow Cornmeal (5 lb.) Blue Cornmeal (2 lb.) All Purpose Flour (5 lb.) White Whole Wheat Flour (5 lb.) Bakery Mix (20 oz.)	Up to 2 units per person

**FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS
MONTHLY DISTRIBUTION GUIDE RATES BY HOUSEHOLD SIZE**

Effective Date: October 1, 2024

USDA Food	Number of Items Per Month
VEGETABLES AND SOUP	
Canned Vegetables (15.5 oz.): Carrots, Corn Kernel, Corn Cream, Hominy, Green Beans, Mixed Vegetables, Peas, Potatoes, Spaghetti Sauce, Spinach, Diced Tomatoes, and Tomato Sauce Dehydrated Potatoes (1 lb.) Fresh Vegetables (1 lb.): Asparagus, Baby Carrots, Broccoli, Brussels Sprouts, Cabbage, Carrots, Cauliflower, Celery, Corn, Cucumbers, Jalapeno Peppers, Lettuce (Iceberg and Romaine), Mixed Vegetables, Onions (Red and Yellow), Radish, Peppers (Green, Red), Potatoes (Red and Russet), Spinach, Squash, (Summer and Winter), Tomatoes (Round, Cherry, Grape), Sweet Potatoes, Turnips/Rutabaga Frozen Vegetables (1 lb.): Peas, Carrots, and Vegetable Stir-Fry Blend	Up to 20 units per person: - Seasonal Vegetables: Asparagus, Brussels Sprouts, Corn, Cucumbers, Peppers (Green, Red), Sweet Potatoes, Squash (Summer and Winter), Tomatoes (Round, Cherry, Grape), Turnips/Rutabaga - A full list of fresh vegetables and various pack sizes can be found in the FFAVORS catalog. 1 lb. of fresh vegetables is treated as 1 unit. - Canned sweet potatoes and pumpkin are subject to availability on a seasonal basis and are not considered to be part of the 20 units of vegetables. They cannot be exchanged with other vegetable products.
Soups: Beef Stew (24 oz.), Tomato, Vegetarian Vegetable, Cream of Mushroom, and Cream of Chicken Soup (10.5 oz. Condensed)	Up to 3 units per person
FRUIT AND JUICE	
Canned Fruit (15.5 oz.): Apricots, Mixed Fruit, Peaches, and Pears Fresh Fruit (1 lb.): Apples, Avocado, Cherries, Cranberries, Grapes, Grapefruit, Honeydew Melon, Kiwifruit, Lemons, Mixed Fruit, Nectarines, Oranges, Peaches, Pears, Plums, Tangerine/Clementine/Mandarin Dried Fruit (15-16 oz.): Plums and Raisins Frozen Fruit (1 lb.): Blueberries and Strawberries 6-Cup Sleeve (24 oz.): Applesauce Juice (64 oz. bottle): Apple, Cherry Apple, Cranberry Apple, Grape, Orange, and Tomato	Up to 20 units per person: - Seasonal Fruits: Avocado, Cranberries, Cherries, Grapes, Honeydew Melon, Kiwifruit, Nectarine, Peaches, Plums, Tangerine/Clementine/Mandarin - A full list of fresh fruit and various pack sizes can be found in the FFAVORS catalog. 1 lb. of fresh fruit is treated as 1 unit. - One bottle of juice (64 oz.) is treated as 5 units. Limit of 2 bottles of juice per person. - Cranberry Sauce is subject to availability on a seasonal basis and is not considered to be part of the 20 units of fruit. It cannot be exchanged with other fruit or juice products.

**FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS
MONTHLY DISTRIBUTION GUIDE RATES BY HOUSEHOLD SIZE**

Effective Date: October 1, 2024

USDA Food	Number of Items Per Month
MEAT, POULTRY, FISH, BEANS, EGGS, AND NUTS	
Canned Meat, Fish and/or Poultry (12-24 oz.) Frozen Beef Roast (2 lb.) Frozen Ground Beef (1 lb.) Frozen Ground Bison (1, 1.25, or 2 lbs.) Frozen Bison Stew Meat (2 lbs.) Frozen Pork Chops (1 lb.) Frozen Chicken (3-4 lbs.): Whole and Boneless Breast Frozen Turkey Deli, Sliced (2 lbs.)	Any combination of units cannot exceed 6 units per person: - Two canned or frozen meat, poultry, and fish items 16 oz. (1 lb.) or smaller are treated as 1 unit. For example, two 1 lb. packs of ground beef are treated as 1 unit. - Canned or frozen meat, poultry, and fish items larger than 16 oz. (1 lb.) are treated as 1 unit each. For example, one 2 lb. frozen beef roast or sliced turkey deli is treated as 1 unit. - Two 1 lb. or 1.25 lb. packs of frozen ground bison are treated as 1 unit. One 2 lb. frozen ground bison pack is treated as 1 unit. - Smoked Pit Ham (5 lb.) is available on a seasonal basis (one per person per month) subject to availability. It is not considered to be part of the 6 units of meat/poultry/fish. It is treated as bonus and cannot be exchanged with other meat products. - Frozen walleye (1 lb.), wild frozen salmon (1 lb.), and frozen catfish (2 lb.) are subject to availability and are not considered to be part of the 6 units of meat/poultry/fish. These products are treated as bonus and cannot be exchanged with other meat products.
Canned Beans (15.5 oz.): Black, Kidney, Pinto, Refried, and Vegetarian Dry Beans (1 lb.): Great Northern and Pinto	Up to 4 units per person
All Purpose Egg Mix (6 oz.) Shell Eggs (1 dozen)	Any combination up to 2 units per person: - Two 6 oz. packages of dried egg mix are treated as 1 unit. - One dozen shell eggs is treated as 1 unit.
Smooth Peanut Butter (16 oz.) Roasted Peanuts (1 lb.) Fruit & Nut Mix (1 lb.)	1 unit per person

**FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS
MONTHLY DISTRIBUTION GUIDE RATES BY HOUSEHOLD SIZE**

Effective Date: October 1, 2024

USDA Food	Number of Items Per Month							
<i>Household Size</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>
Block Process American Cheese (5 lb.) or Sliced Reduced-fat American Cheese Blend (5 lb.)	1 per 2 mos.	1	2	2	3	3	4	4
Skim evaporated milk (12 oz.) Instant Nonfat Dry Milk (12.8 oz.) 1% Ultra High Temperature (UHT) Milk (32 fl. oz.)	Any combination of units up to 8 units per person. • One 12 oz. can skim evaporated milk is treated as 1 unit. • One 12.8 oz. box of Instant Nonfat Dry Milk is treated as 4 units. • One 32 fl. oz. carton of 1% UHT milk is treated as 1 unit.							
<i>Household Size</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>
Total number of units per household	4	4	6	6	9	9	12	12
Butter (16 oz.) Vegetable Oil (48 fl. oz.) Light Buttery Spread (15 oz.) Extra Virgin Olive Oil (16.9 fl. oz.)	Any combination of units up to the total number of units indicated per household. • One 16 oz. package of butter is treated as 3 units. • One 48 oz. bottle of vegetable oil is treated as 3 units. • One 15 oz. tub of light buttery spread is treated as 1 unit. • One 16.9 oz. bottle of olive oil is treated as 1 unit. Olive oil is subject to availability.							

(RESERVED)

I

FNS HANDBOOK 501
EXHIBIT Q

SAMPLE COPY OF FORM FNS-52

INSTRUCTIONS

ITEM

STATE-Enter the name of the State in which the Distributing Agency is located.

DISTRIBUTING AGENCY-Enter the name of the Distributing Agency.

UNITS OR POUNDS-Place an "X" in the applicable box.

TYPE OF ACTION-Place an "X" in the applicable box.

The numbered blocks will be keyed by FNS Regional Office, as outlined below. The numbers appearing in parentheses after the block title show the maximum number of characters that may be keyed.

BLOCK

1. **COMMODITY** -Enter the short title as provided by the FNS Regional Office. (This must be identical to the short title given in the FNS commodity file.)
2. **D/A CODE**-Enter the three digit code number of the Distributing Agency.
3. **DELIVERY YEAR**-Enter the alphabetical designation, provided by FNS Regional Office, for delivery year in which shipment is to be made, regardless of outlet. For example, all orders requested for shipment between 7/1/82 and 6/30/83 should have a delivery year code D, for all outlets.
4. **FISCAL YEAR OF PURCHASE**-Enter the fiscal year during which the commodity will be purchased. This information is provided in allocations for Group A foods and for Group B foods through a separate coding sheet available from FNS.
5. **SECTION OF PUBLIC LAW**-Enter the section of the public law as advised by the FNS Regional Office.
6. **REQUISITION NUMBER**-Leave blank. This space for FNS use only.
7. **STAMP DATE**-Leave blank. This space for FNS use only.
8. **DELIVERY YEAR**-Order numbers assigned by the Distributing Agency should be expressed in three digits, beginning with 001 for each food unless instructed differently by FNS Regional Office. If a destination change is necessary to the original order, the original order must be cancelled and the changed order would carry the original order number plus an alphabetical suffix, A, B, or C. Suffixes D, E, etc. are used for other types of delivery order changes, such as when it is necessary to split one delivery order into two or more. If it is necessary to cancel an order for any

reason other than a destination change after it has been processed by the Kansas City ASCS Field Office (KCFO), the order number shall not be reused; if replacement is necessary, use a new order number.

9. **ALLOCATION NUMBER** -Enter the allocation number provided by the FNS Regional Office.
10. **ENDING SHIPPING/DELIVERY DATE**-The final day of the shipping/delivery period is required. States may show entire requested shipping/delivery period if desired.
11. **PLANNED PROGRAM USAGE BY OUTLET, ADJUSTMENT CODE AND QUANTITY** -Enter approved codes for planned program usage as provided by FNS Regional Office. Enter the number of Units or Pounds requested for each outlet. The total of the outlet quantities must equal the quantity shown in the TOTAL QUANTITY column (Block 12). Each planned usage outlet may have one approved adjustment code, if needed.
12. **TOTAL QUANTITY** -Total quantity must equal the sum of the quantities shown in the Quantity columns in Block 11.
13. **REDONATION CODE**-If commodity is to be redonated at USDA expense, as approved by the FNS Regional Office, enter "R". If redonation is for information only, enter "S".
14. **DESTINATION** -(Entity Code, Check Digit Code and City). Entity and check digit codes provided by KCFO for each given destination must be used. If the city name is less than 7 digits, the State 2-letter code must also be shown. If it is necessary to change the destination for an order already submitted to KCFO, please follow the instructions for Block 8, Delivery Order Number.

REMARKS -For use by the Distributing Agency or the FNS Regional Office. Remarks will be key entered at the FNS Regional Office using established codes for standard remarks, combined code and message, or free form message. Remarks should be written or typed on the form on the appropriate order number line. Established remarks codes are available through FNS Regional Office.

DISTRIBUTION

1. The Distributing Agency shall retain the pink copy and forward the original and other copies (with carbon inserts) to the FNS Regional Office. If any remarks are given, the last remarks page may also be kept by the Distributing Agency as a record.
2. After approval by the FNS Regional Office, a buff copy shall be returned to the Distributing Agency.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0293. The time required to complete this collection is estimated to average 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

SAMPLE COPY OF FORM FNS-53

FORM APPROVED OMB NO. 0584-0288

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20260; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

U.S. DEPARTMENT OF AGRICULTURE MULTI-FOOD REQUISITION (SEE INSTRUCTIONS ON REVERSE)				QUARTER	STATE OR ITO	DISTRIBUTING AGENCY	AVERAGE PARTICIPATION		☐ DELETE ☐ ADD ☐ CHANGE		
¹ D/A CODE	² DELIVERY YEAR	³ F/R - D/O NO.	⁴ OUTLET	⁵ ENTITY CODE	⁶ CITY	⁷ DELIVERY PERIOD	⁸ REMARKS				
⁹ COMMODITY CODE	¹⁰ COMMODITY DESCRIPTION (USE SHORT TITLE)	¹¹ EST. COST PER LB.	PACK TYPE	¹² NET WT. PER UNIT (CASE)	¹³ QTY. REQ. CASES	¹⁴ TOT. NET WEIGHT (LBS.)	¹⁵ TOTAL VALUE (\$)	¹⁶ ADJ CODE	¹⁷ SECT. LAW	¹⁸ REDO	
A060	BEANS GREEN 303		24/303	23.40							
A090	BEANS VEG 300		24/300	24.00							
A095	CARROTS		24/303	24.00							
A120	CORN CREAM		24/303	24.00							
A121	CORN KERNEL		24/303	24.00							
A135	LENTILS		12/2	24.00							
A145	PEAS 303		24/303	24.00							
A163	PUMPKIN		24/303	24.00							
A166	SPINACH		24/303	22.50							
A169	POTATOES 303		24/303	24.00							
A196	POTATOES DEHY 12		12/1	12.00							
A221	SWEET POTATOES 303		24/303	24.00							
A244	TOMATO SAUCE 300		24/300	22.50							
A248	TOMATOES 303		24/303	24.00							
A251	SYRUP P		12/24	25.85							
A280	GRAPEFRUIT J		12/46	37.00							
A282	APPLE J		12/46	37.50							
A285	GRAPE J		12/46	38.00							

DISTRIBUTING AGENCY CERTIFICATION				FOOD AND NUTRITION SERVICE APPROVAL			
DATE	SIGNATURE			REGIONAL OFFICE	DATE	SIGNATURE	

FNS-53 (8-93) Previous editions obsolete

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Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

FNS HANDBOOK 501
EXHIBIT Q-1

D/A CODE		DELIVERY YEAR		F/R-D/O NUMBER			DELIVERY PERIOD			
⁹ COMMODITY CODE	¹⁰ COMMODITY DESCRIPTION (USE SHORT TITLE)	¹¹ EST. COST PER LB.	PACK TYPE	¹² NET WT. PER UNIT (CASE)	¹³ QTY. REQ. CASES	¹⁴ TOT. NET WEIGHT (LBS.)	¹⁵ TOTAL VALUE (\$)	¹⁶ ADJ CODE	¹⁷ SECT. LAW	¹⁸ REDO
A286	PINEAPPLE J		12/46	37.70						
A290	TOMATO J		12/46	36.50						
A300	ORANGE J		12/46	37.50						
A355	APPLESAUCE 303		24/303	24.00						
A401	F COCKTAIL 303		24/303	24.00						
A412	PEACHES CLING 303		24/303	24.00						
A439	PEARS 303		24/303	24.00						
A446	PINEAPPLE 2		24/2	30.00						
A461	PLUMS 303		24/303	24.00						
A480	PRUNES 1		24/1	24.00						
A502	RAISINS 48		48/1	48.00						
A560	POULTRY CND		24/29	43.50						
A562	CHICKEN CND		24/29	43.50						
A670	EGG MIX 6		48/6	18.00						
A667	STEW CND		24/24	36.00						
A669	STEW 24/15		24/15	22.50						
A610	BEEF NJ		24/29	43.50						
A617	LUNCHMEAT P 24		24/30	45.00						
A619	LUNCHMEAT 24		24/30	45.00						
A630	PORK NJ		24/29	43.50						
A740	TUNA 12.5		24/12.50	18.75						
A741	TUNA 12.25		24/12.25	18.37						
A800	SALMON PINK		48/14.75	44.25						

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D/A CODE		DELIVERY YEAR		F/R-D/O NUMBER			DELIVERY PERIOD			
⁹ COMMODITY CODE	¹⁰ COMMODITY DESCRIPTION (USE SHORT TITLE)	¹¹ EST. COST PER LB.	PACK TYPE	¹² NET WT. PER UNIT (CASE)	¹³ QTY. REQ. CASES	¹⁴ TOT. NET WEIGHT (LBS.)	¹⁵ TOTAL VALUE (\$)	¹⁶ ADJ CODE	¹⁷ SECT. LAW	¹⁸ REDO
A910	BEANS BLKEYE 2		12/2	24.00						
A912	BEANS B LIMA 2		12/2	24.00						
A914	BEANS PINTO 2		12/2	24.00						
A917	BEANS GRT NORTH 2		12/2	24.00						
A918	BEANS NAVY PEA 2		12/2	24.00						
A920	BEANS LT KIDNEY 2		12/2	24.00						
A922	PEAS SPLIT 2		12/2	24.00						
B060	BUTTER 36		36/1	36.00						
B060	CHEESE 30		6/5	30.00						
B081	EVAP 12		48/12	40.00						
B090	INSTANT 24		6/4	24.00						
B137	CORNMEAL 5 DEG		10/5	50.00						
B141	CORNMEAL 10 DEG		5/10	50.00						
B160	FARINA		24/14	21.00						
B161	CEREAL INFANT R0		12/8	6.00						
B162	FORMULA SOY DRY		6/14	6.25						
B163	FORMULA SOY 12		12/13	10.75						
B165	FORMULA		24/13	21.50						
B166	FORMULA SOY		24/13	21.50						
B167	FORMULA POWDER		12/1	12.00						
B168	FORMULA POWDER 6		6/1	6.00						
B179	FLOUR AP 5		10/5	50.00						
B180	FLOUR AP 10		5/10	50.00						
B229	FLOUR B 5		10/5	50.00						

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D/A CODE		DELIVERY YEAR		F/R-D/O NUMBER			DELIVERY PERIOD			
⁹ COMMODITY CODE	¹⁰ COMMODITY DESCRIPTION (USE SHORT TITLE)	¹¹ EST. COST PER LB.	PACK TYPE	¹² NET WT. PER UNIT (CASE)	¹³ QTY. REQ. CASES	¹⁴ TOT. NET WEIGHT (LBS.)	¹⁵ TOTAL VALUE (\$)	¹⁶ ADJ CODE	¹⁷ SECT. LAW	¹⁸ REDO
B230	FLOUR B 10		5/10	50.00						
B349	FLOUR WW 5		10/5	50.00						
B350	FLOUR WW 10		5/10	50.00						
B367	FLOUR MIX		6/5	30.00						
B403	HONEY 24		24/24	36.00						
B425	MACARONI 1		24/1	24.00						
B445	OATS 3		12/3	36.00						
B470	PB 2		24/2	48.00						
B501	ROASTED 12		24/12	18.00						
B510	RICE 2		24/2	48.00						
B570	WHEAT 3		12/3	36.00						
B666	VEG OIL 48		10/5	23.10						
B720	SHORT S 3		12/3	36.00						
B835	SPAGHETTI 2		12/2	24.00						
B850	CEREAL CORN		24/18	27.00						
B851	CEREAL CORN 16		14/16	14.00						
B852	CEREAL CORN 17.5		12/17.5	13.13						
B860	CEREAL OATS		24/15	22.50						
B881	CEREAL OATS 16		12/16	12.00						
B884	CEREAL RICE		24/13	19.50						
B886	CEREAL RICE 12		12/13	9.75						
B887	CEREAL RICE 17.5		12/17.5	13.13						
B870	CEREAL WHEAT		24/18	27.00						
B871	CEREAL WHEAT 16		12/16	12.00						

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INSTRUCTIONS

(For State Distributing Agency or Indian Tribal Organization)

ITEM:

QUARTER - Enter the Quarter provided by the FNS Regional Office for School Year in which shipment is to be made. Example: Q1 (for January, February, or March); Q2, Q3, or Q4.

STAFF - Enter the two-letter State Code in which the Distributing Agency is located. Example: For UTE Mountain Tribe in Colorado you would enter CO.

NAME OF DISTRIBUTING AGENCY - Enter the name of the Distributing Agency.

AVERAGE PARTICIPATION - Enter the average number of participants served by the program.

TYPE OF ACTION - Place an "X" in the applicable category. (Delete, Add, or Change)

BLOCK:

1. DA CODE - Enter the three-digit code number of the Distributing Agency.
2. DELIVERY YEAR (ALPHA) - Enter the alphabetical designation provided by the FNS Regional Office for the School Year in which shipment is made.
3. FOOD REQUISITION/DELIVERY ORDER NUMBER - Use the same number for both categories. Assign numbers unless advised by the FNS Regional offices. The numbers should begin with 501 each school year, continuing numerically through 899.
4. OUTLET - Enter the appropriate outlet as follows: CSFP for Commodity Supplemental Food Program; FDIR for Food Distribution Program on Indian Reservations.
5. ENTITY CODE - The entity code is provided by the Kansas City Commodity Office (KCCO) for each given destination.
6. CITY - The City should be spelled out in its entirety.
7. DELIVERY PERIOD (NUMERICAL) - Enter the beginning and ending delivery period desired. First half: 01/15/93. Second half: 01/ 31/93.
8. REMARKS - For use by the Distribution Agency or the Regional Office. Indicate (by city) if shipment should be combined. Example: "Combine w/Rochester." Also list information important for KCCO to receive such as "No deliveries on Friday."
9. COMMODITY CODE - Items are preprinted. If new item, check with FNS Regional Office for correct code.
10. COMMODITY DESCRIPTION "SHORT TITLE" - Items are preprinted. If new item, check with FNS Regional Office for correct short title.
11. ESTIMATED COST PER POUND - Optional entry, cost per pound of a commodity.
12. NET WEIGHT PER UNIT (CASE)/Balers - Items are pre-printed.
13. QUANTITY REQUESTED - (CASES)/Balers: Enter the number of full cases/balers requested.
14. TOTAL NET WEIGHT PER ORDER (POUNDS) - Enter net pack weight per order (pounds). Net pack weight x units requested = Net weight per order. Total weight per truckload should not exceed 36,000 pounds net weight. Weight must be adjusted downward when ordering bulky light weight items such as adult cereal.
15. TOTAL VALUE - Optional entry, total net weight x estimated cost equals total value.

The following categories should be left blank, for FNS Regional Offices or FNS Headquarters to complete:

16. ADJUSTMENT CODE - (Leave Blank)
17. SECTION LAW - (Leave Blank)
18. REDONATION CODE - (Leave Blank)

DISTRIBUTING AGENCY CERTIFICATION - The person who executed the "Agreement for Distribution" and use of Donated Commodities (Form FNS-51) on behalf of the Distributing Agency, or his/her designee, shall sign and date here in ink or indelible pencil.

(For FNS Regional Office)

BLOCK:

3. DELIVERY ORDER/FOOD REQUISITION NUMBER - Begin with 501, continuing numerically through 899.
8. REMARKS - Optional.
16. ADJUSTMENT CODE - Refer to IT instructions for appropriate adjustment codes and their use.
17. SECTION LAW - Commodity Supplemental Food Program (CSFP) - 17 Food Distribution Program on Indian Reservations (FDIR) - 4a.

Bonus Commodities - 416 (Verify with FNS Headquarters for an updated list of bonus commodities and eligible outlets)

18. REDONATION CODE - Refer to IT instructions for appropriate redonation codes and their use.

FOOD AND NUTRITION SERVICE APPROVAL - The FNS Regional Office employee who is authorized to approve Food Requisitions will show the appropriate Regional Office (SERO, MPRO, etc.), and sign and date. This approval by Regional Office indicates that States or Tribal Inventory levels have been checked out and the orders have been prepared in accordance with these instructions.

DISTRIBUTION:

1. The Distribution Agency shall retain one copy and forward the original and other copies with carbon inserts to the FNS Regional Office.
2. After approval for multi-food shipments, the FNS Regional Office will send one copy with any changes to the Distribution Agency. The Regional Office will retain the original.

(RESERVED)

SAMPLE COPY OF FORM FNS-57

FORM APPROVED OMB NO. 0584-0293

U.S. DEPARTMENT OF AGRICULTURE - FOOD AND NUTRITION SERVICE

REPORT OF SHIPMENT RECEIVED OVER, SHORT AND/OR DAMAGED

SEE INSTRUCTIONS ON REVERSE

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. the valid OMB control number for this information collection is 0584-0293. The time required to complete this information collection is estimated to average 5 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

SECTION A - SHIPMENT IDENTIFICATION AND UNLOADING INFORMATION

1. NAME OF COMMODITY	2. TYPE OF PACK	3. CONTRACT NO.	4. DESTINATION CITY AND STATE
5. DELIVERY ORDER NO.	6. NOTICE TO DELIVER NO.	7. METHOD OF DELIVERY ☐ RAIL ☐ TRUCK ☐ PIGGYBACK	8. RR CAR, TRUCK, OR PIG NO.
9. UNLOADED STARTED (Date and Time)			10. OCN BILL OF LADING NO. (Overseas Shipment Only)
COMPLETED (Date and Time)			

SECTION B - OVERAGE, SHORTAGE, AND/OR DAMAGE

11. QUANTITY					
A. REPORTED SHIPPED	B. AMOUNT RECEIVED IN GOOD CONDITION	C. OVER	D. SHORT	E. DAMAGED	F. HIDDEN DAMAGE
12A. DAMAGE/OVERAGE/SHORTAGE WHEN DISCOVERED ☐ BEFORE UNLOADING ☐ DURING UNLOADING ☐ AFTER UNLOADING		12B. HOW DISCOVERED ☐ UNLOADING TALLY ☐ PHYSICAL RECOUNT ☐ OTHER		13. CARRIER'S AGENT PRESENT DURING UNLOADING ☐ YES ☐ NO	
14. DOOR SEAL NUMBERS A. INBOUND NUMBERS AND CONDITION OF SEALS			B. OUTBOUND SEAL NUMBERS (If Applicable)		
15. CARRIER'S AGENT NOTIFICATION A. NAME OF AGENT B. DATE NOTIFIED			16. DID CARRIER'S AGENT RESPOND TO NOTIFICATION? ☐ YES (In what way) ☐ NO (Explain)		
C. HOW NOTIFIED ☐ IN PERSON ☐ FAX ☐ TELEPHONE ☐ E-MAIL					
17. COMPLETE IF APPLICABLE					
A. WAS MECHANICAL REFRIGERATION, EQUIPMENT OPERATING ☐ YES ☐ NO			B. TEMPERATURE OF REFRIGERATION UNIT/INTERIOR TEMP/COMMODITY		

CONSIGNEE CERTIFICATION

I CERTIFY the information and statements above are, to the best of my knowledge and belief, true and correct.

DATE	SIGNATURE OF CONSIGNEE OR REPRESENTATIVE
------	--

CARRIER CERTIFICATION

Receipt of a copy of this report is hereby acknowledged and the facts contained herein are verified.

SIGNATURE OF CARRIER'S AGENT	NAME AND ADDRESS OF CARRIER
DATE	CARRIER REMARKS

REMARKS (If DAMAGED, PLEASE INDICATE NATURE AND DISPOSITION OF THE DAMAGE)

FNS HANDBOOK 501
EXHIBIT S

INSTRUCTIONS

This report is to be prepared whenever a shipment is received over, short, and/or damaged.

**SECTION A - SHIPMENT IDENTIFICATION/
UNLOADING INFORMATION**

This section will be completed at all times to identify the shipment being reported as over, short and/or damaged.

ITEM

1. Self-explanatory.
2. Show type of pack, such as case 6/10's, case 12/No. 3 cylinders, 50# bag, etc.
3. Self-explanatory.
4. Self-explanatory.
5. Record Delivery Order No including Commodity Code.
6. Record the Notice to Deliver No. shown in the space marked "N/D No." in the upper right on the KCCO 269A.
7. Check applicable box.
8. Record railroad car number, truck, or piggyback number.
9. Record date and time unloading started, and date and time unloading was completed.
10. When applicable, record the ocean bill of lading number, (For Overseas Shipments ONLY)

**SECTION B - OVERAGE, SHORTAGE, AND/OR
DAMAGE**

When a shipment is received over, short, and/or damaged, items 11 through 16 should be completed.

- 11A. Record the number of units shown on the (KCCO) 269A, Forwarding Notice.
- 11B. Record the number of units received.
- 11C. Record the number of units received over the quantity reported shipped on the 279A.
- 11D. Record the number of units received short of the quantity reported shipped on the 269A.

- 11E. Record the number of units received damaged of the quantity reported shipped on the 269A.
- 11F. Record the number of units received damaged of the quantity reported shipped on the 269A after unloading.
- 12A. Check applicable box.
- 12B. Show the information that will establish proof that the shipment was actually over, short, and/or damaged.
13. Check applicable box to show whether or not carrier's agent was present from time car or truck was opened until unloading was completed.
- 14A. Record the inbound seal numbers on all doors and the condition of the seals. If shipment was made and not sealed, show "no seals."
- 14B. If applicable, intermediate consignees on split shipments shall record the seal numbers placed on all doors.
- 15A,B, C. Complete all three items.
16. If the "yes" box is checked, explain how the agent responded (for example: made personal inspection; advised that they would not be available; advised consignee's inspection would suffice, etc.)

If the carrier's agent did not respond, explain why (for example: no agent available; refused to inspect; did not acknowledge, etc.)
- 17A. Check applicable boxes.
- 17B. Record the temperature of the refrigeration unit located on the outside of the trailer, interior temp/ commodity.

CONSIGNEE'S CERTIFICATION

Self-explanatory.

CARRIER'S CERTIFICATION

Request that the carrier's agent complete these items, if the agent refuses, and if available, request a copy of the carrier's JS&D report. If the carrier does not have a report make the following notation "Agent (insert name of driver) of (insert name of carrier) did not agree with this report. The reason for the dispute is (give brief explanation). A copy of the report was given to him/her on (insert date)." If the carrier's signature cannot be obtained within 10 days or if the carrier is not available, make the following notation "carrier did not respond" or carrier is not available."

NOTE: Only one form needs to be completed for a consolidation shipment. Make sure all overages, shortages and damages are fully explained. If necessary please attach a separate sheet. Item 6 - please list the consolidation number rather than the ND.

SAMPLE COPY OF FORM KC-269-A

KC-269-A (1-15-89)		U. S. DEPARTMENT OF AGRICULTURE Kansas City FS1 Commodity Office		FORM APPROVED - OMB No. 056 0-0043			
FORWARDING NOTICE							
PAGE 1 OF 1				DATE 10/19/98	CONTRACT No OR WHSE. CODE 12029302501	N D No VD020259242	
HAS BEEN INSTRUCTED TO DELIVER THE FOLLOWING COMMODITY				DOCKET LS58	ANNOUNCEMENT 914	INVITATION *****	
COMMODITY DESCRIPTION BEEF, COARSE GROUND, REPROCESS		SERVICING CARRIER	PC 8	PY 99	COMM CODE 2510	CERTIFICATE No.	GRADE DESTIN
MAILING ADDRESS OF SHIPPER FRESNO MEAT COMPANY 3115 S. FIG AVENUE P.O. BOX 12807 FRESNO CA 93779		LOCATION OF SHIPPER FRESNO MEAT COMPANY 3115 S. FIG AVENUE P.O. BOX 12807 FRESNO CA 93706		PHONE 209-265-4380 6 *NOTE Explain all differences between billed and received weight on reverse			
WAREHOUSE LOT IDENTIFICATION -							
LOT No.	PC	PY	COMM. CODE	SIZE-TYPE UNITS	No. OF UNITS	NET WEIGHT	GROSS WEIGHT
FINAL CONSIGNEE AND DESTINATION I				446185		ITEM NO 008	
TC 510	DESTINATION CITY & STATE SEE BELOW		DISPOSITION NUMBER A594124Y010C	SIZE-TYPE UNITS 60 LB CTN	UNITS 700	NET WEIGHT 42.000	GROSS WEIGHT 43.400
C/O TRUCK DELY LOC PIERRE SPECIALTY FOODS C/O INTERSTATE WAREHOUSING 110 DISTRIBUTION DRIVE HAMILTON OH 45014 CALL 24 HOURS IN ADVANCE FOR APPOINTMENT CONTACT RECEIVING DEPT PHONE 513-874-6500				C/O RAIL DELY LOC		CONSIGN TO MARYLAND DEPARTMENT OF EDUCATION 124	
CONSIGNEE RECEIPT FOR				UNITS RECEIVED	DATE REC'D	RECEIVED BY (SIGNATURE & TITLE)	
NON-COMMON CARRIER MOVES							
WAREHOUSE LOT IDENTIFICATION -							
LOT No.	PC	PY	COMM. CODE	SIZE-TYPE UNITS	No. OF UNITS	NET WEIGHT	GROSS WEIGHT
CONSIGNEE AND DESTINATION II							
TC	DESTINATION CITY & STATE		DISPOSITION NUMBER	SIZE-TYPE UNITS	UNITS	NET WEIGHT	GROSS WEIGHT
CONSIGNEE RECEIPT FOR				UNITS RECEIVED	DATE REC'D	RECEIVED BY (SIGNATURE & TITLE)	
NON-COMMON CARRIER MOVES							
ROUTING - To Order Equipment, Phone						RATE ID	TRANS MODE
FOR MORE INFO, PHONE JANE COLEMAN 816 926 2607						UNITS 700	NET WEIGHT 42.000
FOR TRANSPORTATION INFO, PHONE OOO OOOO						SHIP NET 11/08/98	SHIP NLT 11/21/98
SHOW ON B/L: VENDOR/TRUCKER MUST CONTACT CONSIGNEE AT LEAST 24 HOURS BEFORE DELIVERY FOR APPOINTMENT TO UNLOAD.						*****	
REMARKS							

FNS HANDBOOK 501
EXHIBIT T

KC-269-A (REVERSE)

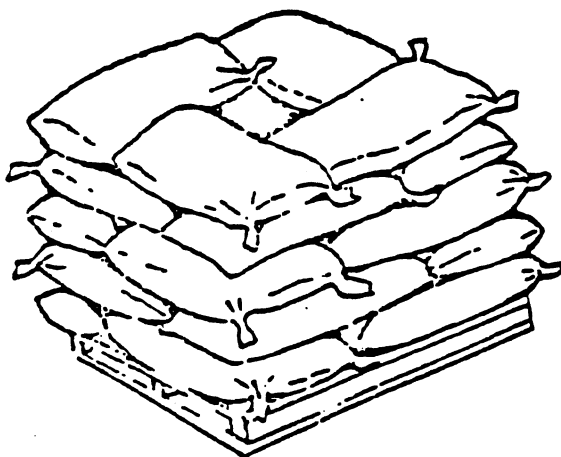
PAGE 02

SECTION I REPORT OF CARGO OVER, SHORT, AND/OR DAMAGED										
NOTE: No further monies or other benefits may be paid out under this program unless this report is completed and filed, when necessary, as required by existing laws and regulations (PL-806).										
COMMODITY			DESTINATION			N/D NUMBER				
NAME AND ADDRESS OF SHIPPER					QUANTITY		WEIGHT PER UNIT			
					BILLED		RECEIVED			
A. OVERAGE			B. SHORTAGE (SUBMIT COPY OF UNLOADING TALLY SHEET)							
1. NUMBER OF UNITS OVER			1. NO. UNITS SHORT		2. SEAL NUMBER (BOTH DOORS)		☐ SEALS INTACT ☐ SEALS BROKEN			
			3. SHORTAGE DISCOVERED							
			☐ BEFORE UNLOADING ☐ DURING UNLOADING ☐ AFTER UNLOADING							
2. DISPOSITION			4. CAR UNLOADED FROM							
			☐ A. CAR TO PIER ☐ C. FLOAT TO PIER ☐ E. CAR TO WAREHOUSE ☐ G. IF (E) OR (F) IS CHECKED SHOW DISTANCE ☐ B. CAR TO LIGHTER ☐ D. FLOAT TO SHIP ☐ F. TEAM TRUCK VIA TRUCK TO WAREHOUSE							
			5. DESCRIBE LOAD BY TIERS AND STATE LOCATION OF TIERS IN WHICH SHORTAGE WAS FOUND							
			6. WAS LOAD UNITIZED (PALLETS/SHRINK WRAPPED) ☐ YES ☐ NO							
			7. PROTECTION AFFORDED SHIPMENT DURING UNLOADING							
C. DAMAGE										
1. NUMBER OF UNITS			2. NATURE OF DAMAGE				3. APPARENT CAUSE			
A. DAMAGED		B. RECOVERED								
4. NET LOSS DUE TO DAMAGE (LBS)			5. DISPOSITION OF DAMAGED COMMODITY				6. RECONDITIONING CHARGES			
							AMOUNT		B. BILLED TO	
7. GENERAL CONDITIONS										
A. LOAD PROPERLY BULKHEADED OR BRACED ☐ YES ☐ NO			B. LOAD SHIFTED OR JUMBLED ☐ YES ☐ NO				9.A. CARRIER NOTIFIED: ☐ YES ☐ NO			
8. IF PERISHABLE COMMODITY, SUPPLY FOLLOWING INFORMATION										
A. NO. OF HEATERS		B. NO. OF HEATERS BURNING		C. TEMP. ON ARRIVAL				C. DATE		
				INSIDE CAR OUTSIDE CAR				D. NOTIFIED BY ☐ WIRE ☐ PHONE ☐ LETTER ☐ FAX		
10. PHYSICAL CONDITION OF CAR OR TRUCK. IF NOT GOOD DESCRIBE FULLY							11. WEIGHTS SECURED ☐ YES ☐ NO			
							TYPE OF SCALE ☐ COUNTER ☐ PLATFORM ☐ TRUCK ☐ PORTABLE			
VERIFICATION OF DELIVERING CARRIER					CONSIGNEE					
NAME AND ADDRESS OF DELIVERING CARRIER					NAME AND ADDRESS OF CONSIGNEE					
SIGNATURE OF AGENT				DATE	SIGNATURE OF AGENT				DATE	
NOTE: Copy of carrier's O.S. and D. report definitely stating loss, damage, or shortage must accompany this report when carrier does not verify, or condition his verification of this report. O.S. and D. reports containing "Consignee Claims" statements are not acceptable.										
SECTION II WAREHOUSE OR CONSIGNEE RECEIPT (Non-Negotiable)										
CAR INIT. & NO. OR TRUCK LICENSE			STORAGE BEGIN DATE C.C.C		DATE RECEIVED		PACK DATE (MONTH/YEAR)		TEMP. ON ARRIVAL	
REC'D IN GOOD CONDITION	NO. OF UNITS	GROSS WT.*		NET WT.*		WHSE CODE		LOT NO. ASSIGNED		
								RECEIVED FOR		
								☐ STORAGE ☐ PROCESSING ☐ OTHER		
This is to certify that we have accepted from Agricultural Stabilization and Conservation Service the commodity shown herein which will be handled in accordance with terms and conditions of contracts or tariff whichever is applicable.										
CONSIGNEE OR FACILITY NAME				AUTHORIZED SIGNATURE & TITLE				DATE		
								* NOTE-Explain all differences between billed and received weight.		
SECTION III DISTRIBUTING AGENCY CONSIGNEE RECEIPT										
CONSIGNEE I QUANTITY RECEIVED IN GOOD CONDITION				SEAL NUMBER	CONSIGNEE II QUANTITY RECEIVED IN GOOD CONDITION				***NOTE: All shortages or damage must be reported on Form FNS-57. Send original and copy to ASCS Commodity Office attached to Consignee Receipt.	
QUANTITY OVER		QUANTITY SHORT**		QUANTITY DAMAGED**		QUANTITY OVER		QUANTITY SHORT**		
QUANTITY DAMAGED**						QUANTITY DAMAGED**				
SIGNATURE				DATE REC'D	SIGNATURE					DATE REC'D
CONSIGNEE NOTIFIED? ☐ YES ☐ NO					CONSIGNEE NOTIFIED? ☐ YES ☐ NO					

(RESERVED)

STACKING - EXAMPLE NO. 1

The arrangement of cases or bags within a stack influences the safety of handling palletized foods with power equipment and the stability of high piled foods. When foods are to be piled high, it is essential that the cases or bags be "tied in" or "locked." Examples of correct methods of stacking are shown in the following illustrations.



Completed Chimney-style
stacking of 50 pound bags:

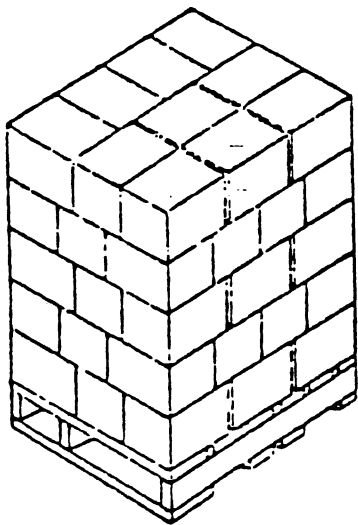
Bags per tier.....	4
Tiers.....	5
Bags per load	20
Weight per load..	1,000 lbs.



Completed Lock-style Stacking
of 100 lb. bags

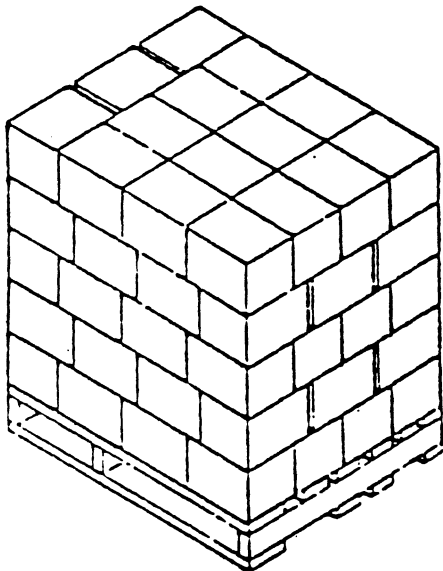
Bags per tier.....	3
Tiers.....	5
Bags per load.....	15
Weight per load....	1,500 lbs.

STACKING - EXAMPLE NO. 2



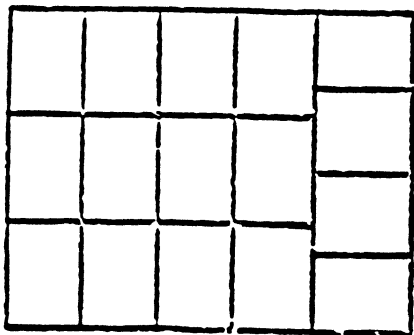
Can Size..... No. 300
Cans per case..... 24
Size per case..... 13" x 9 1/4" x 9"
Weight per case..... 26.75 lbs.

Pallet Size..... 32" x 40"
Cases per tier..... 10
Tiers..... 5
Cases per load..... 50
Weight per load 1,337.5 lbs.



Pallet Size..... 48" x 40"
Cases per tier..... 15
Tiers 5
Cases per load..... 75
Weight per load 2,006.25 lbs.

ALTERNATE LOAD PATTERN



Cases per tier..... 15
Tiers..... 5
Cases per load..... 80
Weight per load 2,140 lbs.

IDENTIFICATION CARD FOR USDA DONATED FOODS

Side 1

IDENTIFICATION CARD FOR USDA DONATED FOODS	
Case Number _____	
Name	_____
Spouse	_____
Address	_____ _____ _____
Case Worker _____	
Reservation	Date
Recertification Date:	_____

Side 2

Signature of Applicant
Signature of Spouse
Signature of Authorized Representative

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Section Contents

[§ 277.1 General purpose and scope.](#)
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[§ 277.3 Budgets and budget revision procedures.](#)
[§ 277.4 Funding.](#)
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[§ 277.6 Standards for financial management systems.](#)
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[§ 277.8 Bonding and insurance.](#)
[§ 277.9 Administrative costs principles.](#)
[§ 277.10 Program income.](#)
[§ 277.11 Financial reporting requirements.](#)
[§ 277.12 Retention and custody of records.](#)
[§ 277.13 Property.](#)
[§ 277.14 Procurement standards.](#)
[§ 277.15 \[Reserved\]](#)
[§ 277.16 Suspension, disallowance and program closeout.](#)
[§ 277.17 Audit requirements.](#)
[§ 277.18 Establishment of an Automated Data Processing \(ADP\) and Information Retrieval System.](#)
[Appendix A to Part 277—Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies](#)

Authority: 7 U.S.C. 2011–2036.

Source: Amdt. 188, 45 FR 85702, Dec. 30, 1980, unless otherwise noted.

Editorial Note: OMB control numbers relating to this part 277 are contained in §271.8.

§ 277.1 General purpose and scope.

(a) *Purpose.* This part establishes uniform requirements for the management of administrative funds provided to State agencies and sets forth principles for claiming costs of activities paid with administrative funds under the Food Stamp Program, and the Food Distribution Program and Food Stamp Program on Indian Reservations.

(b) *Scope and applicability.* Upon compliance with the provisions of this part, payments to State agencies will be made for cost(s) incurred for administration of the Food Stamp Program and for administration of the Food Distribution Program on Indian Reservations. To ensure maximum practical uniformity, deviation(s) by a State agency from this part may be authorized only when necessary to meet program objectives, to conserve program funds, or when essential to the public interest. However, any deviations from this part must be authorized by the Administrator of FNS.

§ 277.2 Definitions.

For the purpose of this part the term:

Accrued expenditures means the charges incurred by the State agency during a given period for liabilities incurred, benefits received or for goods and services used during this period.

Accrued income means the net value of earnings during a given period resulting from services and goods provided whether or not payment has been realized.

Acquisition cost refers to nonexpendable personal property acquired by purchase and means the net invoice price of the property including any attachments, accessories or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Ancillary charges such as taxes, duty, protection in-transit insurance, freight or installation shall be included in or excluded from acquisition cost in accordance with the State agency's regular accounting practices.

Approval or authorization by FNS means documentation evidencing consent prior to incurring specific costs.

Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to programs as direct or indirect costs. Examples of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

Disbursements refers to the transfer of funds by the state agency to pay for Program costs resulting from purchased or expired goods and services.

Expendable personal property means all tangible personal property other than nonexpendable property.

Program funds means money, or property provided in lieu of money, paid for or furnished by FNS to a State agency.

Funds available to the State agency may include contributions from third parties including other Federal agencies.

In-kind contributions refers to the value of noncash contributions. Only when authorized by Federal legislation may property purchased with Federal funds be considered as a State agency's in-kind contribution. In-kind contributions may be for the value of real and/or nonexpendable personal property or the value of goods and services provided specifically to the project or program.

Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of more than \$300 per unit. A State agency may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined herein.

Obligations are the amounts of orders placed, contracts awarded, services received, and similar transactions during a given period which require payment.

Offset means a method to recover funds due FNS through use of the Letter of Credit system. Recovery is accomplished by accounting adjustments to increase Federal funds on hand or disbursed.

OMB means the Office of Management and Budget.

Personal property means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence) such as patents, inventions and copyrights.

Program means both the Food Stamp Program and the Food Distribution Program on Indian Reservations.

Program closeout means the process by which FNS determines that all applicable administrative and financial processes have been completed by the State agency and FNS terminates the program in the affected project area or areas.

Project costs are allowable costs as set forth in this part.

Real property means land, land improvements, structure and appurtenances thereto, excluding movable machinery and equipment.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

State agency means the organization as defined in 7 CFR 271.1.

State agency costs means the State agency outlays from its funds available for program administration. Unless authorized by Federal legislation, costs charged to other Federal grants or to other Federal contracts may not be considered as State agency costs reimbursable under this authority.

Subagency means the organization or person to which a State agency makes any payment for acquisition of goods, materials or services for use in administering the program and which is accountable to the State agency for the use of funds provided.

Terms and conditions means legal requirements imposed by the Federal Government under statute, regulations, contracts, agreements or otherwise.

Unliquidated obligation represents the amount of obligations not yet paid.

Unobligated balance means the portion of the Federal funds authorized less all allowable costs and unpaid obligations of the State agency.

§ 277.3 Budgets and budget revision procedures.

The preparation, content, submittal, and revision requirements for the State Food Stamp Program Budget shall be as specified in §272.2. The application for funds and budget requirements for the Food Distribution Program on Indian Reservations shall be as specified in §283.9. State agencies must submit a budget to FNS as part of the State Plan each fiscal year. Upon approval of the budget by FNS, administrative funds will be provided.

§ 277.4 Funding.

(a) *General.* This section sets allowable cost standards for activities of State agencies in administering the Food Stamp Program and Food Distribution Program on Indian Reservations.

(b) *Federal reimbursement rate.* The base percentage for Federal payment shall be 50 percent of State agencies' allowable Food Stamp Program administrative costs. This rate includes reimbursement for food stamp informational activities but not for recruitment activities. Recruitment activities are those activities designed to persuade an individual who has made an informed choice not to apply for food stamps to change his or her decision and apply.

(1) A State agency's federally funded share of Food Stamp Program administrative costs shall be increased when its error rate, as determined through the quality control process described in part 275, meets certain standards.

(i) For the period beginning October 1, 1982, through September 30, 1988, a State agency with a payment error rate of five percent or less in the corresponding fiscal year shall have its federally funded share of Program administrative costs increased to 60 percent, provided that the State agency's negative case error rate is less than the national weighted mean negative case rate for the fiscal year prior to the period of enhanced funding.

(ii) For the period beginning October 1, 1988, and review periods thereafter, a State agency with a payment error rate less than or equal to 5.90 percent and with a negative case error rate less than the National weighted mean negative case error rate for the prior fiscal year shall have its Federally funded share of Food Stamp Program administrative costs increased by one percentage point to a maximum of 60 percent for each full one-tenth of a percentage point by which the payment error rate is less than six percent.

(2) Funding of demonstration projects approved by FNS will be at a rate agreed to by FNS in accordance with the requirements outlined in part 282.

(3) The reimbursement of administrative costs to State agencies administering the program on Indian reservations shall be in accordance with the requirements of parts 281 and 283.

(4) For the period beginning October 1, 1980, a State agency's federally funded share of Food Stamp Program administrative costs shall be increased to 65 percent when the State agency's cumulative allotment error rate is less than five percent; provided that the State agency's negative case error rate is less than the national weighted mean negative case error rate for the 6-month period of enhanced funding. This provision shall not apply to any period after the April through September 1982 period.

(5) For the period beginning October 1, 1980, a State agency's federally funded share of Food Stamp Program administrative costs shall be increased to 60 percent when the State agency's cumulative allotment error rate is less than eight percent; provided that the State agency's negative case error rate is less than the national weighted mean negative case error rate for the 6-month period of enhanced funding. This provision shall not apply to any period after the April through September 1982 period.

(6) For the 6-month period beginning October 1, 1980, a State agency with a 25 percent or greater reduction in its cumulative allotment error rate from one 6-month period to the comparable period of the next fiscal year shall be entitled to a 55 percent federally funded share of Food Stamp Program administrative costs; provided that, effective with the 6-month period beginning October 1, 1981, the State agency's negative case error rate is less than the national weighted mean negative case error rate for the period of enhanced funding. This provision shall not apply to any period after the April through September 1982 period.

(7) Beginning October 1982, the federally funded share of administrative costs, as identified in paragraph (b) of this section may be decreased based upon its payment error rate as described in §275.23. The rates of Federal funding for the activities identified in paragraphs (b)(2) and (b)(3) of this section shall not be reduced based upon the agency's payment error rate.

(8) Employment and training program grants, as outlined in §273.7(d) shall be 100 percent federally-funded.

(c) *Matching costs.* State agency costs for Federal matching funds may consist of:

(1) Charges reported on a cash or accrual basis by the State agency as project costs.

(2) Project costs financed with cash contributed or donated to the State agency by other non-Federal public agencies and institutions.

(3) Project costs represented by services and real or personal property donated by other non-Federal public agencies and institutions.

(d) All cash or in-kind contributions except as provided in paragraph (e) of this section shall be allowable as part of the State agency's share of program costs when such contributions:

(1) Are verifiable;

(2) Are not contributed for another federally-assisted program, unless authorized by Federal legislation;

(3) Are necessary and reasonable for accomplishment of project objectives;

(4) Are charges that would be allowable under this part;

(5) Are not paid by the Federal Government under another assistance agreement unless authorized under the other agreement and its subject laws and regulations; and

(6) Are in the approved budget.

(e) The value of services rendered by volunteers or the value of goods contributed by third parties, exclusive of the State and Federal agencies, are unallowable for reimbursement purposes under the Food Stamp Program. The value of services rendered by volunteers shall be allowable only to meet any matching administrative costs requirements for the Food Distribution Program on Indian Reservations.

(f) The expenses (e.g. travel, lodging, meals) of persons working with volunteer or nonprofit organizations which receive training and assistance pursuant to §272.4(d)(2) are not allowable.

(g) Investigations of authorized retail or wholesale food concerns when performed in coordination with the USDA Office of Inspector General and FNS shall be funded at the 50 percent Federal reimbursement rate.

[Amdt. 188, 45 FR 85702, Dec. 30, 1980, as amended by Amdt. 201, 47 FR 25498, June 11, 1982; Amdt. 260, 49 FR 6313, Feb. 17, 1984; Amdt. 281, 51 FR 47397, Dec. 31, 1986; 53 FR 39443, Oct. 7, 1988; Amdt. 316, 54 FR 24531, June 7, 1989; Amdt. 328, 56 FR 60053, Nov. 27, 1991; Amdt. 342, 59 FR 2733, Jan. 19, 1994; Amdt. 316, 59 FR 16096, Apr. 6, 1994; Amdt. 385, 65 FR 33440, May 24, 2000; Amdt. 388, 65 FR 70212, Nov. 21, 2000; 67 FR 41619, June 19, 2002]

§ 277.5 Methods of payment

(a) This section sets forth FNS methods for authorizing funds for State agencies.

(b) The "Letter of Credit" (LOC) (SF-1193A) is the document by which an official of FNS authorizes a State agency to draw funds from the United States Treasury. This shall be the preferred method of payment for State agencies which receive at least \$120,000 per year and meet the requirements prescribed in OMB Circular A-102, Attachment J.

(c) State agencies shall request payment(s) by submitting Request for Payment on Letter of Credit and Status of Funds Report (Treasury Form SF-183) to the appropriate United States Treasury Regional Disbursing Office with a copy to FNS.

(d) State agencies not meeting the requirements for the LOC method of payment or failing to meet LOC reporting requirements, including those requiring adjustments to cash balances to liquidate amounts owed to FNS, shall be provided funds by Treasury check in accordance with the provisions of Department of the Treasury Circular 1075.

(e) Payments for proper charges incurred by State agencies will not be withheld unless such payments are suspended or disallowed pursuant to §277.16. When a payment is withheld, payment adjustments will be made in accordance with §277.16. When FNS collects an indebtedness, whether due to a disallowance or an offset for amounts which the State agency has been billed but which it has failed to pay without cause acceptable to FNS, FNS shall provide reasonable notice to the State agency, and shall require appropriate accounting adjustment to cash balances for which the State agency is accountable to the Federal government to liquidate the indebtedness.

§ 277.6 Standards for financial management systems.

(a) *General.* This section prescribes standards for financial management systems in administering program funds by the State agency and its subagencies or contractors.

(b) *Responsibilities.* Financial management systems for program funds in the State agency shall provide for:

(1) Accurate, current, and complete disclosure of the financial results of program activities in accordance with Federal reporting requirements.

(2) Records which identify the source and application of funds for FNS or State agency activities supporting the administration of the Program. These records shall show authorizations, obligations, unobligated balances, assets, liabilities, outlays and income of the State agency, its sub- agencies and agents.

(3) Records which identify unallowable costs and offsets resulting from FNS or other determinations as specified in §277.16 and the disposition of these amounts. Accounting procedures must be in effect to prevent a State agency from claiming these costs under ongoing program administrative cost reports.

(4) Effective control and accountability by the State agency for all program funds, property, and other assets acquired with program funds. State agencies shall adequately safeguard all such assets and shall assure that they are used solely for program authorized purposes unless disposition has been made in accordance with §277.13.

(5) Controls which minimize the time between the receipt of Federal funds from the United States Treasury and their disbursement for program costs. In the Letter of Credit system, the State agency shall make drawdowns from the U.S. Treasury through a U.S. Treasury Regional Disbursing Office as nearly as possible to the time of making the disbursements.

(6) Procedures to determine the reasonableness, allowability, and allocability of costs in accordance with the applicable provisions prescribed in appendix A to this part.

(7) Support and source documents for costs.

(8) An audit trail including identification of time periods, initial and summary accounts, cost determination and allocation procedures, cost centers or other accounting procedures to support any costs claimed for program administration.

(9) Periodic audits by qualified individuals who are independent of those who maintain Federal program funds as prescribed in §277.17.

(10) Methods to resolve audit findings and recommendations and to follow up on corrective or preventive actions.

(c) The standards in §277.6(b) apply to subagencies or contractors involved with program funding.

§ 277.7 Cash depositories.

(a) The term "cash depositories" refers to banks or other institutions which maintain accounts where Food Stamp Program funds are deposited and from which withdrawals are made to meet administrative costs of the State agency.

(b) State agencies are encouraged to use minority owned banks to expand opportunities for minority enterprises.

(c) FNS shall not:

(1) Require physical segregation in a cash depository of program funds from other State agency funds.

(2) Establish any eligibility requirements for cash depositories in which program funds are deposited by the State agency.

§ 277.8 Bonding and insurance.

(a) *General.* In administering FNS program funds, State agencies shall observe their regular requirements and practices with respect to bonding and insurance. FNS will not impose additional bonding and insurance requirements, including fidelity bonding, above those normally required by the State agency.

(b) *Loan guarantees.* FNS makes no guarantee of any loan or payment of money borrowed by a State agency for administering the program. State agencies shall not make any assurances to any lender or contractor that FNS will furnish funds for loan payments.

§ 277.9 Administrative costs principles.

(a) This section prescribes specific policies and procedures governing State agencies for funding under this part.

(b) The incremental cost of certifying TANF households for Food Stamp Program benefits are allowable costs for FNS reimbursement.

(c) When costs for administering the program are claimed for reimbursement, the audit trail must identify the specific activities, locations, or time periods as defined in this section.

(1) *Direct cost.* Allowable direct costs may be charged to the Food Stamp Program at the 50 percent or higher funding level as specified in this part.

(2) *Indirect cost.* Allowable indirect costs may also be claimed at the 50 percent or higher reimbursement funding level as specified in this part and appendix A.

(3) Direct and indirect costs claimed for program cost reimbursement must be incurred for the time periods, the activities or for the locations for which the rates are approved by FNS.

(d) All State agency Cost Allocation Plans for determining the costs of administering the program must be approved by the cognizant Federal agency. All Cost Allocation Plans involving program funds shall be submitted to FNS for review.

[Amdt. 188, 45 FR 85702, Dec. 30, 1980, as amended by Amdt. 385, 65 FR 33440, May 24, 2000]

§ 277.10 Program income.

(a) Program income is gross income resulting from activities financed with program funds. Such earnings exclude interest income but include income from service fees, usage or rental fees, sale of assets purchased with program funds, and royalties on patents and copyrights.

(b) Interest earned on advances of program administrative funds shall be remitted to FNS except for interest earned on advances to States or instrumentalities of a State as provided by the Intergovernmental Cooperation Act of 1968 (Pub. L. 90-577) and advances to tribal organizations under the Indian Self-Determination Act (sections 102 through 104).

(c) Income resulting from the sale of real and personal property whose acquisition cost was borne in whole or in part with Program funds shall be remitted to FNS or applied to the Federal share of current program costs in accordance with §277.13. All other sales proceeds will be handled in accordance with §277.13.

(d) Unless there is a prior agreement between FNS and the State agency, the State agency shall have no obligation to FNS with respect to royalties received from copyrights or patents produced as a result of activities financed with program administrative funds.

(e) Any other income earned under activities supported by program administrative funds may be retained by the State agency if they are deducted from the gross program administrative costs for the purposes of determining net costs and FNS's share of net cost.

(f) State agencies shall record the receipt and expenditure of revenues such as taxes, special assessments, levies, fines, etc., as a part of program fund transactions when such revenues are specifically earmarked for program fund projects.

§ 277.11 Financial reporting requirements.

(a) *General.* This section prescribes requirements for the State agencies to report financial information to FNS.

(b) *Authorized forms and instructions.* (1) Only forms specified by this part, or other forms authorized by FNS, may be used for obtaining financial information from State agencies for the program.

(2) All instructions for use in connection with the form specified in §277.11(c) shall be followed. FNS may prescribe supplementary instructions.

(3) State agencies shall submit the original and two copies of forms required by this section unless FNS approves a waiver of this requirement.

(4) The forms and instructions in this part shall be available to the State agency and to the public upon request to FNS Regional Offices as set out in §271.6(b).

(c) *Financial status report*—(1) *Form*. State agencies shall use the standard Financial Status Report (Form SF–269) to report program costs.

(2) *Frequency*. The report (Form SF–269) shall be required quarterly.

(3) *Exceptions*. Those State agencies that receive payments under the U.S. Treasury check system shall submit to FNS a Quarterly Report of Federal Cash Transactions (Form SF–272).

(4) *Due dates*. Quarterly reports shall be due April 30 (for the period January through March), July 30 (April through June), October 30 (July through September), January 30 (October through December). Final reports are due December 30 for all completed Federal fiscal years (October 1 through September 30) or 90 days after termination of Federal financial support. Requests from State agencies for extension of reporting due dates may be approved, if necessary.

(d) *Time limit for State agencies to file claims*. (1) After the deadline in paragraph (c)(4) of this section for the final SF–269 report, State agencies shall use the form specified by FNS as needed within three years of the end of the Federal fiscal year to amend a prior expenditure report pertaining to such Federal fiscal year. The three-year reporting deadline may be extended by FNS if litigation, an audit, or a claim is unresolved at the end of the three-year period. The reporting form shall be used to amend prior expenditure reports, and to request reimbursement for any additional funding due, or to pay back to FNS any inadvertent prior overclaim. Requests for reimbursement will only be honored if the claim is filed within the timeframe in paragraph (d)(2) of this section. FNS reserves the right to bill State agencies for amounts due FNS resulting from an overclaim, even if no reporting form has been submitted.

(2) Subject to the availability of funds from the appropriation for the year in which the expenditure was incurred, FNS may reimburse State agencies for an allowable expenditure only if the State agency files a claim with FNS for that expenditure within two years after the calendar quarter in which the State agency (or local agency) incurred the cost. FNS will consider non-cash expenditures such as depreciation to have been made in the quarter the expenditure was recorded in the accounting records of the State agency in accordance with generally accepted accounting principles.

(3) For Automated Data Processing (ADP) expenditures approved under §277.18(c), subject to the availability of funds and required FNS approval related to the Advance Planning Document, FNS may reimburse State agencies for allowable expenditures at the appropriate rate in effect at the time the equipment or service was received only if the State agency files for a claim with FNS within two years after the calendar quarter in which the cost was incurred. FNS will consider non-cash expenditures such as depreciation to have been made in the quarter the expenditure was recorded in the accounting records of the State agency in accordance with generally accepted accounting principles.

(4) States wishing to request an extension of the deadline in paragraphs (d)(2) and (d)(3) of this section must submit the request in writing to FNS prior to the applicable deadline. The State agency's request for an extension must include a specific explanation, justification, and documentation of why the claim will be late and when the claim will be filed.

(5) The time limits in paragraphs (d)(2) and (d)(3) of this section will not apply to any of the following:

(i) Any claim for an adjustment to prior year costs previously claimed under an interim rate concept;

(ii) Any claim arising from an audit exception as defined in this section. An audit exception means a proposed adjustment by the Department to any expenditure claimed by a State agency by virtue of a Federal- or State-initiated audit. The audit must comply with the requirements of §277.17 and 7 CFR part 3015, and must have been started within 3 years of the date of submission of the final SF–269 of the relevant Federal fiscal year to which it applies.

(iii) Any claim resulting from a court-ordered retroactive payment. However, this provision does not bind FNS to a State or Federal court decision when FNS was not a party to the action;

(iv) Any claim for which FNS determines there was good cause for the State agency's not filing it within the time limit. Good cause is lateness due to circumstances beyond the State agency's control such as Acts of God or documented

action or inaction of the Federal Government. It does not include neglect or administrative inadequacy on the part of the State, State agency, legislature, or any of their offices or employees.

[Amdt. 188, 45 FR 85702, Dec. 30, 1980, as amended by Amdt. 385, 65 FR 33440, May 24, 2000]

§ 277.12 Retention and custody of records.

(a) *Retention period.* All financial records, supporting documents, statistical records, negotiated contracts, and all other records pertinent to program funds shall be maintained for three years from the date of submission of the annual financial status report of the relevant fiscal year to which they apply except that:

(1) If any litigation, claim, or audit is started before the expiration of the three-year period, the applicable records shall be retained until these have been resolved.

(2) In the case of a payment by a State agency to a subagency or contractor using program funds, the State agency, USDA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any book, documents, papers and records of the subagency or contractor which the State agency, USDA, or the Comptroller General of the United States or any of their duly authorized representatives, determine are pertinent to administration of the specific FNS program funds, for the purpose of making audit, examination, excerpts, and transcripts.

(b) *Restrictions on public access.* Unless required by laws, FNS will not place restrictions on State agencies which limit public access to their records or the records of their subagencies or contractors that are pertinent to the administrative funding provided by FNS except when the State agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to FNS.

§ 277.13 Property.

(a) *General.* This section prescribes policies and procedures governing title, use, disposition of real and personal property for which acquisition costs were borne, in whole or in part, as a direct charge to FNS funds, and ownership rights or intangible personal property developed, in whole or in part, with FNS funds. State agencies may follow their own property management policies and procedures provided they observe the requirements of this section. With respect to property covered by this section, FNS may not impose on State agencies any requirement (including property reporting requirements) not authorized by this section unless specifically required by Federal laws.

(b) *Nonexpendable personal property*—(1) *Title.* Title to nonexpendable personal property whose acquisition cost is borne, in whole or in part, by FNS shall vest in the State agency upon acquisition, and shall be subject to the restrictions on use and dispositions set forth in this section.

(2) *Use.* (i) The State agency shall use the property in the program as long as there is a need for such property to accomplish the purpose of the program.

(ii) When there is no longer a need for the property to accomplish the purpose of the program, the State agency shall use the property where needed in administration of other programs in the following order of priority:

(A) Other federally-funded programs of FNS.

(B) Other federally-funded programs of USDA.

(C) Other federally-funded programs.

(iii) When the State agency no longer has need for such property in any of its federally financed activities, the property may be used for the State agency's own official activities in accordance with the following standards:

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

(A) If the property had a total acquisition cost of less than \$1,000, the State agency may use the property without reimbursement to FNS.

(B) For all such property not covered under paragraph (b)(2)(iii)(A) of this section, the State agency may retain the property for its own use, provided a fair compensation is made to FNS for the FNS share of the property. The amount of compensation shall be computed by applying the percentage of FNS participation in the cost of the property to the current fair market value of the property.

(3) *Disposition*. If the State agency has no need for the property, disposition of the property shall be made as follows:

(i) If the property had a total acquisition cost of less than \$1,000 per unit, the State agency may sell the property and retain the proceeds.

(ii) If the property had an acquisition cost of \$1,000 or more per unit, the State agency shall:

(A) If instructed to ship the property elsewhere, the State agency shall be reimbursed with an amount which is computed by applying the percentage of the State agency's participation in the cost of the property to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(B) If instructed to otherwise dispose of the property, the State agency shall be reimbursed by FNS for the cost incurred in such disposition.

(C) If disposition or other instructions are not issued by FNS within 120 days of a request from the State agency, the State agency shall sell the property and reimburse FNS an amount which is computed by applying the percentage of FNS participation in the cost of the property to the sales proceeds. The State agency may, however, deduct and retain from FNS's share \$100 or 10 percent of the proceeds, whichever is greater, for the State agency selling and handling expenses.

(c) *Transfer of title to certain property*. (1) Where FNS determines that an item of nonexpendable personal property with an acquisition cost of \$1,000 or more which is to be wholly borne by FNS is unique, difficult, or costly to replace, FNS may reserve the right to require the State agency to transfer title of the property to the Federal Government or to a third party named by FNS.

(2) Such reservation shall be subject to the following:

(i) The right to require transfer of title may be reserved only by means of an expressed special condition under which funds were authorized for acquisition of the property, or, if approval for the acquisition of the property is given after the funds are awarded, by means of a written stipulation at the time such approval is given.

(ii) The property must be sufficiently described to enable the State agency to determine exactly what property is involved.

(3) FNS may not exercise the right to reserve until the State agency no longer needs the property in the activity for which it was acquired. Such need shall be assumed to end with termination of the activity in which the property was used unless the State agency continues to use the property in other program-related activities after the termination date and demonstrates to FNS a continued need for such use in the program.

(4) To exercise the right, FNS must issue disposition instructions to the State agency not later than 120 days after the State agency no longer needs the property in the activity for which it was acquired. If instructions are not issued within that time, FNS's right shall lapse, and the State agency shall act in accordance with the applicable standards in paragraphs (b)(2) and (b)(3) of this section.

(5) The State agency shall be entitled to reimbursement with an amount which is computed by applying the percentages of the State agency's participation in the acquisition cost of the property to the current fair market value of the property, and for any reasonable shipping and interim storage costs it incurs pursuant to FNS's disposition instructions.

(d) *Property management standards.* State agencies' property management standards for nonexpendable personal property covered by this section shall include the following procedural requirements:

(1) Property records shall be maintained accurately and provide for:

(i) A description of the property.

(ii) Manufacturer's serial number or other identification number.

(iii) Acquisition date and cost.

(iv) Source of the property.

(v) Percentage of FNS funds used in the acquisition of the property, or sufficient information to be able to compute the percentage, if and when the property is disposed of.

(vi) Location, use and condition of the property.

(vii) Ultimate disposition data including sales price or the method used to determine current fair market value if the State agency reimburses FNS for its share.

(viii) Trade-in value of any property purchased with Federal funds where their trade-in value reduces the acquisition cost of new property.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable personal property shall be investigated and properly documented.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be implemented to keep the property in good condition.

(e) *Expendable personal property*—(1) *Title.* Title to expendable personal property, whose acquisition cost was borne in whole or in part by FNS, shall vest in the State agency.

(2) *Use.* The State agency shall use the property in the program as long as there is a need for such property to accomplish the purpose of the program.

(3) *Disposition.* When there is no longer a need for the property in the program and there is a residual inventory exceeding \$1,000 the State agency shall:

(i) Use the property in other federally sponsored projects or programs;

(ii) Retain the property for use on non-federally sponsored activities; or,

(iii) Sell it.

(4) *Compensation.* FNS must be compensated for its share if the alternative in paragraph (e)(3)(i) of this section is not followed. The amount of compensation shall be computed in the same manner as for nonexpendable personal property.

(f) *Patents and inventions.* If any program activity produced patents, patent rights, processes or inventions in the course of work aided by FNS, such fact shall be promptly and fully reported to FNS. Unless there is prior agreement between the State agency and FNS on disposition of such items, FNS shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery—including rights under any patent issued thereon—shall be disposed of and administered in order to protect the public interest consistent with “Government Patent Policy” (President’s Memorandum for Heads of Executive Departments and Agencies, August 23, 1971), and State of Government Patent Policy as printed in title 37 CFR, chapters I and II.

(g) *Copyrights.* When a program activity results in a book or other copyrightable materials, the author or State agency is free to copyright the work, but FNS reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use and to authorize others to use the work for government purposes. This includes copyrights on ADP software as specified in appendix A.

§ 277.14 Procurement standards.

(a) *General.* This section establishes standards and guidelines for the procurement of supplies, equipment, construction and other services whose cost is borne in whole or in part by FNS program funds. These standards ensure that such materials are obtained in an effective and economical manner and in compliance with the provisions of applicable Federal law and Executive orders. No additional procurement standards will be imposed by FNS upon State agencies unless specifically required by Federal law, or Executive orders, or authorized by the Administrator for Federal Procurement Policy, Office of Management and Budget.

(1) These standards do not relieve the State agency of any contractual responsibilities under its contracts. The State agency is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of the program. These include but are not limited to sources evaluations, protests, disputes and claims. FNS shall not substitute its judgment for that of the State agency unless the matter is primarily a Federal concern. Violations of laws shall be referred to the local, State or Federal authority having jurisdiction.

(2) State agencies shall use their own procurement procedures provided that procurements paid in whole or in part with FNS program funds meet the standards set forth in this part.

(b) *Review of proposed contracts.* State agencies shall submit proposed contracts and related procurement documents to FNS for preaward review and approval when:

(1) The procurement is expected to exceed \$10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation;

(2) The procurement expected to exceed \$10,000 specifies a “brand name” product; or

(3) FNS has determined that the State agency’s procurement procedures or operation fails to comply with one or more significant aspects of this section.

(c) *Code of conduct.* The State agency shall maintain a written code or standards of conduct which shall govern the performance of its officers, employees, or agents engaged in the award and administration of contracts borne in whole or in part with FNS program funds. No employee, officer, or agent of the State agency shall participate in the selection, or in the award or administration of a contract supported in whole or in part by FNS program funds if a conflict of interest, real or apparent, would be involved. Such conflict would arise when:

(1) The employee, officer, or agent;

(2) Any member of his/her immediate family;

(3) His or her partner; or

(4) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The State agency’s officers, employees, or agents shall neither solicit nor accept gratuities,

favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. State agencies may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the State agency's officers, employees, or agents, or by contractors or their agents.

(d) *Procurement procedures.* The State agency shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by State agency officials to avoid the purchase of unnecessary or duplicative items. Consideration should be given to consolidation or dividing the purchase into smaller units, to obtain a more economical purchase. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analyses, to determine which approach would be the most economical. To foster greater economy and efficiency, State agencies are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(e) *Contracting with small and minority firms, women's business enterprises and labor surplus area firms.* (1) It is FNS policy to award a fair share of contracts to small and minority business firms. State agencies must take affirmative steps to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. State agency affirmative steps shall include the following:

(i) Including qualified small and minority businesses on solicitation lists.

(ii) Assuring that small and minority businesses are solicited whenever they are potential sources.

(iii) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

(iv) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.

(v) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration, as appropriate.

(vi) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in paragraphs (e)(1) (i) through (v) of this section.

(2) State agencies shall take similar appropriate affirmative action in support of women's business enterprises.

(3) State agencies are encouraged to procure goods and services from labor surplus areas, as defined by the Department of Labor.

(4) FNS shall impose no additional regulations or requirements in the foregoing areas unless specifically mandated by law or Executive order.

(f) *Selection procedures.* All State agency procurement transactions shall be conducted in a manner that provides maximum open and free competition with this section. Procurement procedures shall not contain features which restrict or eliminate competition. The State agency shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:

(1) Solicitation of offers, whether by competitive sealed bid or competitive negotiation, shall contain a clear and accurate description of the technical requirements for the material, product, or service desired. Descriptions shall not, in competitive procurements, contain features which unduly restrict competition. Descriptions may include a statement of the qualitative nature of the material, product or service desired and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or uneconomical to describe clearly and accurately the technical requirements, a "brand name or equal" description may be used to define the performance or requirements of the material, product or service desired. The specific features of the named brand which must be met by offerors shall be clearly stated. State agencies shall clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(2) State agencies shall make awards only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(g) *Procurement methods.* State agency procurements made in whole or in part with program funds shall be by one of the following methods:

(1) *Small purchase procedures* are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies, or other property, costing in the aggregate not more than \$10,000. State agencies shall comply with State or local small purchase dollar limits under \$10,000. If small purchase procedures are used for a procurement under the program, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) In *competitive sealed bids* (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price.

(i) In order for the State agency to use this method of procurement the following conditions, as a minimum, must prevail:

(A) A complete, adequate, and realistic specification or purchase description is available.

(B) Two or more responsible suppliers are willing and able to compete effectively for the State agency's business.

(C) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(ii) If formal advertising is used for a procurement under a grant, the following requirements shall apply:

(A) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.

(B) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(C) All bids shall be opened publicly at the time and place stated in the invitation for bids.

(D) A firm-fixed-price contract award shall be made by written notice by the State agency to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the State agency indicates that such discounts are generally taken.

(E) Any or all bids may be rejected by the State agency when there are sound documented business reasons in the best interest of the program.

(3) In *competitive negotiation*, proposals are requested from a number of sources and the Request for Proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are appropriate for the use of formal advertising. If competitive negotiation is used for procurement under a grant, the following requirements shall apply:

(i) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

(ii) The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.

(iii) The State agency shall provide procedures for technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

(iv) Award may be made to the responsible offeror whose proposal will be most advantageous to the State agency, price and other factors considered. Unsuccessful offerors should be notified promptly.

(v) State agencies may utilize competitive negotiation procedures for procurement of architectural/engineering professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation.

(4) *Noncompetitive negotiation* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Awards of contracts by noncompetitive negotiation are limited to the following:

(i) The item is available only from a single source;

(ii) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive procurement;

(iii) FNS authorizes noncompetitive procurement; or

(iv) After solicitation of a number of sources, competition is determined inadequate.

(h) *Contract pricing.* The cost plus a percentage of cost and percentage of construction cost method(s) of contracting may not be used by a State agency. State agencies shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts, paid in whole or in part by FNS program funds, shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.

(i) *State agency procurement records.* State agencies shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to, information pertinent to the rationale for the method of procurement, the selection of contract type, the contract selection or rejection, and the basis for the cost or price.

(j) *Contract provisions.* In addition to provisions defining a sound and complete procurement contract, State agencies shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by this provision, Federal law, or FNS:

(1) Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts in excess of \$10,000 shall contain suitable provisions for termination by the State agency including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) All contracts awarded in excess of \$10,000 by State agencies and their contractors or subagencies shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (29 CFR part 60).

(4) All contracts and subcontracts for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). This Act

provides that each contractor or subagency shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The State agency shall report all suspected or reported violations to FNS.

(5) Where applicable, all contracts awarded by State agencies and subagencies in excess of \$2,000 for construction contracts in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 330) as supplemented by Department of Labor regulations (29 CFR part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard work day or work week is permissible provided that the work is compensated at a rate of not less than 1 1/2 times the basic rate for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(6) The contract shall include notice of FNS requirements and regulations pertaining to reporting and print rights under any contract involving research, developmental, experimental, or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of FNS requirements and regulations pertaining to copyrights and rights to data so derived.

(7) All negotiated contracts (except those awarded by small purchases procedures) awarded by State agencies shall include a provision to the effect that the State agency, FNS, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions. State agencies shall require contracts to maintain all required records for three years after the State agency makes final payments or all other pending matters are closed, whichever is last.

(8) Contracts, subcontracts, and subgrants of amounts in excess of \$100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act, section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency (EPA) regulations, which prohibit the use under nonexempt Federal contract, grants, or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the FNS and to the USEPA Assistant Administrator for Enforcement.

(9) Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-165).

(k) *Contract administration.* State agencies shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

§ 277.15 [Reserved]

§ 277.16 Suspension, disallowance and program closeout.

(a) *Suspension.* When a State agency has materially failed to comply with any of the provisions contained in the Act, regulations, or FNS-approved State Plan of Operation, FNS may, after written notification to the State agency, temporarily withhold some or all Federal reimbursements for costs of administration of the Food Stamp Program in accordance with §276.4. Adjustments will be made either by adjusting the Letter of Credit authorization or by not allowing the State agency to withdraw funds.

(b) *Disallowance.* (1) FNS may disallow costs in accordance with part 276 and effect nonpayment for some or all costs incurred by a State agency which are normally allowable but are determined by FNS to be nonreimbursable because the State agency has failed to comply with any of the provisions contained in the Act, regulations, or FNS-approved State Plan of Operation.

(2) FNS may also disallow costs and institute recovery of Federal funds when a State agency fails to adhere to the cost principles of this part and appendix A.

(c) *Offsets to the Letter of Credit.* (1) FNS may recover funds when owed by the State agency to FNS through offsets to the Letter of Credit. Offsets shall include:

(i) Costs determined by FNS to be disallowed under the provisions of this part;

(ii) Unallowable costs resulting from audit or investigation findings;

(iii) Amounts owed which have been billed to the State agency and which the State agency has failed to pay without cause acceptable to FNS; or

(iv) Amounts owed to FNS for title IV reimbursements and recipient claims collections which were reported on the FNS-209 and which the State agency has failed to pay.

(2) The amounts recovered through the offset procedure should be in one lump sum. If recovery of funds through the offset procedure is not possible in one lump sum, FNS shall make appropriate adjustments to recover the funds in not more than three fiscal years.

(d) *Program transfer or termination.* (1) When termination or transfer of a State program has been agreed upon by FNS, the following closeout procedure shall be observed:

(i) Upon request, FNS shall make or arrange for prompt payment to the State agency for allowable costs not covered by previous payments.

(ii) The State agency shall immediately refund to FNS any unobligated balance of cash withdrawn by the State agency for the administration of the program in the affected State or Indian reservation.

(iii) The State agency shall submit to FNS within 90 days after the date of termination of the program, all required financial, performance, and other reports. FNS may grant extensions when requested by the State agency.

(iv) FNS shall adjust the amount authorized by the Letter of Credit in order to effect payment of any amounts due the State agency, and if appropriate, shall bill the State agency for any amounts due to FNS. The amounts of such billings shall be promptly remitted to FNS.

(v) In the event a final audit has not been performed prior to the closeout of the program, FNS shall retain the right to disallow costs or recover funds resulting from the final audit findings.

(2) Provisions of §277.13 apply for any property acquired with program funds or received from the Federal Government in connection with the program and which was in use in the affected project area or areas.

[Amdt. 188, 45 FR 85702, Dec. 30, 1980, as amended by Amdt. 342, 59 FR 2733, Jan. 19, 1994]

§ 277.17 Audit requirements.

(a) *General.* This section sets forth the audit requirements for State agencies that receive FNS program funds. Audits shall be conducted on an organization-wide basis. Such audits are to determine whether:

(1) Financial operations are conducted properly;

(2) The financial statements are presented fairly;

(3) The organization has complied with laws and regulations affecting the expenditure of Federal funds;

(4) Internal procedures have been established to meet the objectives of federally assisted programs; and

(5) Financial reports to the Federal Government contain accurate and reliable information.

Except where required by law, no additional requirements for audit will be imposed by FNS unless approved by the Office of Management and Budget (OMB). The provisions of this section do not limit the authority of FNS to make audits of State agencies, their subdivisions, and subcontracts. However, if independent audits arranged for by State agencies meet the requirements prescribed herein, FNS shall rely on them, and any additional audit work already done.

(b) *Audit standards.* (1) State agencies shall use their own procedures to arrange for independent audits, and to prescribe the scope of audits, provided that the audits comply with the requirements set forth in this section. Where contracts are awarded for audit services, the contracts shall include a reference to OMB Circular A-102, Attachment P.

(2) Audits shall be made in accordance with the General Accounting Office "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, the Guidelines for Financial and Compliance Audits of Federally Assisted Program," and any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(c) *Purpose of audit.* Audits will include, at a minimum, an examination of the systems of internal control, systems established to ensure compliance with laws and regulations affecting the expenditure of Federal funds, financial transactions and accounts, and financial statements and reports of State agencies. These examinations are to determine whether:

(1) There is effective control over and proper accounting for revenues expenditures, assets, and liabilities.

(2) The financial statements are presented fairly in accordance with generally accepted accounting principles.

(3) The Federal financial reports (including Financial Status Reports, Cash Reports, and claims for advances and reimbursements) contain accurate and reliable financial data; and are presented in accordance with the terms of applicable agreements, and in accordance with Attachment H of OMB Circular A-102.

(4) Federal funds are being expended in accordance with the terms of applicable agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements or on the awards tested.

(d) *Audit coverage.* A representative number of charges to Federal funds shall be tested. The test shall be representative of:

(1) The universe of Federal funds received, and

(2) All cost categories that materially affect the award. The test is to determine whether the charges:

(i) Are necessary and reasonable for the proper administration of the program;

(ii) Conform to any limitations or exclusions in the award;

(iii) Were given consistent accounting treatments and applied uniformly to both federally assisted and other activities of the State agency;

(iv) Were net of applicable credits;

(v) Did not include costs properly chargeable to other federally assisted programs;

(vi) Were properly recorded (i.e., correct amount, date) and supported by source documentation;

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(vii) Were approved in advance, if subject to prior approval in accordance with Financial Management Circular 74–4;

(viii) Were incurred in accordance with competitive purchasing procedures, if covered by OMB Circular A–102, Attachment O; and

(ix) Were allocated equitably to benefiting activities, including non-Federal activities.

(3) Audits usually will be made annually, but not less frequently than every two years.

(4) If the auditors become aware of irregularities in the State agency, subagency or subcontractor, the auditor shall promptly notify the cognizant agency and State agency management officials above the level of involvement. Irregularities include such matters as conflict of interest, falsification of records or reports, and misappropriation of funds and other assets.

(e) *Audit report.* The audit report shall include:

(1) Financial statements, including footnotes, of the State agency, subagency, or subcontractor organization.

(2) The auditor's comments on the financial statements which should:

(i) Identify the statements examined and the period covered.

(ii) Identify the various programs under which the organization received Federal funds, and the amounts received for each program.

(iii) State that the audit was done in accordance with paragraph (d) of this section.

(iv) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, state the nature of the qualification.

(3) The auditor's comments on compliance and internal control which should:

(i) Include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses.

(ii) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of Federal law or regulation that could have a material effect on the financial statements and reports.

(iii) Contain an expression of positive assurance with respect to compliance with requirements for tested items, and negative assurance for untested items.

(4) Comments on the accuracy and completeness of financial reports and claims for advances or reimbursements to Federal agencies.

(5) Comments on corrective action taken or planned by the State agency.

(f) *Record retention.* Work paper and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by the cognizant agency of the need to extend the retention period. The audit workpapers shall be made available upon request to the cognizant agency or its designees and the General Accounting Office or its designees.

(g) *Cognizant agency responsibilities.* The cognizant agency shall have the following responsibilities:

- (1) Obtain or make quality assessment reviews of the work of non-Federal audit organizations, and provide the results to other interested audit agencies. If a non-Federal audit organization is responsible for audits of State agencies that have different cognizant audit agencies, a single quality assessment review will be arranged.
- (2) Assure that all audit reports of State agencies that affect federally assisted programs are received, reviewed, and distributed to appropriate Federal audit officials. These officials will be responsible for distributing audit reports to their program officials.
- (3) Whenever significant inadequacies in an audit are disclosed, the State agency will be advised and the auditor will be called upon to take corrective action. If corrective action is not taken, the cognizant agency shall notify the State agency and Federal awarding agencies of the facts and its recommendation. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies.
- (4) Assure that satisfactory audit coverage is provided in a timely manner and in accordance with the provisions of this section.
- (5) Provide technical advice and act as a liaison between Federal agencies, independent auditors and State agencies.
- (6) Maintain a followup system on audit findings and investigative matters to assure that audit findings are resolved.
- (7) Inform other affected audit agencies of irregularities uncovered. The audit agencies, in turn, shall inform all appropriate officials in their agencies. State or local government law enforcement and prosecuting authorities shall also be informed of irregularities within their jurisdiction.
- (8) Recipients shall require subrecipients that are local governments of Indian tribal governments to adopt the requirements in paragraphs (d) through (f) of this section. The recipient shall ensure that the subrecipient audit reports are received as required, and shall submit the reports to the cognizant agency. The cognizant agency will have the responsibility for those reports described in paragraph (g) of this section.

§ 277.18 Establishment of an Automated Data Processing (ADP) and Information Retrieval System.

(a) *Scope and application.* This section establishes conditions for initial and continuing authority to claim Federal financial participation (FFP) for the costs of the planning, development, acquisition, installation and implementation of ADP equipment and services used in the administration of the Food Stamp Program. Due to the nature of the procurement of ADP equipment and services, current State agency approved cost allocation plans for ongoing operational costs shall not apply to ADP system development costs under this section unless documentation required under paragraph (c) of this section is submitted to and approvals are obtained from FNS.

(b) *Definitions:*

Acceptance Documents means written evidence of satisfactory completion of an approved phase of work or contract, and acceptance thereof by the State agency.

Advance Planning Document for Project Implementation or Implementation APD means a written plan of action requesting Federal financial participation (FFP) to acquire and implement ADP services and/or equipment.

Advance Planning Document for Project Planning or Planning APD means a brief written plan of action that requests FFP to accomplish the planning necessary for a State agency to determine the need for and plan the acquisition of ADP equipment and/or services, and to acquire information necessary to prepare an Implementation APD.

Advance Planning Document Update (APDU) means an annual self-certification by the State agency on the status of project development activities and expenditures in relation to the approved Planning APD or Implementation APD. An APDU may also be submitted as needed to request funding approval for project continuation whenever significant project changes occur or are anticipated.

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Automated Data Processing or ADP means data processing performed by a system of electronic or electrical machines so interconnected and interacting as to minimize the need for human assistance or intervention.

Automated Data Processing Equipment or hardware means:

- (1) Electronic digital computers, regardless of size, capacity, or price, that accept data input, store data, perform calculations, and other processing steps, and prepare information;
- (2) All peripheral or auxiliary equipment used in support of electronic digital computers whether selected and acquired with the computer or separately;
- (3) Data transmission or communications equipment that is selected and acquired solely or primarily for use with a configuration of ADP equipment which includes an electronic digital computer; and
- (4) Data input equipment used to enter directly or indirectly into an electronic digital computer, peripheral or auxiliary equipment, or data transmission, or communication equipment.

Automated Data Processing Services means:

- (1) Services to operate ADP equipment, either by private sources, or by employees of the State agency, or by State or local organizations other than the State agency; and/or
- (2) Services provided by private sources or by employees of the State agency or by State and local organizations other than the State agency to perform such tasks as feasibility studies, system studies, system design efforts, development of system specifications, system analysis, programming and system implementation. This includes system training, systems development, site preparation, data entry, and personal services related to automated systems development and operations that are specifically identified as part of a Planning APD or Implementation APD.

Data Processing means the preparation of source media containing data or basic elements of information and the use of such source media according to precise rules of procedures to accomplish such operations as classifying, sorting, calculating, summarizing, recording, and transmitting.

Emergency situation means a situation where:

- (1) The State agency can demonstrate to FNS an immediate need to acquire ADP equipment or services in order to continue operation of the Food Stamp Program; and
- (2) The State agency can clearly document that the need could not have been anticipated or planned for and the need prevents the State from following the prior approval requirements of §277.18(c).

Feasibility Study means a preliminary study to determine whether it is sufficiently probable that effective and efficient use of ADP equipment or systems would warrant a substantial investment of staff, time, and money being requested, and whether the plan can be accomplished successfully.

Functional Requirements Specification means an initial definition of the proposed system, which documents the goals, objectives, user or programmatic requirements, the operating environment, and the proposed design methodology, e.g., centralized or distributed. This document details what the new system and/or hardware should do, not how it is to do it. The Specification document shall be based upon a clear and accurate description of the functional requirements for the project, and shall not, in competitive procurements, lead to requirements which unduly restrict competition.

General Systems Design means a combination of narrative and diagrams describing the generic architecture of a system as opposed to the detailed architecture of the system. A general systems design may include a systems diagram; narrative identifying overall logic flow and systems functions; a description of equipment needed (including processing, data transmission and storage requirements); a description of other resource requirements which will be

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necessary to operate the system; a description of system performance requirements; and a description of the environment in which the system will operate, including how the system will function within that environment.

Regular funding or regular FFP rate means any Federal reimbursement rate authorized by §277.4(b).

Request for Proposal or RFP means the document used for public solicitations of competitive proposals from qualified sources as outlined in §277.14(g)(3).

Service Agreement means the document, described in §277.18(f), signed by the State or local agency and the State or local central data processing facility whenever a central data processing facility provides ADP services to the State or local agency.

Software means a set of computer programs, procedures, and associated documentation used to operate the hardware.

System specifications means information about the new ADP systems, such as: Workload descriptions, input data, information to be maintained and processed, data processing techniques, and output data, which is required to determine the ADP equipment and software necessary to implement the system design.

System study means the examination of existing information flow and operational procedures within an organization. The study consists of three basic phases: Data gathering or investigation of the present system and new information requirements; analysis of the data gathered in the investigation; and synthesis, or refitting, of the parts and relationships uncovered through the analysis into an efficient system.

(c) *General acquisition requirements—(1) Requirement for prior FNS approval.* A State agency shall obtain prior written approval from FNS as specified in paragraph (c)(2) of this section when it plans to acquire ADP equipment or services with proposed FFP that it anticipates will have total acquisition costs of \$5 million or more in Federal and State funds. This applies to both competitively bid and sole source acquisitions. A State agency shall also obtain prior written approval from FNS of its justification for a sole source acquisition when it plans to acquire ADP equipment or services non-competitively from a nongovernmental source which has a total State and Federal acquisition cost of more than \$1 million but no more than \$5 million. The State agency shall request prior FNS approval by submitting the Planning APD, the Implementation APD or the justification for the sole source acquisition signed by the appropriate State official to the FNS Regional Office. However, a State agency shall obtain prior written approval from FNS for the acquisition of ADP equipment or services to be utilized in an EBT system regardless of the cost of the acquisition.

(2) *Specific prior approval requirements.* (i) For ADP equipment and services acquisitions which require prior approval as specified in paragraph (c)(1) of this section, the State agency shall obtain the prior written approval of FNS for:

(A) The Planning APD prior to entering into contractual agreements or making any other commitment for acquiring the necessary planning services;

(B) The Implementation APD prior to entering into contractual agreements or making any other commitment for the acquisition of ADP equipment or services.

(ii) For ADP equipment and services acquisitions requiring prior approval as specified in paragraph (c)(1) of this section, prior approval of the following documents associated with such acquisitions is also required:

(A) RFP's; unless specifically exempted by FNS, the State agency shall obtain prior written approval of the RFP before the RFP may be released. However, RFPs costing up to \$5 million for competitive procurements and up to \$1 million for noncompetitive acquisitions from non-governmental sources and which are an integral part of the approved APD need not be submitted to FNS. States will be required to submit RFPs under this threshold amount on an exception basis or if the procurement strategy is not adequately described and justified in an APD. The State agency shall obtain prior written approval from FNS for Request for Proposals which are associated with an EBT system regardless of the cost.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

(B) Contracts; unless specifically exempted by FNS, the State agency shall obtain prior written approval before the contract may be signed by the State agency. However, contracts costing up to \$5 million for competitive procurements and up to \$1 million for noncompetitive acquisitions from nongovernmental sources, and which are an integral part of the approved APD need not be submitted to FNS. States will be required to submit contracts under this threshold amount on an exception basis or if the procurement strategy is not adequately described and justified in an APD. The State agency shall obtain prior written approval from FNS for contracts which are associated with an EBT system regardless of the cost.

(C) Contract amendments; unless specifically exempted by FNS, the State agency shall obtain prior written approval before the contract amendment may be signed by the State agency. However, contract amendments involving cost increases of up to \$1 million or time extensions of up to 120 days, and which are an integral part of the approved APD need not be submitted to FNS. States will be required to submit contract amendments under these threshold amounts on an exception basis or if the contract amendment is not adequately described and justified in an APD. Amendments to contracts for EBT systems shall be permitted within the approved funding cap. State agencies shall submit copies of any contract amendments or contract extensions to FNS with an accompanying analysis of the impact the changes would have upon the approved issuance cap.

(iii) The State agency must obtain prior written approval from FNS as specified in paragraphs (c)(2) (i) and (ii) of this section in order to claim and receive reimbursement for the associated costs of the ADP acquisition.

(3) *Approval requirements.* (i) For ADP equipment and service acquisitions requiring prior approval as specified in paragraph (c)(1) of this section, the State agency shall submit the following documents to FNS for approval:

(A) Feasibility studies, when specifically required by FNS as a condition of approving the Planning APD. When required by FNS for approval, the State agency shall submit the feasibility study no later than 90 days after its completion.

(B) APD Updates, as required by paragraph (e) of this section, on an annual or as needed basis.

(ii) The State agency must obtain FNS approval of the documents specified in paragraph (c)(3)(i) of this section in order to claim and receive reimbursement for the associated costs of the ADP acquisition.

(4) *Approval by the State agency.* Approval by the State agency is required for all documents specified in this regulation prior to submission for FNS approval. In addition, State agency approval is also required for those acquisitions of ADP equipment and services not requiring prior approval by FNS.

(5) *Prompt action on requests for prior approval.* FNS will reply promptly to State requests for prior approval. If FNS has not provided written approval, disapproval or a request for additional information within 60 days of FNS' letter acknowledging receipt of the State's request, the request will be deemed to have provisionally met the prior approval requirement in paragraph (c) of this section. However, provisional approval will not exempt a State from having to meet all other Federal requirements which pertain to the acquisition of ADP equipment and services. Such requirements remain subject to Federal audit and review.

(d) *APD content requirements—(1) Planning APD.* The State agency may request FFP for the costs of determining the need for and planning the acquisition of ADP equipment or services through the submission of the Planning APD. The State agency may request FFP for the costs of planning activities beginning with initial project inception through the performance of necessary systems and alternatives analyses, selection and design, including the completion of a general systems design. The Planning APD shall contain the following information:

(i) The State agency's description of the programmatic and organizational needs and/or problems to be addressed by the proposed ADP acquisition and the specific objectives to be accomplished under the Planning APD;

(ii) The State agency's commitment to complete the following, where appropriate, as part of project planning activities: a functional requirements specification document, feasibility study, alternatives analysis, cost-benefit analysis, and a general system design. If an existing ADP system is to be transferred, the State agency may plan to use the general system design of the transferred system.

(iii) The State agency's description of the organization, required State and contractual resources and availability of those resources, and the assignments of roles and responsibilities for project planning activities. The State agency shall include a description of resources to be procured and procurement methods;

(iv) The State agency's schedule of activities and deliverables during project planning, including a description and schedule of procurement activities to be undertaken in support of the planning project; and

(v) A proposed budget which shall identify costs for project planning activities by Federal fiscal year. The budget shall include an estimate of prospective cost distribution to participating Federal agencies and the method for cost allocation. The State agency shall also include an estimate of the total project costs, including both the cost of the planning project and the cost of any eventual ADP equipment and/or services acquisition, which will be used only for determining whether the threshold of §§277.18(c)(1) is met. An estimate of total project cost for an EBT system shall not be required to be incorporated into the Planning APD budget.

(2) *Implementation APD.* The State agency may request FFP to acquire ADP equipment and services through the submission of the Implementation APD. The State agency may request FFP for the necessary activities to develop, acquire, install and implement the proposed ADP system or acquisition. The Implementation APD shall contain the following information, where appropriate:

(i) The State agency shall complete and submit a functional requirements specification document;

(ii) The State agency shall submit a feasibility study and associated alternatives analyses, which include the transfer or modification of an existing system from a similar State or jurisdiction in the examination of alternatives. State agencies which reject the transfer or modification of an existing system must provide an analysis describing the barriers to system transfer as part of the feasibility study. The analysis of barriers to system transfer shall include a comparison of the costs of overcoming the problem in transferring an operational system to the costs of developing a new system;

(iii) The State agency shall submit the new or transferred general systems design and shall also document the intended approaches, plans and techniques to develop or modify specific aspects of the proposed ADP system or acquisition including hardware, software, telecommunications, system testing, and data security;

(iv) The State agency shall describe the anticipated resource requirements for implementation of the ADP project, the resources planned to be available for the project, and plans for augmenting resources to meet resource requirements;

(v) The State agency shall indicate the principal events and schedule of activities, milestones, and deliverables during implementation of the project;

(vi) The State agency shall submit a proposed budget which identifies costs for intended project development and implementation activities by Federal fiscal year and shall include a consideration of all possible Implementation APD activity costs (e.g., system conversion, computer capacity planning, supplies, training, and miscellaneous ADP expenses). The budget shall contain an estimate of prospective cost distribution and methods for allocating costs to participating Federal agencies;

(vii) The State agency shall document the scope, methodology, evaluation criteria and results of cost-benefit analyses for evaluating the selected design and alternatives. The cost-benefit analysis shall include a statement indicating the period of time the State agency intends to use the proposed equipment or system; and

(viii) The State agency shall describe the security and interface requirements to be employed and the backup and contingency procedures available.

(3) *APD Budget.* The proposed budget for both the Planning APD and the Implementation APD shall include cost distribution plans containing the bases for proposed rates, both direct and indirect, for costs associated with system planning, development, acquisition or implementation, as appropriate. The budget proposals accompanying the Implementation APD shall also include proposed cost distribution plans and the bases of proposed rates for the operation of the ADP system. The budget activities shall be presented on a Federal fiscal year basis in a clear fashion to associate costs with each planned activity. The budgets must identify all development costs separately

from any ongoing operational costs. Costs must be distinguished by developmental projects and developmental time periods. Actual costs claimed must be reconcilable to projected costs as proposed and approved by FNS in the APD.

(e) *APD Update*—(1) *General submission requirements*. The State agency shall submit an APD Update for FNS approval for all approved Planning and Implementation APD's when total acquisition costs exceed \$5 million. The APD Update shall be submitted to the FNS Regional Office within 90 days after the annual anniversary date of the original APD approval, unless the submission date is specifically altered by FNS.

(2) *Content requirements*. The APD Update represents a self-certification by the State agency of project status in relation to the provisions of the approved Planning APD and Implementation APD. The Annually Updated APD shall include:

(i) Project activity status. (A) The status of all major tasks and milestones in the approved Planning APD, Implementation APD or previous APD Update's for the past year. The APD Update shall include all major tasks and milestones completed in the past year and degree of completion for unfinished tasks.

(B) The status of all project deliverables completed in the past year and degree of completion for unfinished products.

(C) Reports of past and/or anticipated problems or delays in meeting target dates in the approved Planning APD, Implementation APD or previous APD Update's for the remainder of the project. The Annually Updated APD shall include an explanation of the need to extend any major project target dates.

(ii) Project expenditures. (A) A detailed accounting for all expenditures for project development over the past year.

(B) An explanation of differences between projected expenses in the approved Planning or Implementation APD, or previous APD Update's, and actual expenditures for the past year. If changes in costs are reported, FNS may require the submission of a revised cost-benefit analysis as a condition for approval of the APD Update.

(C) Changes to the allocation basis in the approved APD's cost allocation methodology.

(iii) Changes to the approved APD.

(A) Revised language for all changes to the approved APD or previous APD Updates shall be submitted as part of the APD Update, unless submitted separately by the State agency as the changes occurred throughout the year.

(B) Changes in project management and/or contractor services.

(3) *Submission as needed*. In addition to the requirement for approval of an APD Update on an annual basis, as specified in paragraph (e)(1) of this section, the State agency may submit an APD Update on a more frequent or as needed basis, in order to obtain a commitment of FFP whenever significant project changes occur. Without such approval, the State agency is at risk for funding of project activities which are not in compliance with the terms and conditions of the approved APD and subsequently approved APD Updates, until such time as approval is specifically granted by FNS. At a minimum, the State agency should consider submission of an APD Update whenever any of the following changes occur or are anticipated:

(i) A significant increase (\$1 million or more) in total project costs;

(ii) A significant schedule extension (60 days or more) for major milestones;

(iii) A significant change in procurement approach, and/or scope of procurement activities beyond that approved in the APD;

(iv) A change in system concept, or a change to the scope of the project; or

(v) A change to the approved cost allocation methodology.

(f) *Service agreements.* The State agency shall execute service agreements when data processing services are to be provided by a State central data processing facility or another State or local agency. Service agreements shall be kept on file by the State agency and be available for Federal review, and shall:

(1) Identify the ADP services that will be provided;

(2) Include, preferably as an amendable attachment, a schedule of charges for each identified ADP service, and a certification that these charges apply equally to all users;

(3) Include a description of the method(s) of accounting for the services rendered under the agreement and computing services charges;

(4) Include assurances that services provided will be timely and satisfactory;

(5) Include assurances that information in the computer system as well as access, use and disposal of ADP data will be safeguarded in accordance with provisions of §272.1(c) and §277.13;

(6) Require the provider to obtain prior approval pursuant to §277.18(c)(1) from FNS for ADP equipment and ADP services that are acquired from commercial sources primarily to support the Food Stamp Program and requires the provider to comply with §277.14 for procurements related to the service agreement. ADP equipment and services are considered to be primarily acquired to support the Food Stamp Program when the Program may reasonably be expected to either be billed for more than 50 percent of the total charges made to all users of the ADP equipment and services during the time period covered by the service agreement, or directly charged for the total cost of the purchase or lease of ADP equipment or services;

(7) Include the beginning and ending dates of the period of time covered by the service agreement; and

(8) Include a schedule of expected total charges to the Program for the period of the service agreement.

(g) *Conditions for receiving FFP.*—(1) A State agency may receive FFP at the 50 percent reimbursement rate for the costs of planning, design, development or installation of ADP and information retrieval systems if the proposed system will:

(i) Assist the State agency in meeting the requirements of the Food Stamp Act;

(ii) Meet the program standards specified in §272.10(b)(1), (b)(2), and (b)(3) of this chapter, except for the requirements in §272.10(b)(2)(vi), (b)(2)(vii), and (b)(3)(ix) of this chapter to eventually transmit data directly to FCS;

(iii) Be likely to provide more efficient and effective administration of the program; and

(iv) Be compatible with such other systems utilized in the administration of State agency plans under the program of Temporary Assistance for Needy Families (TANF).

(2) State agencies seeking FFP for the planning, design, development or installation of automated data processing and information retrieval systems shall develop Statewide systems which are integrated with TANF. In cases where a State agency can demonstrate that a local, dedicated, or single function (issuance or certification only) system will provide for more efficient and effective administration of the program, FNS may grant an exception to the Statewide integrated requirement. These exceptions will be based on an assessment of the proposed system's ability to meet the State agency's need for automation. Systems funded as exceptions to this rule, however, should be capable to the extent necessary, of an automated data exchange with the State agency system used to administer TANF. In no circumstances will funding be available for systems which duplicate other State agency systems, whether presently operational or planned for future development.

(h) *Emergency acquisition requirements.* The State agency may request FFP for the costs of ADP equipment and services acquired to meet emergency situations which preclude the State agency from following the prior approval requirements of §277.18(c). FNS may provide FFP in emergency situations if the following conditions are met:

(1) The State agency must submit a written request to FNS prior to the acquisition of any ADP equipment or services. The written request must be sent by registered mail and shall include:

(i) A brief description of the ADP equipment and/or services to be acquired and an estimate of their costs;

(ii) A brief description of the circumstances which result in the State agency's need to proceed with the acquisition prior to obtaining formal FNS approval; and

(iii) A description of the adverse impact which would result if the State agency does not immediately acquire the ADP equipment and/or services.

(2) Upon receipt of a written request for emergency acquisition FNS shall provide a written response to the State agency within 14 days. The FNS response shall:

(i) Inform the State agency that the request has been disapproved and the reason for disapproval; or,

(ii) Inform the State agency that FNS recognizes that an emergency situation exists and the State agency must submit a formal request for approval by FNS which includes the information specified at §277.18(d)(2) within 90 days from the date of the State agency's initial written request.

(iii) If FNS approves the request submitted under paragraph (h)(1) of this section, FFP will be available from the date the State agency acquires the ADP equipment and services.

(i) *Cost determination and claiming costs*—(1) *Cost determination*. Actual costs must be determined in compliance with an FNS approved budget and appendix A to this part, and must be reconcilable with the FNS funding level. There shall be no payments pursuant to this section to the extent that a State agency is reimbursed for such costs pursuant to any other Federal program or uses ADP systems for purposes not connected with the Food Stamp Program. The State agency approved cost allocation plan must be amended to disclose the methods which will be used to identify and classify costs to be claimed. This methodology must be submitted to FNS as part of the request for FNS approval of funding as required in paragraph (d)(3) of this section. Any costs funded pursuant to these regulations shall be excluded in determining the State agency's administrative costs under any other section of this part.

(2) *Cost identification for purposes of FFP claims*. State agencies shall assign and claim the costs incurred under an approved APD in accordance with the following criteria:

(i) *Development costs*. Using its normal departmental accounting system, the State agency shall specifically identify what items of costs constitute development costs, assign these costs to specific project cost centers, and distribute these costs to funding sources based on the specific identification, assignment and distribution outlined in the approved APD. The methods for distributing costs set forth in the APD should provide for assigning identifiable costs, to the extent practicable, directly to program/functions. The State agency shall amend the cost allocation plan required by §277.9 to include the approved APD methodology for the identification, assignment and distribution of the development costs.

(ii) *Operational costs*. Costs incurred for the operation of an ADP system shall be identified and assigned by the State agency to funding sources in accordance with the approved cost allocation plan required by §277.9.

(iii) *Service agreement costs*. States that operate a central data processing facility shall use their approved central service cost allocation plan required by OMB Circular A-87 to identify and assign costs incurred under service agreements with the State agency. The State agency shall then distribute these costs to funding sources in accordance with paragraphs (i)(2)(i) and (i)(2)(ii) of this section.

(3) *Capital expenditures*. The State agency shall charge the costs of ADP equipment having unit acquisition costs or total aggregate costs, at the time of acquisition, of more than \$25,000 by means of depreciation or use allowance, unless a waiver is specifically granted by FNS. If the equipment acquisition is part of an APD that is subject to the prior approval requirements of paragraph (c)(2) of this section, the State agency may submit the waiver request as part of the APD.

(4) *Claiming costs.* Prior to claiming funding under this section the State agency shall have complied with the requirements for obtaining approval and prior approval of §277.18(c).

(5) *Budget authority.* FNS approval of requests for funding shall provide notification to the State agency of the budget authority and dollar limitations under which such funding may be claimed. FNS shall provide this amount as a total authorization for such funding which may not be exceeded unless amended by FNS. FNS's determination of the amount of this authorization shall be based on the budget submitted by the State agency. Activities not included in the approved budget, as well as continuation of approved activities beyond scheduled deadlines in the approved plan, shall require FNS approval of an amended State budget for payment. Requests to amend the budget authorization approved by FNS shall be submitted to FNS prior to claiming such expenses.

(j) *Procurement requirements.* (1) Procurements of ADP equipment and services are subject to the procurement standards prescribed by §277.14 regardless of any conditions for prior approval, except the requirements of §277.14(b)(1) and (2) regarding review of proposed contracts. Those standards include a requirement for maximum practical open and free competition regardless of whether the procurement is formally advertised or negotiated.

(2) The standards prescribed by §277.14, as well as the requirement for prior approval, apply to ADP services and equipment acquired by a State or local agency, and the ADP services and equipment acquired by a State or local central data processing facility primarily to support the Food Stamp Program.

(3) The competitive procurement policy prescribed by §277.14 shall be applicable except for ADP services provided by the agency itself, or by other State or local agencies.

(k) *Access to the system and records.* Access to the system in all aspects, including but not limited to design, development, and operation, including work performed by any source, and including cost records of contractors and subcontractors, shall be made available by the State agency to FNS or its authorized representatives at intervals as are deemed necessary by FNS, in order to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system. Failure to provide full access by appropriate State and Federal representatives to all parts of the system shall result in suspension and/or termination of Food Stamp Program funds for the costs of the system and its operation.

(l) *Ownership rights—*(1) *Software*(i) The State or local government shall include a clause in all procurement instruments which provides that the State or local government shall have all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with FFP under this section.

(ii) FNS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, such software, modifications, and documentation.

(iii) Proprietary operating/vendor software packages (e.g., ADABAS or TOTAL) which are provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions in paragraphs (l)(1)(i) and (l)(1)(ii) of this section. FFP is not available for proprietary applications software developed specifically for the Food Stamp Program.

(2) *Automated data processing equipment.* The policies and procedures governing title, use and disposition of property purchased with Food Stamp Program funds, which appear at 7 CFR 277.13 are applicable to automated data processing equipment.

(m) *Use of ADP systems.* ADP systems designed, developed or installed with FFP shall be used for the period of time specified in the APD, unless FNS determines that a shorter period is justified.

(n) *Basis for continued Federal financial participation.* FNS will continue FFP at the levels approved in the Planning APD and the Implementation APD provided that project development proceeds in accordance with the conditions and terms of the approved APD and that ADP resources are used for the purposes authorized. FNS will use the APD Update to monitor ADP project development. The submission of the report prescribed in §277.18(e) for the duration of project development is a condition for continued FFP. In addition, periodic onsite reviews of ADP project development and State and local agency ADP operations may be conducted by or for FNS to assure compliance with approved APD's, proper use of ADP resources, and the adequacy of State or local agency ADP operations.

(o) *Disallowance of Federal financial participation.* If FNS finds that any ADP acquisition approved under the provisions of §277.18(c) fails to comply with the criteria, requirements, and other undertakings described in the approved or modified APD, payment of FFP may be disallowed.

(p) *ADP system security requirements and review process—(1) ADP system security requirements.* State and local agencies are responsible for the security of all ADP projects under development, and operational systems involved in the administration of the Food Stamp Program. State and local agencies shall determine appropriate ADP security requirements based on recognized industry standards or standards governing security of Federal ADP systems and information processing.

(2) *ADP security program.* State agencies shall implement and maintain a comprehensive ADP Security Program for ADP systems and installations involved in the administration of the Food Stamp Program. ADP Security Programs shall include the following components.

(i) Determination and implementation of appropriate security requirements as prescribed in paragraph (p)(1) of this section.

(ii) Establishment of a security plan and, as appropriate, policies and procedures to address the following areas of ADP security:

(A) Physical security of ADP resources;

(B) Equipment security to protect equipment from theft and unauthorized use;

(C) Software and data security;

(D) Telecommunications security;

(E) Personnel security;

(F) Contingency plans to meet critical processing needs in the event of short- or long-term interruption of service;

(G) Emergency preparedness; and

(H) Designation of an Agency ADP Security Manager.

(iii) Periodic risk analyses. State agencies shall establish and maintain a program for conducting periodic risk analyses to ensure that appropriate, cost-effective safeguards are incorporated into new and existing systems. In addition, risk analyses shall be performed whenever significant system changes occur.

(3) *ADP system security reviews.* State agencies shall review the ADP system security of installations involved in the administration of the Food Stamp Program on a biennial basis. At a minimum, the reviews shall include an evaluation of physical and data security, operating procedures, and personnel practices. State agencies shall maintain reports of their biennial ADP system security reviews, together with pertinent supporting documentation, for Federal on-site review.

(4) *Applicability.* The security requirements of this section apply to all ADP systems used by State and local governments to administer the Food Stamp Program.

(5) *Costs.* Costs incurred for complying with the provisions of paragraphs (p)(1) through (p)(3) of this section are considered regular administrative costs which are funded at the regular FFP level.

[Amdt. 319, 55 FR 4355, Feb. 7, 1990, as amended by Amdt. 345, 57 FR 11259, Apr. 1, 1992; Amdt. 342, 59 FR 2733, Jan. 19, 1994; Amdt. 368, 61 FR 33643, June 28, 1996; Amdt. 385, 65 FR 33440, May 24, 2000]

Appendix A to Part 277—Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies

This appendix sets forth the procedures implementing uniform requirements for the negotiations and approval of cost allocation plans with State agencies, in accordance with the provisions of Federal Management Circular (FMC) 74–4 and OASC–10, “Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government,” U.S. Department of Health, Education, and Welfare. This material is adapted substantially from the circular; changes have been made only when necessary in order to conform with legislative constraints.

(A) Purpose and scope.

(1) *Objectives.* This appendix sets forth principles for determining the allowable costs of administering the Food Stamp Program by State agency under FNS-approved State Plans of Operation. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of the Program. They are designed to provide that all federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

(2) *Policy guides.* The application of these principles is based on the fundamental premises that:

(a) State agencies are responsible for the efficient and effective administration of the Food Stamp Program through the application of sound management practice.

(b) The State agency assumes the responsibility for seeing that Food Stamp Program funds have been expended and accounted for consistent with underlying agreements and program objectives.

(c) Each State agency, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques as may be necessary to assure proper and efficient administration.

(3) *Application.* These principles will be applied by FNS in determining costs incurred by State agencies receiving FNS payments for administering the Food Stamp Program.

(B) Definitions.

Approval or authorization by FNS means documentation evidencing consent prior to incurring specific costs.

Cognizant Federal Agency means the Federal agency recognized by OMB as having the predominate interest in terms of program dollars.

Cost allocation plan means the documentation identifying, accumulating, and distributing allowable costs of program administration together with the allocation methods used.

Cost, as used herein, means cost as determined on a cash, accrual, or other basis acceptable to FNS as a discharge of the State agency's accountability for FNS funds.

Cost center means a pool, summary account, objective or area established for the accumulation of costs. Such areas include objective organizational units, functions, objects or items of expense, as well as ultimate cost objective(s) including specific costs, products, projects, contracts, programs and other operations.

Federal agency means FNS and also any department, agency, commission, or instrumentality in the executive branch of the Federal Government which makes grants to or contracts with State or local governments.

Payments for administrative costs means reimbursement or advances for costs to State agencies pursuant to any agreement whereby FNS provides funds to carry out programs, services, or activities in connection with

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administration of the Food Stamp Program. The principles and policies stated in this appendix as applicable to program payments in general also apply to any State agency obligations under a cost reimbursement type of agreement performed by a subagency, including contracts and subcontracts.

Food Stamp Program administration means those activities and operations of the State agency which are necessary to carry out the purposes of the Food Stamp Act, including any portion of the Program financed by the State agency.

Local unit means any political subdivision of government below the State level.

Other agencies of the State means departments or agencies of the State or local unit which provide goods, facilities, and services to a State agency.

Subagencies means the organization or person to which a State agency makes any payment for acquisition of goods, materials or services for use in administering the Food Stamp Program and which is accountable to the State agency for the use of the funds provided.

Service, as used herein, means goods and facilities, as well as services.

Supporting services means auxiliary functions necessary to sustain the direct effort of administering the Program. These services may be centralized in the State agency or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service, and the like.

(C) Basic guidelines.

(1) Factors affecting allowability of costs. To be allowable under the Program, costs must meet the following general criteria:

(a) Be necessary and reasonable for proper and efficient administration of the Program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

(b) Be authorized or not prohibited under State or local laws or regulations.

(c) Conform to any limitations or exclusions set forth in these principles, Federal Laws, or other governing limitations as to types or amounts of cost items.

(d) Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the State agency is a part.

(e) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

(f) Not be allocable to or included as a cost to any other federally financed program in either the current or a prior period.

(g) Be the net of all applicable credits.

(2) Allocable costs.

(a) A cost allocable to a particular cost objective to the extent of benefits received by such objective.

(b) Any cost allocable to a particular program or cost objective under these principles may not be shifted to other Federal programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreement, or for other reasons.

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(c) Where an allocation of joint cost will ultimately result in charges to the Program, an allocation plan will be required as prescribed in section I of these principles.

(3) Applicable credits.

(a) Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to programs as direct or indirect costs. Examples of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

(b) Applicable credits may also arise when Federal funds are received or are available from sources other than FNS to finance operations or capital items donated or financed by the Federal Government to fulfill matching requirements under another program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given program.

(D) Composition of cost.

(1) *Total cost.* The total cost of a program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credit.

(2) *Classification costs.* There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to a program or other ultimate cost objective. However, it is essential that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under the Program are provided in the section which follows.

(E) Direct costs.

(1) *General.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to the Program, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in the course to programs and other ultimate costs objectives.

(2) *Application.* Typical direct costs chargeable to the Program are:

(a) Compensation of employees for the time and effort devoted specifically to the administration of the Program.

(b) Cost of materials acquired, consumed, or expended specifically for the purpose of the Program.

(c) Equipment and other approved capital expenditures.

(d) Other items of expense incurred specifically for efficiently and effectively administering the Program.

(e) Service furnished specifically for the Program by other agencies, provided such charges are consistent with criteria outlined in section G of these principles.

(F) Indirect costs.

(1) *General.* Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the result achieved. The term indirect cost as used herein applies to costs of this type originating in the State agency, as well as those incurred by other departments in supplying goods, services, and facilities, to the State agency. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a State agency or in other agencies providing services to a State agency. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

(2) *State agency indirect costs.* All State agency indirect costs, including the various levels of supervision, are eligible for allocation to the program provided they meet the conditions set forth in their principles. In lieu of determining the actual amount of State agency indirect cost allocable to the program the following methods may be used:

(a) *Predetermined fixed rates for indirect costs.* A predetermined fixed rate for computing indirect costs applicable to program administration may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties to reach an informed judgment (1) as to the probable level of indirect costs in the State agency during the period to be covered by the negotiated rate, and (2) that the amount allowable under the predetermined rate would not exceed actual indirect costs.

(b) *Negotiated lump sum for overhead.* A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a State agency's indirect services cannot be readily determined as in the case of a small self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the State agency before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

(3) *Limitation on indirect costs.*

(a) Some Federal programs may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor programs of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such program does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under these principles, whichever is the smaller.

(b) When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under these principles, the amount not recoverable as indirect costs under a program may not be shifted to another federally sponsored program or contract.

(G) Cost incurred by other agencies of the State.

(1) *General.* The cost of service provided by other agencies may only include allowable direct costs of the service plus a pro rata share of allowable supporting costs and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

(2) *Alternative methods of determining indirect cost.* In lieu of determining actual indirect cost related to a particular service furnished by other agencies of the State, either of the following alternative methods may be used provided only one method is used for a specific service during the fiscal year involved.

(a) *Standard indirect rate.* An amount equal to ten percent of direct labor cost in providing the service performed by other agencies of the State (excluding overtime, shift, or holiday premiums, and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

(b) *Predetermined fixed rate.* A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F(2)(a) of these principles.

(H) Cost incurred by State agency for others. The principles provided in section G will also be used in determining the cost of services provided by the State agency to another agency.

(I) Cost allocation plan.

(1) A cost allocation will be required to support the distribution of any indirect costs. All costs allocable to the Food Stamp Program under cost allocation plans will be supported by formal accounting records which will substantiate the propriety of eventual charges.

(2) There are two types of cost allocation plans:

(a) Statewide or central service cost allocation plan identifies and distributes the cost of services provided by support organizations to those departments or units participating in Federal programs.

(b) Indirect cost proposals distribute the administrative or joint costs incurred by the State agency and the cost of service allocable to it under the Statewide or central service cost allocation plan in a ratio to all work performed by the State agency. The process involves applying a percentage relationship of indirect cost to direct cost.

(3) *Requirements.* The cost allocation plan of the State agency shall cover all allocated costs of the department as well as costs to be allocated under plans of other agencies or organizational units which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the State agency, to the extent feasible, should be presented in a single document.

(4) *Instructions for preparation of cost allocation plans.* The Department of Health and Human Services, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State agencies in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government level and indirect cost proposals of individual State agencies.

(5) *Submitting plans for approval.*

(a) Responsibility for approving cost allocation plans for individual State agencies has been assigned by the Office of Management and Budget to the cognizant Federal agency.

(b) State cost allocation plans must be submitted to the cognizant Federal agency within six months after the last day of the State's fiscal year. Upon request by the State agency, an extension of time for submittal of the cost allocation plan may be granted by the cognizant Federal agency. It is essential that cost allocation plans be submitted in a timely manner. Failure to submit the plans when required will cause the State agency to become delinquent. In the event a State becomes delinquent, FNS will not provide for the recovery of central service and indirect costs, and such costs already made and claimed against Food Stamp Program funds will be subject to disallowance.

(6) *Negotiation and approval of cost allocation plans for States.* The cognizant Federal agency, in collaboration with Federal agencies concerned, will be responsible for negotiation, approval, and audit of cost allocation plans.

(7) *Negotiation and approval of cost allocation plans for local governments.* Cost allocation plans will be retained at the local government level for audit by the cognizant Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

(8) A current list of cognizant Federal agencies is maintained by the Office of Management and Budget.

(9) *Resolution of problems.* The Office of Management and Budget will lend assistance in resolving problems encountered by Federal agencies on cost allocation plans.

(10) Approval by FNS. FNS reserves the right to disapprove costs not meeting the general criteria outlined in section C of these principles. FNS shall promptly notify the State agency in writing of the disapproval, the reason for the disapproval and the effective date. Costs incurred by State agencies after disapproval may not be charged to FNS unless if FNS subsequently approves the cost.

Standards for Selected Items of Cost

A. *Allowable cost.* Standards for allowability of costs are established by Federal Management Circular 74-4. These standards will apply regardless of whether a particular item of cost is treated as direct or indirect. Failure to mention a particular item of cost in these standards is not intended to imply that it is either allowable or unallowable. Rather, determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles as stated in Attachment A to Federal Management Circular 74-4.

(1) *Accounting.* The cost of establishing and maintaining accounting and other information systems required for the management of the Food Stamp Program is allowable. This includes costs incurred by central service agencies of the State government for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

(2) *Advertising.* Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

(a) Recruitment of personnel required for the Program;

(b) Solicitation of bids for the procurement of goods and services required;

(c) Disposal of scrap or surplus materials acquired in the performance of the agreement; and

(d) Other purposes specifically provided for by FNS regulations or approved by FNS in the administration of the Food Stamp Program.

(3) *Advisory councils.* Costs incurred by State advisory councils or committees established to carry out Food Stamp Program goals are allowable. The cost of like organizations is allowable when used to improve the efficiency and effectiveness of the Program.

(4) *Audit service.* The cost of audits necessary for the administration and management of functions related to the Program is allowable.

(5) *Bonding.* Costs of premiums on bonds covering employees who handle Food Stamp Program funds or food coupons are allowable. The amount of allowable coverage shall be limited to the anticipated maximum amount of food stamp funds or food coupons handled at one time by that employee.

(6) *Budgeting.* Costs incurred for the development, preparation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the State agency's budget process, the cost of services identifiable to the Food Stamp Program are allowable.

(7) *Building lease management.* The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

(8) *Central stores.* The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for the Food Stamp Program is allowable.

(9) *Communications.* Communication costs incurred for telephone calls or service, telegraph, teletype service, wide area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

(10) *Compensation for personal services.*

(a) *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance in the administration of the program including but not necessarily limited to wages, salaries, and supplementary compensation and benefits as defined in section A.(13) of these principles. The costs of such compensation are allowable to the extent that total compensation for individual employees: is reasonable for the services rendered; follows an appointment made in accordance with State or local government laws and rules and which meets Federal Merit System or other requirements, where applicable; and is determined and supported as provided in section A of these principles. Compensation for employees engaged in federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the Food Stamp Program activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the

employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

(b) *Payroll and distribution of time.* Amounts charged to the program for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with the generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Distribution of salaries and wages of employees chargeable to more than one program or other cost objective will be supported by appropriate time reports or approved time study methodologies. The method used should be included in the cost allocation plan and should be approved by FNS.

(11) *Depreciation and use allowance.*

(a) State agencies may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

(b) The computation of depreciation or use allowances will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost of any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of acquisition of land. Depreciation or a use allowance on idle or excess facilities is not allowable, except when specifically authorized by FNS.

(c) Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

(d) In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost of usable equipment.

(e) No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(12) *Disbursing service.* The cost of disbursing program funds by the State Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

(13) *Employee fringe benefits.* Costs identified are allowable to the extent that total compensation for employees is reasonable as defined in paragraph (10)(a) of these principles.

(a) Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are provided pursuant to an approved leave system, and the cost thereof is equitably allocated to all related activities, including federally assisted programs.

(b) Employee benefits in the form of employers' contributions or expense for social security, employees' life and health insurance plans, unemployment insurance coverage, workers' compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to programs and to other activities.

(14) *Employee morale, health And welfare costs.* The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy, are allowable. Income generated from any of these activities will be offset against expenses.

(15) *Exhibits.* Costs of exhibits relating specifically to the Food Stamp Program are allowable.

(16) *Legal expenses.* The cost of legal expenses required in the administration of the program is allowable. Legal services furnished by the chief legal officer of a State or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government is unallowable.

(17) *Maintenance and repair.* Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

(18) *Materials and supplies.* The cost of materials and supplies necessary to carry out the program is allowable. Purchases made specifically for the program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the State agency. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

(19) *Memberships, subscriptions and professional activities.*

(a) The *cost of membership* in civic, business, technical, and professional organizations is allowable, provided:

(i) The benefit from the membership is related to the program,

(ii) The expenditure is for agency membership,

(iii) The cost of the membership is reasonably related to the value of the services or benefits received, and

(iv) The expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

(b) *Reference material.* The cost of books, and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the program.

(c) *Meetings and conferences.* Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the program and they are consistent with regular practices followed for other activities of the State agency.

(20) *Motor pools.* The costs of a service organization which provides automobiles to user State agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services are allowable.

(21) *Payroll preparation.* The cost of preparing payrolls and maintaining necessary wage records is allowable.

(22) *Personnel administration.* Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for the program are allowable.

(23) *Printing and reproduction.* Cost for printing and reproduction services necessary for program administration including but not limited to forms, reports, manuals, and information literature, is allowable. Publication costs of reports or other media relating to program accomplishments or results are allowable.

(24) *Procurement service.* The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities and services for the program is allowable.

(25) *Prosecution activities.* The costs of investigations and prosecutions of intentional Food Stamp Program violations are allowable. Costs of investigation, prosecution, or claims collection which are performed by agencies other than the State agency shall be based on a formal agreement between the State or local agency and provider agency. These interagency agreements shall meet the requirements of this part in regard to allowable charges. Funding under these interagency agreements shall be provided by the State agency from their funds and funds made available by FNS.

(26) *Taxes.* In general, taxes or payments in lieu of taxes which the State agency is legally required to pay are allowable.

(27) *Training and education.* The cost of in-service training, customarily provided for employee development which directly or indirectly benefits the program is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by FNS.

(28) *Transportation.* Costs incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

(29) *Travel.* Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to the program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two. The charges must be consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available. Notwithstanding the provisions of paragraphs C (7) and (10), travel costs of officials covered by those paragraphs, when specifically related to grant programs, are allowable with the prior approval of a grantor agency.

B. Costs allowable with approval of FNS.

(1) *Automated Data Processing.* The costs of acquiring data processing equipment and services used in the administration of the Food Stamp Program are allowable. The costs of ADP equipment and services acquisitions which exceed the prior approval cost thresholds specified in §277.18(c) are allowable upon the prior written approval of FNS. Requests for prior approval of such costs shall be in accordance with the provisions of §277.18.

(2) *Building space and related facilities.* The cost of space in privately or publicly owned buildings used for the benefit of the Program is allowable subject to the following conditions.

(a) The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality.

(b) The cost of space may not be charged to FNS for periods of nonoccupancy, without authorization of FNS.

(i) *Rental cost.* The rental cost of space in a privately-owned building is allowable.

(ii) *Maintenance and operation.* The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space.

(iii) *Rearrangements and alterations.* Costs incurred for rearrangement and alteration of facilities required specifically for the program or those that materially increase the value or useful life of the facilities (section B(3) of these principles) are allowable when specifically approved by FNS.

(iv) *Depreciation and use allowances on publicly owned buildings.* These costs are allowable as provided in paragraph A(11) of these principles.

(v) *Occupancy of space under rental-purchase or a lease with option-to-purchase agreement.* The cost of space procured under such arrangements is allowable when specifically approved by FNS.

(3) *Capital expenditures.* The cost, net of any credits, of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets, and/or of nonexpendable personal property, having a useful life of more than one year and a net acquisition cost of more than \$5,000 per unit after allocation to FNS as projected for one year after purchase, is allowable when such procurement is specifically approved by FNS. No such approval shall be granted unless the State agency shall demonstrate to FNS that such a cost is:

(a) Necessary and reasonable for proper and efficient administration of the program, and allocable thereto under the principles provided herein; and

(b) That procurement of such item or items has been or will be made in accordance with the standards set out in §277.14. In no case shall such a cost become a program charge against FNS prior to approval in writing by FNS of the procurement and the cost. When assets acquired with Food Stamp funds are (i) sold, (ii) no longer available for use in a federally sponsored program, or (iii) used for purposes not authorized by FNS, FNS's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

(4) *Insurance.*

(a) Cost of insurance to secure the State agency against financial losses involved in the acceptance, storage, and issuance of food coupons and ATP cards is allowable with FNS approval.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(i) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(ii) Costs of insurance or contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that FNS approves such cost.

(5) *Management studies.* The cost of management studies to improve the effectiveness and efficiency of program management for the Food Stamp Program is allowable. However, FNS must approve cost in excess of \$2,500 for studies performed by outside consultants or agencies other than the State agency.

(6) *Preagreement costs.* Costs incurred prior to the effective date of approval of the amended indirect cost proposal or the revised Statewide cost allocation plan, whether or not they would have been allowable thereunder if incurred after such date, are allowable only when subsequently provided for in the plan or approved indirect cost proposal.

(7) *Professional services.* Cost of professional services rendered by individuals or organizations not a part of the State agency is allowable. Prior authorization must be obtained from FNS for cost exceeding a total of \$2,500.

(8) *Proposal costs.* Costs of preparing indirect cost proposals or amendments for allocating, distributing, and implementing provisions for payment of portions of the costs of administering the Food Stamp Program by the State agency are allowable.

(9) *Cost incurred by agencies other than the State.* The cost of services provided by other agencies (including municipal governments) may only include allowable direct costs plus a pro rata share of allowable supporting costs and supervision directly required in performing the service. Allowable supporting costs are those services which may be centralized and includes such functions as procurement, payroll, personnel services, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service and the like. Supervision costs will not include supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in the operation of the program. In lieu of determining actual indirect cost related to a particular service performed by another agency, either of the following alternative methods may be used during the fiscal year involved and is specifically provided for in the indirect cost proposal:

(a) Standard indirect rate equal to ten percent of direct labor cost in providing the service (excluding overtime, shift or holiday premiums, and fringe benefits) may be allowed in lieu of actual allowable cost.

(b) A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated.

C. *Unallowable costs.* The following costs shall not be allowable:

(1) *Costs of determining food stamp eligibility incidental to the determination of TANF eligibility are not chargeable to FNS.*

(2) *Bad debts.* Any losses arising from uncollectable accounts or other claims, and related costs, are unallowable.

(3) *Contingencies.* Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

(4) *Contributions and donations.* Unallowable.

(5) *Entertainment.* Costs whose purpose is for amusement, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities are unallowable.

(6) *Fines and penalties.* Costs resulting from violations of or failure to comply with Federal, State and local laws and regulations are unallowable.

(7) *Governor's expenses.* The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable. However, for a federally-recognized Indian tribal government, only that portion of the salaries and expenses of the office of the chief executive that is a cost of general government is unallowable. The portion of salaries and expenses directly attributable to managing and operating programs is allowable.

(8) *Indemnification.* The cost of indemnifying the State against liabilities to third parties and other losses not compensated by insurance is unallowable.

(9) *Interest and other financial costs.* Interest on borrowings, bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable.

(10) *Legislative expenses.* Salaries and other expenses of the State legislature or similar local governmental bodies are unallowable.

(11) *Losses.* Losses which could have been covered by permissible insurance are unallowable.

(12) *Underrecovery of cost under agreements.* Any excess of cost over Federal contribution under one agreement is unallowable under another agreement.

(13) The acquisition of land or buildings is an unallowable cost.

[Amdt. 188, 45 FR 85702, Dec. 30, 1980, as amended by Amdt. 207, 47 FR 52338, Nov. 19, 1982; Amdt. 298, 52 FR 36400, Sept. 29, 1987; Amdt. 316, 54 FR 24531, June 7, 1989; Amdt. 319, 55 FR 4361, Feb. 7, 1990; Amdt. 342, 59 FR 2733, Jan. 19, 1994; Amdt. 385, 65 FR 33441, May 24, 2000]

PART 3016—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

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Subpart A—General

§ 3016.1 Purpose and scope of this part.

This part establishes uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.

§ 3016.2 Scope of subpart.

This subpart contains general rules pertaining to this part and procedures for control of exceptions from this part.

§ 3016.3 Definitions.

As used in this part:

Accrued expenditures mean the charges incurred by the grantee during a given period requiring the provision of funds for: (1) Goods and other tangible property received; (2) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

Accrued income means the sum of: (1) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

Acquisition cost of an item of purchased equipment means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

Administrative requirements mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from *programmatic* requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

Awarding agency means (1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the

party that awarded the subgrant.

Cash contributions means the grantee's cash outlay, including the outlay of money contributed to the grantee or subgrantee by other public agencies and institutions, and private organizations and individuals. When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as grantee or subgrantee cash contributions.

Contract means (except as used in the definitions for *grant* and *subgrant* in this section and except where qualified by *Federal*) a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.

Cost sharing or matching means the value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government.

Cost-type contract means a contract or subcontract under a grant in which the contractor or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

Expenditure report means: (1) For nonconstruction grants, the SF-269 *Financial Status Report* (or other equivalent report); (2) for construction grants, the SF-271 *Outlay Report and Request for Reimbursement* (or other equivalent report).

Federally recognized Indian tribal government means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

Government means a State or local government or a federally recognized Indian tribal government.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

Grantee means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

Local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

OMB means the United States Office of Management and Budget.

Outlays (expenditures) mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports

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prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

Percentage of completion method refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's cost incurred.

Prior approval means documentation evidencing consent prior to incurring specific cost.

Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Share, when referring to the awarding agency's portion of real property, equipment or supplies, means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted—not the value of third-party in-kind contributions.

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of *grant* in this part.

Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Supplies means all tangible personal property other than *equipment* as defined in this part.

Suspension means depending on the context, either (1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or (2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

Termination means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. *Termination* does not include: (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period; (2) Withdrawal of the unobligated balance as of the expiration of a grant; (3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award; or (4) voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

Terms of a grant or subgrant mean all requirements of the grant or subgrant, whether in statute, regulations, or the award document.

Third party in-kind contributions mean property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

Unliquidated obligations for reports prepared on a cash basis mean the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the

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amount of obligations incurred by the grantee for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

§ 3016.4 Applicability.

(a) *General.* Subparts A–D of this part apply to all grants and subgrants to governments, except where inconsistent with Federal statutes or with regulations authorized in accordance with the exception provision of §3016.6, or:

(1) Grants and subgrants to State and local institutions of higher education or State and local hospitals.

(2) The block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (Community Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grants for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under Title V, Subtitle D, Chapter 2, Section 583—the Secretary's discretionary grant program) and Titles I-III of the Job Training Partnership Act of 1982 and under the Public Health Services Act (Section 1921), Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant and Part C of Title V, Mental Health Service for the Homeless Block Grant).

(3) Entitlement grants to carry out the following programs of the Social Security Act:

(i) Aid to Needy Families with Dependent Children (Title IV-A of the Act, not including the Work Incentive Program (WIN) authorized by section 402(a)(19)(G); HHS grants for WIN are subject to this part);

(ii) Child Support Enforcement and Establishment of Paternity (Title IV-D of the Act);

(iii) Foster Care and Adoption Assistance (Title IV-E of the Act);

(iv) Aid to the Aged, Blind, and Disabled (Titles I, X, XIV, and XVI-AABD of the Act); and

(v) Medical Assistance (Medicaid) (Title XIX of the Act) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B).

(4) A grant for an experimental, pilot, or demonstration project that is also supported by a grant listed in paragraph (a)(3) of this section;

(5) Grant funds awarded under subsection 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits;

(6) Grants to local education agencies under 20 U.S.C. 236 through 241–1(a), and 242 through 244 (portions of the Impact Aid program), except for 20 U.S.C. 238(d)(2)(c) and 240(f) (Entitlement Increase for Handicapped Children); and

(7) Payments under the Veterans Administration's State Home Per Diem Program (38 U.S.C. 641(a)).

(b) *Entitlement programs.* In USDA, the entitlement programs enumerated in this paragraph are subject to subparts A through D and the modifications in subpart E of this part.

(1) Entitlement grants under the following programs authorized by The National School Lunch Act:

- (i) National School Lunch Program, General Assistance (section 4 of the Act),
 - (ii) Commodity Assistance (section 6 of the Act),
 - (iii) National School Lunch Program, Special Meal Assistance (section 11 of the Act),
 - (iv) Summer Food Service Program for Children (section 13 of the Act), and
 - (v) Child and Adult Care Food Program (section 17 of the Act);
- (2) Entitlement grants under the following programs authorized by The Child Nutrition Act of 1966:
- (i) Special Milk Program for Children (section 3 of the Act),
 - (ii) School Breakfast Program (section 4 of the Act), and
 - (iii) Entitlement grants for State Administrative Expense Funds (section 7 of the Act); and
- (3) Entitlement grants under the following programs authorized by the Food Stamp Act of 1977:
- (i) Food Distribution Program on Indian Reservations (section 4(b) of the Act), and
 - (ii) State Administrative Expense Funds (section 16 of the Act).

[53 FR 8044, 8087, Mar. 11, 1988, as amended at 65 FR 49480, Aug. 14, 2000]

§ 3016.5 Effect on other issuances.

All other grants administration provisions of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with this part are superseded, except to the extent they are required by statute, or authorized in accordance with the exception provision in §3016.6.

§ 3016.6 Additions and exceptions.

- (a) For classes of grants and grantees subject to this part, Federal agencies may not impose additional administrative requirements except in codified regulations published in the Federal Register.
- (b) Exceptions for classes of grants or grantees may be authorized only by OMB.
- (c) Exceptions on a case-by-case basis and for subgrantees may be authorized by the affected Federal agencies.

Subpart B—Pre-Award Requirements

§ 3016.10 Forms for applying for grants.

- (a) *Scope.* (1) This section prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying for grants. This section is not applicable, however, to formula grant programs which do not require applicants to apply for funds on a project basis.
- (2) This section applies only to applications to Federal agencies for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged to avoid more detailed or

burdensome application requirements for subgrants.

(b) *Authorized forms and instructions for governmental organizations.* (1) In applying for grants, applicants shall only use standard application forms or those prescribed by the granting agency with the approval of OMB under the Paperwork Reduction Act of 1980.

(2) Applicants are not required to submit more than the original and two copies of preapplications or applications.

(3) Applicants must follow all applicable instructions that bear OMB clearance numbers. Federal agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work under a grant. Other supplementary instructions may be issued only with the approval of OMB to the extent required under the Paperwork Reduction Act of 1980. For any standard form, except the SF-424 facesheet, Federal agencies may shade out or instruct the applicant to disregard any line item that is not needed.

(4) When a grantee applies for additional funding (such as a continuation or supplemental award) or amends a previously submitted application, only the affected pages need be submitted. Previously submitted pages with information that is still current need not be resubmitted.

§ 3016.11 State plans.

(a) *Scope.* The statutes for some programs require States to submit plans before receiving grants. Under regulations implementing Executive Order 12372, "Intergovernmental Review of Federal Programs," States are allowed to simplify, consolidate and substitute plans. This section contains additional provisions for plans that are subject to regulations implementing the Executive Order.

(b) *Requirements.* A State need meet only Federal administrative or programmatic requirements for a plan that are in statutes or codified regulations.

(c) *Assurances.* In each plan the State will include an assurance that the State shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. For this assurance and other assurances required in the plan, the State may:

(1) Cite by number the statutory or regulatory provisions requiring the assurances and affirm that it gives the assurances required by those provisions,

(2) Repeat the assurance language in the statutes or regulations, or

(3) Develop its own language to the extent permitted by law.

(d) *Amendments.* A State will amend a plan whenever necessary to reflect:

(1) New or revised Federal statutes or regulations or

(2) A material change in any State law, organization, policy, or State agency operation. The State will obtain approval for the amendment and its effective date but need submit for approval only the amended portions of the plan.

§ 3016.12 Special grant or subgrant conditions for "high-risk" grantees.

(a) A grantee or subgrantee may be considered "high risk" if an awarding agency determines that a grantee or subgrantee:

(1) Has a history of unsatisfactory performance, or

- (2) Is not financially stable, or
 - (3) Has a management system which does not meet the management standards set forth in this part, or
 - (4) Has not conformed to terms and conditions of previous awards, or
 - (5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.
- (b) Special conditions or restrictions may include:
- (1) Payment on a reimbursement basis;
 - (2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;
 - (3) Requiring additional, more detailed financial reports;
 - (4) Additional project monitoring;
 - (5) Requiring the grantee or subgrantee to obtain technical or management assistance; or
 - (6) Establishing additional prior approvals.
- (c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of:
- (1) The nature of the special conditions/restrictions;
 - (2) The reason(s) for imposing them;
 - (3) The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions; and
 - (4) The method of requesting reconsideration of the conditions/restrictions imposed.

Subpart C—Post-Award Requirements

Financial Administration

§ 3016.20 Standards for financial management systems.

- (a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to—
 - (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.
- (b) The financial management systems of other grantees and subgrantees must meet the following standards:
 - (1) *Financial reporting.* Accurate, current, and complete disclosure of the financial results of financially assisted

activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) *Accounting records.* Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) *Internal control.* Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) *Budget control.* Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(5) *Allowable cost.* Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.

(6) *Source documentation.* Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

(7) *Cash management.* Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

§ 3016.21 Payment.

(a) *Scope.* This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.

(b) *Basic standard.* Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205.

(c) *Advances.* Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

(d) *Reimbursement.* Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.

(e) *Working capital advances.* If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance

basis. Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the subgrantee's actual cash disbursements.

(f) *Effect of program income, refunds, and audit recoveries on payment.* (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.

(2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(g) *Withholding payments.* (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless—

(i) The grantee or subgrantee has failed to comply with grant award conditions or

(ii) The grantee or subgrantee is indebted to the United States.

(2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with §3016.43(c).

(3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(h) *Cash depositories.* (1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.

(2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State agreement.

(i) *Interest earned on advances.* Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 *et seq.*) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.

§ 3016.22 Allowable costs.

(a) *Limitation on use of funds.* Grant funds may be used only for:

(1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

(b) *Applicable cost principles.* For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the

organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

For the costs of a_	Use the principles in_
State, local or Indian tribal government..	OMB Circular A-87.
Private nonprofit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in OMB Circular A-122 as not subject to that circular.	OMB Circular A-122.
Educational institutions.....	OMB Circular A-21.
For-profit organization other than a hospital and an organization named in OMB Circular A-122 as not subject to that circular.	48 CFR part 31. Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.

§ 3016.23 Period of availability of funds.

(a) *General.* Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.

(b) *Liquidation of obligations.* A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF-269). The Federal agency may extend this deadline at the request of the grantee.

§ 3016.24 Matching or cost sharing.

(a) *Basic rule: Costs and contributions acceptable.* With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:

(1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

(2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requirements applies.

(b) *Qualifications and exceptions—*(1) *Costs borne by other Federal grant agreements.* Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income

earned by a grantee or subgrantee from a contract awarded under another Federal grant.

(2) *General revenue sharing.* For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.

(3) *Cost or contributions counted towards other Federal costs-sharing requirements.* Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

(4) *Costs financed by program income.* Costs financed by program income, as defined in §3016.25, shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in §3016.25(g).)

(5) *Services or property financed by income earned by contractors.* Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.

(6) *Records.* Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.

(7) *Special standards for third party in-kind contributions.* (i) Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Costs sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

(iii) A third party in-kind contribution to a fixed-price contract may count towards

satisfying a cost sharing or matching requirement only if it results in:

(A) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or

(B) A cost savings to the grantee or subgrantee.

(iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.

(c) *Valuation of donated services*—(1) *Volunteer services*. Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation.

(2) *Employees of other organizations*. When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (c)(1) of this section applies.

(d) *Valuation of third party donated supplies and loaned equipment or space*. (1) If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.

(2) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.

(e) *Valuation of third party donated equipment, buildings, and land*. If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:

(1) *Awards for capital expenditures*. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching,

(2) *Other awards*. If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (i) and (ii) of this section apply:

(i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost-sharing or matching.

(ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead, they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in §3016.22, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.

(f) *Valuation of grantee or subgrantee donated real property for construction/acquisition.* If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost sharing or matching.

(g) *Appraisal of real property.* In some cases under paragraphs (d), (e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by the grantee. This requirement will also be imposed by the grantee on subgrantees.

§ 3016.25 Program income.

(a) *General.* Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.

(b) *Definition of program income.* Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. "During the grant period" is the time

between the effective date of the award and the ending date of the award reflected in the final financial report.

(c) *Cost of generating program income.* If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.

(d) *Governmental revenues.* Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.

(e) *Royalties.* Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (See §3016.34.)

(f) *Property.* Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of §§3016.31 and 3016.32.

(g) *Use of program income.* Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.

(1) *Deduction.* Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.

(2) *Addition.* When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.

(3) *Cost sharing or matching.* When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.

(h) *Income after the award period.* There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the

ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

§ 3016.26 Non-Federal audit.

(a) *Basic rule.* Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations.” The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(1) In USDA, revised OMB Circular A–133 is implemented in 7 CFR part 3052, “Audits of States, Local Governments, and Non-Profit Organizations.”

(2) [Reserved]

(b) *Subgrantees.* State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends \$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A–110, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A–110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) *Auditor selection.* In arranging for audit services, §3016.36 shall be followed.

[53 FR 8044, 8087, Mar. 11, 1988, as amended at 62 FR 45939, Aug. 29, 1997]

Changes, Property, and Subawards

§ 3016.30 Changes.

(a) *General.* Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.

(b) *Relation to cost principles.* The applicable cost principles (see §3016.22) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.

(c) *Budget changes.* (1) *Nonconstruction projects.* Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a nonconstruction award:

(i) Any revision which would result in the need for additional funding.

(ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) *Construction projects.* Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.

(3) *Combined construction and nonconstruction projects.* When a grant or subgrant provides funding for both construction and nonconstruction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from nonconstruction to construction or vice versa.

(d) *Programmatic changes.* Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(1) Any revision of the scope or objectives of the project (regardless of whether there is an

associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under nonconstruction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of §3016.36 but does not apply to the procurement of equipment, supplies, and general support services.

(e) *Additional prior approval requirements.* The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.

(f) *Requesting prior approval.* (1) A request for prior approval of any budget revision will be in the same budget form as the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.

(2) A request for a prior approval under the applicable Federal cost principles (see §3016.22) may be made by letter.

(3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

§ 3016.31 Real property.

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) *Use.* Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

(c) *Disposition.* When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding

agency. The instructions will provide for one of the following alternatives:

(1) *Retention of title.* Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) *Sale of property.* Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

(3) *Transfer of title.* Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

§ 3016.32 Equipment.

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) *States.* A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) *Use.* (1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or

projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §3016.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) *Management requirements.* Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) *Disposition.* When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share

of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) *Federal equipment.* In the event a grantee or subgrantee is provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) *Right to transfer title.* The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow §3016.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

§ 3016.33 Supplies.

(a) *Title.* Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) *Disposition.* If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

§ 3016.34 Copyrights.

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

- (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
- (b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

§ 3016.35 Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

§ 3016.36 Procurement.

(a) *States*. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) *Procurement standards*. (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only—

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) *Competition.* (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §3016.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) *Methods of procurement to be followed.* (1) Procurement by *small purchase procedures*. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by *sealed bids* (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for

bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in §3016.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals*. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) *Contracting with small and minority firms, women's business enterprise and labor surplus area firms.* (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on

solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) *Contract cost and price.* (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §3016.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of

contracting shall not be used.

(g) *Awarding agency review.* (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in

compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for

construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

[53 FR 8044, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19641, Apr. 19, 1995]

§ 3016.37 Subgrants.

(a) *States*. States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:

(1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;

(2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;

(3) Ensure that a provision for compliance with §3016.42 is placed in every cost reimbursement subgrant; and

(4) Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.

(b) *All other grantees*. All other grantees shall follow the provisions of this part which are applicable to awarding agencies when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. Grantees shall:

(1) Ensure that every subgrant includes a provision for compliance with this part;

(2) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations; and

(3) Ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.

(c) *Exceptions*. By their own terms, certain provisions of this part do not apply to the award and administration of subgrants:

(1) Section 3016.10;

(2) Section 3016.11;

(3) The letter-of-credit procedures specified in Treasury Regulations at 31 CFR part 205, cited in §3016.21; and

(4) Section 3016.50.

Reports, Records, Retention, and Enforcement

§ 3016.40 Monitoring and reporting program performance.

(a) *Monitoring by grantees.* Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) *Nonconstruction performance reports.* The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.

(1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(c) *Construction performance reports.* For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(d) *Significant developments.* Events may occur between the scheduled performance

reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

- (1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- (2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.
- (e) Federal agencies may make site visits as warranted by program needs.
- (f) *Waivers, extensions.* (1) Federal agencies may waive any performance report required by this part if not needed.
- (2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

§ 3016.41 Financial reporting.

- (a) *General.* (1) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB, for:
 - (i) Submitting financial reports to Federal agencies, or
 - (ii) Requesting advances or reimbursements when letters of credit are not used.
- (2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.
- (3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decisionmaking purposes.
- (4) Grantees will not be required to submit more than the original and two copies of forms

required under this part.

(5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.

(6) Federal agencies may waive any report required by this section if not needed.

(7) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.

(b) *Financial Status Report*—(1) *Form*. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all nonconstruction grants and for construction grants when required in accordance with paragraph §3016.41(e)(2)(iii) of this section.

(2) *Accounting basis*. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.

(3) *Frequency*. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.

(4) *Due date*. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(c) *Federal Cash Transactions Report*—(1) *Form*. (i) For grants paid by letter or credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.

(ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.

(2) *Forecasts of Federal cash requirements.* Forecasts of Federal cash requirements may be required in the “Remarks” section of the report.

(3) *Cash in hands of subgrantees.* When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days' needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(4) *Frequency and due date.* Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) *Request for advance or reimbursement—*(1) *Advance payments.* Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) *Reimbursements.* Requests for reimbursement under nonconstruction grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (e)(1) of this section.)

(3) The frequency for submitting payment requests is treated in §3016.41(b)(3).

(e) *Outlay report and request for reimbursement for construction programs.* (1) Grants that support construction activities paid by reimbursement method.

(i) Requests for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in §3016.41(d), instead of this form.

(ii) The frequency for submitting reimbursement requests is treated in §3016.41(b)(3).

(2) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance.

(i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by §3016.41(b) (3) and (4).

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in §3016.41(d).

(iii) The Federal agency may substitute the Financial Status Report specified in §3016.41(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

(3) *Accounting basis.* The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by §3016.41(b)(2).

§ 3016.42 Retention and access requirements for records.

(a) *Applicability.* (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see §3016.36(i)(10).

(b) *Length of retention period.* (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) *Starting date of retention period—(1) General.* When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its

single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) *Real property and equipment records.* The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) *Records for income transactions after grant or subgrant support.* In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.

(4) *Indirect cost rate proposals, cost allocations plans, etc.* This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) *Substitution of microfilm.* Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) *Access to records—(1) Records of grantees and subgrantees.* The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) *Expiration of right of access.* The rights of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) *Restrictions on public access.* The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records Unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

§ 3016.43 Enforcement.

(a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,
- (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,
- (3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,
- (4) Withhold further awards for the program, or
- (5) Take other remedies that may be legally available.

(b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

- (1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
- (2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to Debarment and Suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee

from being subject to “Debarment and Suspension” under E.O. 12549 (see §3016.35).

§ 3016.44 Termination for convenience.

Except as provided in §3016.43 awards may be terminated in whole or in part only as follows:

- (a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or
- (b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §3016.43 or paragraph (a) of this section.

Subpart D—After-the-Grant Requirements

§ 3016.50 Closeout.

- (a) *General.* The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.
- (b) *Reports.* Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:
 - (1) Final performance or progress report.
 - (2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF–271) (as applicable.)
 - (3) Final request for payment (SF–270) (if applicable).
 - (4) Invention disclosure (if applicable).
 - (5) Federally-owned property report:In accordance with §3016.32(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.
- (c) *Cost adjustment.* The Federal agency will, within 90 days after receipt of reports in

paragraph (b) of this section, make upward or downward adjustments to the allowable costs.

(d) *Cash adjustments.* (1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.

(2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

§ 3016.51 Later disallowances and adjustments.

The closeout of a grant does not affect:

(a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;

(b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;

(c) Records retention as required in §3016.42;

(d) Property management requirements in §§3016.31 and 3016.32; and

(e) Audit requirements in §3016.26.

§ 3016.52 Collection of amounts due.

(a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements,

(2) Withholding advance payments otherwise due to the grantee, or

(3) Other action permitted by law.

(b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E—Entitlement

Source: 65 FR 49480, Aug. 14, 2000, unless otherwise noted.

§ 3016.60 Special procurement provisions.

(a) Notwithstanding §§3016.36(a) and 3016.37(a), States conducting procurements under grants or subgrants under the USDA entitlement programs specified in §3016.4(b) may elect to follow either the State laws, policies, and procedures as authorized by §§3016.36(a) and 3016.37(a), or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with §3016.36(b) through (i). Regardless of the option selected, States shall ensure that paragraphs (b) and (c) of this section are followed

(b) When conducting a procurement under the USDA entitlement programs specified in §3016.4(b) of this part, a grantee or subgrantee may enter into a contract with a party that has provided specification information to the grantee or subgrantee for the grantee's or subgrantee's use in developing contract specifications for conducting such a procurement. In order to ensure objective contractor performance and eliminate unfair competitive advantage, however, a person that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by a grantee or subgrantee in conducting a procurement under the USDA entitlement programs specified in §3016.4(b) shall be excluded from competing for such procurements. Such persons are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide grantees or subgrantees with specification information related to a procurement and still compete for the procurement if the grantee or subgrantee, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement.

(c) Procurements under USDA entitlement programs specified in §3016.4(b) shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences except as provided for in §3016.36(c)(2).

§ 3016.61 Financial reporting.

The financial reporting provisions found in §3016.41 do not apply to any of the USDA entitlement programs listed in §3016.4(b) except the Food Distribution Program on Indian Reservations. The financial reporting requirements for these entitlement programs are found in the following program regulations:

- (a) For the National School Lunch Program, 7 CFR part 210;
- (b) For the Special Milk Program for Children, 7 CFR part 215;
- (c) For the School Breakfast Program, 7 CFR part 220;

- (d) For the Summer Food Service Program for Children, 7 CFR part 225;
- (e) For the Child and Adult Care Food Program, 7 CFR part 226;
- (f) For State Administrative Expense Funds under section 7 of the Child Nutrition Act of 1966, 7 CFR part 235; and
- (g) For State Administrative Expenses under section 16 of the Food Stamp Act of 1977, 7 CFR part 277.