

Subject: Eligibility Determination for Recipient Agencies and Recipients

A. Purpose. This policy prescribes the terms and conditions under which donated foods may be obtained from USDA for use in the child nutrition programs and the Nutrition Services Incentive Program (NSIP).

B. Scope. This policy applies to all schools participating in the National School Lunch Program (NSLP), Summer Food Service Program (SFSP) and the Nutrition Programs for the Elderly (NPE).

C. Authority.

1. 7 CFR 250.11, Eligibility determination for recipient agencies and recipients.
2. SERO, USDA, Policy Memorandum 250.03-01
3. SERO, USDA, Policy Memorandum 250.11-01, Public Disclosure of Information Regarding Food Distribution Program Recipients.
4. USDA Policy Memorandum FD-065 – Nutrition Services Incentive Program (NSIP) – Program Operations in FY 2008 and Subsequent Years

D. Eligibility of Recipient Agencies.

1. NSLP and SFSP. The Department of Education (DOE) will determine the eligibility of schools participating in the NSLP and/or the SFSP and will advise the Bureau as to the organizations that are eligible for commodity assistance. The Department of Elder Affairs (DOEA) will advise the Bureau of those programs that have elected to receive USDA donated commodities. Pursuant to the Nutrition Services Incentive Program, once a recipient agency has been determined to be eligible for participation in the program, the Bureau will enter into an agreement with the agency in accordance with policy 250.12 and make donated foods available.

2. Nutrition Services Incentive Program (NSIP) in the Food Distribution Program.

- (a) Entitlement. The quantity of donated foods or the amount of cash payments in lieu thereof provided to the State will be based on the number of meals to be served, without regard to funding, as reported by the Department of Elder Affairs (DOEA). The State's entitlement will be decided by multiplying the number of meals by the annually programmed level of assistance per meal. If the DOEA elects to receive all or part of its entitlement in donated

commodities, the value of the commodities shall be computed based on USDA's average cost of acquiring and delivering the commodities.

- (b) The DOEA decides if the State will receive its entitlement in donated foods, cash payments, or a combination of the two. If DOEA chooses a combination of cash and donated foods, it will specify the percentage of its entitlement to be used for donated foods. The decision for each fiscal year (October 1 to September 30) is to be provided to the Food and Nutrition Service by August 31 of the preceding fiscal year. The decision is binding on DOEA for the fiscal year for which it is made.
- (c) Availability of Commodities. The provision of Policy 250.13-1 applies to NSIP in the selection of desired commodities.
- (d) Catering Facilities. A NSIP may employ a commercial kitchen, restaurant, food service management company or other catering service in the preparation of meals containing donated foods.
- (e) Processing Contracts. If commercial or institutional facilities are employed to process donated commodities into different products or repackage donated commodities, the provisions of 7 CFR 250.30 applies.

E. Public Disclosure of Information Regarding Food Distribution Program Recipients.

Normally, most records of Federal, State and local programs such as Temporary Assistance to Needy Families (TANF), State and local general assistance, medical assistance, social security, etc., are maintained so as to protect the privacy of recipients from unwarranted injury, annoyances, or **unsolicited** publicity **should such record** be requested for public release. The disclosure of recipients' names, addresses, and other identifying information is discouraged; however, release of program information such as terms and conditions of Federal/State agreements, eligibility criteria, distribution, and participation information statistics, etc. may be released.

The confidentiality requirements extend to the information provided on free and reduced price applications submitted for Child Nutrition Programs. The information provided in free and reduced price meal and free milk applications can be used only for determining eligibility for Child Nutrition Program benefits and carrying out verification requirements. However, this does not exclude providing summary information such as the number of children eligible for reduced price meals and milk, without disclosing names of eligible children. In determining individual or household eligibility for other programs, free and reduced price application information can only be released if prior approval is obtained from applicant household. Specific signed releases can be obtained or the application and notification wording may be modified to denote that the application information could be used in determining eligibility for other programs besides Child Nutrition Programs.

Also, all agencies receiving requests for names of food assistance should consult the State's Attorney General's Office since the release of such information may violate State privacy laws.