

DEPARTMENT OF AGRICULTURE & CONSUMER SVCS
BUREAU OF FOOD DISTRIBUTION
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SUBJECT: Definitions

Bonus Foods. Donated foods purchased and provided to distributing agencies in addition to legislatively authorized levels of assistance.

Charitable Institution. A public institution or nonprofit organization, as defined in this section that provides a meal service on a regular basis to predominantly needy persons in the same place without marked changes.

Child or Adult Care Institutions. Any child or adult care institution which participates independently in the Child and Adult Care Food Program (CACFP), or under auspices of a sponsoring organization, in accordance with an agreement with the distributing agency.

Child Nutrition Program. The National School Lunch Program (NSLP), the School Breakfast Program, the Summer Food Service Program for Children (SFSP), or the Child and Adult Care Food Program (CACFP).

Commodities. Foods donated or available for donation by USDA under any of the legislation referred to in 7CFR.

Commodity School. A school operating a nonprofit school food service, in accordance with 7CFR part 210, but that receives additional donated food assistance rather than the general cash assistance available to it under Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753).

Contract value of donated foods. The price assigned by USDA to a donated food which shall reflect USDA's current acquisition price, transportation, and, if applicable, processing costs related to the food.

Contracting Agency. The Bureau or a recipient agency that enters into a processing contract.

Disaster means:

- (a) Any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslides, mudslide, snowstorm, drought) or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (Stafford Act) to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby;

or

- (b) Any other occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Disaster Organization. Organizations authorized by appropriate Federal or State officials to assist disaster victims.

Disaster Victims. Persons who, because of acts of God or manmade disasters, are in need of food assistance, whether or not they are victims of a major disaster or an emergency as defined in this manual.

Discount System. A system whereby a recipient agency purchases end products directly from a processor at an established wholesale price minus the contract value of the donated foods contained in the end products.

Distributing Agency. In the State of Florida, the Department of Agriculture and Consumer Services, Bureau of Food Distribution, is the distributing agency. The Department has entered into an agreement with USDA for the distribution of donated foods to eligible recipient agencies and recipients and the Bureau agrees to accept title to commodities delivered by the Commodity Credit Corporation (CCC).

Distributor. A commercial food purveyor or handler who is independent of a processor and both sells and bills for the end product delivered to recipient agencies.

Donated Foods. Food donated or available for donation by USDA under appropriate legislation.

Electronic Commodity Ordering System. (ECOS) A web-based system used by distributing agencies to place orders for donated foods.

End Product. A food product containing any amount of processed donated foods.

Entitlement. The value of donated foods a distributing agency is authorized to receive in a specific food distribution or child nutrition program, in accordance with program legislation.

Entitlement Foods. Donated foods purchased and provided in accordance with levels of assistance mandated by program legislation.

Federal Acceptance Service. The acceptance service provided by:

- (a) The applicable grading branches of the USDA's Agricultural Marketing Service (AMS).

(b) USDA's Grain Inspection Service.

(c) The National Marine Fisheries Service of the U.S. Department of Commerce.

Fee for Service. The price by pound or by case representing a processor's cost of ingredients (other than donated foods), labor, packaging, overhead, and other costs incurred in the conversion of the donated food into specified end product.

Fiscal Year. The period of 12 months beginning October 1 of any calendar year and ending September 30 of the following year.

FNS. The Food and Nutrition Service of the Department of Agriculture.

FNSRO. The Food and Nutrition Service Regional Office of the Department of Agriculture. For the State of Florida, the office is located in Atlanta, Georgia

Food Service Management Company. A commercial enterprise, nonprofit organization or public institution that is, or may be contracted with by a recipient agency, to manage any aspect of a recipient agency's food service, in accordance with 7CFR parts 210, 225, 226, or, with respect to charitable institutions, in accordance with 7 CFR part 250 .

In-kind Replacement. Replacement of lost donated foods with a quantity of the same foods, of U.S. origin, that are of equal or better quality than the lost foods and that are of at least equal monetary value to USDA's cost of replacing the lost foods.

In-State Processor: A manufacturer only doing business in one state and their plant or business office is located in that state; these processors would not participate in the National Processing Agreement (NPA), but would require a State Master Processing Agreement.

Multi-State Processor:

(a) A processor which has entered into a processing contract with contracting agencies in more than one state, or

(b) A processor which has entered into a processing contract with one or more contracting agencies located in a state other than the one in which either the processor's plant or business office is located.

These processors are eligible to participate in the National Processing Agreement (NPA).

Net-Off Invoice. A variation of the 'hybrid system' at 7CFR 250.30(e)(1)(ii), which allows distributors to sell end products to eligible recipients at a discount and submit a refund application for the value of the donated food contained in each case to the processor as required by 250.30(k)(2). Under the approved Net-Off Invoice System, the distributor does not submit a physical refund application, but rather deducts any eligible discount from the invoice received from the processor.

Nonprofit School Food Service. All food service operations conducted by the school food

authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food services.

Performance Supply and Surety Bond. A written instrument issued by a surety company which guarantees performance and supply of end products by a processor under the terms of the processing contract.

Processing:

- (a) The conversion of a donated food(s) into a different end product at a commercial facility by a commercial enterprise.
- (b) The repackaging of a donated food(s) at a commercial facility by a commercial enterprise.
- (c) The use of donated foods in the preparation of meals at a commercial facility.

Processor. A commercial enterprise that processes donated foods at a commercial facility. However, commercial enterprises which handle, prepare and/or serve products or meals containing donated foods on-site solely for the individual recipient agency under contract are exempt under this definition. Notwithstanding this definition, a recipient agency which prepares products or meals containing donated foods for more than one recipient agency under more than one contract in the same facility or prepares products or meals for any one recipient agency off site shall not be a processor if the recipient agency preparing products or meals provides: (1) accountability for any donated foods received from another recipient agency and (2) any funds received as payment for preparing products or meals shall be deposited in the nonprofit meal account of the recipient agency preparing products or meals.

Recipient Agencies. Agencies or organizations that receive donated foods, in accordance with an agreement signed with the distributing agency or with another recipient agency.

Refund:

- (a) A credit or check issued to a distributor in an amount equal to the contract value of donated foods contained in an end product sold by the distributor to a recipient agency at a discounted price, and
- (b) A check issued to a recipient agency in an amount equal to the contract value of donated foods contained in an end product sold to the recipient agency under a refund system.

Refund Application. An application by a recipient agency in any form acceptable to the processor which certifies purchase of end products and requests a refund of the contract value of the donated foods contained in the end products purchased.

Refund System. A system whereby a recipient agency purchases a processor's end products

and receives from the processor a payment equivalent to the contract value of the donated foods contained in the end products.

School:

- (a) An educational unit of high school grade or under, recognized as part of the educational system in the State and operating under public or nonprofit private ownership in a single building or complex of buildings. The term “high school grade or under” includes classes of pre-primary grade when recognized as part of the education system of the State.
- (b) Any public or nonprofit private classes of pre-primary grade when they are conducted in those schools defined in paragraph (a) in this definition having classes of primary or higher grade.
- (a) Any public or nonprofit private residential child care institution, which operates principally for the care of children, and if private, is licensed to provide residential child care services under the State licensing code, except for residential summer camps which participate in the Summer Food Service Program for Children, Job Corps Centers funded by the Department of Labor and private foster homes. The term “residential child care institutions” includes but is no limited to: homes for the mentally, emotionally or physically impaired, and unmarried mothers and their infants; group homes; halfway houses; orphanages, temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill; and juvenile detention centers. A long-term care facility is a hospital, skilled nursing facility, intermediate care facility, or distinct part thereof, which is intended for the care of children confined for 30 days or more.

School Food Authority. The governing body which is responsible for administration of one or more schools and which has the legal authority to operate a nonprofit school food service therein or otherwise approved by FNS to operate the NSLP.

School Year. The period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

Section 4 (a). Section 4 (a) of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c note). Section 4 (a) authorizes the purchase of foods for distribution to maintain the traditional level of assistance for food assistance programs as are authorized by law, including institutions, supplemental feeding programs, disaster areas and summer camps for children.

Section 6. Section 6 of the National School Lunch Act, as amended (42 U.S.C. 1775). Section 6 authorizes the purchase of foods for distribution to schools and institutions participating in child nutrition programs under the National School Lunch Act and specifies the level of assistance which is to be provided.

Section 14. Means Section 14 of the National School Lunch Act, as amended (42 U.S.C.

17662a). Section 14 authorizes the purchase of foods for distribution to maintain the annually programmed level of assistance for programs carried on under the National School Lunch Act, the Child Nutrition Act of 1966, and title III of the Older Americans Act of 1965.

Section 32. Means Section 32 of Pub. L. 74-320, as amended (7U.S.C. 612c). Section 32 authorizes USDA to purchase non-basic perishable foods available under surplus removal operations, for the purpose of encouraging the domestic consumption of such foods by diverting them from the normal channels of trade or commerce.

Section 311. Means Section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a). Section 311 authorizes the purchase of commodities for nutrition programs for the elderly and permits State Agencies on Aging to receive all, or part, of their NSIP grant as donated foods.

Section 416. Means Section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431). Section 416 authorizes the Department to donate basic nonperishable foods acquired through Federal price-support operations for use by needy persons, for use in nonprofit school lunch programs and nonprofit summer camps for children and for use in charitable institutions to the extent that needy persons are served.

Section 709. Means Section 709 of the Food and Agricultural Act of 1965, as amended (7 U.S.C. 1446a-1). Section 709 authorizes the purchase of adequate supplies of dairy products to meet the requirements of schools, domestic relief distribution, and other programs authorized by law when stocks of the Commodity Credit Corporation are insufficient to meet those requirements.

Service Institutions. Recipient Agencies which participate in the Summer Food Service program authorized under section 13 of the National School Lunch Act, as amended (42 U.S.C. 1761).

Similar Replacement. Replacement of lost donated foods with a quantity of similar foods of U.S. origin of the same types as those normally donated by USDA and of at least equal monetary value to USDA's cost of replacing the lost foods. Such replacement shall be subject to the approval of SERO, USDA.

Situation of Distress:

- (a) A hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion or other natural catastrophe not declared by the President to be to be a disaster, but which, in the judgment of the State, warrants the use of USDA commodities for congregate feeding, and
- (b) Any other situation not declared by the President to be a disaster, but which in the judgment of FNS, warrants the use of USDA commodities for congregate feeding or

household distribution.

State Agency. The state agency that has been designated by the Governor and approved by the United States Department of Health and Human Services (DHHS) to administer the nutrition programs for the elderly under title III of the Older Americans Act, as amended. In the State of Florida, the agency is the Department of Elder Affairs (DOEA).

Storage Facility. An operation that provides warehousing services, or provides both warehousing and delivery services.

Substituted Food. Domestically produced food that is purchased or manufactured by a processor and is substituted for donated food.

Substitution:

- (a) The replacement of donated foods with like quantities of domestically produced commercial foods of the same generic identity and of equal or better quality (i.e., cheddar cheese for cheddar cheese, nonfat dry milk for nonfat dry milk, etc.), or
- (b) In the case of donated nonfat dry milk, substitution as defined under (a) of this definition or replacement with an equivalent amount, based milk solids content of domestically produced concentrated skim milk.

Summer Camps. Private nonprofit organizations or public institutions which do not participate in the Summer Food Service Program for Children who, during the month of May through September, provide meal services for children of high school grade and under.