



# **Commodity Supplemental Food Program**

*Policy and Procedure Manual*

CSFP  
*Food and Nutrition Division*  
7/23/21

**Policy and Procedure Manual**  
**COMMODITY SUPPELMENTAL FOOD PROGRAM**  
Food and Nutrition Division



<b>Section 1 – State Contact Information</b>	<b>3</b>
<b>Section 2 – Introduction</b>	<b>3</b>
<b>Section 3 – Eligibility Certification</b>	<b>5</b>
3.1 – Household Concept	
3.2 – Certification Period	
3.3 – Moving within Nevada	
3.4 – Notice of Expiration	
3.5 – Eligible Persons	
3.6 – Maximum Gross Income	
3.7 – Types of Income	
3.8 – Residency Requirements	
3.9 – Age Requirements	
3.10 – Application Determination Notification	
3.11 – Certification Process	
<b>Section 4 – Program Administration</b>	<b>11</b>
4.1 – Federal Administration	
4.2 – State Administration	
4.3 – Local Administration	
<b>Section 5 – State Plan</b>	<b>12</b>
5.1 – Time Frames	
<b>Section 6 – Local Agency Participation Requirements</b>	<b>13</b>
6.1 – Minimum Local Agency Participation Requirements	
6.2 – Tax-Exempt Status	
<b>Section 7 – Caseload</b>	<b>15</b>
7.1 – Base Caseload	
7.2 – Additional Caseload	
7.3 – Requesting Additional Caseload	
7.4 – Time Frames	
7.5 – Applicants Exceed Caseload	
<b>Section 8 – Nutrition Education</b>	<b>17</b>
8.1 – NDA Requirements	
8.2 – Local Agency Requirements	
8.3 – Cooking Demonstrations	
8.4 – Nutrition Education Surveys	
<b>Section 9 – Dual Participation</b>	<b>19</b>
<b>Section 10 – Program Violations</b>	<b>19</b>
<b>Section 11 – Administrative Funds</b>	<b>20</b>
11.1 – Appropriate Use	
11.2 – Procurement Procedures	
11.3 – Program Income	
11.4 – Funds Recovered from Claims Actions	
<b>Section 12 – Claims</b>	<b>21</b>
12.1 – Claims Against Local Agencies	
12.2 – Claims Against Program Participants	
<b>Section 13 – Financial Management Requirements</b>	<b>23</b>

**Policy and Procedure Manual**  
**COMMODITY SUPPLEMENTAL FOOD PROGRAM**  
Food and Nutrition Division



<b>Section 14 – Distribution and Use of CSFP Foods</b>	<b>23</b>
<b>Section 15 – Shipment and Receipt of CSFP Foods</b>	<b>24</b>
15.1 – Delivery Appointment	
15.2 – Advanced Shipping Notification	
15.3 – Destination Changes	
15.4 – Vendor or Carrier Unable to Deliver USDA Foods	
15.5 – Inspecting the Shipment	
15.6 – Accepting and Receipting for the Shipment	
15.7 – Unloading the Shipment	
15.8 – Disposition and Replacement of Out-of-Condition Foods	
15.9 – Records	
<b>Section 16 – Commodity Storage and Inventory</b>	<b>31</b>
16.1 – Safe Storage and Control	
16.2 – Inventory Management	
16.3 – Inventory Reporting	
16.4 – Commercial Storage Facilities	
<b>Section 17 – Record Keeping and Reporting</b>	<b>32</b>
17.1 – Records	
17.2 – Reporting	
<b>Section 18 – Program Reviews</b>	<b>33</b>
<b>Section 19 – Termination of Participation</b>	<b>34</b>
19.1 – Termination Initiated by NDA	
19.2 – Termination Initiated by Local Agencies	
<b>Section 20 – Confidentiality</b>	<b>34</b>
<b>Section 21 – Civil Rights Requirements</b>	<b>35</b>
21.1 – Protected Bases and Implementing Regulations	
21.2 – Non-Discrimination Statement	
21.3 – Required Notifications	
21.4 – Referral Requirements	
21.5 – Training Requirements	
21.6 – Racial/Ethnic Data Reporting	
21.7 – Complaints	
<b>Section 22 – Limited English Proficiency</b>	<b>40</b>
<b>Section 23 – Fair Hearings</b>	<b>40</b>
23.1 – Continuance of Benefits	
23.3 Conducting the Fair Hearing	
<b>Section 24 – Management Reviews</b>	<b>41</b>

## **Section 1 – State Contact Information**

### State Contact Information

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## **Section 2 – Introduction**

The CSFP Policy and Procedure Manual is intended for use by recipient agencies participating in client certification and distribution of USDA/FNS commodities to program-eligible participants. The purpose of this manual is to serve as a guide to Federal regulations pertaining to CSFP, as well as to outline discretionary State policies and procedures for recipient agency program implementation.

This manual incorporates Federal regulations in the CFR (7 CFR, Parts 247 and 250) outlining the Federal program requirements for CSFP, Federal rules providing guidance related to program administration, and State requirements and program options.

This policy and procedure manual should be considered a living document, meaning that the manual contains current CSFP program policies and procedures required by the Federal government and NDA. NDA may clarify or add policies and procedures as situations in the field prompt the need for further interpretation or greater program structure, or if changes in regulations occur. In keeping with the Federal trend toward simplification and flexibility, this manual, in some instances, provides the spirit of certain policies and procedures, rather than the letter of the law, to provide discretion at the local level. Our primary mission is to distribute USDA Foods to the agencies and households who are in need of food assistance, while treating all clients with dignity and respect.

It is the responsibility of recipient agencies to:

- read this manual carefully and apply the policies and procedures herein with good judgment.
- stay current with subsequent NDA policy and information notices issued after the creation of this manual and adhere to the policies and procedures therein.
- contact the NDA Program Specialist when further clarification is needed.

## **2.1 Program History and Description**

In the 1960s and 1970s, several laws were enacted to create programs with a USDA Foods (see textbox) component which were designed to meet the food needs of specific segments of the population. CSFP—originally intended to supplement the diets of low-income pregnant and breastfeeding women, other new mothers up to one year postpartum, infants, children up to age six and seniors—was authorized during this period in the Agriculture and Consumer Protection Act of 1973 (Pub. L. 93-86).

The Agricultural Act of 2014 (Pub. L. 113-79) brought a change to CSFP in that women, infants and children who applied to participate in CSFP on February 7, 2014, or later were no longer eligible for certification. Women, infants and children who were certified and receiving CSFP benefits as of February 6, 2014 remained eligible for continuing certification, until they were no longer eligible under program rules in effect on February 6, 2014.

(<https://www.fns.usda.gov/fdd/fdd-history-and-background>)

CSFP now focuses on improving the health of low-income seniors at least 60 years of age by supplementing their diets with nutritious USDA Foods and providing administrative funds to participating States and Indian Tribal Organizations. (Food and Nutrition Service Nutrition Program Fact Sheet, January 2016)

To receive USDA Foods through CSFP, clients must reside in a Nevada county with available caseload, meet the income limits defined in this manual and provide enough information to the agency determining eligibility for a certification decision to be made. When found eligible, clients are able to receive nutrition education and a food package with a variety of foods. Examples of foods in a CSFP package include nonfat dry milk, ultra-pasteurized fluid milk, juice, farina, oats, ready-to-eat cereal, rice, pasta, peanut butter, dry beans, canned meat, poultry or fish, canned fruits and canned vegetables. (Food and Nutrition Service Nutrition Program Fact Sheet, January 2016)

Participation in CSFP does NOT preclude or prevent a client from simultaneously participating in other nutrition programs such as TEFAP, SNAP and the Senior Farmers' Market Nutrition Program, provided the eligibility requirements for those programs are met. (USDA Food Distribution National Policy Memorandum FD-096)

**USDA Foods:** Each year, USDA purchases more than two billion pounds of high quality fruits, vegetable, dairy products, whole grains, lean meats, poultry and fish from American farmers for distribution to food banks, soup kitchens disaster feeding organizations, Indian Tribal Organizations, charitable institutions and other feeding organizations to help individuals and families stretch their food budgets and ensure all Americans have healthy foods within reach.

## **Section 3 - Eligibility Certification**

### **3.1 Household Concept**

A household is a group of individuals who are living together and commingle funds for use in buying food or paying bills. A familial relationship is not relevant when determining the size of the household and its income.

When the applicant lives in an institution, the other residents of the institution are not counted in the applicant's household.

### **3.2 Certification Period**

NDA allows elderly CSFP participants to be certified for **1 year** and extends to the **final day** of the month in which eligibility expires. NDA allows continued extensions of 1 year each, not to exceed a total of three years (at which point a full recertification is required) as long as both of the following conditions are met:

- The client's address and continued interest in receiving program benefits is verified.
- The recipient agency has sufficient reason to believe the client still meets income eligibility standards (ex., the client has a fixed income).

### **3.3 Moving within Nevada**

Recipient agencies must serve a CSFP participant who moves from another area into an area served by CSFP and whose certification period has not expired. The client must be given the opportunity to continue to receive CSFP benefits for the duration of the certification period. If the recipient agency has a waiting list, the client must be placed on its waiting list ahead of all other waiting applicants.

The recipient agency that determined the client's eligibility must provide verification of the expiration date of the certification period to the client upon request.

### **3.4 Notice of Expiration**

The recipient agency must notify program participants in writing **at least 15 days** before the date that eligibility for the program will expire. The recipient agency must include a statement in the written notification informing the client that program standards are applied without discrimination on the bases of race, color, national origin, age, sex, disability or reprisal or retaliation for prior civil rights activity.

Use the CSFP Notice of Action Form to inform clients of upcoming program certification expiration by checking the Recertification box.

### **3.5 Eligible Persons**

To be eligible for CSFP, persons must be at least 60 years of age, self-declare their gross monthly household income is at or below 130 percent of the FPL for their household's size and reside in a local agency's service area.

Note that applicants are not required to provide verification of income and are allowed to self-declare that their household meets the income guidelines.

### **3.6 Maximum Gross Income**

The maximum gross income is 130% of the appropriate FPL based on the size of the household. Income verification is obtained through client self-declaration on the application form. NDA will provide Income Guidelines for CSFP each year.

### **3.7 Types of Income**

#### **Countable Income**

- Income sources countable toward the client's household include:
- earned income from employment or self-employment, such as salary, hourly wages, commissions or fees
- unemployment insurance compensation
- Social Security Administration benefits, including Supplemental Security Income
- government civilian employee and military retirement, pension, or veteran's payments
- private pension and retirement payments
- net royalties and residuals
- cash contributions (i.e. gift funds) received from persons not in the household
- cash received or withdrawn from any source, including savings, investments, trust accounts and other resources, which is readily available to the household and not considered non-countable income

Countable income is verified via client **self-declaration**. When monthly income is variable, the client may consider their household's average income during the previous 12 months as compared to their current household income to determine which more accurately reflects the household's status.

For example, a client who has a fixed income and usually receives \$900 gross countable income per month received a one-time gift of \$5,000 in the last 30 days. Since the gift is not anticipated to reoccur and does not accurately represent the client's true situation or monthly income, the client may choose to use their average income over the prior 12 months when self-declaring their countable income. In this case, the client would average 11 months of \$900 and one month of \$5,000 to calculate an average annual income of \$14,900, which is \$1,241.67 per month and within income guidelines for a household of one.

Clients must be made aware of the types of income they are required to include in their calculations when self-declaring household income.

#### **Non-Countable Income**

The following sources of income are NOT COUNTABLE when determining eligibility for CSFP:

- any basic allowance for housing received by military services personnel residing off military installations

**Policy and Procedure Manual**  
**COMMODITY SUPPLEMENTAL FOOD PROGRAM**  
Food and Nutrition Division



- the value of in-kind housing and other in-kind benefits
- reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- any payment to volunteers under Title I (VISTA and others) and Title II (RSVP, foster grandparents and others) of the Domestic Volunteer Service Act of 1973 to the extent excluded by that Act
- payment to volunteers under section 8(b)(1)(B) of the Small Business Act
- income derived from certain sub marginal land of the United States which is held in trust for certain Indian tribes
- payments received under the Job Training Partnership Act
- income derived from the disposition of funds to the Grand River Band of Ottawa Indians
- payments received under the Alaska Native Claims Settlement Act
- the value of assistance to children or their families under the National School Lunch Act, as amended
- payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation
- payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980
- payments under the Low-Income Home Energy Assistance Act, as amended
- student financial assistance received from any program funded in whole or part under Title IV of the Higher Education Act of 1965, including the Pell Grant, Supplemental Educational Opportunity Grant, State Student Incentive Grants, National Direct Student Loan, PLUS, College Work Study and Byrd Honor Scholarship programs, which is used for costs described in section 472 (1) and (2) of that Act
- payments under the Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1989
- payments received under the Carl D. Perkins Vocational Education Act, as amended by the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990
- payments pursuant to the Agent Orange Compensation Exclusion Act
- payments received for Wartime Relocation of Civilians under the Civil Liberties Act of 1988
- value of any childcare payments made under section 402(g)(1)(E) of the Social Security Act, as amended by the Family Support Act
- value of any “at-risk” block grant childcare payments made under section 5081 of Pub. L. 101-508
- value of any childcare provided or paid for under the Child Care and Development Block Grant Act, as amended
- mandatory salary reduction amount for military service personnel which is used to fund the Veteran's Educational Assistance Act of 1984 (GI Bill), as amended
- payments received under the Old Age Assistance Claims Settlement Act, except for the amount of per capita shares in excess of \$2,000

- payments received under the Cranston-Gonzales National Affordable Housing Act, unless the income of the family equals or exceeds 80 percent of the median income of the area
- payments received under the Housing and Community Development Act of 1987, unless the income of the family increases at any time to not less than 50 percent of the median income of the area
- payments received under the Sac and Fox Indian claims agreement
- payments received under the Judgment Award Authorization Act, as amended
- payments for the relocation assistance of members of the Navajo and Hopi Tribes
- payments to the Turtle Mountain Band of Chippewa Indians in Arizona under Pub. L. 97-403
- payments to the Papago Tribe of Arizona under Pub. L. 97-408
- payments to the Assiniboiné Tribe of the Fort Belknap Indian community and the Assiniboiné Tribe of the Fort Peck Indian Reservation under Pub. L. 98-124
- payments to the Red Lake Band of Chippewa Indians under Pub. L. 98-123
- payments received under the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act
- payments to the Mississippi River Band of Chippewa Indians under Pub. L. 99-377
- payments received by members of the Armed Forces and their families under the Family Supplemental Subsistence Allowance from the Department of Defense
- payments received by property owners under the National Flood Insurance Program
- combat pay (Hostile Fire or Imminent Danger pay)

Clients must be made aware of the types of income they should not include in their calculations when self-declaring household income.

### **3.8 Residency Requirements**

Applicants must reside in Nevada and within the distribution site's service area to be eligible for CSFP. Neither the length of time the applicant has resided in Nevada or in the distribution site's service area, nor the length of time the applicant plans to remain a resident of Nevada may be considered in the eligibility determination.

Verification of residency must be obtained at each certification. Acceptable forms of residency documentation include, but are not limited to:

- current driver's license
- lease agreement
- property ownership documentation
- rent or mortgage receipt
- utility bill
- when the applicant resides in an institution, a written statement from a representative of the institution. Note that residents of institutions must meet the following additional requirements:

- The CSFP foods received must be to the benefit of the client and not the institution (i.e., the institution must not realize a financial or in-kind benefit from the client's participation in CSFP).
- The CSFP foods must be used only by certified participants (i.e., the foods may not be shared among non-participants residing in the institution).
- The institution allows the client to store, prepare and use CSFP foods and encourages participation in all associated CSFP services (ex., nutrition education, referrals to other agencies, etc.).

### **3.9 Age Requirements**

Clients must be at least 60 years of age to participate in CSFP. Verification of age may be obtained from the following documents:

- current driver's license
- birth certificate issued by a U.S., State or local government Bureau of Vital Statistics
- Social Security Administration records
- U.S. passport, regardless of expiration date
- census documents, including Tribal census records
- baptismal certificate
- military discharge documents
- any reasonable, non-questionable document establishing the client's age

### **3.10 Application Determination Notification**

Recipient agencies must notify applicants of their eligibility or ineligibility for CSFP benefits, or their placement on a waiting list, within 10 calendar days from the date of application.

Notification of eligibility must be written and include information on the time, location and means of food distribution and the length of the certification period. The notification of eligibility may be mailed to the applicant's address of record or handed directly to the applicant. Use CSFP Notice of Action form for this notification.

Notification of ineligibility must be written and include the reason the applicant is not eligible, a statement of the applicant's right to a fair hearing to appeal the decision and a statement that informs the applicant that program standards are applied without discrimination based on race, color, national origin, age, sex, disability or reprisal or retaliation for prior civil rights activity. The notification of ineligibility may be mailed to the applicant's address of record or handed directly to the applicant. Use CSFP Notice of Action form for notifying clients of their ineligibility.

### **3.11 Certification Process**

#### **Application Processing**

Use the CSFP Application form provided by NDA. Recipient agencies must ensure applications are fully completed. Each applicant, even when in the same household as another applicant, must complete a separate application for CSFP in order to collect racial/ethnic data. All members of applicants household are required to be listed under Household Members on the application.

Applications must contain:

- applicant name
- applicant date of birth
- residential address
- mailing address, when different from the residential address
- applicant ethnicity, to the extent practicable
- applicant race, to the extent practicable
- the applicant's self-certification of either meeting or exceeding the maximum allowable gross monthly income
- the applicant's selection as to whether the applicant agrees to allow information sharing to facilitate referrals to other organizations
- applicant signature and date
- local agency certifier's signature and date

The application date (i.e., the date on which the application is considered to be "received") is the date the application is delivered to the recipient agency during normal business hours. For example, an application handed to recipient agency staff during distribution hours is considered received on the date the applicant handed the application to the staff member. However, an application received in the mail on a day in which the recipient agency site was closed would be considered received as of the next date on which the recipient agency location is open for business.

### **Application Approval**

Local agency staff must ensure that applicants have read and understand the rights and responsibilities for program participation at the bottom of page 1 of the CSFP Application. Once approved, local agency staff must provide written notification of approval to the client using the CSFP Notice of Action form within 10 calendar days.

### **Application Denial**

The CSFP Notice of Action form must be used to inform applicant of denial and must include the reason for the denial, which may be any of the following, as appropriate:

- categorical ineligibility (i.e. the applicant does not meet the minimum age requirement)
- resides outside of the service area
- excess income
- already participating in CSFP in another case
- failed to provide verification of identity
- failed to complete the application (ex., the application is not signed, and the applicant will not sign the application)
- disqualification due to program violations

The notification of ineligibility must be given or mailed to the ineligible applicant within 10 calendar days from the date of application.

### **Waiting List Notification**

When an applicant is eligible, but the recipient agency does not have sufficient caseload to provide service to the client, the recipient agency must retain a copy of the application and provide the applicant with the Notice of Action form, using the Waiting List checkbox. Notification of placement on a waitlist must be done within 10 days of the date of application.

Placement on a waitlist is not considered an application denial. Therefore, the placement is not subject to appeal through the fair hearing process.

## **Section 4 Program Administration**

### **4.1 Federal Administration**

CSFP is administered at the Federal level by USDA/FNS, which is also responsible for assigning State caseload and allocating administrative funds to the State.

### **4.2 State Administration**

NDA is responsible for administering CSFP at the State level. NDA is also responsible for:

- complying with civil rights requirements
- completing and submitting the State Plan to USDA/FNS
- determining caseload needs and submitting caseload requests to USDA/FNS
- assigning caseload and allocating administrative funds to recipient agencies
- selecting recipient agencies to administer CSFP in local areas of the State
- entering into required agreements
- ordering commodities for distribution
- providing guidance to recipient agencies on all aspects of program operations, as needed
- establishing program eligibility requirements, when the requirement is a State option
- establishing procedures for resolving complaints about commodities
- establishing a management review system and conducting reviews of recipient agencies
- maintaining accurate and complete records
- establishing a financial management system that effectively accounts for funds received and distributed for program administration
- establishing standards for, determining and pursuing claims against participants
- ensuring that program participation does not exceed Nevada's caseload allocation on an average monthly basis
- ensuring compliance with Federal audit requirements
- conducting program outreach
- ensuring local agency compliance with nutrition education and nutrition education evaluation requirements

NDA cannot delegate certain functions to recipient agencies. The establishment of state options and the management review system, along with conducting the reviews, must remain at the State level (7 CFR § 247.3(b)).

### **4.3 Local Administration**

Local agencies are responsible for administering CSFP at the local level. This includes:

- complying with civil rights requirements
- entering into required agreements with NDA and sub-distributing agencies
- storing CSFP foods in accordance with all Federal, State and local food storage requirements
- establishing internal procedures for resolving complaints about commodities
- maintaining accurate and complete records
- conducting program outreach
- certifying applicants in accordance with Federal and State-established program eligibility criteria
- complying with Federal and State-established fiscal and operational requirements
- ensuring that participation does not exceed assigned caseload
- distributing CSFP foods in accordance with the current food package maximum monthly distribution rate
- providing nutrition education and information on the availability of other nutrition and health assistance programs to participants
- informing applicants of their program rights and obligations
- notifying applicants of their eligibility, ineligibility, or placement on a waiting list
- meeting the special needs of homebound clients, to the extent possible
- pursuing claims against participants

## **Section 5 State Plan**

The State Plan describes how NDA will operate CSFP and the caseload needed to serve participants. NDA develops the State Plan and submits it to USDA/FNS for approval. Approved State Plans are considered Permanent. The State Plan must be approved prior to Federal assignment of caseload or distribution of administrative funds.

When changes to the State Plan are required, NDA may submit State Plan amendments to USDA/FNS. Situations requiring an amendment include, but are not limited to:

- a request for additional caseload
- an adjustment to program operations or administration
- a new Federal law or policy conflicts with the Plan
- a current Federal law or policy is revised and comes into conflict with the Plan

### **5.1 Time Frames**

The State Plan must be submitted by August 15th to take effect for the fiscal year beginning in the following October.

Except for amendments requesting additional caseload, NDA may submit amendments to the State Plan at any time after approval. The amendment is considered effective immediately upon approval, unless USDA/FNS specifies a different effective date.

## **Section 6 Local Agency Participation Requirements**

Recipient agencies participating in CSFP distribution agree to accept final administrative and financial responsibility for CSFP operations occurring under recipient agency authority. Recipient agencies agree to administer CSFP in accordance with the provisions of 7 CFR, Parts 247 and 250. Recipient agencies must be registered in the System for Award Management (SAM) and maintain active and current registration for the duration of the agreement with NDA. Recipient agencies must notify NDA within thirty days of any exclusion. Recipient agencies must certify the entity is not presently debarred, suspended, proposed for debarment, declared ineligible by any governmental department of agency.

### **6.1 Minimum Local Agency Participation Requirements**

To be eligible for the receipt of CSFP commodities and administrative funding, local agencies must meet the following minimum requirements:

#### **Organizational Prerequisites**

Local agencies must meet the following qualifications to be considered for participation in CSFP:

- be a tax-exempt nonprofit agency, nonprofit agency moving toward tax-exempt status or local government agency
- have the organizational capacity, including available staffing, to initiate and operate the program in accordance with Federal and State requirements

Any local agency receiving federal funding or USDA Foods must be registered in the System for Award Management (SAM) and maintain active and current registration for the duration of the agreement with NDA. The local agency must notify NDA within thirty days of any exclusion from participation in transactions as set forth in the agreement.

SAM contains the electronic roster of debarred entities that are excluded from receiving Federal financial and nonfinancial assistance and benefits. Entities with “Exclusion” listed in purple are currently debarred, while those labeled “Entity” in green do not have exclusions and may receive federal resources. CSFP local agencies must not be debarred in SAM at any time during their partnership with NDA. If a CSFP local agency partners with sub-distributing agencies, the local agency must ensure that those entities are not debarred or excluded from receiving federal funding or USDA Foods. Link to SAM website is below.

<https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>

#### **Applications**

To become a participating local agency, agencies must submit a written application to NDA. The application describes how the agency will operate CSFP and must include, at a minimum:

- organization contact information
- verification of the agency’s tax-exempt status or application for tax-exempt status (nonprofit agencies only)

- verification of compliance with single audit requirements as defined in the Single Audit Act Amendments of 1996
- an estimate of the number of people the agency can serve effectively, while meeting all program requirements, and the methodology used to obtain the estimate
- the number of distribution sites the agency will use for CSFP distribution
- the agency's budget projection as related to reasonable, allowable and necessary costs for administering the program to include:
  - personnel
  - facilities (noncapital)
  - equipment
  - planned capital acquisitions and maintenance
  - program outreach
  - nutrition education
  - transportation
  - other projected program-related costs

After NDA receives an application to participate in CSFP, NDA may take up to 60 calendar days to inform the applying agency of the application determination (7 CFR § 247.7). NDA will work with the agency to obtain any missing application documents. Should an agency's application be denied, NDA will provide written explanation as to the reason for the denial and a notification of the agency's right to appeal the decision. When the application is approved, NDA and the agency will enter into a written agreement in accordance with the requirements of 7 CFR § 247.4.

### **Agreements**

The local agency must enter into a written agreement with NDA prior to receiving CSFP commodities or administrative funding (7 CFR § 247.4(a)(2)). The local agency must also enter into a written agreement with its sub-distributing agencies (if applicable). Parties entering CSFP agreements must keep on file copies of the agreements. Agreements must contain the following items:

- an assurance that each agency will administer CSFP in accordance with the provisions of 7 CFR Parts 247 and 250, unless the provisions of 7 CFR Part 250 are inconsistent with 7 CFR Part 247—should such inconsistency arise, 7 CFR Part 247 will be considered the final legal authority for CSFP
- an assurance that each party to the agreement will maintain accurate and complete records for a period of five years from the close of the fiscal year to which they pertain, or longer if the records are related to unresolved claims actions, audits, or investigations
- a statement that each agency receiving commodities for distribution is responsible for any loss resulting from improper distribution, storage, care or handling of commodities
- a statement that each agency receiving program funds is responsible for any misuse of program funds
- a description of any functions delegated to another agency

- a statement specifying that either party may terminate the agreement by written notice and the minimum number of days of advance notice of termination must be given—the advanced notification period must be no less than 30 calendar days
- FOR AGREEMENTS BETWEEN NDA AND LOCAL AGENCIES, agreements must contain the following additional items:
  - an assurance that the local agency will provide, or cause to be provided, nutrition education to participants, as required by 7 CFR § 247.18
  - an assurance that the local agency will provide information to participants on other health, nutrition, and public assistance programs, and make referrals as appropriate, as required by 7 CFR § 247.14
  - an assurance that the local agency will distribute CSFP foods in accordance with the currently approved food package maximum monthly distribution rate
  - an assurance that the local agency will take steps to prevent and detect dual participation, as required by 7 CFR § 247.19
  - the names and addresses of all certification, distribution and storage sites under the local agency's authority
  - an assurance that the local agency will not subject any person to discrimination under the program on the grounds of race, color, national origin, age, sex, disability and reprisal or retaliation for prior civil rights activity

## **6.2 Tax-Exempt Status (Nonprofit Organizations Only)**

A nonprofit agency must have tax-exempt status under the Internal Revenue Code or have applied for tax-exempt status with the IRS and be moving toward such status. Nonprofit agencies organized or operated exclusively for religious purposes are automatically tax-exempt under the Internal Revenue Code. Nonprofit agencies required to obtain tax-exempt status must provide documentation from the Internal Revenue Service that they have obtained such status or have applied for it (7 CFR § 247.7(a)).

NDA may approve an application from a nonprofit agency that has applied for, but not received, tax-exempt status. Approved agencies without tax-exempt status have 180 calendar days after the effective date of the approval to supply the tax-exempt status approval to NDA. If the IRS denies a participating agency's application for tax-exempt status, the following actions must occur:

- The agency must IMMEDIATELY notify NDA of the denial.
- NDA must terminate the agency's written agreement and participation in CSFP immediately upon notification of the denial (7 CFR § 247.7(c)).

NDA must terminate CSFP agreements with agencies that have not received tax-exempt status from the IRS within 180 calendar days of the effective date of the CSFP participation application approval, UNLESS the agency is able to demonstrate that the inability to obtain tax-exempt status within 180 calendar days is due to circumstances beyond the agency's control. When the inability to obtain tax-exempt status is verified as being due to circumstances beyond the agency's control, NDA may grant a one-time, 90-day extension to the agency to continue its pursuit of tax-exempt status (7 CFR § 247.7(c)).

**Maintenance of Tax-Exempt Status:** Nonprofit agencies must maintain tax-exempt status in order to continue participation in CSFP. Agencies must IMMEDIATELY notify NDA of any changes to tax-exempt status while participating in CSFP.

## **Section 7 Caseload**

Each year, USDA/FNS assigns a caseload to NDA to allow eligible clients to participate in CSFP, up to the caseload limit. USDA/FNS caseload assignment methodology is dependent on multiple variables and drawn from the requirements of 7 CFR § 247.21.

### **7.1 Base Caseload**

USDA/FNS determines NDA's base caseload by comparing three measures and using the highest measure as the new base caseload. Measures are:

- average monthly participation for the previous fiscal year
- average monthly participation for the final quarter of the previous fiscal year
- participation during the month of September of the previous fiscal year ONLY IF all of the following apply:
  - The full year appropriation for the preceding fiscal year was enacted on or after February 15th.
  - NDA received additional caseload equal to or greater than 10 percent of its base caseload in the previous caseload cycle.
  - October program participation in the current fiscal year was equal to or greater than 95 percent of September participation in the previous fiscal year.

USDA/FNS assigns NDA a base caseload by December 31st of each year, or within 30 days after enactment of appropriations legislation covering the full fiscal year, whichever comes later.

NDA will assign local agency caseload using average monthly participation from the previous fiscal year and local agency caseload request. Caseload may be adjusted after USDA/FNS provides NDA with final year caseload assignment.

When new base caseload assignment is not available for the current caseload cycle, assignments for the previous caseload cycle will remain in effect, subject to the availability of sufficient Federal funding, until caseload assignments are made for the current caseload cycle.

### **7.2 Additional Caseload**

NDA may request additional caseload to increase program participation. NDA qualifies to receive additional caseload when the State participation level for the previous caseload cycle is equal to or greater than 95 percent of the assigned caseload for the previous caseload cycle. The 95 percent figure is based on the highest of:

- average monthly participation for the previous fiscal year
- average monthly participation for the last quarter of the previous fiscal year

- participation during the month of September of the previous fiscal year ONLY IF all of the following apply:
  - The full year appropriation for the preceding fiscal year was enacted on or after February 15th.
  - NDA received additional caseload equal to or greater than 10 percent of its base caseload in the previous caseload cycle.
  - October participation in the current fiscal year was equal to or greater than 95 percent of September participation in the previous fiscal year.

USDA/FNS makes the final determination on additional caseload requests. When making the determination, USDA/FNS considers the following factors in decreasing order of importance:

- the percentage of caseload utilized by the State in the previous fiscal year
- Nevada's program participation trends during previous fiscal years
- other information NDA submits in support of the additional caseload request

When all reasonable requests for additional caseload cannot be met, USDA/FNS assigns it to states considered most likely to utilize it.

Local agencies may request additional caseload anytime throughout the program year by providing written request, justification and plan to serve additional participants. NDA will review submitted requests and determine if additional caseload is available within 30 days of receiving request.

NDA may reassign local agencies caseload anytime throughout the year based on current participation, waitlists, or local agency request to ensure the state is meeting full USDA assigned caseload.

### **7.3 Requesting Additional Caseload**

NDA must submit the request for additional caseload to USDA/FNS as an amendment to the State Plan. When the request contains additional caseload intended for new distribution sites or local agencies, NDA must include in the request a description of the plan for serving participants at all new sites.

To request additional caseload for the next caseload cycle (beginning January 1st), NDA must submit the request, as a State Plan amendment, to USDA/FNS no later than November 5th.

### **7.4 Time Frames**

Caseload assignment time frames are dependent on the type of assignment being processed (i.e., base caseload or additional caseload).

### **7.5 Applicants Exceed Caseload**

Local agencies must maintain a waiting list of clients who apply for CSFP after caseload has been filled. The waitlist must include the date of application and information necessary to allow the recipient agency to contact the applicant when caseload space becomes available.

Applicants must be notified of their placement on the waiting list within 10 calendar days of their request for benefits.

Recipient agencies must ensure the certification of clients from a waiting list is in compliance with Federal civil rights requirements.

## **Section 8 Nutrition Education**

Recipient agencies must ensure CSFP participants receive easily understood nutrition education that is relevant to the participants' individual household situations.

### **8.1 NDA Requirements**

NDA must complete the following nutrition education activities:

- establish an overall nutrition education plan
- ensure recipient agencies provide nutrition education to participants in accordance with the State Plan
- establish an evaluation procedure to ensure the provided nutrition education is effective
- ensure the evaluation procedure includes participant input and is directed by a nutritionist or other qualified professional

### **8.2 Local Agency Requirements**

Local agencies are responsible for providing nutrition education to CSFP recipients. Local agencies must provide nutrition education that can be easily understood by participants and is relevant to their nutritional needs and household situation. At a minimum, information is presented in the form of a flyer included in the monthly CSFP distribution. Local agencies are encouraged to use all senior-focused nutrition education sources when compiling nutrition education material. The following links are a good source of nutrition education material for older adults. Local agencies may also produce their own materials or procure materials from another source.

- [ChooseMyPlate.Gov](https://www.choosemyplate.gov/older-adults)  
<https://www.choosemyplate.gov/older-adults>
- [USDA Mixing Bowl Recipes, Cookbooks, & Menus](https://www.choosemyplate.gov/recipes-cookbooks-and-menus)  
<https://www.choosemyplate.gov/recipes-cookbooks-and-menus>
- [Nutrition.gov For Older Individuals](https://www.nutrition.gov/subject/life-stages/seniors)  
<https://www.nutrition.gov/subject/life-stages/seniors>
- [SNAP-Ed Connection](https://snaped.fns.usda.gov/materials/search?f%5b0%5d=field_material_information%253Af%5b1%5d=field_snap_ed_intervention_chann%3A6)  
[https://snaped.fns.usda.gov/materials/search?f%5b0%5d=field\\_material\\_information%253Af%5b1%5d=field\\_snap\\_ed\\_intervention\\_chann%3A6](https://snaped.fns.usda.gov/materials/search?f%5b0%5d=field_material_information%253Af%5b1%5d=field_snap_ed_intervention_chann%3A6)
- [Flavors of My Kitchen – Latino Cookbook](#)

<https://snaped.fns.usda.gov/materials/flavors-my-kitchen-latino-cookbook>

### **8.3 Cooking Demonstrations**

To support nutrition education, local agencies are authorized to use a reasonable amount of CSFP foods to conduct cooking demonstrations as part of the program. CSFP foods may not be used for any other purpose not explicitly listed in this manual.

### **8.4 Nutrition Education Surveys**

NDA requires that each local agency evaluate the effectiveness of its nutrition education through a biennial survey that gathers participant input. NDA will provide a template survey to the local agencies for gathering participant input. The biennial survey should be given to all participants in the month December. Nutrition education materials should be adjusted based on the responses from the previous survey.

Once surveys are collected, local agencies must submit a summary of how future nutrition education should be tailored per the results of the survey to NDA by January 31<sup>st</sup>.

## **Section 9 Dual Participation**

Dual participation, a condition in which the same participant receives more than the allowable distribution for their household size by intentionally or unintentionally maintaining multiple cases under the same program or visiting multiple distribution sites, is not allowable.

NDA and recipient agencies must collaborate on a plan for the prevention, detection and resolution of dual participation as applied to all CSFP participants. To aid in this requirement, Federal regulations require local agencies to complete the following actions (7 CFR § 247.19):

- Check the identification of all applicants when they are certified or recertified.
- Ensure the applicant signs the application form; the application form contains a statement advising the applicant that he or she may not receive CSFP benefits at more than one distribution site in the same month.

When a recipient agency finds a participant committing dual participation, the recipient agency must determine the cause of the dual participation and complete the following actions (7 CFR § 247.19):

- When the client is enrolled in multiple cases under the same program, discontinue all duplicative cases but not the original case, insofar as the original case is eligible to remain open.
- When the client is receiving multiple distributions for the same period by participating at more than one CSFP DS, discontinue the client's participation at the additional sites.
- Notify the client by sending a written notification of discontinuance using the CSFP Notice of Action form at least 15 days before the effective date of discontinuance.
- Allow the client to appeal the discontinuance through the fair hearing process, at the client's request.

- When the dual participation resulted from the client or client's proxy making false or misleading statements or intentionally withholding information, the recipient agency must disqualify the participant from CSFP, unless the local agency determines that disqualification would result in a serious health risk for the client.
- Initiate a claim against the participant to recover the value of CSFP benefits improperly received, in accordance with 7 CFR § 247.30(c).

## **Section 10 Program Violations**

Program violations are actions taken by CSFP applicants, participants or proxies to obtain or use CSFP benefits improperly. Program violations include the following actions:

- intentionally making false or misleading statements, verbally or in writing (fraud)
- intentionally withholding information pertaining to CSFP eligibility (fraud)
- selling commodities gained through CSFP participation or exchanging the commodities for non-food items (fraud)
- physically abusing or threatening to physically abuse program staff
- committing dual participation

If applicants, participants or proxies commit program violations, NDA MAY require recipient agencies to disqualify the applicants or participants for a period of up to one year. If the recipient agency determines that disqualification would result in a serious health risk, NDA may waive the disqualification.

When a client commits three program violations involving fraud, NDA MUST require recipient agencies to disqualify the participant PERMANENTLY from CSFP, unless the recipient agency determines that permanent disqualification would result in a serious health risk to the client.

When a client is disqualified from the program, recipient agencies must provide the individual with a written notification of disqualification at least 15 days before the effective date of disqualification. The notification must include the effective date and period of disqualification, the reason for the disqualification and a statement that the individual may appeal the disqualification through the fair hearing process. (all information this section: 7 CFR § 247.20)

## **Section 11 Administrative Funds**

### **11.1 Appropriate Use**

Administrative funds are used to ensure the efficient and effective operation (administration) of the program (7 CFR § 247.25(a)). Examples of ALLOWABLE use of administrative funds for CSFP are:

- storing, transporting and distributing commodities
- determining client eligibility
- program outreach
- nutrition education

- audits
- fair hearings
- monitoring and reviewing program operations
- transportation of enrolled clients to and from the DS, as necessary

Examples of UNALLOWABLE uses of administrative funds are:

- the cost of alteration to facilities not specifically required for the program
- actual losses which could have been covered by permissible insurance through an approved self-insurance program or by other means

Capital expenditures, including the acquisition of facilities or equipment or enhancements to such capital assets, with a cost per unit of \$5,000 or more require PRIOR APPROVAL from USDA/FNS before the funds can be spent (7 CFR 247.25(c)). Examples of equipment include, but are not limited to:

- automated information systems
- forklifts, tucks, warehouse supplies

### **11.2 Procurement Procedures**

When procuring property, equipment or services with program funds, or disposing of property or equipment purchased with program funds, NDA and local agencies must use the procedures identified in 2 CFR Part 200, as appropriate. NDA and recipient agencies are authorized to use procurement procedures established by the State or recipient agency, insofar as the State or recipient agency procedures do not conflict with Federal regulations.

Federal regulations do NOT relieve NDA or local agencies from their respective responsibilities as established in contracts relating to the procurement of property, equipment or services.

NDA is the responsible authority regarding the settlement of all contractual and administrative issues arising from procurements related to CSFP.

### **11.3 Program Income**

Program income is income directly generated from program activities (7 CFR § 247.25 (e)). Program income includes revenue from activities such as the sale of packing containers or pallets and the salvage of commodities. Program income does NOT include interest earned from administrative funds.

NDA and local agencies must use program income for allowable costs supporting CSFP operations.

### **11.4 Funds Recovered from Claims Actions**

NDA must use program funds recovered as a result of claims actions against recipient agencies in accordance with 7 CFR § 250.15(c), which addresses the replacement of recalled USDA Foods and reimbursements for specific costs related to handling USDA Foods recalls.

**7 CFR § 250.15(c):** State and local agencies, as appropriate, must follow all applicable Federal, State and local requirements for USDA Foods subject to food recall. In the event of a recall, USDA and all other responding parties provide guidance, procedures and instructions for the replacement of recalled USDA Foods and reimbursement of specific costs incurred as a result of such actions.

NDA must use program funds recovered as a result of claims actions against participants for allowable program costs. Local agencies are authorized to use such funds for allowable program costs at the local level.

## **Section 12 Claims**

### **12.1 Claims Against Local Agencies**

NDA is responsible for initiating claims against recipient agencies in the event CSFP foods are misused. For the purpose of this section, misuse results from the improper storage, care or handling of commodities and includes:

- improper distribution
- commodity loss or spoilage
- stolen commodities
- damaged commodities

Use of funds recovered by NDA due to claims actions against recipient agencies must be in accordance with the Administrative Funds section of this manual.

Local agencies must report all Food Loss to NDA within 10 days from the date of discovery of the loss. Local Agency must submit, via email, the food loss on the CSFP Food Loss form.

NDA must investigate any loss of donated foods, or any improper use or loss of funds, as described in Section IV A of FNS-410, regardless of the value of the loss, in order to determine if a claim must be pursued against the party responsible for the loss. Such claim determination must be completed within 30 days from the date that information was first received indicating that the loss had occurred.

If NDA determines that the value of the donated food loss, or improper use or loss of funds, does not exceed \$500, it is not required to pursue a claim, or to forward the claim determination to the FNS Regional Office for further action. However, if the loss has occurred as a result of theft, embezzlement, willful misapplication, or fraud, NDA must pursue further claim actions regardless of the value of the loss.

### **12.2 Claims Against Program Participants**

NDA must ensure local agencies initiate a claim against participants to recover the value of CSFP foods improperly received or used.

NDA has determined that pursuit of a claim against a participant to recover the value of USDA Foods improperly received or used is cost-effective when the value of the foods received exceeds \$100 or 4 months of CSFP benefits. In determining the value of USDA Foods, local agencies should use the USDA purchase price available in WBSCM. Local agencies are required to use this standard in determining if a claim against a participant is cost effective, in accordance with 7 CFR 247.30.

Recipient agencies must advise clients of the opportunity to appeal the claim through the fair hearing process.

Participants who have received or used CSFP foods through fraud must be disqualified from CSFP for the period of up to one year, unless the local agency determines the disqualification would result in a serious health risk to the participant and NDA waives the disqualification.

When pursuing claims against participants, recipient agencies must use the following procedure:

- issue a letter of demand for the value of commodities improperly received or used
- when repayment is not made in a timely manner, take cost-effective collections actions in consultation with NDA
- maintain all records related to claims actions taken against participants

## **Section 13 Financial Management Requirements**

NDA and recipient agencies must maintain a financial management system that is in compliance with Federal regulations contained in 2 CFR Part 200, as appropriate. The NDA system must provide accurate, current and complete disclosure of the financial status of the program, including an accounting of all program funds received and expended during each fiscal year. In addition to other requirements, the NDA financial management system must provide for:

- prompt and timely payment of allowable costs
- timely disbursement of funds to local agencies
- timely and appropriate resolution of claims and audit findings
- maintenance of records identifying the receipt and use of:
  - administrative funds
  - funds recovered as a result of claims actions
  - program income
  - property and other assets procured with program funds

Local agencies must develop, implement and maintain a financial management system that allows the local agencies and NDA to meet all Federal requirements in addition to the requirements outlined in this section.

### **Sub-Grant Awards**

NDA will provide sub-grant awards to local agencies as funds become available from USDA/FNS. Subgrant awards reflect caseload assignment and may be subject to change in the event of a Continuing Resolution or lapse in federal funding.

### **Reimbursement Claims**

Local agencies must submit claims for reimbursement of administrative costs by the 15<sup>th</sup> of the month following the month of request. Local agencies must use the Reimbursement Request form provided by NDA.

## **Section 14 Distribution and Use of CSFP Foods**

Local agencies must distribute a package of commodities to regular participants each month, or a two-month supply of commodities to participants every other month, in accordance with the food package guide rates established by USDA/FNS. Note that clients assigned to a temporary, one-month certification period may only receive a one-month supply of commodities.

Participants, or the participants' proxies, must present an acceptable form of identification before CSFP foods can be distributed.

CSFP foods may NOT be used for outreach, refreshments or for any purposes other than distribution to, and nutrition education for, CSFP participants.

## **Section 15 Shipment and Receipt of CSFP Foods**

### **15.1 Delivery Appointment**

For shipments originating from a vendor (i.e., any shipment not originating from a National Multi-Food Warehouse), the vendor or carrier must arrange for a delivery appointment with the consignee at least 24 hours before the expected delivery.

### **15.2 Advanced Shipping Notification**

For shipments originating from a vendor (i.e., any shipment not originating from a National Multi-Food Warehouse), the vendor will create the Advance Shipping Notification (ASN) in WBSCM in advance of delivery as to provide the consignee sufficient advance notice of the delivery. NDA and the receiving destination designated in WBSCM will receive the ASN by email. The ASN will include the following information:

- required delivery date
- expected delivery date
- delivery ship-to agency
- nutrition program acronym (ex., CSFP, TEFAP, etc.)
- USDA Food product material number and description (i.e., material code)
- sales order number, when the shipment did not originate from a National Multi-Food Warehouse
- sales order item number
- quantity in shipment (ex., cases, number of units, etc.)
- establishment number, if applicable
- purchase order item number
- purchase order number
- product vendor information

For shipments originating from a National Multi-Food Warehouse, the consignee will not receive an ASN. Specific delivery dates are pre-arranged between the consignee and the National Multi-Food Warehouse and reflected in WBSCM.

### **15.3 Destination Changes**

For shipments originating from a National Multi-Food Warehouse, consignees wishing to change shipment destinations must notify NDA, which must in turn notify FNSRO. FNS will work with the National Multi-Food Warehouse to address the issue.

### **15.4 Vendor or Carrier Unable to Deliver USDA Foods**

If a vendor or carrier arrives at the delivery location at the appointed time and is unable to unload USDA Foods as a result of action or inaction by the consignee, the vendor or carrier may place the USDA Foods in storage or move them to another location, which may subject the consignee to additional charges. Any disputes between the consignee and the vendor or carrier regarding liability for such charges that are not resolved at the State level must be referred to FNSRO for resolution by FNS and the Contracting Office, as applicable.

### **15.5 Inspecting the Shipment**

#### **General Requirements**

The consignee must inspect each shipment and commercial delivery receipt (i.e., BOL) carefully prior to unloading to ensure the high security seal(s) is intact, determine the overall condition of the USDA Foods and the number of units in the shipment and ensure the accuracy of the receipt.

#### **High Security Seal**

High security seals are used to provide evidence of tampering and can assist in the detection of theft or contamination. The consignee must ensure the high security seal(s) on the door or other point of entry of the truck or trailer is intact and must make a record of the serial number of the seal. If the high security seal is broken or lacking, or the serial number on the seal does not match the number on supporting documentation (e.g., BOL), the consignee must refuse the shipment and immediately notify NDA, which must in turn notify FNSRO. FNS will notify the appropriate Contracting Office or the National Multi-Food Warehouse, as applicable.

For shipments originating from a vendor (i.e., any shipment not originating from a National Multi-Food Warehouse), a previously refused shipment may only be accepted by the consignee after a Condition of Container Inspection has been performed by a USDA representative, as designated by the Contracting Office, and a Certificate of Quality and Condition has been issued which documents that the Condition of Container meets the applicable U.S. Standards for Condition of Food Containers. Any inspection costs must be paid by the vendor or carrier.

#### **Removal of Seal and Temperature Check**

The consignee is responsible for the removal of the high security seal(s), which must be done with bolt cutters or a similar tool. For frozen or refrigerated foods, at a minimum, the consignee must check the thermometer, which is usually located outside of the truck, to ensure that the

temperature in the freezer or refrigeration unit is at an acceptable level, in accordance with USDA guidance, and must ensure that the unit is switched on and working.

### **Quantity of USDA Foods**

The consignee must determine if there is any obvious discrepancy from the quantity of USDA Foods ordered (i.e., an overage or shortage). A more careful count must be conducted as the shipment is unloaded and prior to the vendor or carrier departing.

### **Observing Condition of USDA Foods**

The consignee must inspect the shipment to determine if the USDA Foods have been delivered in good condition and with no evidence of product tampering. The consignee should take note of any odors, infestation (ex. dead insects or nesting materials), or damage to inner or outer containers. For frozen foods, the consignee should look for signs of defrosting or signs of thawing and re-freezing of the foods that could have occurred prior to the arrival of the shipment. For USDA Foods that are not intended to be frozen (ex. canned products), it is recommended that the consignee also check to ensure that such foods do not arrive in such manner.

Fresh fruit or vegetable shipments, with the exception of fresh apples, must be inspected by a USDA representative prior to unloading in accordance with contract specifications. The vendor must arrange for the inspection at each delivery destination and pay any costs associated with inspection.

### **Out-of-Condition USDA Foods and Required Notification**

For shipments originating from a vendor (i.e. any shipment not originating from the National Multi-Food Warehouse), if consignee inspection indicates that all, or a major portion, of the USDA Foods in a shipment are out-of-condition, the consignee must immediately notify NDA, which must in turn notify FNSRO.

FNS will consult with the Contracting Office, as applicable, to determine if the shipment is to be rejected, or if an inspection by State or local health authorities or authorized USDA agent must first be obtained to determine the condition of the USDA Foods. If an inspection is required, NDA must inform FNSRO of the consignee's inspection results so that FNS and the appropriate Contracting Office can determine if the shipment should be rejected. NDA or the consignee must also ensure that the vendor or carrier is aware of the results of the consignee's inspection, subsequent inspection by health authorities, as applicable, and the Contracting Office decision to accept or reject the shipment. The vendor or carrier is responsible for the prompt removal of a rejected shipment. The cost of the inspection must be paid by the consignee if it is determined that the USDA Foods are not out-of-condition. Inspection costs must otherwise be paid by the vendor or carrier.

For shipments originating from a National Multi-Food Warehouse, if consignee inspection indicates that all, or a major portion, of the USDA Foods in the shipment are out-of-condition, the consignee must immediately notify NDA, which must in turn notify FNSRO. FNS will work with the National Multi-Food Warehouse to address the issue.

If there is a doubt as to the condition of the USDA Foods, or a disagreement with the vendor or carrier regarding their condition, the consignee must immediately notify NDA, which must in turn notify FNSRO. FNS will consult with the Contracting Office or the National Multi-Food Warehouse, as applicable, to determine a course of action.

Any fresh fruit and vegetable delivery which fails to meet USDA specifications will be rejected by the USDA representative and Contracting Office. If any lot of fresh fruit or vegetable fails to meet the product or packaging requirements, the vendor may request in writing that USDA accept delivery of the lot. USDA, with agreement from the consignee may, at its option, accept delivery.

### **15.6 Accepting and Receipting for the Shipment**

#### **Acceptance of Shipment**

For shipments originating from a vendor (i.e. any shipment not originating from a National Multi-Food Warehouse), if the consignee inspection indicates that some, but not a major portion, of the USDA Foods in the shipment are out-of-condition, or that there is only a minor discrepancy from the quantity of USDA Foods ordered, the consignee may accept the entire shipment and segregate any out-of-condition USDA Foods. The consignee must in turn notify NDA of the out-of-condition foods, which must in turn notify FNSRO and file a complaint in WBSCM. FNS will consult with the appropriate Contracting Office to determine a course of action.

Alternatively, when the consignee inspection indicates that some, but not a major portion, of the USDA Foods are out-of-condition, the consignee has the option to notify NDA immediately of the out-of-condition foods upon receipt, requesting refusal of that part of the shipment. NDA must in turn notify FNSRO and file a complaint in WBSCM. FNS will consult with the appropriate Contracting Office to determine a course of action. This course of action may lead to part of the shipment being rejected.

In the above referenced instances, the WBSCM complaint must note that the delivery issue is being handled as a contracting matter. The WBSCM complaint will be used for trend analysis only, in order for USDA to track such issues over time and ensure the best possible service to consignees.

For shipments originating from a National Multi-Food Warehouse that include out-of-condition USDA Foods or that do not have the quantity of USDA Foods ordered, the consignee must accept the entire shipment, segregate unusable products, and report the loss or shortage to NDA, which must in turn inform FNSRO and request guidance on disposing of any out-of-condition foods in accordance with Section X of FNS Instruction 709-5 Rev. 3, and file a complaint in WBSCM for issue tracking purposes.

For latent product defects observed by the consignee after acceptance of the shipment, the consignee must notify NDA of the out-of-condition foods, which must in turn notify FNSRO and file a complaint in WBSCM.

See Section X of FNS Instruction 709-5 Rev. 3 for details on the disposition and replacement of out-of-condition USDA Foods.

### **Delivery Receipt**

The consignee must ensure that the delivery receipt (ex., BOL) indicates the quantity of USDA Foods received, including product that is rejected at the time of receipt for being out-of-condition and the quantity received in good condition, before signing and dating such receipt and returning it to the vendor or carrier. The carrier, and not the consignee, is responsible for providing the vendor with the signed delivery receipt, with the exception of select bulk products for further processing (ex., chicken), where the consignee provides grading certificates to the vendor. The signed delivery receipt must match the Goods Receipt quantity entered in WBSCM.

### **WBSCM Goods Receipt**

NDA is responsible for entering the Goods Receipt in WBSCM within two calendar days of receipt of the product. Local agencies must submit documentation to NDA within 24 hours of receipt. Electronic receipting within two calendar days permits expeditious notification to FNS and other parties of the receipt of the shipment and allows payment to vendors in a timely manner. The Goods Receipt must indicate the quantity received in good condition and, if applicable, the quantity received damaged or rejected.

### **15.7 Unloading the Shipment** **Consignee Responsibilities**

The consignee is responsible for unloading the shipment of USDA Foods and for removing and disposing of dunnage and other debris. The consignee may request reimbursement for costs associated with restacking items that arrive unpalletized or pallets that arrive poorly stacked if appropriate documentation, including photographs, is provided via NDA to FNSRO before the shipment is accepted. Fees levied on the vendor or carrier (ex. gate fees or lumper fees) are not permissible. For shipments of frozen or refrigerated foods, the consignee must ensure the freezer or refrigeration unit remains on during unloading.

For shipments originating from a National Multi-Food Warehouse, the consignee is responsible for unloading their entire order, including items that may be segregated (ex. frozen under bulkhead), and ensuring that proper temperature is maintained.

### **Vendor or Carrier Responsibilities**

The vendor or carrier is responsible for shipping product on pallets or equivalent (ex. slip sheets) that are in acceptable condition, in accordance with applicable contract specifications. If pallet exchange is desired, the vendor or carrier must arrange for pallet exchange with the consignee prior to delivery. Fees levied on the consignee (ex. lumper fees) are not permissible.

All shipments originating from a National Multi-Food Warehouse will arrive on pallets that must be positioned to facilitate timely unloading of USDA Foods (ex. no pinwheeling). The National

Multi-Food Warehouse Carrier is responsible for tailgating if previously arranged with the consignee.

### **Free Time**

The consignee must complete the unloading of the shipment and removal of dunnage and other debris within the period of free time. For palletized loads, free time is up to two hours. For non-palletized loads, free time is up to six hours. Failure to complete unloading within the free time may incur a demurrage or detention charge, which the consignee may be obligated to pay.

### **Segregating Out-of-Condition USDA Foods**

As provided in Section VIII of FNS Instruction 709-5 Rev. 2, if the consignee inspection indicates some, but not a major portion, of the USDA Foods in the shipment are out-of-condition, or there is only a minor discrepancy from the quantity of USDA Foods ordered, the consignee may accept the entire shipment and segregate any out-of-condition USDA Foods.

In such circumstances, the consignee must identify cases or other units of USDA Foods, or those USDA Foods within a case or other unit, that are out-of-condition, and segregate such foods from those that are in good condition, making note on the delivery documentation (ex. BOL) as applicable. USDA Foods with cosmetic damage (ex. small dents) should be retained for use as feasible.

### **Verifying Quantity of USDA Foods, Overages and Shortages**

The consignee must confirm the quantity of USDA Foods received when unloading to determine if the quantity of foods delivered is the quantity ordered or if there is an overage or shortage of the quantity ordered. Any overages or shortages must be noted on the signed delivery receipt and reflected in WBSCM Goods Receipt. Directions for entering quantities in WBSCM are found in the WBSCM Work Instructions under Help.

For shipments originating from a vendor (i.e. any shipment not originating from the National Multi-Food Warehouse), when there is a shortage of the quantity ordered, NDA should notify FNSRO to address any need for additional USDA Foods. For split shipments between two or more destinations, it is the responsibility of the consignee to unload the correct quantity at each delivery location in accordance with the Sales Orders. It is the responsibility of NDA to make the necessary corrections in the event of an unloading error for split shipments.

For shipments originating from a National Multi-Food Warehouse that have less than the quantity of foods ordered, the consignee must notify NDA, which must in turn notify FNSRO and make arrangements to receive the missing product, as appropriate.

### **Re-Sealing for Subsequent Delivery**

It is the responsibility of the vendor or carrier to reseal and re-brace the truck for subsequent deliveries, such as in split shipments, or shipments originating from a National Multi-Food Warehouse. In a split shipment, the consignee, at the next delivery location, must ensure the high security seal(s) is intact and the serial number on the seal matches the number on supporting

documentation. Issues related to resealing, such as broken or lacking seals, should be referred to NDA, which must in turn refer such issues to FNSRO.

For questions or issues regarding re-sealing for subsequent deliveries originating from the National Multi-Food Warehouse, the consignee should contact NDA which must in turn contact FNSRO.

## **15.8 Disposition and Replacement of Out-of-Condition Foods**

### **Disposition**

For shipments originating from a vendor (i.e. any shipment not originating from a National Multi-Food Warehouse) that are found to contain out-of-condition USDA Foods, after taking the necessary steps provided in Sections VII through IX of FNS Instruction 709-5 Rev. 2, as applicable, the consignee must provide the vendor or carrier with the opportunity to remove such out-of-condition USDA Foods for salvage. If the vendor or carrier chooses to remove such USDA Foods, the consignee must obtain a signed salvage receipt or equivalent and provide it to FNS via NDA, upon request.

If the vendor's shipment has already been accepted and the vendor or carrier is unwilling to remove such foods, it is the responsibility of the consignee to destroy or otherwise dispose of the out-of-condition USDA Foods, in accordance with State or local requirements pertaining to food safety and health. Out-of-condition USDA Foods may NOT be used in any USDA food assistance programs. Any USDA markings must be obliterated if the product is salvaged for other use.

For shipments originating from a National Multi-Food Warehouse, if the shipment has already been accepted, the consignee must contact NDA, which must in turn contact FNSRO for guidance in disposing of any out-of-condition foods.

### **Replacement**

For shipments originating from a vendor (i.e. any shipment not originating from the National Multi-Food Warehouse), the vendor is responsible for replacing USDA Foods shipments that are rejected by the Contracting Office in full or those USDA Foods that are delivered out-of-condition in an accepted shipment. Such replacement must be in-kind, unless FNS approves similar replacement. In certain limited cases, FNS, working with the appropriate Contracting Office, may pursue a claim against the vendor to the relevant Federal agency for payment of the value of the USDA Foods in lieu of physical replacement of the USDA Foods. The consignee must contact NDA, which must in turn contact FNSRO to make arrangements to receive replacement product, as appropriate.

For shipments originating from a National Multi-Food Warehouse that contain out-of-condition foods, the consignee must work with NDA, which must in turn work with FNSRO to make arrangements to receive replacement product, as appropriate.

## **Reimbursement for Expenses**

The consignee may request from FNSRO, through NDA, reimbursement for expenses incurred in unloading, storing, inspecting or disposing of USDA Foods that are delivered out-of-condition. In making such request for reimbursement, the consignee must use USDA form FSA-21, "Public Voucher - Commodity Programs," which must be submitted to FNSRO.

## **15.9 Records**

### **Required Records**

The consignee must maintain documentation of:

- the serial number of high security seals
- the temperature of a freezer or refrigerated truck or trailer upon arrival
- the result of any inspections by State or local health authorities or USDA certification agent to determine the condition of USDA Foods
- the disposition of USDA Foods received out-of-condition, including, as applicable, the destruction of such food or a signed salvage receipt from the vendor or carrier

### **Retention of Records**

All records must be retained for a period of five years from the close of the fiscal year to which they pertain (all information this section: FNS Instruction 709-5 Rev. 2).

## **Section 16 Commodity Storage and Inventory**

NDA and recipient agencies must provide for storage which protects commodities from theft, spoilage, damage, destruction or other loss. NDA and recipient agencies may contract with commercial facilities to store commodities.

A physical inventory of ALL USDA Foods must be conducted at least ANNUALLY at each commodity storage and distribution site. Local agencies must send the results of the physical inventory to NDA for reconciliation with inventory records. NDA and recipient agencies are required to keep the results of the physical inventory on file, in accordance with the Record Keeping and Reporting section of this manual.

### **16.1 Safe Storage and Control**

Local agencies must provide facilities for the storage and control of USDA Foods that protect against theft, spoilage, damage and other loss. Such storage facilities must maintain commodities in sanitary conditions, at the proper temperature and humidity and with adequate air circulation.

Storage facilities must comply with all Federal, State and local requirements related to food safety and health. Local agencies must ensure all storage facilities support compliance with food recall procedures and must obtain all required health inspections.

### **16.2 Inventory Management**

CSFP foods must be stored in a manner that permits them to be distinguished from other USDA and non-USDA Foods in storage. Recipient agencies must maintain a separate inventory record for CSFP foods.

Inventory management systems must ensure that all USDA Foods are distributed to clients in a timely manner that permits use of the commodities while still in optimal condition. Local agencies must notify NDA of any losses and take further action with respect to such losses, as directed by NDA.

### **16.3 Inventory Reporting**

NDA provides an electronic template of the CSFP Monthly Inventory Report to each local agency. The state maintains a master spreadsheet for each local agency and forwards updates periodically. The Monthly Inventory Report must carry over the ending inventory from the previous month to provide the beginning inventory for the report month. Local agencies must enter food receipts, distributions or issuances and all other commodity activity for the report month.

Local agencies must conduct a per unit month-end physical inventory of all commodity foods on hand including the content of undistributed food packages located in the warehouse and at distribution sites.

Local agencies shall compare the agency-wide per unit physical inventory with the ending inventory calculated on the Monthly Inventory Report. The ending inventory calculated on the report must equal the physical inventory amounts.

- If the physical inventory differs from the ending inventory reflected on the report, the local agency must show positive or negative adjustments to cause the calculated ending inventory to agree with the actual physical inventory amounts.

The Monthly Inventory Report must be submitted to NDA by the 15th day of the following month, unless otherwise specified by NDA upon delivery of the reporting form for that month. The local agency must report food losses due to damage, spoilage or infestation. A written explanation is required for each and every food loss item.

If neglect, carelessness, and/or willful mishandling cause damage to or loss of USDA Foods or if USDA Foods are used or distributed improperly, local agencies, warehouse personnel and other persons are subject to a claim determination and the corresponding repayment responsibility.

### **16.4 Commercial Storage Facilities**

Local agencies may obtain the services of a commercial storage facility to store CSFP foods.

When electing to engage a commercial storage facility, recipient agencies must:

- Ensure the recipient agency remains in compliance with all procurement requirements of 2 CFR §§ 200, 400 and 416.
- Ensure that the commercial storage facility is in compliance with commodity storage requirements as defined in this document.
- Maintain records of CSFP foods inventories (i.e. the recipient agency cannot delegate the retention of commodity inventory records to the commercial storage facility).
- Ensure that an agreement containing all required elements is in place before any USDA Foods are stored.

## **Section 17 Record Keeping and Reporting**

### **17.1 Records**

NDA and local agencies must maintain accurate and complete records relating to:

- the receipt, disposal, distribution and inventory of commodities;
- the receipt and disbursement of administrative funds and other funds
- eligibility determinations, client demographics, fair hearings and other program activities
- liabilities incurred due to improper commodity distribution
- the use of, loss of or damage to commodities
- results obtained from the pursuit of claims arising in favor of NDA or the recipient agency

Client demographic records must contain the following items:

- the number of program participants
- the racial/ethnic group of each program participant

Records must be retained for a period of five years from the end of the fiscal year to which the records pertain. Records related to unresolved claims actions, audits or investigations must be retained until the unresolved activity is completed. All records must be available during normal business hours for use in management reviews, audits, investigations or reports due to the Federal or State government. (7 CFR § 247.29(a))

### **17.2 Reporting**

- SF-425, Federal Financial Report—NDA must submit to USDA FNS the SF425, Federal Financial Report within 90 calendar days after the end of the fiscal year. Obligations must be reported for the fiscal year in which they occur. Revised reports may be submitted at a later date, but USDA/FNS will not be responsible for reimbursing unpaid obligations later than one year after the end of the fiscal year in which they were incurred
- FNS-153 Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report—NDA must submit the FNS-153 on a monthly basis. USDA/FNS may permit the data contained in the report to be submitted less frequently or in another format. The report must be submitted within 30 calendar days after the end of the reporting period. On the FNS-153, NDA reports the following:
  - the number of program participants
  - commodity data to include the receipt and distribution of commodities and beginning and ending inventories
  - on a QUARTERLY basis, the cumulative amount of administrative funds expended and obligated and the amount remaining unobligated
- FNS-191 Racial/Ethnic Group Participation—Local agencies must submit to NDA a report of racial/ethnic participation for the month of April each year. Reports are due to NDA by June 30<sup>th</sup>.

USDA/FNS reserves the right to require NDA and local agencies to provide data collected in the program to aid in the evaluation of the effect of program benefits on the low-income populations served. Any such requests for data will NOT include identification of particular individuals. (all information this section: 7 CFR § 247.29)

## **Section 18 Program Reviews**

Reviews are used to ensure that financial operations are properly conducted, financial reports are fairly presented, proper inventory controls are maintained, and all applicable laws, regulations and administrative requirements are being followed.

USDA may conduct a review of NDA at any time, while NDA may conduct a review of local agencies at any time. Reviews may include reviews of financial documents, policies and practices, as applicable to the specific area of concern.

When program deficiencies (i.e. review findings or recommendations) are identified, the reviewed agency must submit a response to the auditor describing the actions planned or taken to address deficiencies. NDA reviews the response to ensure it adequately addresses the deficiencies. If additional actions are needed, the auditor will schedule a follow-up review and allow sufficient time for further corrective actions.

Note that the value of CSFP commodities distributed by recipient agencies must be considered as part of the Federal CSFP award.

All audits must be conducted in compliance with 2 CFR Part 200.

## **Section 19 Termination of Participation**

### **19.1 Termination Initiated by NDA**

NDA may terminate, or be required to terminate, a local agency's participation in CSFP, in whole or in part, if the local agency does not comply with Federal and State CSFP requirements. NDA will notify local agencies in writing, at least 30 calendar days in advance of the effective date of the termination, of the termination, reasons for the action and effective date of termination. Local agencies have the right to appeal the termination.

### **19.2 Termination Initiated by Local Agencies**

Local agencies may terminate CSFP participation, in whole or in part, upon written notification to NDA stating the reasons for and effective date of the action. Written notification must be given at least 30 calendar days in advance of the effective date of termination.

A local agency may appeal an NDA decision that adversely affects the local agency's participation in CSFP, such as termination. When the local agency appeals the decision, the effective date of the decision is postponed until a decision on the appeal is made.

## **Section 20 Confidentiality**

NDA and local agencies must restrict the use or disclosure of information obtained from CSFP applicants or participants to persons directly connected with the administration or enforcement of the program, which includes persons investigating or prosecuting program violations.

Participant information may be shared with other health or welfare programs for the purpose of preventing dual participation.

With the consent of the participant, as indicated on the application form, information may be shared with other health or welfare programs for use in determining eligibility for other programs or for program outreach. However, NDA must have an executed agreement with the other health or welfare program administering agencies before the information can be shared. The agreement must contain the following:

- an assurance that the information will only be used for specified purposes
- an assurance that the agencies receiving the information will not further share it

When any person makes a complaint or allegation against another individual participating in or administering the program, the confidentiality and other rights of the complainant must be protected, except as necessary to conduct an investigation, hearing or judicial proceeding.

## **Section 21 Civil Rights Requirements**

### **21.1 Protected Bases and Implementing Regulations**

NDA and local agencies must ensure that no person is subjected to discrimination on the bases of race, color, national origin, age, sex or disability and must also comply with the requirements of the following regulations:

- Title IV of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Titles II and III of the Americans with Disabilities Act of 1990
- USDA departmental regulations specified in 7 CFR Parts 15 through 15f and 16
- Civil Rights Restoration Act of 1987
- The Food Stamp Act of 1977

See FNS Instruction 113-1 for additional information related to this section.

### **21.2 Non-Discrimination Statement**

The USDA nondiscrimination statement must be posted to an agency's website and on all program forms. When posting the approved nondiscrimination statement to a web site, it is not required that the statement be included on every page of the site. At the minimum, the statement, or a link to it, must be included on the home page of the program information.

In the event the informational material or sources are too small to permit legible printing of the full nondiscrimination statement, the material must, at the minimum, include the following statement in print no smaller than the body text of the material or source:

“The USDA is an equal opportunity provider and employer”

### **English Language Authorized Full Nondiscrimination Statement**

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), 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. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

### **Spanish Language Authorized Full Nondiscrimination Statement**

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el Formulario de Denuncia de Discriminación del Programa del USDA, (AD-3027) que está disponible en línea en: [http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish\\_Form\\_508\\_Compliant\\_6\\_8\\_12\\_0.pdf](http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf). y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

- (1) correo: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; o
- (3) correo electrónico: [program.intake@usda.gov](mailto:program.intake@usda.gov).

Esta institución es un proveedor que ofrece igualdad de oportunidades.

### **21.3 Required Notifications**

In order to comply with Federal civil rights requirements, all recipient agencies are required to display prominently a specific public notification poster (And Justice for All poster). For the purposes of this document, prominently means the notification is displayed in a way that is accessible to clients, allows the notification to catch clients' attention and sets the notification apart from other informational materials on display. Recipient agencies may display as many civil rights public notification posters as needed to ensure clients are provided the opportunity to review the posters.

Faith-based agencies must also provide an individual notice of beneficiary protections. The notice may be given as a separate form or incorporated into the CSFP application. Faith-based organizations must also comply with referral requirements as described in this section.

#### **And Justice for All Poster**

All CSFP recipient agencies, when open to the public, must display USDA/FNS Form AD-475-A—Assisted Poster/Revised September 2019 (the “And Justice for All” poster). The AD-475-A must be displayed at its full size of 11 inches wide by 17 inches tall.

When possible, the AD-475-A should be displayed in its original full colors of green and white. Recipient agencies may contact NDA to request new posters, as needed.

### **Individual Written Notice of Beneficiary Protections**

For faith-based organizations operating CSFP, individual written notice of beneficiary protections provided under 7 CFR Part 16, including the right to be referred to another organization, must be given to all applicants at the time that they apply for CSFP benefits. The written notice must state the following:

- The recipient agency may not discriminate against clients on the basis of religion, religious belief, refusal to hold a religious belief or refusal to attend or participate in a religious practice.
- The recipient agency may not require clients to attend or participate in any explicitly religious activities offered by the recipient agency, and any client participation in such activities must be purely voluntary.
- The recipient agency must separate in time or location any privately funded explicitly religious activities from activities supported by direct Federal financial assistance.
- If a client objects to the religious character of the recipient agency, the recipient agency will undertake reasonable efforts to identify and refer the client to an alternate provider to which the client has no objection; the organization may not be able to guarantee that in every instance, an alternate provider will be available.
- Clients may report violations of these protections to NDA, which will then respond to the complaint and report the alleged violations to USDA/FNS Western Region Office.

### **21.4 Referral Requirements**

Faith-based local agencies participating in CSFP must promptly undertake reasonable efforts to identify and refer clients to an alternate provider, if available, to which the client has no objection, when the client raises an objection to the religious character of the distribution site. The definition of “reasonable effort” is dependent upon the situation. At a minimum, local agencies should complete the following:

- attempt to identify an alternate provider
- determine what services the alternate provider offers
- determine whether the alternate provider is accepting new referrals

### **21.5 Training Requirements**

Training is required so that persons involved with all levels of CSFP administration have an understanding of civil rights laws, regulations, procedures and instructions. NDA is responsible for training local agency staff and local agencies are responsible for training staff at their distribution sites. Local agencies must ensure all staff have received civil rights training at least annually. Use the CSFP/TEFAP Civil Rights training provided by NDA.

Civil rights training must be provided annually and include, at a minimum, the following components:

- collection and use of data
- effective public notification systems
- complaint procedures
- compliance review techniques
- resolution of noncompliance

- requirements for reasonable accommodation of persons with disabilities
- language assistance requirements
- conflict resolution
- customer service

CSFP and TEFAP civil rights requirements are covered in the same training. This means that attending training for EITHER CSFP or TEFAP is sufficient for meeting the annual requirements of BOTH programs.

### **21.6 Racial/Ethnic Data Reporting**

Per FNS Instruction 113-1, State agencies, local agencies, and other subrecipients are required to obtain data by race and ethnic category on potentially eligible populations, applicants, and participants in their program service area.

Local agencies conducting certification must collect racial/ethnic data for CSFP applicants at the time of certification. Applicants must be given the opportunity to self-identify their race and ethnicity by filling out the race/ethnicity section of the application. If the applicant chooses not to self-identify, the certifier may make a visual identification. Applicants may not be required to furnish information about their race or ethnicity if they choose not to.

All records containing racial/ethnic data must be kept under safeguards that restrict access to authorized personnel only. Records must be maintained for 3 years.

Racial/ethnic data is reported to the USDA via the annual FNS-191 report. The report is a snapshot of CSFP participation for the month of April. Local agencies must submit racial/ethnic data for all CSFP participants who received benefits in the month of April, using the FNS-191 template, and submit the data to NDA by June 30<sup>th</sup>.

Per FNS Instruction 113-1, the below racial/ethnic categories are to be used for the purposes of data collection in CSFP:

Ethnicity:

- (1) Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic or Latino.”

- (2) Not Hispanic or Latino.

Race:

- (1) American Indian or Alaskan Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- (2) Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

(3) Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” can be used in addition to ‘Black or African American.’

(4) Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

(5) White. A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

### **21.7 Complaints**

A civil rights complaint is a verbal or written allegation of discrimination in the administration or operation of a Federal program. Complaints result from the perception of disparate treatment or services being provided to a person or group of persons because of their membership in a protected class. Civil Rights complaints must be directed to the USDA Office of Civil Rights. Please refer to the nondiscrimination statement for contact information.

## **Section 22 Limited English Proficiency**

Title VI of the Civil Rights Act of 1964 prohibits recipients of Federal financial assistance from discriminating against or otherwise excluding individuals on the basis of race, color or national origin in any of their activities. It states, “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

The term “program or activity” is broadly defined. There is no numerical threshold that must be met before provisions of the Civil Rights Act, prohibiting discrimination based on national origin, are applicable.

Failing to provide services or denying access to federally assisted programs and activities based on LEP may be discriminating on the basis of national origin in violation of Title VI and its implementing regulations. Title VI and its regulations require DES/HRP and recipient agencies to take reasonable steps to assure “meaningful” access to the information and services they provide. What constitutes reasonable steps to assure meaningful access will be contingent on several factors. Among the factors to be considered are:

- the number or proportion of LEP persons eligible to be served or likely to be encountered; the greater the number or proportion of these LEP persons, the more likely language services are needed.
- the frequency with which LEP individuals come in contact with the program; recipient agencies must assess, as accurately as possible, the frequency with which they have or should have contact with an LEP individual from different language groups seeking assistance. The more frequent the contact with a particular language group, the more likely that enhanced language services in that language are needed.

- The nature and importance of the program, activity or service provided by the program to people's lives; when denial or delay of services could have serious or life-threatening implications for the LEP individual, language services are more likely needed.
- The resources available and costs likely to be incurred; smaller recipient agencies with more limited budgets are not expected to provide the same level of language services as larger recipient agencies, however technological advances and the sharing of language assistance services among recipient agencies may help in reducing costs.

Local agencies should explore the most cost-effective means of delivering competent and accurate language services. At a minimum, recipient agencies should be prepared to offer services and materials in English and Spanish languages.

## **Section 23 Fair Hearings**

A fair hearing is a process that allows a client to appeal an adverse action, which may include the denial or discontinuance of program benefits, disqualification from the program or a claim to repay the value of commodities received as a result of fraud.

Local agencies must ensure that clients understand their right to appeal an adverse action through the fair hearing process, which includes providing written notification of the client's right to a fair hearing along with notification of the adverse action.

Local agencies must develop internal fair hearing procedures in compliance with Federal regulations.

### **23.1 Continuance of Benefits**

Clients who appeal a discontinuance of program benefits within the 15-day notification period required under 7 CFR §§ 247.17 and 247.20 must be permitted to continue to receive benefits until a decision on the appeal is made by the hearing official, or until the end of the participant's certification period, whichever occurs first.

However, if the hearing decision finds that the client received program benefits fraudulently, the local agency must include the value of benefits received during the time that the hearing was pending, as well as for any previous period, in its initiation and pursuit of a claim against the client.

### **23.3 Conducting the Fair Hearing**

The fair hearing must be conducted by an impartial official who has no personal stake or involvement in the decision and who was not directly involved in the initial adverse action that resulted in the hearing. The hearing official is responsible for:

- administering oaths or affirmations, as required by the State
- ensuring that all relevant issues are considered
- ensuring that all evidence necessary for a decision to be made is presented at the hearing and included in the hearing record

- ensuring that the hearing is conducted in an orderly manner, in accordance with due process
- making a hearing decision that must:
  - comply with Federal laws and regulations
  - contain a summary of the facts of the case
  - be made and communicated, in writing, to the client within 45 calendar days from the date of the hearing request

If a hearing decision is in favor of an applicant who was denied CSFP benefits, the receipt of benefits must begin within 45 calendar days from the date that the hearing was requested, if the applicant is still eligible for the program.

## **Section 24 Management Reviews**

NDA has established a management review system to ensure that all agencies conducting program activities meet program requirements and objectives. As part of the system, NDA performs an on-site review of all local agencies at least once every two years.

During the onsite review, NDA evaluates all aspects of program administration, including certification procedures, nutrition education, civil rights compliance, food storage practices, inventory controls and financial management systems.

NDA also evaluates program administration on an ongoing basis by reviewing financial reports, audit reports, food orders, inventory reports and other relevant information.

When a deficiency is found, NDA must record all deficiencies identified during the review and institute follow-up procedures to ensure that local agencies correct all deficiencies within a reasonable period of time. To ensure improved program performance in the future, NDA may require that local agencies adopt specific review procedures for use in reviewing their own operations and those of contractors.

NDA will issue a report of findings within 30 days of the date of the review. Local agencies will have 30 days to provide an initial response to the review report.