

Section 5000

Visits, Reviews, and Audits

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Section 5000

Visits, Reviews, and Audits

5100 Visit Prior to Approval

The Texas Department of Agriculture (TDA) visits, prior to approval, an applicant's administrative offices and storage facilities to assess the potential for successful operations of the Commodity Supplement Food Program (CSFP).

5200 Reviews

TDA reviews CEs and sites to ensure compliance with either the *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502) or the *Agreement Between Contracting Entity and Site* (Form H1501). CEs also review sites.

During reviews, CEs and sites must allow representatives of TDA and the U.S. Department of Agriculture (USDA) to inspect facilities and examine and copy all CSFP records during normal business hours.

There are two types of reviews:

1. Compliance review – The review TDA conducts of its CEs.
2. Monitor review – The review a CE or TDA conducts of a site.

Each type of review is discussed below.

5210 Compliance Reviews by Texas Department of Agriculture

At its discretion, TDA conducts a compliance review of each CE either annually or once every two years. As part of a compliance review, TDA determines whether a CE is complying with the terms and conditions of the *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502) as well as with CSFP requirements.

During a compliance review, TDA may look at the following:

- Documents concerning the *Application for Participation/Plan of Operation*
- Storage and warehousing practices
- Financial management system
- Nutritional education
- Inventory controls
- Civil rights compliance
- Other aspects of the program, as determined by TDA

5211 Examination of Contracting Entity Records. Compliance reviews include examination of records, such as the following:

- Documents concerning the *Application for Participation/Plan of Operation*
- Health and sanitation documentation
- Data collected about racial and ethnic categories of participants and applicants
- All required CSFP forms
- Reporting and record-keeping
- Training records
- Cost allocation records
- Site records
- Procurement records
- Single audit records

Costs reported by the CE must be reasonable, and TDA will verify documentation to support reported costs.

5220 Monitor Reviews by Texas Department of Agriculture and Contracting Entities

TDA and a CE conduct monitor reviews of sites to ensure program compliance. Monitor reviews coincide with eligibility certification and distributions to participants.

Sites must comply with the terms and conditions of the *Agreement Between Contracting Entity and Site* (Form H1501) as well as with CSFP requirements, such as the following:

- Receive, handle, and distribute USDA Foods according to requirements
- Adhere to nondiscrimination requirements
- Provide equal access to USDA Foods
- Evaluate the frequency of USDA Foods distribution
- Evaluate the quantity of USDA Foods included in USDA Foods packages

5221 Examination of Site Records. TDA and the CE also examine records during a monitor review. They check one or more *Participant Application(s)* (Form H1504) to ensure that the site complies with certification requirements. Reviewers also ensure that the site maintains receipts for USDA Foods.

5300 Findings and Corrective Action Plans

The following definitions pertain to the discussion below.

finding – The occurrence of program noncompliance.
NOTE: A finding on a site is a finding for the CE.

Corrective Action Plan – Specifies actions that will correct a finding. CE must write and submit to TDA for approval.

5310 Findings Letter

When a reviewer (whether TDA or a CE) finds program noncompliance, the reviewer will issue a findings letter that includes the following:

- Each finding
- The criteria¹ for each finding (if necessary)
- Recommendations for achieving corrective action
- Claims action to be pursued (if any)
- The date the Corrective Action Plan (CAP)² is due

¹ In this case, *criteria* means the regulations or guidance.

² See “Findings and Corrective Action Plans” in this handbook section for more information.

5320 Corrective Action Plan

The CAP that must include the following:

- The name and title of the person that will ensure compliance with the CAP
- The corrective action planned
- The anticipated completion date of each action

5321 Examples of Program Noncompliance. Such examples include, but are not limited to, the following:

- Failure to maintain adequate site or administrative records
- Failure to follow competitive bid procedures
- Failure to comply with civil rights laws and regulations
- Submittal of false information to TDA
- Noncompliance with food distribution requirements
- Failure to adjust USDA Food orders to reflect variations in the number of participants
- Claims for reimbursement for administrative costs that were not related to operations

TDA may perform a follow-up review to ensure that the CE has implemented the corrective action plan and that program noncompliance has not recurred.

5322 Incomplete CAP. If the CAP is incomplete or inadequately addresses program noncompliance, TDA may return the CAP to the CE for clarification. TDA may also amend or modify the CAP based on new information, changes in circumstances, and/or progress to date. Additionally, TDA may choose to extend time frames for good faith efforts to correct program noncompliance.

5330 Site

If TDA or the CE identifies program noncompliance at sites, the site must submit a CAP to the CE. The CAP outlines ways that the site corrects program noncompliance. The CE must provide TDA with a copy of the CAP.

If the CAP is incomplete or does not adequately address program violations, the CE may return the CAP to the site for clarification. The CE may also amend or modify the CAP based on new information, changes in circumstances, and/or progress to date. Additionally, the CE may also choose to extend time frames for good faith efforts to correct program violations. To ensure that the site has corrected the program violations, the CE must perform a follow-up review.

TDA may terminate the CE's *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502) for the following reasons:

- The CE fails to ensure that the site corrects program violations
- The site fails to correct program violations *and* the CE fails to terminate its *Agreement Between Contracting Entity and Site* (Form H1501)

5400 Audits

5410 General Audit Policy

Non-federal CEs include states, local governments, federally recognized Indian Tribes, and nonprofit organizations. Such CEs that expend \$750,000 or more in federal awards during their fiscal year must obtain an audit for that year³. CEs subject to audit must be audited on a single (organization-wide) audit basis by independent auditors according to the 2 Code of Federal Regulations, Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

EXCEPTION: CEs who are subject to audit requirements may elect to obtain a program-specific audit if 100% of their federal financial assistance results from their participation in the CSFP.

The value of USDA Foods must be considered when determining federal awards. The CE must consider the following:

1. Federal awards received
 - Directly, from one or more federal agencies
 - Indirectly, via pass-through entities
2. Cash and non-cash awards
 - USDA Foods are a non-cash federal award

The value of USDA Foods must be considered part of federal awards.

For audit purposes, expended USDA Foods include those distributed or used during the CEs fiscal year.

³ CEs that are exempt from the audit requirement based on federal awards remain subject to any audit requirements prescribed by state or local laws or regulations.

A method of determining the value of USDA Foods must be chosen for an audit. After a CE has selected a method of determining the value of USDA Foods, it must use that method consistently in all of its audit activities and must maintain a record of the means of valuing USDA Foods for audit purposes. Methods include:

- The cost per pound recently published in WBSCM
- The fair market value (FMV)
- The cost per pound posted annually by USDA
- The average cost per pound

The value applied to USDA Foods for audit purposes does not apply for other purposes.

For example: FNS Instruction 410-1 (Rev) is used when determining and pursuing claims for USDA Foods losses.

5420 Purpose of Audits

Audits are conducted to ensure the following:

- Financial operations are conducted properly.
- Expenditures of program funds comply with applicable laws and regulations.
- Internal procedures meet the objectives of federally assisted programs.
- Financial statements are correct.
- Financial reports contain accurate information.

5430 Audit Scope and Frequency

CEs subject to the audit requirement must obtain the audits on a yearly basis unless they fall into one of three categories:

- A state, local government, or Indian tribe is permitted to undergo its audits biennially if its constitution or statute (in effect on January 1, 1987) specifies it to undergo audits less frequently than annually. This requirement must still be in effect for the biennial period under audit.
- A nonprofit organization that has obtained biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995 (30-month period). All consecutive audits obtained during this 30-month period must have been on a biennial basis. Any interruption in the biennial process during this 30-month period disqualifies the CE from the ability to obtain a biennial audit for fiscal years beginning after June 30, 1996.
- A nonprofit organization that meets all of the following qualifications:
 - Started operating a federal program for the first time during the 30-month period stated above
 - Had already been in existence and had been obtaining biennial Generally Accepted Accounting Principles (GAAP) audits before participating in a federal program
 - Continued a biennial audit cycle when participating in the federal program

Audit(s) must be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) and must cover the entire operations of the CE.

5440 Compliance with Audit Requirements

CEs subject to the audit requirement must arrange for an audit to be conducted by an auditor who is a public accountant or a federal, state, local government, or Indian tribe audit organization, which meets the general standards specified in GAGAS. The term auditor does not include internal auditors of nonprofit organizations.

When seeking an auditor, federal procurement requirements⁴ must be followed and the CE must obtain a copy of the audit organization's peer review report.

As a condition of eligibility for participation in the CSFP, TDA requires that the CE submit the *Annual Audit* form or complete the Annual Audit screen in TX-UNPS during initial application and each year after.

Audits must be submitted within 30 days of receipt from the audit or nine months after the end of the audit period, whichever comes first. Based on the information on the *Annual Audit* form/screen, TDA will send a courtesy notification to the CEs of the due date for their audit based on nine months after the end of the audit period. However, failure to receive such notification does not relieve a CE of the responsibility to submit an audit if required. Additionally, this notification does not extend the submission date for those who receive the audit **prior** to nine months after the end of the audit period.

Audits must be submitted to the Federal Audit Clearinghouse at <https://harvester.census.gov/facweb/>

A copy must also be submitted to TDA on paper, CD, or email. Appropriate addresses follow.

- Texas Department of Agriculture
Attn: Business Operations — Audits
P.O. Box 12847
Austin, Texas 78711

- CommodityOperations@TexasAgriculture.gov

The subject line must include Audit – Organization name and CE ID#.

For example: CE Food Bank of America with the CE ID 12345 emails its audit to CommodityOperations@TexasAgriculture.gov. The email's subject should read: Audit – Food Bank of America, ID 12345.

⁴ For more information about procurement, see *CSFP Handbook*, Section 7000, *Procurement*.

The CE should review and accept the completed audit before submitting the audit to the Federal Audit Clearinghouse and TDA.

If the audit is organization-wide but the CSFP is not specifically audited, the CE must submit a letter from the auditor stating that the program was included in the random sampling process but was not selected for audit.

5450 Sanctions for Noncompliance

TDA may terminate the CE's *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502), if the:

- Audit is not submitted to the Federal Audit Clearinghouse by the specified due date.
- Audit is not submitted to TDA by the due date.
- The CE submits an audit that does not meet requirements. TDA will notify the CE in writing that the audit is unacceptable.

NOTE: The CE must submit an acceptable audit within 30 calendar days of the date of the notice.

If TDA determines that extenuating circumstances resulted in the CE's inability to submit an acceptable audit, TDA may conduct an audit, either directly or through contract with a third party. The CE must pay all costs associated with such an audit.

The CE has the right to appeal any decision that adversely affects its participation in the program.

If the CE's *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502) is terminated for failure to comply with audit requirements, the CE must provide an acceptable audit for any outstanding audit year(s) in order to be eligible to reapply to participate in TDA's nutrition programs.

5460 Additional Audits

TDA retains, both for itself and for the federal government, the right to conduct additional audits as necessary.

If serious deficiencies such as fraud or misuse of funds occur and corrective action would not be practical, TDA will immediately terminate the CE's *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502).