

Section 4

USDA Foods

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Section 4

USDA Foods

The Texas Department of Agriculture (TDA) allocates USDA Foods according to the Commodity Supplemental Food Program (CSFP) caseload that it receives for a given service area by the U.S. Department of Agriculture (USDA).

Contracting entities (CEs) receive direct shipments of USDA Foods. The main requirement for CEs to receive CSFP direct shipments is the ability to receive, store, and handle a truckload of a single USDA Food (approximately 40,000 pounds). Unless otherwise specified by TDA, non-food bank CEs receive distributions of USDA Foods from food bank CEs.

Handling of U.S. Department of Agriculture (USDA) Foods must be in accordance with federal requirements found in the Code of Federal Regulations (CFR) at 7 CFR Part 250.

Ordering of USDA Foods

Compliance with Agreement Terms and Conditions

When ordering USDA Foods, CEs must comply with the terms and conditions of the CSFP *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502), federal regulations, state rules, and the policies in this handbook, including, but not limited to, the following:

- Control inventory
- Complete and submit an annual inventory report
- Complete and maintain a record of storage facility reviews (completed in conjunction with the annual inventory)
- Report changes that may affect the terms and conditions
- Agree to be monitored by the USDA and TDA
- Review and monitor sites to ensure program compliance

Coverage of Contracted Service Area

CEs assume final administrative and financial responsibility for distributions of USDA Foods within their contracted service areas. Efforts to meet the needs of eligible participants in a CE's service area should include the following:

- Improve the accessibility to USDA Foods by eligible individuals;
- Meet the special needs of the elderly, including those with disabilities, those who are homebound, and those with transportation difficulties in plans to expand or improve program services;
- Cooperate with TDA to identify areas within a contracted service area where CEs other than food banks may be needed.

USDA Foods Available

For a list of available USDA Foods that might be available through CSFP, go to www.fns.usda.gov. Click on “Programs” then choose “Commodity Supplemental Foods Program” and then “USDA Foods Available List for CSFP.”

Receipt of USDA Foods

FNS Instruction 709-5,¹ *Shipment and Receipt of USDA Foods*, establishes the responsibilities for shipment and receipt of USDA Foods. The entities responsible for USDA Foods include TDA, CEs, vendors, and carriers. The standards and procedures in this instruction are necessary to determine whether shipments of USDA Foods are received in optimal condition and the quantities ordered, and in ensuring the proper disposition and replacement of USDA Foods when circumstances warrant.

Signing for USDA Foods

The CE must sign to validate receipt when USDA Foods are delivered to them. Likewise, each subagency must sign for receipt of USDA Foods when the CE delivers them, or when the subagency picks up the food.

CEs, subdistributing agencies, sites, and others authorized to possess USDA Foods must ensure that USDA Foods are safeguarded. Any entity that stores USDA Foods for any period must become familiar with and adhere to state and local health codes that apply to stored food products.

Inspection of USDA Food Shipments

CEs must inspect USDA shipments to ensure the product and quantity is as identified on the delivery or pick-up document (that is, bill of lading or invoice) and that the product is in good condition. If the product is in questionable condition (that is, damaged or spoiled) or the quantity is not correct, then the CE must take the following steps:

1. Note an exception on the delivery or pick-up document when signing.
2. Obtain the signature of delivery/warehouse personnel on the delivery or pick-up document.
3. Notify TDA immediately.

¹ Available at www.fns.usda.gov/usda-foods/shipment-and-receipt-goods-fns-instruction-709-5.

Electronic Receipting for USDA Foods

CEs must electronically receipt² into USDA's Web-based Supply Chain Management (WBSCM)³ system within 24 hours for USDA Foods shipments received. USDA requires shipment receipts to be entered within 24 hours to meet contractual requirements and to provide prompt payment to vendors.

Storage

USDA requires CEs and subagencies that store USDA Foods to use storage practices that prevent premature deterioration of food. Additionally, the areas in which USDA Foods are stored must be maintained in good condition. Storage of USDA Foods must permit them to be distinguishable from other foods.

Any entity that stores USDA Foods for any period must become familiar with and adhere to state and local health codes that apply to stored food products.

Food Safety

USDA Foods must be stored in safe and secure conditions. The CE is responsible for (1) determining which regulations apply whether the storage is controlled by the CE or not and (2) ensuring that the facility has an adequate plan and all necessary permits.

Temperature

Products must be stored at temperatures recommended by state and local health codes. USDA Foods Product Information Sheets⁴ may provide shelf-life information for a product at various temperatures. Products should not spoil during the shelf life; however, storage at higher temperatures increases the likelihood of insect infestation and may shorten shelf life.

CEs should verify food temperatures on delivery and annotate the receiving document when proper temperatures are exceeded.

Cooler and freezer temperatures must be checked and recorded during regular business hours, and shut down or vacation periods:

- A minimum of every other day,
- Immediately after a power loss is known or suspected, and
- Late each Friday afternoon and early each Monday morning (if operations are suspended during weekends).

² *Electronic receipting* – The entering of shipment receipts into an online management system.

³ *WBSCM* – The web-based ordering and procurement system for USDA Foods.

⁴ Found at www.fns.usda.gov/usda-fis/usda-foods-product-information-sheets.

Use *Temperature Record* (Form H1639)⁵ to record temperatures.

Temperature Chart

Food	Dry Storage (50°-70°F)	Refrigerated Storage (36°-40°F)	Freezer Storage (0°F or below)
Dairy Products			
Butter.....	.....	Satisfactory up to 2 weeks (maximum 45°F)	Required over 2 weeks
Cheese, natural.....	.....	Required (maximum 45°F)	.....
Cheese, processed	.....	Required (maximum 45°F)	.....
Milk, canned.....	Satisfactory	Preferred.....	.....
Milk, fluid whole...	.....	Required (maximum 45°F)	.....
Eggs			
Shell.....	.....	Required.....	.....
Dried.....	.....	Required.....	.....
Frozen.....	.....	.....	Required.....
Meat and Meat Products			
Frozen meats, such as ground beef; hams and shoulders; pork loins; turkeys; etc.....	.....	.....	Required.....
Cured hams and shoulders; bacon; etc.....	.....	Required...	.....
Other canned meats, such as beef/gravy; pork luncheon meat; pork/gravy; etc.....	Satisfactory	Preferred.....	.....
Canned Fruits			
Orange juice.....	.....	Required.....	.....
Other canned fruits, such as apples and applesauce; apricots; blackberries; cherries; cranberry sauce; figs; grapefruit sections; grapefruit juice; peaches; purple plums (prunes); etc.....	.....	Preferred.....	.....

⁵ Go to www.SquareMeals.org. Choose “Programs” then “Commodity Supplemental Food Program,” click on “CSFP Administration/Forms,” then put the proper form number or name in the appropriate search field.

Food	Dry Storage (50°-70°F)	Refrigerated Storage (36°-40°F)	Freezer Storage (0°F or below)
Fresh Vegetables Onions..... Potatoes, Irish.... Potatoes, Sweet ... Other fresh vegetables, such as green beans; beets; cabbage; carrots; spinach; etc.....	Satisfactory Satisfactory Required (maximum 55°F)	Preferred..... Preferred (minimum 40°F) Required...	..... ..... ..... .....
Fresh Fruits Apples; peaches; pears; purple plums; etc...	.....	Required.....	.....
Dried Vegetables Beans, high moisture..... Beans, low moisture.....	Satisfactory for 60 days Satisfactory	Required over 60 days Preferred.....	..... .....
Dried Fruits Apples; apricots; peaches..... Figs; prunes; raisins; etc.....	Satisfactory for 2 weeks Satisfactory	Required over 60 days Preferred.....	..... .....
Cereal Products Regular cornmeal; whole wheat flour..... Degermed cornmeal; all-purpose and bread flour; rice; etc.....	Satisfactory for 60 days Satisfactory	Required over 60 days Preferred.....	..... .....
Miscellaneous Honey..... Nuts..... Peanut Butter.....	Satisfactory Satisfactory	..... Required..... Preferred.....	..... ..... .....

Air Circulation

Frozen, chilled, and dry storage areas must have air circulation. USDA Foods must be stored on pallets or shelves with six inches of clearance from the floor and walls and two feet of clearance from the ceiling.

Stacking

Stacks of USDA Foods should be

- Sufficiently low so that the product at the bottom will not burst or be crushed by the weight of the product above,
- Cross-stacked,
- Away from steam, heat, or moisture, and
- Shrink-wrapped if stored at the top of a storage rack.

Protection of Stored Food

CEs must ensure that USDA Foods are in good condition by taking the following steps:

- Checking all products frequently for deterioration.
- Inspecting for tears in sacks and broken cartons.
 - CEs must recover foods from torn sacks or broken cartons and repackage any foods that remain in good condition. CEs must dispose of spoiled foods as instructed in “Food Losses” in this handbook section.
- Maintaining all storage areas in a clean and orderly condition.
- Storing foods away from pesticides, cleaning supplies, and paper products.
- Using security measures to prevent theft.
- Inspecting storage areas monthly and exterminating as necessary.

Some foods, such as grains, dried fruit, and string cheese are more sensitive to storage conditions. The table below illustrates storage for grains.

Storage of Grains during Summer Months	
TDA recommends . . .	Grain products to be stored in cool storage.
TDA requires . . .	Grain products in cool storage remain there until distribution. NOTE: Grain products moved from cool storage to dry storage are at risk of spoilage. CEs are liable for such spoilage.

Inventory Requirements

CEs must maintain complete and accurate records of USDA Foods that the CE has received and

distributed. CEs must differentiate between USDA Foods and other purchased or donated foods, and separate inventory records are required for USDA Foods. All CEs, subdistributing agencies, and sites are responsible for good inventory management so that USDA foods are distributed to recipients timely and in optimal condition.

Good practices include:

- Requesting only an amount of food that can be used without waste,
- Preventing excess inventory levels, and
- Detecting damage or spoilage.

The CE is responsible for two types of inventory:

- **Perpetual Inventory** — An ongoing accounting system that requires daily entries to document the amounts of food added to or removed from storage.
- **Physical Inventory** — A process to account for all USDA Foods received since the last physical inventory and to report those on hand at the time of the report.

Date of Possession

CEs must record the date of possession of USDA Foods on the perpetual inventory. The date of possession of USDA Foods by a CE is the date the CE accepts delivery directly from USDA.

Reporting Inventory Levels

Monthly, each CE will submit the *Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report* (FNS-153) as described in Section 3, *Managing the Program*, of this handbook.

Each CE's report includes data on the inventory received, inventory distributed to program participants, transfers between CEs, losses, items used in food demonstrations, and any other positive/negative inventory adjustments needed.

CEs must also submit the *Annual Inventory Report* (Form H1526). CEs must also report a loss of USDA Foods discovered because of either the annual inventory or the storage facility review⁶ (use both *Annual Inventory Report* (Form H1526) as well as *Report of Loss of USDA Foods* (Form H1638) as described below in the subsection *Report Loss of USDA Foods*). Form H1526 must include physical inventory information about USDA Foods stored at CEs' storage sites, at commercial facilities, and at any other storage sites. CEs must include on Form H1526 the names and locations of off-premise storage sites. This report is submitted with the CE's annual application.

⁶ Described in *Visits, Reviews, and Audits*, Section 5 of this handbook, under "Storage Facility Review."

USDA Foods Transfer

Sometimes CEs may need a food item to cover a temporary inventory shortage. TDA may transfer USDA Foods from one program to another after requesting USDA approval. However, TDA does not need USDA approval to transfer USDA Foods in the same program.

EXAMPLE: Food Bank C cannot utilize, timely and in optimal condition, CSFP green beans. TDA will facilitate the transfer of CSFP green beans to Food Bank J, which also operates CSFP and is in need of the item. The transfer does not require USDA approval.

EXAMPLE: Food Bank A notifies TDA of an excess of The Emergency Food Program (TEFAP) corn and requests to transfer the corn to Food Bank L, which operates CSFP but not TEFAP. TDA must request approval from USDA because the transfer occurs across two programs — CSFP and TEFAP.

TDA and CEs must maintain records of a transfer. For more about record retention, see Section 3, *Managing the Program*, of this handbook.

Insurance

CEs and subdistributing agencies must obtain insurance to protect the value of USDA Foods inventories. Reasonable insurance premiums are allowable costs.

The insurance amount must be at least equal to the entity's average monthly value of month-end USDA Foods inventories in the previous fiscal year (as determined by one of USDA's foods valuation methods in 7 CFR Part 250).

Entities that are not required to obtain insurance include, but are not limited to:

- Sites
- Food pantries
- Soup kitchens
- Community action agencies

USDA has reserved the right to grant an exemption to entities that maintain a small amount of USDA Foods inventory.⁷

⁷ To request an exemption, email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325)

Distribution

Program Recipients

The method of distributing USDA Foods directly to participants is subject to the review and approval of TDA. Sites must distribute a food package each month, or a two-month supply every other month.

In all circumstances, sites must ensure that participants are not discriminated against on the following bases:

- Race
- Color
- National origin
- Age
- Sex (including gender identity and sexual orientation)
- Disability

For additional information, refer to Section 6, *Civil Rights*.

When funds are unavailable to provide CSFP benefits, or if all available caseload has been allocated, CEs must maintain a waitlist of eligible applicants. TDA recommends that eligible applicants be placed on the waitlist on a first-come, first-served basis. When caseload becomes available – even on a temporary basis — CEs must enroll eligible applicants from the waitlist according to the date the application was received.

Food packages are based on the food package guide rates established by the USDA.⁸ Although the quantity of each item in the package will vary, the basic food items will remain the same. All items must be canned or packaged. Participants may refuse any food item they cannot use or do not want. Refused food items must be returned to the CE and placed back into the CE's physical inventory.

CSFP participants and proxies must present some form of personal identification to pick up food packages. Examples include an ID card or a bill with identifying information.

Local agencies may not distribute food packages to participants retroactively. If a participant is unable to collect a food package, the site may neither keep the food package to be picked up at a later date nor provide an additional food package the next month. Rather, the uncollected food package must be returned to the CE and placed back into the CE's physical inventory. To the extent possible, the site should provide service to participants who are unable to pick up food packages. Home delivery is one option.

Product dates

CEs and subagencies should ensure the distribution of USDA Foods in optimal condition. Participants should have the opportunity to consume USDA Foods before the product end dates, discussed below, have passed.

⁸ For more information, email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325).

best-if-used-by or **best-if-used-before** – Date that a product will be of best flavor or quality.

use-by – Last date that the manufacturer recommends using the product at peak quality.

sell-by –Date by which the manufacturer recommends that a store sell the food product for inventory management purposes.

If handled properly, food could still be wholesome and safe to consume beyond its product end date. However, if handled improperly, food can lose quality before the product end date. Therefore, USDA Foods with expired product end dates should not be distributed to program recipients, so considerations must be made for inventory management. Generally, CEs and subagencies should use first-in-first-out (FIFO) inventory management by marking food cases or other containers with the date of receipt. However, CEs and subagencies should also note food product dates provided by the manufacturer. Products marked with the earliest end date (that is, best-if-used-by and best-if-used-before) should be distributed first, even if those items were received at a later date.

Other dates that affect the distribution of USDA Foods are discussed below.

pack code or **date of pack** – Foods packed shortly after harvest, including, but not limited to, canned or frozen peaches; pears; green beans; and corn. These foods may be delivered throughout the following year or until the next harvest season.

EXAMPLE: USDA Foods packed in September 2020 may be distributed in July 2021.

manufacture date – Date the product was manufactured.

Pack and manufacture dates affect inventory management differently than product end dates: Pack and manufacture dates do not necessarily provide useful information about product wholesomeness or nutritional value. As always, CEs and subagencies must practice proper storage and inventory management system to ensure that USDA Foods are distributed in optimal condition.

USDA Foods Preferences

Conditions affecting USDA purchases of USDA Foods include market conditions; the amounts, types and costs of foods available; and price support requirements. However, when purchasing USDA Foods, USDA considers the recommendations of CEs and sites.

A CE may contact the Program Specialist⁹ to report USDA Foods preferences or suggestions. The Program Specialist will then forward any preferences or suggestions to USDA.

⁹ Email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325).

Payment of Costs

USDA Foods from vendors and federal storage facilities incur a delivery or handling cost. USDA is responsible for these costs. However, CEs and subdistributing agencies are responsible for any delivery charges incurred because of failure to unload a shipment within the designated time frame. (7 CFR §250.11(d))

Transfer of Title

The title to USDA Foods transfers to the CE or subagency upon acceptance of the foods at the time and place of delivery or pick up. (7 CFR §250.11(e))

Food Losses and Complaints

The CE must report all losses regardless of the cause. TDA will decide whether to pursue a claim depending on the circumstances. CEs and subdistributing agencies (as applicable) are responsible for ensuring that sites take appropriate steps to reduce losses. Further, USDA may pursue a claim against CEs and subdistributing agencies for loss of USDA Foods, as well as for the loss or improper use of funds provided or obtained as a result of food distribution. USDA may choose to compromise, forgive, or waive a claim (waiver is not guaranteed).

There are several reasons for loss:

Fraud – Intentional concealment or willful misrepresentation of information. In this discussion, the term fraud includes theft, embezzlement, and willful misapplication.

If a loss of any amount occurs as a result of fraud, then TDA must pursue a claim against the responsible party. Additionally, federal regulations require TDA to forward the claim to USDA.

Negligence – Improper distribution or use of USDA Foods; or failure to properly store, handle, or care for the food.

TDA will not pursue a claim if the loss is less than \$500. For more on negligence, see “Fraud, Negligence, and Misuse of USDA Foods” in this handbook section.

Uncontrollable event – Hidden damage, hurricane, flood, or general power outage.

TDA will not pursue a claim if a loss is the result of an uncontrollable event. If the loss exceeds \$500, TDA informs USDA.

Report of Loss of USDA Foods

To report a loss, CEs must complete *Report of Loss of USDA Foods* (Form H1638)¹⁰ and any other

¹⁰ Go to www.SquareMeals.org. Choose “Programs” then “Commodity Supplemental Food Program,” click on “CSFP Administration/Forms,” then put the proper form number or name in the appropriate search field. Instructions for the form contain the link to submit the form.

supporting documentation,¹¹ including documents provided by subagencies. **CEs may report losses in conjunction with the monthly submission of the FNS-153 report.** (See also “FNS-153 Monthly Report” in Section 3 of this handbook.) All reports of loss must explain how and why the loss occurred.

The following table provides examples of supporting documentation for the *Report of Loss of USDA Foods* (Form H1638).

Type of Documentation	Details about Documentation
Condemnation certificate	From health official
Destruction certificate	Must include when, where, and how the USDA Foods were destroyed; and by whom
Temperature logs	If USDA Foods were stored in the freezer or cooler
Police report	If theft or vandalism was involved <i>Also, include precautions taken to prevent future theft or vandalism.</i>
Fire department report	If the loss was due to fire
Extermination records	If the loss was due to infestation
Refrigeration repair information	If the loss was due to refrigeration failure

Holds and Recalls

USDA notifies TDA of a hold or recall providing 1) instructions, 2) replacement of recalled foods, and 3) reimbursement of specific costs related to the recall. TDA will notify CEs and may request them to report the amount of affected product in their possession, as well as whether the product was delivered to subagencies.

If USDA Foods are on hold, the CE and subagencies, if applicable, segregate the product until USDA either releases the hold or provides further information.

If USDA Foods are recalled, TDA instructs CEs of the ways to dispose of the product.

For more information, see the USDA Food Safety website.¹²

¹¹ Examples of supporting documentation include photographs; the confirmation document of the local health official who inspects the food loss; or a receipt or invoice from a landfill that verifies destruction of the food loss.

¹² USDA Food safety website: www.fns.usda.gov/ofs/usda-food-recall-resources.

Public Notification of a Recall

TDA recommends that the CE and subagency broadcast recall information in ways that a participant can be reached. The CE and subagency may take further action as they deem necessary.

Out-of-Condition USDA Foods

Out-of-condition USDA Foods are no longer fit for human consumption because of damage, spoilage, or infestation. Occasionally, some USDA Foods can be salvaged; if so, CEs must contact TDA.

When there is a question about the wholesomeness of USDA Foods, CEs and subdistributing agencies must have the foods inspected by a state or local health authority to ensure the foods are still safe.

When USDA Foods are determined to be out of condition, CE must take the following steps:

1. Obtain from a federal, state, or local health official a written statement that the USDA Foods are unfit for human consumption.
NOTE: If a federal, state, or local health official is not available to inspect foods to determine if they are out-of-condition, then CEs and subagencies may, with TDA approval, use other community resources, e.g., individuals who provide inspection services, nurses, or others whose training, experience or background in medical, health, or related fields qualify them to determine if food is fit for human consumption.
2. Obliterate carton labels.
3. Destroy food and ensure that it is inedible.
4. Transport unsalvageable, out-of-condition USDA Foods to a landfill for proper disposal.

(7 CFR §250.15)

Complaints

CEs should keep in mind that factors affecting USDA purchases of USDA Foods include market conditions; the amounts, types, and costs of foods available; and price support requirements. Also, when purchasing USDA Foods, USDA considers the recommendations of CEs and subagencies.

USDA and TDA appreciate the input of CEs and subagencies regarding food quality or specifications. Two complaint forms and their locations are described below.

1. USDA Foods Complaint Form. CEs may use the *USDA Foods Complaint*¹³ form to report specific issues involving USDA Foods. Such issues include (but are not limited to) quality, acceptability, and packaging. TDA must seek guidance and authorization from USDA before disposing of USDA Foods that have been the subject of a complaint, due to food safety regulations and to contractual obligations with USDA's vendors. The complaint will be resolved as expeditiously as possible.

¹³ Go to www.SquareMeals.org. Choose "Programs," then "Commodity Supplemental Food Program"; click on "CSFP Administration/Forms," then put the form name in the appropriate search field.

2. F&N Complaint Form. CEs may use the *F&N Complaint Form*¹⁴ to give TDA feedback concerning program problems or general suggestions.

Salvage license

CEs must maintain a valid salvage license. TDA will request to see the license at each monitor review.

Prohibited Actions and Restricted Practices

Payment for USDA Foods

CEs must not require, solicit, or accept payment from CSFP applicants or participants in money, materials, or services for, or in connection with, receiving USDA Foods. Additionally, USDA Foods must not be sold or disposed of through commercial methods.

NOTE: This policy does not restrict any person or persons from volunteering services in their communities, as they choose when such volunteer services are not conditions for receiving USDA Foods.

Join an Organization

CEs must not require an agency, organization, individual, or a household to join, attend meetings of, or pay dues to a specific organization as a condition for receiving, distributing, or using USDA Foods.

Activities Unrelated to USDA Foods

CEs and subagencies must ensure that unrelated activities are conducted in a way that does not disrupt CSFP distribution.

A person may conduct activities unrelated to CSFP distribution or meal service as long as the person clarifies that

- the activity is not part of CSFP,
- such activity is not endorsed by USDA, and
- cooperation with the activity is not a condition to receive CSFP foods, including
 - contributing money,
 - signing petitions,
 - or conversing with the person.

Information about explicitly religious activity must never be placed in CSFP containers. On the other

¹⁴ Go to www.SquareMeals.org. Choose “Programs,” then “Commodity Supplemental Food Program”; click on “CSFP Administration/Forms,” then put the form name in the appropriate search field.

hand, information unrelated 1) to CSFP and 2) to explicitly religious matters, is permissible if it is printed with a statement that the information is not endorsed by USDA.

Some information can be included in CSFP containers without specifying that USDA does not endorse it, including, but not limited to

- recipes,
- information about USDA Foods,
- dates of future distributions, hours of operations, or
- other federal, state, or local government programs or services for eligible people.

Corrective action will be required of any CE or subagency that distributes or permits the distribution of materials, as explained above. Failure to maintain corrective action may result in the termination of the CSFP agreement.

Additional Resources

Health Risks of Peanut Products

The ingestion of peanut products can pose a serious health risk to certain individuals. This health risk applies to peanut butter products, peanut oil, and peanut granules that are purchased by the U.S. Department of Agriculture (USDA).

According to USDA, the oil used in other USDA Foods, such as potato wedges, potato rounds, French-fried potatoes, dressings, and other vegetable oil is unsaturated vegetable oil. These products do not contain peanut oil.

Food Safety Best Practices for Households

For safety resources, go to the USDA website at www.fns.usda.gov/food-safety/food-safety-resources.