INSTRUCTIONS FOR THE REPORT OF LOSS OF USDA FOODS
Form H1638

The *Report of Loss of USDA Foods* (Form H1638) is an electronic form used to report a loss of USDA Foods in the Commodity Supplemental Food Program (CSFP), The Emergency Food Assistance Program (TEFAP), and other USDA Foods programs as applicable.

PURPOSE

Contracting organizations, subdistributing agencies, and contractors that are responsible for storage and delivery of USDA Foods must submit Form H1638 for any USDA Food losses. This is applicable to losses that occur when USDA Foods are no longer fit for human consumption as a result of spoilage, contamination, infestation, or damages occurring in the warehouse or during transportation and delivery to recipient agencies (RAs). This also includes instances in which foods are not stored or managed in accordance with program agreements, stolen, willfully misapplied, obtained by fraud, or improperly distributed.

For CSFP, any product that is stored off-site at a partner agency and has not been distributed to a client is considered on-hand inventory. If a loss occurs at one of these locations before it is distributed to a client, the CE must submit an H1638. For TEFAP, once a partner agency is in possession of inventory, losses no longer have to be reported to TDA.

PROCEDURE

The H1638 must be completed within **24 hours** of identifying the USDA foods loss. As an exception, losses that occur during CSFP food package builds and distributions should be compiled and submitted onto a single H1638 concurrently with the submission of the FNS-153, *Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report*. The loss form should capture the details of how and why the loss occurred, and should include supporting documentation such as photographs, health inspection reports, destruction certificates, or other forms of documentation associated with the loss. Forms should also be submitted by program (i.e. TEFAP separate from TEFAP Trade Mitigation). Complete instructions for how to complete the electronic H1638 are noted in the section below.

Once TDA has received the form, it will be evaluated to determine the party responsible for the loss and if a claim will be pursued. If TDA determines that the value of the USDA Food loss **does not** exceed $500, a claim is not required to be pursued or forwarded to USDA for further action. However, if the contracting entity (CE) has a history of losses below $500, TDA will evaluate the cause of the losses and may pursue a claim if there is evidence of a systemic issue in inventory management. If the loss has occurred as a result of theft, embezzlement, willful

misapplication, or fraud, TDA must pursue further claim actions or forward the claim determination to USDA for further action, regardless of the value of the loss.

All USDA Food losses over $500 will be reported to USDA, regardless if the CE is responsible for the loss. When the CE has been deemed responsible for USDA Food losses over $500, a claim will be pursued. CEs will receive a written notification with a description of the loss and a demand for payment by a date not to exceed 30 days from the date of notification. The CE has the option of replacing the lost product with in-kind or similar replacement **OR** submitting payment to TDA for the value of the lost USDA Foods. CEs are also required to submit corrective action plans which identify how such losses will be prevented in the future. Implementation of corrective actions will be reviewed during on-site compliance reviews as well as records of claim actions such as purchase of replacement foods.

Link for H1638 SmartSheet

https://app.smartsheet.com/b/form/afe6c7c5557c4a1790456e12965d96c2

DEFINITIONS

Claim- a demand, or basis for a demand, that restitution be made for the loss of donated foods, or for the loss or improper use of funds relating to donated foods, by the party responsible for such loss.

In-kind replacement- the replacement of a loss of donated food with the same type of food of U.S. origin, of equal or better quality in all USDA procurement specifications for that type of food, and at least equal in value to the lost donated food.

Similar replacement- the replacement of a loss of donated food with another type of food from the same food group (i.e. dairy, grain, meat/meat alternate, vegetable, fruit, etc.) that is of U.S. origin, of equal or better quality in all USDA procurement specifications for that type of food, and at least equal in value to the lost donated food.