Texas Department of Agriculture

Senior Farmers' Market Nutrition Program Handbook

Senior Farmers' Market Nutrition Program Handbook

Table of Contents

1000 Introduction

2000 Eligibility and Application Requirements

3000 Program Agreements

4000 Managing the Program

5000 Administrative Reviews and Audits

6000 Civil Rights

7000 Financial Management

8000 Denials, Terminations, and Appeals

9000 Terms, Definitions, and Acronyms

10000 Email Notification and SFMNP Handbook Online

11000 Resources

Section 1000
Introduction

Table of Contents

1100 Program Description 2
1200 Administration 2
1300 Other Programs 3
1400 Funding 4
1500 Appeals 4

Section 1000
Introduction

1100 Program Description

The Texas Department of Agriculture (TDA) offers the Senior Farmers' Market Nutrition Program (SFMNP) to low-income seniors, using farmers' markets. This program is designed to increase seniors' consumption of fresh fruits and vegetables and provide opportunities for farmers to sell their produce locally.

1200 Administration

TDA has an agreement with the United States Department of Agriculture (USDA) to administer the SFMNP in Texas and does so in accordance with federal and state requirements. The contracting entity (CE) may reference these requirements in the following sources:

- Title 7 Code of Federal Regulations (CFR) CFR Part 249, *Senior Farmers' Market Nutrition Program*
- 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards*

TDA distributes administrative funds, if available, to participating CEs, such as nonprofit organizations and public agencies, that

- Determine the eligibility of applicants,
- Conduct nutrition education activities for eligible clients, and
- Distribute vouchers for clients to redeem for produce at local farmers' markets or through bulk purchases of foods.

TDA's responsibilities include the following activities

- Administering the SFMNP in Texas,
- Disbursing administrative funds,
- Assisting CEs in the operation and management of the SFMNP, and
- Monitoring the SFMNP to ensure that reimbursement is used for SFMNP purposes.

CEs' responsibilities include the following activities:

- Complying with the terms of SFMNP Agreement,
- Implementing and operating an approved financial management system,
- Distributing vouchers to eligible participants,
- Certifying eligible participants in the SFMNP,
- Maintaining SFMNP records,
- Submitting vouchers for reimbursement,
- Distributing funds to farmers' market associations, and
- Monitoring to ensure the SFMNP is operating according to regulations.

NOTE: The CE may find forms for operating the SFMNP on the TDA website. Access the TDA website at http://www.squaremeals.org/, go to "Programs," click on "Senior Farmers' Market Nutrition Program," choose SFMNP Administration and Forms," then input the form title or form number in the appropriate search field. TDA will notify CEs when it posts new or revised forms and instructions on the website.

For any required form that does not have an electronic version, TDA will provide a paper version for CE's use.

1300 Other Programs

TDA administers the SFMNP through agreements with nonprofit organizations or public agencies in Texas. TDA also administers the following USDA nutrition programs:

- Child and Adult Care Food Program (CACFP)
- Commodity Supplemental Food Program (CSFP)
- Farmer's Market Nutrition Program (FMNP)
- Food Distribution Program (FDP) for Child Nutrition Programs
- National School Lunch Program (NSLP)
  - Afterschool Care Program (ASCP)
  - Seamless Summer Option (SSO)
  - Fresh Fruit and Vegetable Program (FFVP)
- School Breakfast Program (SBP)
- Special Milk Program (SMP)
- Summer Food Service Program (SFSP)
- The Emergency Food Assistance Program (TEFAP)

CEs may receive additional information about these programs on the TDA website at http://www.squaremeals.org/. For CEs that do not have internet access, please contact TDA at (877) TEX-MEAL.

If a CE is approved to participate in more than one program, it must ensure that it

- Maintains separate records for each program, and
- Attributes costs to the appropriate program.

1400 Funding

Each year, USDA grants administrative funding to TDA to administer and operate the SFMNP in Texas.

1500 Appeals

CEs have the right to appeal certain actions TDA takes that adversely affects their participation in the SFMNP, including the denial of applications. Refer to Section 8000, *Denials, Terminations and Appeals*, for additional information regarding appeal rights.

Section 2000 Eligibility and Application Requirements

Table of Contents

2100 Eligibility Requirements 2
2110 Contracting Entity Selection Criteria 2
2120 Organizational Structure and General Requirements 3
2120.1 Organizational Structure 3
2120.2 Tax Exemption 3
2120.3 Single Audit Requirements 4
2120.4 Debarment Certification 4
2120.5 Unique Entity Identifier Number 5
2130 Training Requirements 5
2130.1 Contracting Entity Training 5
2130.2 Staff Training 5
2200 Application Requirements 6
2210 Application Process 6
2220 Application/Plan of Operation 7
2220.1 Nutrition Education 8
2220.2 Budget 8
2220.3 Management Plan 9
2220.4 Training 9
2220.5 Voucher Distribution, Site Information, and Market Locations 9
2220.7 Authorized Representatives 10
2230 Review of SFMNP Applications 10
2230.1 Pre-Approval Visit 10
2230.2 Approval of Contracting Entities 11
2230.3 Amendments to an Application 11

Section 2000
Eligibility and Application Requirements

2100 Eligibility Requirements

Organizations must demonstrate adequate administrative and financial responsibility to manage an efficient and effective voucher distribution and redemption system to be considered a potential SFMNP CE. An organization may be eligible to participate as a SFMNP CE if it:

- Accepts final administrative and financial responsibility for SFMNP operations.
- Is a nonprofit organization or a public agency.
- Attends all required TDA trainings.
- Provides adequate supervisory and operational personnel to effectively manage and monitor SFMNP operations.
- Restricts employees from securing additional employment that interferes with their SFMNP responsibilities and duties (for example, scheduling or conflict-of-interest issues).
- Has a satisfactory performance record if it participates or has participated in other TDA administered nutrition programs.

For complete details, organzations interested in applying should contact the USDA Foods Program Specialist who handles the SFMNP at CommodityOperations@TexasAgriculture.gov or at 1-877-TEX-MEAL (1-877-839-6325).

2110 Contracting Entity Selection Criteria

Selection of CEs is considered annually. SFMNP Agreements are not permanent. The term takes effect upon signature by both TDA and the CE and expires based on a three year cycle for new and returning CEs. The selection criteria are:

1. The organization must have an existing network in place to reach eligible seniors and to distribute vouchers to eligible participants in the geographical contract area.
2. There should be a significant number of seniors eligible for the SFMNP in the contract area. Consideration will also be given to the poverty level of seniors in the selected geographical contract area.
3. The organization should be able to reach the maximum number of eligible seniors in the geographical contract area. Consideration will be given to the organizations best suited to make maximum use of the caseload availability.

4. TDA certified farmers' markets must be in the geographical contract area and accessible to the seniors in the program.
5. TDA may make use of bulk purchases of produce. The organization should have the resources for food storage and distribution to sub-agencies.
6. Administrative funds for the SFMNP are limited and will not cover all expenses. The CE must have the ability to meet SFMNP objectives without total administrative funding from the United States Department of Agriculture (USDA) or TDA.

2120 Organizational Structure and General Requirements

2120.1 Organizational Structure

Organizations are eligible to participate in the SFMNP as a CE only if they are nonprofit organization with tax-exempt status or a public agency.

2120.2 Tax Exemption

Nonprofit organizations must acquire and maintain tax-exempt status from the U.S. Internal Revenue Service (IRS) either individually or as part of a group ruling. If a nonprofit organization acquired tax-exempt status under a group ruling, it must submit proof of affiliation with the parent organization that was given tax-exempt status. Churches are not required to provide proof of tax exemption. However, an organization must ensure that it qualifies as a church in accordance with IRS Publication 557, *Tax Exempt Status for Your Organization* and IRS Publication 1828, *Tax Guide for Churches and Religious Organizations*. Organizations that represent themselves as a church but do not meet the qualifications of a church will be required to submit to TDA proof of tax exempt status.

If the IRS has awarded a nonprofit organization tax-exempt status, the applying organization must submit a

- Formal determination of tax-exempt status from the IRS, **or**
- Proof of participation in another federally funded program that requires an IRS determination of tax-exempt status.

If an organization does not submit this proof of tax-exempt status, the SFMNP application will be denied. If the IRS revokes tax-exempt status, the CE must notify TDA immediately.

The IRS has specific filing requirements for small tax-exempt organizations whose gross receipts are normally $50,000 or less. The Pension Protection Act of 2006 (PPA) requires these organizations to file Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or 990-EZ.* Failure to comply with the PPA could result in revocation of an organization's tax-exempt status.

Additional information about the filing requirements, as well as how to apply for tax-exempt status, may be found at http://www.irs.gov/.

IRS Automatic Revocation of Exemption List

Nonprofit CEs must maintain their tax-exempt status. To ensure that nonprofit SFMNP CEs meet the tax-exempt requirements, TDA reviews annually the IRS Automatic Revocation of Exemption List to determine whether any SFMNP CEs in Texas are listed. The list, which is organized by State, may be found at https://www.irs.gov/charities-non-profits/exempt-organizations-select-check. Failure to maintain tax-exempt status may result in termination of the CE from the SFMNP.

2120.3 Single Audit Requirements

Organizations must submit one or more of the following forms to verify their compliance with Single Audit requirements in 2 CFR Part 200:

- A copy of an organization-wide or program-specific audit that has been determined to meet the Single Audit requirements.
- A completed *Annual Audit* form certifying that the CE will obtain, if required, an acceptable audit that meets the Single Audit requirements.

Refer to Item 5200, *Audits*, for specific information related to audit requirements.

2120.4 Debarment Certification

Each CE must not make or permit any award, subaward, subgrant, or contract with an individual or entity that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

TDA will deny an SFMNP application or terminate an SFMNP Agreement if a CE fails to obtain debarment certification by one of the three methods for any sub-agency, organization, or entity that meets the above criteria. Any contract containing federal assistance held by a CE that is excluded from entering into such contracts will be considered void, effective upon the date of exclusion.

For a copy of *Certification Regarding Debarment Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts* (Form H2048), access the TDA website at http://www.squaremeals.org/, go to "Programs," click on "Senior Farmers' Market Nutrition Program," choose "SFMNP Administration and Forms," then input the form title or form number in the appropriate search field.

For additional information on Debarment and Suspension Certification, refer to Item 7350.2, *Debarment and Suspension Certification*.

2120.5 Unique Entity Identifier Number

As of April 4, 2022, the federal government stopped using the Dun & Bradstreet Data Universal Numbering System (DUNS) number as the identifier for entities doing business with the federal government. A Unique Entity Identifier (UEI) has replaced the DUNS number for all CEs. This transition allows the government to streamline the entity identification and validation process, making it easier and less burdensome for entities to do business with the federal government.

All CEs must complete the following steps:

1. Register and obtain a UEI from SAM.gov
2. Once your organization has a UEI, please email the number to nslp-sbp.bops@texasagriculture.gov

For more information, go to SAM.gov. Please note that TDA does not administrate the SAM.gov website. All requests for technical help should be directed to SAM.gov.

Note also that the UEI number will not replace the Employer Identification Number (EIN).

2130 Training Requirements

2130.1 Contracting Entity Training

Each year, CEs will receive written notification of specific mandatory training requirements for the Program Year. TDA is required to conduct interactive training (face-to-face or online) for CE's, FMAs and farmers new to the SFMNP. (7 CFR § 249.10(d))

Refer to Item 4410, *Contracting Entity Training*, for specific information.

2130.2 Staff Training

After a SFMNP application has been approved, CEs must conduct training for administrative and site personnel before they assume any SFMNP duties. Refer to Item 4411, *Staff Training*, for specific information. CEs must train each staff member during each program year thereafter. Training must include the required civil rights curriculum.

As part of the SFMNP application, the CE must provide a list of planned training topics and the proposed training dates.

NOTE: CEs must document efforts to train staff and retain this documentation with its SFMNP records.

2200 Application Requirements

2210 Application Process

Applicants complete and submit all necessary forms and supporting documentation to TDA. In the application, the applicant must provide information about the organization and how it plans to operate the program.

As part of the application process, applicants must do the following:

- Provide proof of tax-exempt status if the organization is a non-profit organization.
- Demonstrate adequate administrative and financial responsibility to manage an effective program.
- Identify and execute agreements with sub-agencies,[1] farmers' market associations and farmers that will be responsible for certifying participants, distributing vouchers, redeeming vouchers, providing produce, and submitting vouchers for reimbursement.
- Describe a plan to integrate nutrition education into the SFMNP operation.
- Visit each site, including sub-agencies and farmers' markets, before operating the SFMNP at the sites (in any capacity).
- Submit a complete management plan that includes staffing needs and an administrative budget.
- Certify that administrative and site personnel will be trained prior to the start of SFMNP operations.

If an applicant submits an incomplete or incorrect application, TDA will request in writing that the organization submit the information needed within 30 days. After review and approval of the CE's initial application, TDA will complete and sign the SFMNP Agreement.[2] This is a legally binding document that specifies the rights and responsibilities of both the CE and TDA. The CE must have an approved or approvable SFMNP *Application for Participation/Plan of*

[1] For additional information on sub-agency, please refer to Item 3120, *Additional SFMNP Agreements*.

[2] The agreement is effective upon signature by the parties and expires in accordance with its terms at the end of a three year cycle.

Operation prior to the FMNP Agreement being executed between the CE and TDA. Upon execution of the SFMNP Agreement, CEs will receive copies of the approved SFMNP Agreement and supporting documents needed to operate the program. TDA will not issue reimbursement funds for administrative costs before approving a SFMNP Agreement that is signed by a CE's authorized representative. The USDA Foods Program Specialist who handles the SFMNP may be contacted at 1-877-TEX-MEAL (1-877-839-6325) to answer questions and provide technical assistance.

2220 Application/Plan of Operation

Applicants and returning CEs must complete and submit an application to participate in the SFMNP for review and approval every year. The SFMNP *Application for Participation / Plan of Operation* must be completed in TDA's online system.

The SFMNP *Application for Participation / Plan of Operation* provides TDA with the following information:

- Organization information
- Nonprofit status
- A description of how nutrition education will be integrated into SFMNP operations.
- Budget information including an estimate of all SFMNP costs for which the CE plans to claim reimbursement during the applicable Program Year.
- Complete management plan that list all administrative personnel responsible for managing and monitoring the SFMNP operations
- Training topics and proposed dates for conducting the training
- Site information including a description of the geographic area that will be served
- Outline of fair hearing procedures CE will use to ensure fair hearings for all parties.
- Name and contact information for the SFMNP Authorized Representative

2220.1 Nutrition Education

Nutrition education must be thoroughly integrated into the SFMNP. It must be easily understood by program participants and bear a practical relationship to their nutritional needs and household situations. Refer to Item 4413, *Nutrition Education*, for specific guidance.

2220.2 Budget

A CE must provide an estimate of all SFMNP costs for which it plans to claim reimbursement during the Program Year. A CE's budget is reviewed by TDA to ensure that individual line items in the budget are:

- Approved uses of funds,
- Reasonable, and
- Necessary.

In general, a cost item will be deemed allowable if it is reasonable and necessary for SFMNP purposes and otherwise satisfies allowability criteria set forth in 2 CFR Part 200, subpart E and USDA implementing regulations in 2 CFR Parts 400 and 415 and 7 CFR Part 249. (7 CFR § 249.12)

Refer to Item 7600, *Administrative Costs* for guidance when completing this portion of the *Application for Participation / Plan of Operation* in TX-UNPS.

If TDA determines that the budget includes excessive or unnecessary costs, the CE will be asked to revise the budget or provide additional information. TDA will not approve an application without an approved annual budget.

An approved budget is the maximum amount of reimbursement for administrative costs that are incurred during operation of the SFMNP. The approved budget does not imply in any way that a CE will be reimbursed for the full amount of each budgeted item; rather, it specifies the areas of administrative costs that are allowable and reasonable. If a CE determines that the approved budget is inadequate, the budget may be amended with approval from TDA.

Any change in an approved budget is an amendment of the *Application for Participation / Plan of Operation*. Refer to Item 2330.3, *Amendments to an Application*, for instructions related to changing the approved budget.

2220.3 Management Plan

A CE must submit a management plan that includes detailed information about administrative staff. This includes all administrative personnel who will be responsible for managing and monitoring the SFMNP operation. It does not include site supervisors. At a minimum, the CE must indicate

- The title for each position,
- The number of individuals in each position, and
- The specific SFMNP duties performed by each position.

During an administrative review, TDA will review the CE's Management Plan to evaluate whether the CE has sufficient staff to efficiently and effectively administer the SFMNP.

2220.4 Training

CEs must train each of its staff members before they assume any SFMNP duties at one or more sites. Further, CEs must train each staff member during each Program Year thereafter. At a minimum, the CEs training must include the required Civil Rights curriculum. CEs must also provide Civil Rights training to the farmers' market associations and farmers in accordance with TDAs guidance. Refer to Item 11300, *TDA Civil Rights Training Materials* for more information.

A CE must submit a list of planned training topics and the proposed dates when the CE will conduct the training as part of its application in TX-UNPS.

NOTE: CEs must document its training and retain the documentation with its SFMNP records.

2220.5 Voucher Distribution, Site Information, and Market Locations

CE's must submit site information as part of its *Application for Participation / Plan of Operation* in TX-UNPS. SFMNP CEs must have an identifiable service area that is accessible to local farmers' markets where vouchers are distributed to SFMNP participants (qualified seniors). A description of the geographic area to be served must be described. As part of the SFMNP application, each farmers' market where SFMNP participants can redeem their vouchers must be identified.

Refer to Item 4310, *Site Requirements*, for specific information.

CEs must complete Form H1420, *Farmers' Market Locations and Site Information*, which includes information on each farmers' market location as well as each site where certification and/or vouchers will be distributed. Prior to operating the SFMNP at one of the listed sites, the CE must conduct a visit of each site to verify that it will operate in full compliance with the

requirements set forth in the Agreement between TDA and the CE. For a copy of Form H1420, access the TDA website at http://www.squaremeals.org/, go to "Programs," click on "Senior Farmers' Market Nutrition Program," choose "SFMNP Administration and Forms," then input the form title or form number in the appropriate search field.

When selecting sites where the eligibility of applicants will be certified, CEs should evaluate the administrative cost of and ability of the organization, or a sub-agency, to consistently perform this function at the site in full compliance with the SFMNP Agreement.

Refer to Item 4411, *Certification Sites*, for specific instructions.

2220.6 Fair Hearing Procedures

CEs must provide an outline of procedures it will take to ensure fair hearings for all parties in the event that a dispute arises between farmers, farmers' markets, and SFMNP participants.

2220.7 Authorized Representatives

Applicants must complete form FND-135, *User Access Manager Form*, to name an authorized representative. An authorized representative is any person who is individually authorized on behalf of the CE to:

- Make written agreements with TDA,
- Sign documents or reports about the agreement, and
- Present claims for reimbursement, when appropriate.

An authorized representative must be an employee of the organization.

2230 Review of SFMNP Applications

TDA will notify an organization of the approval or denial of a complete SFMNP *Application for Participation/Plan of Operation*, within 30 days of receipt in TX-UNPS. If TDA denies the application, TDA will notify the organization in writing of the reasons and explain the right to appeal.

Refer to Section 8000, *Denials, Terminations, and Appeals*, for additional information.

2230.1 Pre-Approval Visit

TDA may conduct pre-approval visits of CEs' administrative offices and sites to assess the potential for successful program operations and to verify information provided on *Application for Participation/Plan of Operation*. Before approving the SFMNP Agreement, TDA may visit all:

- CEs that did not participate in the SFMNP during the previous Program Year.
- CEs and/or sites that, as a result of operational problems noted during the previous Program Year, have been determined by TDA to need a pre-approval visit before being approved in the current Program Year.

For returning CEs, prior to the start of operation, TDA will either visit any new farmers' markets or FMAs added by that CE to conduct in-person training or will conduct this training in an online interactive format. (7 CFR 249.10(d))

2230.2 Approval of Contracting Entities

TDA will only approve the participation of a CE that has submitted an *Application for Participation / Plan of Operation*, with sufficient information to enable a determination of eligibility.

2230.3 Amendments to an Application

The SFMNP Agreement stipulates that a CE will perform according to the application, supporting documents, and approved amendments. Therefore, approved amendments to the application do not require an amendment to the SFMNP Agreement. CEs will request amendments to applications via TX-UNPS. CEs must include all supporting documentation to complete the amendment request. CEs must request an application amendment whenever they want to

- Add or remove a site, including a certification site,
- Change the address of an approved site,
- Add or remove an authorized representative,
  NOTE: CEs must also complete and submit form FND-135, *User Access Manager Form*, when adding or deleting an authorized representative.
- Alter an item in the approved budget, or
- Make any other change that affects reimbursement or SFMNP operation.

Reimbursement for claims may be delayed or negatively affected if the CE fails to properly request an amendment in advance. TDA must approve **all** amendments to a budget.

Example: If a CE wants to increase expenditures on postage for program outreach by an additional $100 per year and reduce expenditures on program training by $100 per year, TDA must approve each proposed change in advance although the total budget would remain unchanged.

TDA will not approve retroactive budget amendments that increase individual budgeted line items or the total budget for any claim month before the month in which the request was received. TDA must have sufficient time to review and approve each request. All budget changes are effective for an entire claim month (that is, these changes will not be prorated for part of a month).

For more information or assistance in requesting an application amendment, CEs should contact the Food and Nutrition Program Specialist who handles the SFMNP at CommodityOperations@TexasAgriculture.gov or at 1-877-TEX-MEAL (1-877-839-6325).

Section 3000
Program Agreements

Table of Contents

3100 SFMNP Agreements 2
3110 SFMNP Agreement between Texas Department of Agriculture and Contracting Entity 2
3120 Additional SFMNP Agreements 3
3200 Program Payments 3
3210 Claims for Reimbursement 3

3100 SFMNP Agreements

3110 SFMNP Agreement between Texas Department of Agriculture and Contracting Entity

If an organization is approved to participate in the SFMNP, the CE and TDA will complete and sign the *Agreement between Texas Department of Agriculture and Contracting Entity* (SFMNP Agreement) (SFMNP-01). The agreement is effective upon signature by the parties and expires in accordance with its terms at the end of a three-year program cycle. This agreement provides the terms and conditions for participation in the SFMNP and is a legally binding agreement between TDA and the CE. The terms and conditions relate to the following topics:

- Accountability,
- Distribution and redemption of vouchers,
- Certification,
- Debarment, suspension, ineligibility or voluntary exclusion for covered contracts,
- Federal lobbying,
- Subcontracts for goods and services,
- Civil rights,
- Information Technology
- Appeals
- Disqualification and sanctions
- Nutrition education, and
- Program payments.

NOTE: TDA may terminate an SFMNP Agreement, as provided by federal regulations, state rules, and the terms and conditions of the agreement. Additionally, the SFMNP Agreement may be terminated with 30 days' notice by mutual consent or by TDA, without mutual consent, for material breach of the Agreement. If funds for the continued fulfillment of the agreement by TDA are at any time unavailable or are insufficient, through failure of any entity to appropriate funds or otherwise, then TDA has the right to terminate the agreement at no additional cost and with no penalty by giving written notice documenting the lack of funding.

After TDA has approved the SFMNP Agreement, it can only be amended with TDA's consent.

If the CE owns and fully operates and controls the Farmers' Market Association (FMA), TDA and the CE will execute an Addendum to the SFMNP Agreement (SFMNP-01A).

3120 Additional SFMNP Agreements

If a CE is unable to fulfill one or more of the requirements identified in the SFMNP Agreement, a CE may be able to enter into a written agreement with a sub-agency to fulfill these requirements. In SFMNP, a sub-agency is a Farmers' Market Association. TDA provides the following agreements in SFMNP:

- SFMNP-02, *Senior Farmers' Market Nutrition Program Agreement Between [CE] and [Sub-Distributing Agency]*.
- SFMNP-03, *Senior Farmers' Market Nutrition Program Agreement Between [CE] and [Farmers' Market Association]*.
- SFMNP-04, *Senior Farmers' Market Nutrition Program Farmer Profile and Agreement Between [Farmer] and [Farmers' Market Association]*.
- SFMNP-05, *Senior Farmers' Market Nutrition Program Farmer Profile and Bulk Purchase Agreement*

An agreement between the CE and FMA (sub-agency) or pantry (sub-distributing agency) is effective upon signature by the parties and expires in accordance with its terms at the end of a three-year program cycle. The agreement provides the terms and conditions for participation in the SFMNP and is a legally binding agreement between the CE and FMA (sub-agency) or pantry (sub-distributing agency). These agreements are subject to TDA approval. TDA will approve or deny these agreements during the application process or during the program year.

Further, only farmers authorized by TDA or that have a valid agreement with an authorized farmers' market may redeem vouchers (7 CFR §249.10(b)). FMAs are required to enter into a written agreement with each farmer within the market that is participating in the SFMNP. TDA provides an agreement with the required terms which must be used (7 CFR §249.10(c)).

3200 Program Payments

3210 Claims for Reimbursement

TDA reimburses CEs for their actual, allowable costs as administrative funds are available, according to the terms and conditions of the SFMNP Agreement. Refer to Section 4000, *Managing the Program*, and Section 7000, *Financial Management*, for additional information.

Section 4000
Managing the Program

Table of Contents

4100 General Administration 3
4110 Program Year Period 3
4111 Program Operations 3
4111.1 Voucher Management Procedures 3
4112 Vouchers 3
4113 Voucher Security 4
4114 Voucher Reconciliation and Redemption 4
4114.1 Voucher Reconciliation/Redemption Procedures 5
4115 Voucher Reimbursement/Submission Deadlines 5
4116 Negligence, Fraud, or Abuse 6
4117 Administrative Funding and Claim Reimbursement 6
4200 Enrolling Participants and Issuing Vouchers 7
4210 Participant Eligibility (7 CFR §249.6) 7
4210.1 Applicant Information 7
4211 Household Income Determination 8
4211.1 Converting Incomes to an Annual Equivalent for SFMNP Income Eligibility 8
4211.2 SFMNP Benefits Excluded from Consideration as Income 9
4211.3 Exclusion of Combat Pay from Income Eligibility Determination 9
4212 Dual Participation Is Not Permitted 10
4213 Determination of Eligibility 10
4213.1 Written Notifications 10
4214 The Proxy 11
4215 Participant Rights and Responsibilities 11
4216 Fair Hearing Request 12
4217 Confidentiality 12
4300 Sites 12
4310 Site Requirements 12
4311 Certification Sites 12
4312 Adding and Deleting Sites 13
4313 Authorizing Farmers, Farmers' Markets, and Roadside Stands 13
4400 Training, Monitoring and Nutrition Education 14
4410 Contracting Entity Training 14

4411 Staff Training 15
4412 Monitoring Contracting Entities' Sites 16
4413 Nutrition Education 16
4500 Program Administration by Farmers' Market Associations and Farmers 17
4510 Agreements with SFMNP Contracting Entities 17
4511 Voucher Accountability 17
4512 Vendor Identification Number 17
4513 Monitoring Farmers' Market Associations, Farmers, and Roadside Stands 18
4514 Farmers' Market Associations (FMA) Responsibilities 19
4515 Sanctions 20
4516 Prohibition on Collecting Sales Tax 21
4600 Program Documentation 22
4610 Retention Period 22
4620 Availability of Records 22

Section 4000
Managing the Program

4100 General Administration

4110 Program Year Period

The Senior Farmers' Market Nutrition Program (SFMNP) operates from January through November. Vouchers may only be distributed to participants between February 1 and September 30 of the program year. Participants may redeem current vouchers from the date of issuances through October 31 of the program year.

Contracting Entities (CEs) may submit claims for reimbursement to TDA from February through December 15 of each program year. Claims for reimbursement must be submitted within 30 days of the end of the month in which the expense was incurred. Refer to Item 4115, *Voucher Redemption/Submission Deadlines*, for more information.

4111 Program Operations

TDA provides vouchers to CEs. These vouchers are redeemable by program participants at qualifying local farmers' markets and roadside stands. CEs will distribute vouchers to SFMNP recipients.

4111.1 Voucher Management Procedures

CEs must establish and maintain written procedures for the management, distribution, security, and accountability of vouchers. TDA will review the CEs' process/procedure for adequacy to ensure they cover, at a minimum:

- Receipt, storage, and security of voucher booklets prior to issuance;
- Transportation and security of voucher booklets from the CE to distribution site(s), if applicable;
- Security and issuance instructions for voucher booklets at the site(s);
- Distribution of vouchers to participants; and
- System for detecting and resolving voucher issuance problems at the site(s).

4112 Vouchers

Each participant receives five vouchers valued at $20.00 in increments of $4.00 per voucher. CEs, farmers, and farmers' markets should only accept vouchers that are valid. Each voucher

must include a unique number with the current year printed on it and dated at the time of redemption. Vouchers are printed in a different color each year to help identify valid vouchers.

4113 Voucher Security

CEs, sub-agencies, Farmers' Market Associations (FMA) and farmers are all responsible for voucher security. CEs must keep vouchers in a secure area before distribution, during transfer from the CE to market, and after they are returned from FMAs for reimbursement.

CEs must record the series of unique numbers on the cover of the voucher booklet received from TDA. If a sub-agency or FMA is used for the distribution of vouchers, they must record the voucher numbers received from the CE. The eligibility specialist enters the voucher's unique numbers on the *Participant Voucher Issuance Log* at the time the vouchers are distributed.

At the time of redemption by SFMNP participants, farmers and FMAs should always make sure the vouchers are valid (see Item 4114, *Voucher Reconciliation and Redemption* and Item 4115, *Voucher Reimbursement/Submission Deadlines*). The redeemed vouchers must be kept in a safe place.

4114 Voucher Reconciliation and Redemption

Farmers must enter their vendor numbers on the redeemed vouchers to assure proper identification for reimbursement.

Farmers submit their redeemed vouchers to the FMA on a weekly or monthly basis. The FMA must confirm the validity of the redeemed vouchers by ensuring they are dated, and the farmer's vendor number is entered on each voucher. Redeemed vouchers that are missing the date or vendor number may be rejected by CE for payment. The FMA will complete *Farmers' Voucher Redemption List* form and submit it to the CE along with the properly redeemed vouchers.

CEs verify and reconcile the redeemed vouchers to the *Farmers' Vouchers Redemption List* after they have been submitted by the FMAs or sub-agency. CEs must reconcile vouchers by identifying the disposition of all vouchers as properly redeemed, lost or stolen, or not matching issuance records. CEs must verify:

- Unique numbers on the vouchers are valid,
- Dates on the vouchers are current, and
- Farmer vendor identification number is present and valid.

4114.1 Voucher Reconciliation/Redemption Procedures

CEs must establish and maintain written procedures for the reconciliation and redemption of vouchers. TDA will review the CE's procedures for adequacy to ensure they cover, at a minimum:

- Process to determine whether each voucher is validly redeemed, lost or stolen, expired, or inconsistent with issuance records;
    - This should include a process to reduce the number of errors in transactions, where possible.
- Process for handling redeemed vouchers that cannot be traced back to a record of issuance;
- Process for disposing of vouchers that were not issued and/or redeemed;
- Process for voucher redemption.

4115 Voucher Reimbursement/Submission Deadlines

Voucher issuance occurs February 1 through September 30 of each program year. SFMNP participants may redeem vouchers at participating farmers' markets and roadside stands on February 1 through no later than October 31 of each program year. Farmers have until November 15th to submit redeemed vouchers to the FMAs. FMAs should submit redeemed vouchers at least monthly to their CE, with all vouchers being submitted no later than November 30. Failure to submit vouchers by the November 30 deadline will result in non-payment to the farmers.

Voucher Issuance and Redemption/Submission Deadlines	
First Day Vouchers may be Issued to Participants and Redeemed at at Farmers' Markets/Roadside Stands	February 1
Last Day Vouchers may be Issued to Participants	September 30
Last Day Participants may Redeem Vouchers at Farmers' Markets/Roadside Stands	October 31
Last Day Farmers Submit Redeemed Vouchers to FMA	November 15
Last Day FMA Submit Redeemed Vouchers to CE	November 30
Last Day CEs Submit Claim for Reimbursement to TDA	December 15

The CE submits a monthly claim for reimbursement to TDA for payment within 30 days from when the expense was incurred. TDA will process the claim and issue payment through the

Comptroller of Public Accounts to the CEs. The Comptroller will reimburse CEs according to its payment procedures. The CEs will reimburse the FMAs. The FMAs will reimburse the farmers for the amounts submitted for the redeemed vouchers.

The final claim for reimbursement must be submitted to TDA no later than December 15 of each program year. It is important that FMAs send the redeemed vouchers to their CE no later than November 30, to make sure the CE has time to verify and reconcile the vouchers. Also, CEs must submit any requests for claim adjustments to TDA on or before December 15th of the program year.

TDA will conduct Administrative Reviews of submitted claims and/or redeemed vouchers to determine compliance. See Section 5000, *Administrative Reviews and Audits*, for additional information.

4116 Negligence, Fraud, or Abuse

CEs assume financial liability for negligent or fraudulent administration of the SFMNP, if aware of such activity. CEs and other SFMNP stakeholders must immediately report suspected fraud or misuse of funds or vouchers, and other major criminal activity to TDA. They can notify TDA at SquareMeals@TexasAgriculture.gov or (877)-TEX-MEAL. CEs should include information related to the amount involved, location of the incident, suspected parties, and other details and facts.

TDA will notify the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) Regional Office of suspected illegal activity. The FNS Regional Office reports the case to the USDA Office of Inspector General for investigation.

4117 Administrative Funding and Claim Reimbursement

SFMNP CEs accept final administrative and financial responsibility for all sites that they operate or delegate (to an approved sub-agency) program activities. SFMNP administrative funds may not cover all of a CE's actual costs.

CEs should submit claims for administrative costs and voucher reimbursement monthly using TDA's claiming system. Claims for administrative funds must include all actual and allowable costs for operating the program. Reimbursement for administrative costs is based on the distribution and/or redemption of vouchers.

If funding is available, there will be a reallocation at the end of the program year, providing additional administrative funds to CEs. The number of vouchers each CE distributed and/or redeemed will provide the basis for calculating the reallocation of funds.

4200 Enrolling Participants and Issuing Vouchers

4210 Participant Eligibility (7 CFR §249.6)

Low-income persons sixty years old and older may apply to participate in the SFMNP. A proxy may apply for the applicant. For detailed information on the proxy, see Item 4214, *The Proxy,* in this handbook section. For each individual who wishes to participate in the SFMNP, *Participant Application* (Form H1430) must be completed each program year. For a copy of Form H1430, access the TDA website at http://www.squaremeals.org/, go to "Programs," click on "Senior Farmers' Market Nutrition Program," choose "SFMNP Administration and Forms," then input the form title or form number in the search field. This form is also available in Spanish on the TDA website (Form 1430S).

Participants must be at least 60 years old or older and reside in the CE's service area. The participant's income must be at or below the maximum gross household income of 185% of the annual poverty income guidelines.

Participants 60 years of age or older also qualify for the SFMNP if they take part in the Commodity Supplemental Food Program (CSFP) or receive Supplemental Security Income (SSI) or meet a means test for the 185% poverty income level.

For documentation of income eligibility, TDA will accept the signed statement of the SFMNP applicant.

TDA posts the updated federal income guidelines online each year. You may obtain a copy of the federal income guidelines by accessing the TDA website at: https://squaremeals.org/FandN-Resources/Income-Eligibility-Guidelines.

Participants may be certified only for the current SFMNP program year. Eligibility must be determined at the beginning of each period of operation. Prior year certifications may not be carried over into subsequent years. (7 CFR §249.6(c))

4210.1 Applicant Information

The *Participant Application* (Form H1430) must be filled out completely to certify and document the eligibility of program applicants for SFMNP benefits. Instructions accompany the form to assist CE staff in ensuring that the correct information is provided for each section.

The CE must ensure that the complete name, address, and date of birth of the applicant are entered on the *Participant Application*. At the time of application, some form of identification for each applicant must be provided. Identification may include, but not limited to:

- Birth certificate

- Baptismal certificate
- Health card
- Identification card
- Driver's license
- Military ID
- Veteran ID
- Passport
- Refugee visa

Applicants must reside within the service area of the CE.

4211 Household Income Determination

4211.1 Converting Incomes to an Annual Equivalent for SFMNP Income Eligibility

SFMNP applicants who are members of households with more than one source of income may receive income on different payment schedules.

EXAMPLE: One adult may be paid weekly while another member is paid twice a month; other types of income, such as Social Security, may be received once a month.

If a household only has one income source, or if all income sources have the same frequency, do not use any conversion factors. Use the *Income Eligibility Guidelines* (Form H1668) for the appropriate frequency and household size to determine income eligibility.

If a household has income sources of more than one frequency, annualize all income by multiplying:

- Weekly income by 52,
- Income received every two weeks by 26,
- Income received twice a month by 24, and
- Income received monthly by 12.

Do not round totals from each conversion. Add together all the unrounded, converted values and compare the total to the annual income with the number of household members on Form H1668 to make the income eligibility determination.

EXAMPLE: One adult in the household receives a monthly Social Security check of $500. Another adult earns $250 weekly.

$500	Monthly Social Security Income
x12	*Multiply by monthly conversion factor*
= $6,000	Converted annualized income

$250	Weekly Income
x52	*Multiply by weekly conversion factor*
= $13,000	Converted annualized income
$19,000	**Total converted annualized income**

Based on Form H1668, the total household income is under the annual limit for two people and meets the income guidelines for eligibility in SFMNP.

4211.2 SFMNP Benefits Excluded from Consideration as Income

SFMNP benefits, such as voucher value, may not be counted as income or resources for any purposes under any federal, state, or local law. SFMNP benefits are excluded from determination of eligibility for other means tested programs, e.g., Supplemental Nutrition Assistance Program (SNAP).

4211.3 Exclusion of Combat Pay from Income Eligibility Determination

In determining household size for income eligibility, deployed service members should be considered household members and counted. Military combat pay of deployed household members must be excluded as countable income. The combat pay must have been:

- received in addition to the service member's basic pay,
- as a result of the service member's deployment to or service in an area that has been designated as a combat zone*, and
- not received by the service member prior to deployment to or service in the designated combat zone.

*A combat zone is any area that the President of the United States designates by Executive Order as an area in which the U.S. Armed Forces are engaging or have engaged in combat.

The two most common types of excluded combat pay are Hostile Fire Pay/Imminent Danger Pay (HFP/IDP) and Hardship Duty Pay (HDP).

Other allowances excluded as income if they meet the criteria listed above are:

- Family Separation Pay (FSA) which is only excluded when the service member is on route to a training location prior to deployment or on deployment to a designated combat zone.
- Foreign Language Proficiency Pay (FLPP) for service members certified within the last 12 months and deployed to a designated combat zone.
- Special Duty Assignment Pay (SDAP).

- Hazardous Duty Incentive Pay (HDIP).

Combat-Related Injury and Rehabilitation Pay (CIP) is also excluded and paid after a service member is medivac'ed out of the combat zone and hospitalized or receiving extensive rehabilitation as an outpatient while living in quarters affiliated with the military health care system.

4212 Dual Participation Is Not Permitted

Participants may not receive SFMNP vouchers from more than one service area during a program year. Participants are limited to $20.00 per program year. However, participants may redeem their vouchers at any participating farmers' market and roadside stands within their service area.

4213 Determination of Eligibility

After reviewing all data elements on the application, CEs must determine the applicant's eligibility for certification by selecting one of these options:

- Eligible
- Eligible and on waiting list, or
- Ineligible.

Eligible:
Only those applicants who meet all eligibility criteria, as described in item 4210 above, are eligible for SFMNP benefits.

Eligible and on Waiting List:
When all available SFMNP benefits have been allocated to eligible participants, the CE must maintain a waiting list of eligible individuals. In order for the CE to notify eligible individuals that benefits are available, the waiting list must include the name of the applicant, the date placed on the waiting list, and an address or phone number of the applicant. (7 CFR §249.6(g)(2))

Not Eligible:
Persons found ineligible for the SFMNP during a certification visit must be advised in writing of their ineligibility, of the reasons for their ineligibility, and of their right to a fair hearing. The reasons for ineligibility must be properly documented and must be retained on file. Such notice is not required when participation is denied solely because of lack of sufficient funding to provide SFMNP benefits to all eligible applicants. (7 CFR §249.6(d)(4))

4213.1 Written Notifications

Applicants for the SFMNP must be notified of their eligibility or ineligibility for benefits, or of their placement on a waiting list within 15 days from the date of the application. This notification may be made by the CE by providing them with a copy of the *Participant Application* (Form H1430). This form also provides information on the applicant agreement, rights, obligations, and fair hearing requests.

At the time the vouchers are distributed, CEs (or FMAs or sub-agencies that distribute vouchers for CEs) must provide the following notifications:

- Each participant shall receive instructions on how to redeem vouchers, including locations and names of farmers' markets/roadside stands at which SFMNP vouchers are distributed and may be redeemed. (7 CFR §249.10(i)(1)(3))
- Each participant shall receive instructions on how to designate a proxy. (7 CFR §249.10(i)(2))
- Each participant shall receive a description of eligible foods and the prohibition against cash change. (7 CFR §249.10(i)(5))
- Each participant shall be informed during voucher distribution of the CE's complaint procedures about improper farmer/farmers' market practices regarding SFMNP responsibilities and the process for making such a complaint. (7 CFR §249.10(i)(7))

4214 The Proxy

A proxy is a person designated by a participant to act for the participant as necessary throughout every process of the SFMNP. The proxy may apply for certification, be issued SMFNP vouchers, and use SFMNP vouchers at authorized farmers' market and/or roadside stands, if the participant is unable to perform these actions. The participant may name a proxy any time during the program year. This information must be provided in writing. The participant may list a proxy on the *Participant Application* (Form H1430) during certification or provide a signed statement. (7 CFR §249.6(f))

4215 Participant Rights and Responsibilities

The following statement on the *Participant Application* (Form H1430) shall be read by, or read to, the applicant (or proxy) at the time of certification:

I have been advised of my rights and obligations under the Program, including the right to appeal any decision made by the local agency regarding my denial or termination from the Program. I certify that the information I have provided for my eligibility determination is correct to the best of my knowledge. This certification form is being completed and submitted in connection with the receipt of Federal assistance. Program officials may verify information on this form. I am aware that intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts may result in paying the Texas Department of Agriculture (TDA) in cash, the value of the food benefits improperly issued to me and may subject me to civil or criminal prosecution under applicable State and Federal laws.

I understand that the local agency will make nutrition education available to me and I am encouraged to participate. Standards for eligibility and participation in the SFMNP are the same for everyone, regardless of race, color, national origin, age, disability, or sex.

Additionally, CEs or sites must provide the notification of *Applicant Agreement, Rights, Obligations and Fair Hearing Request* (page 3 of Form H1430) at application, denial of certification, and at termination. The form provides instructions about how to request a fair hearing, as well as information about other rights and responsibilities of participants.

4216 Fair Hearing Request

TDA will provide fair hearings for participants, farmers, and farmers' market associations. See Item 8400, *Appeal Procedures*, for instructions on requesting a hearing; also known as an "appeal." CEs must provide notification to participants of their right to a fair hearing, as applicable.

4217 Confidentiality

CEs must protect the confidentiality of any information that has been provided on a SFMNP participant. CEs may only use the information to determine eligibility for SFMNP benefits. Do not release any information that contains a participant's name or other individual information. Summary information, such as the number of SFMNP applicants eligible for benefits, or the number of participants, can be released.

4300 Sites

4310 Site Requirements

CEs that utilize sites for the operation of the SFMNP (that is, for voucher distribution) must accept final administrative and financial responsibility. During the application process, CEs are required to visit each site as provided in Item 2220.5, *Site Information*. Refer to Item 4512, *Monitoring Contracting Entities' Sites*, for specific instructions related to these visits.

4311 Certification Sites

When selecting sites where the eligibility of applicants will be certified, CEs should consistently evaluate the administrative costs and ability of the organization, or a sub-agency, to ensure compliance with the *SFMNP Agreement*. Form H1420, *Farmers' Market Locations and Site Information*, is used when evaluating a potential certification site and the need for a site coordinator who is separate and apart from the CE's administrative staff.

Refer to the *SFMNP Agreement* for a complete list of program requirements that must be met at each certification site. These requirements include:

- Training staff members before they assume any SFMNP duty at one or more certification sites, training each staff member every program year thereafter, including, at a minimum, the required civil rights curriculum; documenting all efforts to train staff and keeping this documentation with SFMNP records.
- Advising applicants of the restriction against participating in the SFMNP with more than one CE.

NOTE: Do not select certification sites where supervisors have had a poor performance record during previous program years or where supervisors could not implement or complete corrective action. Depending on the previous performance problems, TDA may not approve such sites.

4312 Adding and Deleting Sites

During the program year, CEs may wish to add or delete a site. The addition or deletion of a site is a change (that is, an amendment) to the *Application for Participation/Plan of Operation*. If a CE wishes to add a new site, the CE must:

- Visit the site to verify that it will operate in full compliance with the requirements mandated in the *SFMNP Agreement*.
- Complete Form H1420, *Farmers' Market Locations and Site Information*, for each site where participant certification and vouchers will be distributed. In the email submitting the updated Form H1420, CEs must include an explanation that clearly details the reason for the change.
- Complete and sign the *Agreement Between Contracting Entity and Sub-Distributing Agency.*
- Amend *Application for Participation / Plan of Operation* and submit Form H1420 to TDA when requested to do so.

If a CE wishes to delete a site, the CE must amend its *Application/Management Plan Change* in TX-UNPS for TDA's review and approval.

4313 Authorizing Farmers, Farmers' Markets, and Roadside Stands

Only farmers, farmers' markets, and roadside stands that are authorized to participate in the SFMNP may redeem vouchers. Farmers' markets wanting to take part in the SFMNP must be approved by TDA.[1] Farmers, farmers' markets, and roadside stands may only sell eligible foods to participants using the vouchers. If participants want to purchase disallowed produce or goods, they must use other means of payment. Eligible foods must be grown in Texas, New

[1] A certified farmers' market must have at least two produce growers who are growing and selling their own produce. For information on becoming a Certified Farmers Market, please go to https://www.texasagriculture.gov/Grants-Services/Certified-Farmers-Markets

Mexico, Oklahoma, Arkansas, or Louisiana. Food from Mexico or other countries is not permitted in the SFMNP. For the list of eligible foods, see Item 11100, *Allowed/Disallowed Foods in the SFMNP*. The majority of the food being sold must be grown by the farmer; wholesalers are not eligible to take part in the SFMNP. If farmers' markets already participate in the Farmers' Market Nutrition Program (FMNP), they are automatically allowed to participate in the SFMNP. TDA does not limit the number of farmers, markets, or roadside stands that may participate in the program.

The redemption period for vouchers is February through October. During that period, farmers, farmers' markets, and roadside stands must display posters advertising that they will accept SFMNP vouchers. Voucher distribution and redemption periods may vary according to growing seasons in different areas of the state. Only valid SFMNP vouchers may be accepted. These vouchers will have a unique number and the current year printed on them.

Farmers must have a written agreement with the FMA to redeem SFMNP vouchers. FMAs must have a written agreement with the TDA CE to participate in the SFMNP. Refer to Section 3000, *Program Agreements*, for additional information.

The CE must ensure there is no conflict of interest between the CE and any participating farmer or farmers' market. For example, employees or volunteers of the CE must not participate in any activity that conflicts with their performance of SFMNP duties. Refer to Section 7000, *Financial Management*, for additional information on financial conflicts of interest.

4400 Training, Monitoring and Nutrition Education

4410 Contracting Entity Training

CEs must attend SFMNP training sessions required by TDA. CEs will be notified, in writing, of all mandatory training requirements. TDA is required to conduct interactive (face-to-face or online) training for CEs, FMAs, and farmers if a CE is new to the SFMNP. (7 CFR § 249.10(a)(7) and (d))

If the CE's staff fails to complete mandatory training, TDA may suspend the CE from participating for the program year.

4411 Staff Training

After a CE's application has been approved, the CE must conduct training for administrative and site personnel, including volunteers and farmers, before they assume any SFMNP duty, and conduct required annual training thereafter. Training topics must include, but are not limited to:

- Identification of eligible foods
- Proper voucher redemption procedures, including deadlines for submission of vouchers
- Equal treatment of participants
- Voucher security, storage, and distribution
- Voucher cancellation procedures
- Civil rights compliance and guidelines
- Record keeping and document retention requirements

CEs must maintain a record of trainings and attendees (sign-in sheets) which includes:

- Date of training,
- Location of training,
- Training topics,
- Name(s) and signature(s) of attendees and
- Name of trainer.

CEs must keep this documentation with SFMNP records.

When developing the training curricula, CEs will benefit from reviewing the information provided in Item 4200, *Enrolling Participants and Issuing Vouchers*; Item 4300, *Sites*; and Section 6000, *Civil Rights*.

In addition to providing SFMNP training to its FMAs, sub-agencies, and other organizations, as applicable, CEs must provide technical assistance to these entities upon request.

CEs provide annual training for the FMAs. At a minimum, the training will include:

- Eligible food choices,
- SFMNP voucher redemption procedures,
- Fair and equitable treatment of SFMNP participants, including availability of foods that are of the same quality and cost as those sold to other customers,
- Civil Rights compliance and guidelines,
- Guidelines for storing SFMNP vouchers safely, and
- Guidelines for redeeming SFMNP vouchers.

Other topics may include:

- Written agreements,
- Purpose of SFMNP, and/or
- Qualification of SFMNP participants.

4412 Monitoring Contracting Entities' Sites

CEs monitor their administrative and site personnel and sub-distributing agencies to:

- Ensure program compliance,
- Investigate reported problems, and
- Determine whether to operate a site during the following program year.

If problems are identified, CEs must take action, as provided in Item 5120, *Findings*.

Independently or in coordination with TDA, CEs will review sub-distributing agencies and the distribution sites served by those agencies to:

- Evaluate their operations and activities, and
- Ensure program compliance according to the terms and conditions of their agreements, including, but not limited to:
    - Certifying participants,
    - Distributing vouchers,
    - Adhering to non-discrimination requirements,
    - Record keeping requirements, and
    - Voucher security.

CE staff must visit any new site prior to approving it to participate in the program.

4413 Nutrition Education

Easily understood nutrition education that bears a practical relationship to participants' nutritional needs and household situations must be thoroughly integrated into the SFMNP operation. Nutrition education must be available to all participants.

Specifically, nutrition education activities must:

- Emphasize the relationship of proper nutrition to the total concept of good health.
- Assist participants in obtaining a positive change in food habits that result in improved nutritional status and in the prevention of nutrition-related problems through maximum use of fruits and vegetables and other nutritious foods.

NOTE: Nutrition education should be provided within the context of ethnic, cultural, and geographic preferences. Nutrition education should be tailored to meet any limitations experienced by groups of participants, such as lack of running water, lack of electricity, and limited cooking or refrigeration facilities.

As part of the *Application for Participation/Plan of Operation*, CEs must describe their plans to integrate nutrition education into their SFMNP operations.

4500 Program Administration by Farmers' Market Associations and Farmers

4510 Agreements with SFMNP Contracting Entities

To accept SFMNP vouchers, FMAs must sign agreements with the CEs. Farmers' markets must also have agreements with the farmers in the association, so that the farmers may accept the SFMNP vouchers.

4511 Voucher Accountability

SFMNP participants redeem their vouchers by surrendering them to the farmer to purchase eligible foods. Farmers may not give change. If the participant does not purchase $4.00 of food, the farmer must provide additional food to meet the value of the voucher. Farmers must record the date of participation on the voucher.

Farmers turn in the redeemed vouchers to the FMA. FMAs must accept only valid vouchers. A valid voucher will state the dates of use. The FMA prepares the vouchers for payment, identifying valid vouchers and ensures the farmers have included their vendor ID numbers directly on the vouchers. The FMA will list all SFMNP redeemed vouchers on the *Farmers' Voucher Redemption List* form. The FMA sends the vouchers to the CE by registered mail, UPS, or any other delivery service that uses a tracking system. Voided, expired, lost or stolen vouchers will not be paid.

4512 Vendor Identification Number

After the farmer signs an agreement with the FMA, a vendor identification number will be assigned to the farmer by the FMA. The farmer is required to put this number on all vouchers received for redemption. A stamp may be used for this purpose. Vouchers without a farmer's vendor identification number will be invalid and will not be reimbursed.

4513 Monitoring Farmers' Market Associations, Farmers, and Roadside Stands

CEs are required to monitor farmers, FMAs, and roadside stands annually. Monitoring includes reviewing the market and the farmers' functions at the market during operation and the processing of SFMNP vouchers.

CEs may use the *Farmers' Market Review* form when monitoring farmers and FMAs to ensure compliance with SFMNP requirements. For a copy of the *Farmers' Market Review* form, access the TDA website at http://www.squaremeals.org/, go to "Programs," click on "Senior Farmers' Market Nutrition Program," choose "SFMNP Administration and Forms," then input the form title in the search field.

During monitoring, CEs must, at a minimum, review:

- Produce is locally grown,
- Wholesalers are not selling to SFMNP participants,
- Vouchers are properly managed and redeemed under the requirements,
- Only eligible foods are being sold to SFMNP participants, and
- Training.

Compliance, or test buys, may be performed to make sure vendors are observing all regulations regarding sales to SFMNP participants. The monitor will check that only eligible fresh fruits, vegetables, and herbs are being sold and that no change is being given. The monitor completes the *Vendor Integrity Evaluation Report* and keeps a copy with its SFMNP records.

CEs must conduct on-site reviews of a minimum of 10 percent of farmers, 10 percent of farmers' markets, and 10 percent of roadside stands, including those farmers and farmers' markets identified as being the highest risk. High-risk indicators for program violations for farmers and FMAs include, but are not limited to:

- A high volume of SFMNP vouchers redeemed by one farmer in a FMA,
- Participant complaints, and/or
- First year participation of farmers and FMAs.

For additional information, refer to Item 4412, *Monitoring Contracting Entities' Sites* and Item 4515, *Sanctions*.

4513.1 Monitoring Procedures

CEs must develop and follow written monitoring procedures that describe how the CE will monitor farmers' markets and farmers and administer sanctions when infractions are found. These procedures, at a minimum, must include:

- Monitoring and evaluation, including development of a review schedule that uses high-risk factors;
- Compliance buys;
- Sanctioning;
- Written Notice;
- Corrective Action; and
- Appeals

4514 Farmers' Market Associations (FMA) Responsibilities

In addition to the guidance already provided in this section, FMAs participating in the SFMNP must:

- Provide only fresh, nutritious, unprepared fruits and vegetables grown by the farmers in Texas, New Mexico, Oklahoma, Arkansas, or Louisiana. Fruits and vegetables allowed under the SFMNP are identified in the list of eligible fruits and vegetables provided by TDA. See Section 11000 for a list of allowed foods in the SFMNP.
- Provide fruits and vegetables to SFMNP participants that are of the same quality and price charged to other customers. Charging a higher price for eligible foods than that charged to other customers for the same foods may result in sanctions.
- Ensure that individual farmers prominently display a sign stating that they are authorized to redeem SFMNP vouchers and that individual farmers display prices for SFMNP eligible foods.
- Ensure that when farmers sell both SFMNP eligible and ineligible produce, the ineligible produce is displayed separately and marked as not eligible for SFMNP purchases.
- Redeem SFMNP vouchers for no less than their value and do not provide cash change for purchases.
- Do not bill or attempt to collect from SFMNP participants any charges from any SFMNP vouchers submitted to TDA for reimbursement but not paid by TDA.
- Notify TDA if any farmer or farmers' market ceases operation prior to the end of the authorization period.
- Notify CE and/or TDA of any market cancellation at least 15 days before market day.
- Abide by SFMNP policies. The FMA has a duty to become familiar with the contents of its Agreement with its CE (SFMNP-03), the SFMNP policies and guidance, and all subsequent revisions.
- Cooperate with periodic compliance monitoring, as conducted by the CE, TDA, and/or USDA.
- Provide access to SFMNP records, including vouchers, upon request by any monitoring agency.
- Agree to administer SFMNP as required by SFMNP regulations in 7 CFR Part 249.

For a comprehensive list, CEs and FMAs should refer to its signed Agreement (SFMNP-03).

4515 Sanctions

The CE may disqualify any farmer or FMA from participation in the SFMNP if the sanction score reaches 15 points or more during the year of participation. The maximum number of points may be assessed for a single serious abuse or for cumulative penalties for several less serious abuses, or they may come from several abuses occurring at different times during the program year. The disqualification periods are:

Total Number of Points	**Disqualification Period**	
15 Points	1 Year	May not accept vouchers for the current program year
20 Points	2 Years	May not accept vouchers for the current program and the next program year
25 Points	3 Years	May not accept vouchers for the current program year and the next two program years

During a disqualification period, a farmer may not take part in the SFMNP at another authorized FMA.

Farmers and FMAs have the right to appeal sanctions.

Infractions include, but are not limited to:

Infraction		Explanation/Example	Points
1	Redemption of invalid vouchers: • Redeemed after end date	Must not exceed 5% of redeemed vouchers	1 Point
2	Providing unauthorized food or goods, except for firearms, ammunition, or controlled substances as defined in 21 USC 802 (including alcohol and tobacco) which have a higher points penalty. See #9 below.	Nuts or Clothing	5 Point
3	Charging SFMNP customers more than other customers	$4.00 worth of food for a participant is less than for a non-participant	5 Points
4	Requiring cash to be paid by SFMNP participants in addition to voucher		5 Points
5	Asking SFMNP participants to pay for vouchers not redeemed by TDA		5 Points
6	Falsifying information on vouchers	Date redeemed	5 Points
7	Charging for food items not received	Rain checks	5 Points
8	Providing false information on farmer/farmers' market application		15 Points
9	Exchanging vouchers for money or non-food items	Alcohol, tobacco, firearms, ammunition, or other controlled substance	25 Points
10	Refusing to provide access to records, prices, or redeemed vouchers to TDA staff or contracting entities		15 Points

CEs must provide written notification of adverse action to participating farmers and FMAs of any violations of SFMNP requirements that require sanctions. CEs must sanction farmers and FMAs for sanctionable violations of SFMNP requirements as set forth above.

Refer to Item 4513, *Monitoring Procedures*, for more information on the requirement that CEs have a written monitoring procedure covering the monitoring of farmers' markets and farmers and administration of sanctions when infractions are found.

4516 Prohibition on Collecting Sales Tax

State or local tax collection is prohibited on the purchase of foods bought with SFMNP vouchers. Farmers' markets are not required to pay sales tax on food purchased with vouchers and must not charge sales tax to SFMNP participants.

4600 Program Documentation

TDA can only observe daily operation of the SFMNP when conducting Administrative Reviews and audits. Therefore, TDA must rely on the records that CEs maintain to determine compliance with SFMNP requirements and verify the reimbursement to which CEs are entitled.

If a CEs records do not support eligibility for voucher reimbursement, CEs must repay any amount that is received improperly.

4610 Retention Period

CEs must maintain complete records related to SFMNP operations, such as information pertaining to financial operations, voucher issuance and redemption, civil rights procedures, claims, statistical records, and supporting documents that are specific to a particular program year until February 1st, after the third fiscal year of program participation. (7 CFR § 249.23)

Example: Records for fiscal year 2020 must be retained until February 1, 2024.

Retention Periods:

Program Fiscal Year End:	Retain Records Until…
September 30, 2018	February 1, 2022
September 30, 2019	February 1, 2023
September 30, 2020	February 1, 2024

EXCEPTION: If any litigation, claim, negotiation, audit or other action involving records has started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is longer. (7 CFR § 249.23(a)(2)) These issues are resolved when a final order is issued in litigation, or when the CE and TDA sign a written agreement.

4620 Availability of Records

CEs and sites must allow TDA, USDA, the Government Accountability Office (GAO) and representatives of other appropriate agencies to inspect facilities and records and to audit, examine and copy records during normal working hours.

CEs must maintain separate records for each site, and SFMNP records must be maintained separately from records of other programs.

NOTE: If the *SFMNP Agreement* is terminated or not renewed, a CE must retain all records according to the record retention requirements and make them available upon request.

Section 5000 Administrative Reviews and Audits

Table of Contents

5100 Administrative Reviews 2
5110 Examination of Records 2
5110.1 Review of Claims and/or Redeemed Vouchers 3
5120 Findings 3
5120.1 Sub-agency or Sub-contractor Findings and Recommendations 5
5200 Audits 5
5210 General Audit Policy 6
5220 Scope of Audit 7
5230 Procedures for Compliance with Audit Requirements 10
5240 Sanctions for Noncompliance 11
5250 Other Audits 11

5100 Administrative Reviews

At least once every two years, TDA will conduct an administrative review of the CE's SFMNP operations. TDA personnel will visit CE's administrative office and sites to

- Ensure that the overall operation complies with SFMNP requirements, including
  - Voucher distribution and security,
  - Civil rights compliance,
  - Financial management systems,
  - Approval and monitoring of sub-agencies,
  - Reporting and recordkeeping, and
  - Other aspects of their programs, as determined by TDA.
- Assist and advise CEs on issues related to SFMNP operations.

The review of SFMNP operations generally includes an observation of the voucher distribution process and an examination of record keeping at the site. As part of an administrative review, TDA will evaluate the CE's methods for reconciling vouchers for reimbursement and examine the records maintained by the CE. CEs must allow TDA and the U.S. Department of Agriculture (USDA) representatives to inspect facilities and examine and/or copy records during normal business hours. Further, CEs must follow any corrective action that TDA or USDA requires.

NOTE: CEs are required to annually monitor farmers and FMAs. For additional information, refer to Item 4513, *Monitoring Farmers' Market Associations, Farmers, and Roadside Stands*.

5110 Examination of Records

As part of a review, TDA examines *Application for Participation/Plan of Operation*, to determine whether the CE is operating the SFMNP consistent with the information provided to TDA at the time of application and any subsequent amendments. During an administrative review, a CE must make all program records available to the reviewers, including, but not limited to:

- Documents concerning a CE's application for participation,
- Documentation of participant eligibility,
- Health and sanitation documentation,
- All required SFMNP forms,
- Records of voucher distribution,

- Records of training,
- Records of spent SFMNP funds,
- Cost allocation records,
- Records of subcontracting,
- Claims and redeemed vouchers,
- Procurement records,
- Audit records,
- Written processes and procedures related to the operation of the SFMNP,
- Civil rights compliance, and
- Data collected on racial/ethnic categories of current and potential participants.

5110.1 Review of Claims and/or Redeemed Vouchers

TDA may deem submitted claims and/or redeemed vouchers as invalid for payment for any of the following reasons:

- Request for payment from CE to TDA is postmarked after December 15th of the applicable program year.
- Any required dates are missing or determined by TDA to be improperly altered.
- The voucher has been accepted for transaction before or after the "Dates of Use" printed on the voucher.
- Unauthorized foods, non-food items, and/or cash have been issued in exchange for the voucher.
- Voucher has been accepted for less than its stated value.
- The SFMNP vendor number is missing from the voucher or determined by TDA to be improperly altered.

5120 Findings

If a TDA reviewer finds violations in the operation of a CE's program, the CE will receive a documentation of review findings that includes

- Each violation found,
- The factors contributing to each violation,
- Recommendations for corrective action,
- Timetables for completion, and claims action to be pursued, if any, and
- Provisions to monitor or evaluate progress and the effectiveness of corrective action(s).

The documentation may be presented at the end of the review, mailed, or e-mailed to the CE.

CEs must correct violations of SFMNP requirements. A CE will be instructed to write a corrective action plan (CAP) to address the violation(s). The plan must state how the CE will correct any SFMNP violations and include

- An outline of actions to be taken,
- The expected outcome of each action,
- The target date for completion of each action, and
- If there is more than one violation, the date by which each violation will be eliminated.

Violations include, but are not limited to

- 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 voucher distribution requirements,
- Claims for reimbursement for administrative costs that were unrelated to SFMNP operations.

EXAMPLE: A CAP would be required if there were a finding of a failure to maintain administrative records. The CE would be required to provide, in writing

- The reasons for or cause of the violation,
- The steps to rectify the lack of record maintenance,
- What the result of those steps would be, and
- The target date for each step, including the end date for the corrective action.

If necessary, TDA may perform a follow up review to ensure the CAP was implemented and any violations were corrected. TDA will review CAPs from previous reviews when conducting a CE's regularly scheduled review.

5120.1 Sub-agency or Sub-contractor Findings and Recommendations

If a CE or TDA identifies SFMNP violations by a sub-agency or sub-contractor, the sub-agency or sub-contractor is required to submit a CAP to the CE to outline how violations or problems will be corrected. The CE must provide TDA with a copy of the CAP.

If the CAP is not complete or does not adequately address SFMNP violations, the CE may return the plan to the sub-agency or sub-contractor for additional clarification. The CE may also amend or modify a sub-agency or sub-contractor's CAP based on new information, changes in circumstances, or progress to date and/or extend time frames for good faith efforts to correct violations to comply with requirements.

After the sub-agency or sub-contractor has implemented its CAP, it must submit a final disposition report to the CE for approval. The CE is required to perform a follow up review to ensure any violations by the sub-agency or sub-contractor have been corrected. The CE must send a copy of the final disposition report to TDA.

TDA may terminate the CE's *SFMNP Agreement* if

- The CE does not follow up to ensure the sub-agency or sub-contractor's violations have been corrected, or
- The sub-agency or sub-contractor refuses or fails to correct violations, and the CE does not terminate that part of the agreement with the sub-agency or sub-contractor.

5200 Audits

This section provides an overview of the Federal Audit requirements as found in 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. It is not meant to be a comprehensive treatment of the Federal Audit requirements. For more specific guidance in this area, please see 2 CFR Part 200 and the latest Compliance Supplement for OMB Circular A-133, *Audits of States, Local Government and Non-Profit Organizations*. The *Compliance Supplement* may be found at: https://www.whitehouse.gov/omb/information-for-agencies/circulars#numerical.

The audit covers the entire scope of the CE's operations and is conducted to determine whether:

- 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; and
- Financial reports contain accurate information.

With the *Application for Participation / Plan of Operation*, a CE must submit a completed *Annual Audit* form, which provides assurance that the CE will procure an audit that meets the audit requirements. Based on the information provided on the *Annual Audit* form, TDA will notify the CE of the audit's due date six (6) months and again at eight (8) months after the end of the fiscal year for which the audit is due. However, failure to receive such notifications does not relieve a CE of the responsibility to submit a completed audit if required.

TDA will notify a CE that

- Audit information must be submitted, by the due date, to the Federal Audit Clearinghouse at https://harvester.census.gov/facweb/ and a copy (paper or electronic format) must be sent to TDA. Notification will include submittal information for TDA.
- If audit is not submitted by the specified due date, the *SFMNP Agreement* will be terminated effective the first day of the month following the month in which the audit was due; and
- A CE has the right to appeal this decision.

5210 General Audit Policy

The frequency and scope of audits of organizations are determined by the amount and source of federal financial assistance expended in any year. Non-Federal CEs that expend $750,000 or more during their fiscal year in Federal awards[1] must have a single or program-specific audit conducted for that year (2 CFR §200.501(a)). CEs subject to audit requirements in 2 CFR Part 200, subpart F must be audited on a single (organization-wide) audit basis by independent auditors. If a CE expends Federal awards under only one Federal program (such as SFMNP), it may elect to have a program-specific audit if certain requirements are met (2 CFR §200.501(c)). If the federal financial assistance expended in one year is less than $750,000, then the CE is not subject to the audit requirement. All audits must be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS).

In procuring audit services, the CE must follow the procurement standards in 2 CFR Part 200 (2 CFR §§200.509 and 200.317 through 200.326). The objective is to obtain high-quality audits. In requesting proposals for audit services, the objectives and scope must be clear and the CE must request a copy of the audit organization's peer review report, which the auditor is required to provide under GAGAS.

[1] As used in this section, "Federal Award: means federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities (CEs) receive directly from Federal agencies or indirectly from pass-through entities. TDA is a pass-through entity for the SFMNP (2 CFR §200.38).

Factors CEs should consider in evaluating each proposal for audit services include:

- Responsiveness to the request for proposal;
- Relevant experience;
- Availability of staff with professional qualifications and technical abilities;
- Results of peer and external quality control reviews; and
- Price.

Whenever possible, the CE must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises.

5220 Scope of Audit

CE Responsibilities

The CE must provide auditors with access to:

- Personnel
- Accounts
- Books
- Records
- Supporting documentation
- Other information as needed to perform the audit

(2 CFR § 200.508(d))

The CE must prepare:

- Financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited (2 CFR § 200.510(a)).
- Schedule of Expenditures of Federal Awards (SEFA) for the period covered by the CE's financial statements, which must include the total Federal awards expended (2 CFR § 200.510(b)). At a minimum, the schedule must:
    - List individual Federal programs by Federal agency;
    - Name of the pass-through entity (TDA) and identifying number assigned by TDA;
    - Total Federal awards expended for each individual Federal program and the Catalog of Federal Domestic Assistance (CFDA) number or other identifying number when the CFDA information is not available;
    - Total amount provided to subrecipients from each Federal program; and
    - Notes that describe the significant accounting policies used in preparing the schedule and whether the CE elected to use the 10% de minimis indirect cost rate

- Summary schedule of prior audit findings must report the state of all audit findings included in the prior audit's schedule of findings and questioned costs (2 CFR § 200.511(a) and (b)).
- Corrective action plan[2] to address each audit finding included in the current year auditor's report (2 CFR § 200.511(c)). The corrective action plan must provide:
    - Name(s) of the contact person(s) responsible for corrective action;
    - Corrective action planned; and
    - Anticipated completion date.

NOTE: If the CE does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons. (2 CFR § 200.511(c)).

Overview of CE's Responsibilities (2 CFR § 200.508)
• Arrange for Audit (2 CFR § 200.509) • Prepare Financial Statements • Prepare SEFA • Provide Auditor with Access • Take Corrective Actions on Findings • Prepare Summary of the Prior Audit Findings • Prepare Corrective Action Plan

The CE must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the CE is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award (2 CFR §200.303).

Auditor Responsibilities

The auditor must report the following as audit findings (2 CFR § 200.516):

- Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs.
- Material noncompliance with the Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program.
- Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program.

[2] The corrective action plan, as described in 2 CFR Part 200, subpart F, is used to address each audit finding. This corrective action plan should not be confused with a corrective action required by TDA as a result of an administrative review.

- Known questioned costs that are greater than $25,000 for a Federal program which is not audited as a major program.
- The circumstances concerning why the auditor's report on compliance for each major program is other than an unmodified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards.
- Known or likely fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards.
- Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding.

The auditor's report must include (2 CFR § 200.515):

- An opinion (or disclaimer of opinion) whether the financial statements are presented fairly materially respects in accordance with generally accepted accounting principles and an opinion (or disclaimer of opinion) whether the schedule of expenditure of Federal awards is fairly materially in relation to the financial statements as a whole.
- A report on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements.
- A report on compliance for each major program and a report on internal control over compliance.
- A schedule of findings and questioned costs.

Overview of Auditor's Responsibilities (2 CFR § 200.514)
• Determine if financial statements are fairly presented • Report on SEFA • Understand and test internal control over compliance • Determine whether CE complied • Follow up on prior audit findings • Report findings • Complete and sign Data Collection Form

5230 Procedures for Compliance with Audit Requirements

As a condition of eligibility for participation in the SFMNP, TDA requires CEs to submit the documentation of compliance with audit requirements. The audit must be completed and submitted by the CE to the Federal Audit Clearinghouse (FAC) either 30 days after receiving the auditor's report, or nine months after the end of the CE's fiscal year, whichever comes earlier.

The CE must submit to the FAC the data collection form (Form SF-SAC) which is found on the FAC website and a reporting package. The reporting package must include:

- Financial statements and schedule of expenditures of Federal awards;
- Summary of schedule of prior audit findings;
- Auditor's report(s); and
- Corrective action plan.

(2 CFR § 200.11(b) and (c)). The CE must retain one copy each of the data collection form and reporting package on file for three years from the date of submission to the FAC (2 CFR § 200.511(f)).

The FAC website provides detailed information on how to upload an audit at https://harvester.census.gov/facweb/. The audit also must be submitted to TDA, and copies of the audit report must be available to the public. CEs and auditors must ensure that protected, personally identifiable information is not made public (2 CFR § 200.512).

Audits must be submitted to the FAC at https://harvester.census.gov/facweb/ and a copy must be submitted to TDA. CEs should review and accept the completed audit before submitting the audit to the FAC and TDA. If corrective action is necessary, the CE should work with the auditing firm to develop a CAP to address each audit finding (2 CFR § 200.511(c)).

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

The proportional share of costs of required audits in accordance with 2 CFR Part 200, subpart F is allowable (2 CFR § 200.425). Projected costs of required audits must be included in the approved SFMNP budget to be allowable.

5240 Sanctions for Noncompliance

TDA must receive an acceptable audit either 30 days after receiving the auditor's report or within nine months of the last day of the CE's:

- Current fiscal year if submitting an annual audit, or
- Second fiscal year included in the biennial audit period if submitting a biennial audit.

TDA may terminate an *SFMNP Agreement*, effective on the first day of the month following the month in which the audit was due if:

- FAC and TDA do not receive the audit by the specified due date;
- The CE submits an audit that does not meet the regulatory requirements. TDA will notify the CE in writing that the audit is unacceptable. The CE must submit an acceptable audit within 30 calendar days of the date of the notice;
- A CE requests, but is not granted, an extension of the audit due date and the CE does not submit an acceptable audit as required; and
- The CE requests and is granted an extension of the due date but fails to submit an acceptable audit by the extended due date.

If TDA determines that extenuating circumstances resulted in a 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 for all costs associated with such an audit.

Once the *SFMNP Agreement* has been terminated for failure to comply with the audit requirement, a CE must provide an acceptable audit for any outstanding audit year(s) and comply with the Federal audit requirements to be eligible to reapply to participate in TDA's nutrition programs.

5250 Other Audits

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

If violations such as fraud or misuse of funds occur and corrective action would not be practical, TDA will immediately terminate the *SFMNP Agreement*.

Section 6000
Civil Rights

Table of Contents

6100 Title VI of the Civil Rights Act of 1964 2
6110 Public Notification 2
6110.1 And Justice for All Posters 3
6110.2 Nondiscrimination Statement 3
6120 Data Collection and Maintenance 5
6130 Limited English Proficiency 6
6140 Compliance Reviews 7
6200 Section 504 of the Rehabilitation Act of 1973 7
6210 Program Accessibility 7
6220 Public Notification 8
6230 Employment 8
6240 Nondiscrimination Statement (Assurances) 8
6250 Designation of Section 504 Coordinator 9
6260 Complaint/Grievance Procedures 9
6270 Self-Evaluation of Services 9
6300 Americans with Disabilities Act (ADA) 9
6310 Introduction 9
6320 Services 10
6330 Employment 10
6400 Complaints 10
6410 Civil Rights Complaints 11
6500 Training 11

Section 6000
Civil Rights

All nutrition assistance programs and activities that receive Federal funding are protected and subject to civil rights oversight. CEs are responsible for ensuring that all qualifying persons have equal access to the SFMNP by complying with the civil rights and nondiscrimination requirements of USDA. (7 CFR §249.7)

In the USDA nutrition programs administered by TDA, there are six bases protected against discrimination. A protected basis refers to any person or group of people who have characteristics for which discrimination is prohibited based on law, regulation, or executive order. Protected bases in the USDA nutrition assistance programs administered by TDA are:

- Race;
- Color;
- National origin;
- Sex;
- Age; and
- Disability.

Reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA is also prohibited.

CEs must strictly adhere to and enforce the provisions of the Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA), both within the CEs administrative office and at its sites, if applicable.

6100 Title VI of the Civil Rights Act of 1964

6110 Public Notification

CEs must have a public notification system to inform applicants, participants, and potentially eligible person of the SFMNP availability, SFMNP rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. CEs must make SFMNP information available to the public upon request. CEs also must be able to provide informational materials related to the SFMNP in languages other than English, if the need exists. Refer to Item 6130, *Limited English Proficiency* for additional information.

CEs must convey the message of equal opportunity in all photographic and other graphics that are used to provide information related to SFMNP. Specifically, when human likenesses are used in such materials, reasonable efforts must be made to depict an ethnic and racial balance.

6110.1 And Justice for All Posters

CEs and each contracted site must prominently display the USDA nondiscrimination poster ("And Justice For All") in a place where it may be read by participants at all times. All "And Justice for All" posters must be displayed in a specific size: 11 inches width x 17 inches height. More information about the "And Justice for Poster" may be found on USDA's web site at www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations.

6110.2 Nondiscrimination Statement

CEs must provide the following nondiscrimination statement and complaint-filing procedures in all SFMNP information intended for participants:

> In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity.
>
> Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.
>
> To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: https://www.usda.gov/sites/default/files/documents/ad-3027.pdf, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted 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; or
>
> (2) fax: (833) 256-1665 or (202) 690-7442; or
>
> (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.

In Spanish the nondiscrimination and complaint-filing procedure is:

De acuerdo con la ley federal de derechos civiles y las normas y políticas de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta entidad está prohibida de discriminar por motivos de raza, color, origen nacional, sexo, discapacidad, edad, o represalia o retorsión por actividades previas de derechos civiles.

La información sobre el programa puede estar disponible en otros idiomas que no sean el inglés. Las personas con discapacidades que requieren medios alternos de comunicación para obtener la información del programa (por ejemplo, Braille, letra grande, cinta de audio, lenguaje de señas americano (ASL), etc.) deben comunicarse con la agencia local o estatal responsable de administrar el programa o con el Centro TARGET del USDA al (202) 720-2600 (voz y TTY) o comuníquese con el USDA a través del Servicio Federal de Retransmisión al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe llenar un formulario AD-3027, formulario de queja por discriminación en el programa del USDA, el cual puede obtenerse en línea en: https://www.usda.gov/sites/default/files/documents/ad-3027s.pdf, de cualquier oficina de USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida a USDA. La carta debe contener el nombre del demandante, la dirección, el número de teléfono y una descripción escrita de la acción discriminatoria alegada con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR) sobre la naturaleza y fecha de una presunta violación de derechos civiles. El formulario AD-3027 completado o la carta debe presentarse a 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; o

(2) fax: (833) 256-1665 o (202) 690-7442; o

(3) correo electrónico: program.intake@usda.gov

Esta institución es un proveedor que ofrece igualdad de oportunidades.

The nondiscrimination statement must be printed in its entirety on all SFMNP documents that are intended for the public. SFMNP-related written materials must be provided to all participants with the nondiscrimination statement and complaint-filing procedures included. The nondiscrimination statement cannot be modified.

If the SFMNP material is too small to permit the full statement to be included, the material must, at a minimum, in print no smaller than text, state: "This institution is an equal opportunity provider."

The entire nondiscrimination statement does not have to be included on every page of a CE's SFMNP information website; at minimum the nondiscrimination statement or a link to the statement must be included on the CE's home page.

NOTE: Whenever Congressional legislation specifies or sets restrictions on program eligibility, those provisions take precedence over certain protected bases. Section 4002 of the Farm Security and Rural Investment Act of 2002, defines the purpose of the SFMNP to provide benefits specifically to low income seniors 60 years of age or older. Therefore, any reference to age in the nondiscrimination statement as it relates to the SFMNP is subject to this qualification.

6120 Data Collection and Maintenance

CEs must determine the number of actual beneficiaries by racial and ethnic category from participants applying for and/or participating in the SFMNP on an annual basis. CEs must collect data using Form H1430, *Participant Application*, for each participant at the time of certification or recertification.

Participants must be given the opportunity to self-identify race and ethnicity and be informed that their responses to questions about their race and ethnicity will not affect consideration of their application. If the participant chooses not to self-identify race and ethnicity, the CE must record the participant's race and ethnicity based on visual observation. Participants of multiple racial categories should be categorized according to appearance of the group with which they mainly identify.

Racial and ethnic categories include the following:

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 group of Africa. Terms such as "Haitian" 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.

6130 Limited English Proficiency

CEs must take "reasonable steps" to ensure meaningful access to their programs by participating persons with disabilities and for persons with Limited English Proficiency (LEP). People with LEP are those who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

CEs have an obligation to reduce language barriers that can prevent meaningful access by LEP persons to important benefits, programs, information, and services of the SFMNP. CEs that fail to take reasonable steps may be discriminating on the basis of national origin. Reasonable steps to ensure meaningful access is contingent on a number of factors, including:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the SFMNP;
- The frequency with which LEP individuals come in contact with the SFMNP;
- The nature and importance of the SFMNP to people's lives; and
- The resources available to the CE and costs.

Elements that may be helpful in designing an LEP policy or plan:

- Identifying LEP persons who need language assistance
- Identifying ways in which language assistance will be provided
- Training staff
- Providing notice to LEP persons
- Monitoring and updating LEP policy

6140 Compliance Reviews

Compliance reviews help ensure that civil rights requirements are fulfilled at each level of SFMNP administration, including the application approval process and the federal and state monitoring efforts.

TDA will determine whether the CEs and their sites comply with civil rights requirements before approval of a CE's application to participate. TDA determines compliance by examining *Application for Participation/Plan of Operation* submitted via TX-UNPS and supporting documentation. During administrative reviews, TDA will also evaluate compliance with civil rights requirements.

6200 Section 504 of the Rehabilitation Act of 1973

6210 Program Accessibility

The SFMNP, when viewed in its entirety, must be accessible to and usable by persons with one or more disabilities, including persons with impaired vision or hearing. CEs are not required to make every part of existing sites physically accessible to disabled persons, but must ensure that programs at those sites are accessible. Sites must offer the most integrated setting possible to enable persons with disabilities to fully benefit from the SFMNP. CEs can make the SFMNP accessible to persons with disabilities by:

- Moving to accessible buildings,
- Assigning aides to assist participants,
- Delivering services at alternate accessible sites (for facilities with 15 or fewer employees),
- Redesigning equipment,
- Changing the schedule of service hours,
- Altering existing facilities, and
- Constructing new, accessible facilities.

CEs should develop transition plans to ensure SFMNP accessibility if structural changes to buildings are necessary.

If CEs cannot provide services to a person with disabilities because a part of a site where services are provided is not accessible, they must:

- Inform the person with disabilities of alternate sites where they can receive services; and
- Pay all or part of any additional cost the person with disabilities incurs as a result of being transported to the alternate site. (There are some circumstances when CEs are not required to pay these costs. Contact your USDA Foods Specialist for additional information.)

6220 Public Notification

CEs must have a public notification system to inform applicants, participants and potential participants of the SFMNP availability, SFMNP rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. The public notification system must include the following three basic elements:

1. SFMNP Availability. CEs must take specific action to inform participants of their rights and responsibilities.
2. Complaint Information. CEs must be advise participants of the right to file a complaint, how to file a complaint, and the complaint procedures.
3. Nondiscrimination Statement. CEs must ensure all information materials and sources, including websites, used to inform the public about the SFMNP contain the nondiscrimination statement located in Item 6110.2, *Nondiscrimination Statement*.

6230 Employment

CEs are prohibited from discriminating against any qualified person based on a disability. CEs must make reasonable accommodations for the known physical or mental limitations of an otherwise qualified applicant or employee with disabilities. CEs are not expected to make accommodations that impose an undue hardship on the operation of the SFMNP.

6240 Nondiscrimination Statement (Assurances)

The statement of nondiscrimination is contained in the *SFMNP Agreement*.

6250 Designation of Section 504 Coordinator

If a CE employs 15 or more people, the CE must designate one or more persons to coordinate compliance with Section 504 regulations. CEs may designate an existing employee to perform this function. (7 CFR §15b.6)

6260 Complaint/Grievance Procedures

If a CE employs 15 or more people, the CE must maintain procedures to process grievances and complaints. Procedures that are required by a program other than the SFMNP may satisfy this requirement if they comply with due process standards and provide for prompt and equitable resolution of complaints. (7 CFR §15b.6(b))

6270 Self-Evaluation of Services

CEs must evaluate the quality and availability of their services to people with disabilities, and begin to correct any inequitable policies or practices. The evaluation should be made with the assistance of people with disabilities or organizations that advocate for people with disabilities. CEs must maintain a list of interested persons with whom they consulted, a description of areas that they examined and the problems that they identified, and descriptions of modifications that they made.

CEs must retain the results of a self-evaluation study in accordance with SFMNP record-keeping requirements. Refer to Item 4700, *Program Documentation*, for additional guidance.

6300 Americans with Disabilities Act (ADA)

6310 Introduction

The Americans With Disabilities Act (ADA) became effective January 26, 1992. This Act and Section 504 of The Rehabilitation Act of 1973 combine to prevent a wide range of discriminatory actions against disabled persons. However, the ADA does not replace Section 504. The ADA applies to all persons and is not limited solely to persons who receive federal financial participation.

The ADA comprises the following subjects:

- Non-discriminatory practices
- Reasonable accommodation

The ADA applies to the following areas:

- Services
- Employment

6320 Services

When CEs evaluate the services that they and their sites offer, CEs should consider the following questions:

- Can a person with disabilities get to a site with reasonable ease?
- If the person can reach the location, can the person enter the facility and access the specific location where services are provided?
- If the person can access the location where services are provided, is there an accessible bathroom?
- If the person can access the location where services are provided, are necessary accommodations made for the person's particular disability?

6330 Employment

In accordance with the ADA, CEs

- Cannot discriminate against a person with a disability when hiring or promoting staff if the person is otherwise qualified for the job.
- Can inquire about a person's ability to perform a job, but cannot ask whether a person has a disability nor subject a person to tests that screen out people with disabilities.
- Must provide reasonable accommodations to persons with disabilities (for example, job restructuring and modification of equipment).

NOTE: CEs are not required to provide accommodations that impose an undue hardship on their businesses. CEs faced with such a request are encouraged to contact TDA for further assistance.

6400 Complaints

CEs, sub-distributing agencies, and distribution sites must have written grievance procedures for addressing and processing complaints. Administrative and site personnel must be able to provide documentation of the procedures and an explanation of the complaint process.

The CE sub-distributing agency, or distribution site may incorporate the SFMNP grievance procedures into existing organization-wide complaint procedures rather than develop standalone grievance procedures for the SFMNP.

6410 Civil Rights Complaints

Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action. Complaints can be written or verbal. If the complainant makes a verbal complaint, the person to whom the allegation is made must write up the elements of the complaint and should make every effort to obtain the following information:

- Name, address, and telephone number or other means of contacting the complainant;
- The specific location and name of the organization participating in SFMNP;
- The nature of the incident or action that led to the complaint of discrimination;
- The basis on which the complainant believes discrimination exists (race, color, national origin, age, disability or sex);
- The names, telephone numbers, titles, and business or personal address of persons that may have knowledge of the alleged discriminatory action; and
- The date(s) during which the alleged discriminatory action(s) occurred or, if continuing, the duration of such action(s).

If a civil rights complaint is filed, the CE must forward it to USDA immediately. The complaints should be sent to:

USDA Food and Nutrition Service
Attn: Regional Civil Rights Director
1100 Commerce St.
Dallas, Texas 75242

In addition to notifying USDA, all civil rights complaints must also be forwarded to TDA immediately. CEs may submit TDA's complaint form on behalf of the complainant via TDA's Complaints form (https://app.smartsheet.com/b/form/063062f61d4d42e590290cbddb4ea35b) located on the SFMNP Administration/Forms page on SquareMeals.org. Finally, CEs, sub-distributing agencies, and distribution sites are also required to provide the complainants with contact information for USDA for filing a civil rights complaint[1] and explain that a complaint of a violation of their civil rights may be made directly to USDA.

6500 Training

Administrative and site personnel must be trained in all aspects of civil rights before assuming any SFMNP duty and annually thereafter.

Volunteers who regularly interact (i.e., have contact at recurring normal intervals) with SFMNP applicants and participants or determine eligibility must receive full civil rights training on an

[1] See Item 6110.2, *Nondiscrimination Statement,* in this section.

annual basis. Volunteers who handle the personal information of applicants and participants must also receive full training. Full training, according to USDA, includes but is not limited to, the following:

- Collection and use of data
- Effective public notification systems
- Complaint procedures
- Compliance review techniques
- Resolution of noncompliance
- Requirements for reasonable accommodations of persons with disabilities
- Requirements for language assistance
- Conflict resolution
- Customer service

Volunteers who do not handle personal information and only infrequently interact (i.e., seldom or rarely) with SFMNP applicants and participants must receive, at a minimum, limited civil rights training (i.e., customer service and any other subject matter applicable to each volunteer's role and responsibilities). As not all the subjects for full civil rights training are required, this training may be less time-intensive than the full training provided to the frontline staff and volunteers who regularly interact with or handle personal information of SFMNP applicants and participants.

Volunteers who do not interact in any way with SFMNP applicants and participants and who do not handle personal information do not need civil rights training.

If there is a concern that any volunteer cannot understand and/or abide by the training and civil rights requirements, then that volunteer should not interact in any way with SFMNP applicants and participants or handle personal information.

Refer to Item 11300, *TDA Civil Rights Training*, for information on how to access civil rights training.

Section 7000
Financial Management

Table of Contents

7100 Financial Controls 3
7110 Conflicts of Interest and Ethical Standards 4
7120 Written Code of Standards – Ethical Conduct 6
7200 Procurement 7
7210 Overview 7
7220 The Procurement Process: A Multi-step Approach 7
7230 Written Procurement Procedures 8
7300 Procurement Methods 13
7310 Simplified Acquisition Threshold 14
7320 Overview of Procurement Methods 14
7320.1 Informal Procurement Method: Micro-purchase 16
7320.2 Informal Procurement Method: Small Purchase 17
7320.3 Formal Procurement Method: Competitive Sealed Bids (Invitation for Bid) 18
7320.4 Formal Procurement Method: Competitive Proposals (Request for Proposal) 18
7320.5 Additional Steps for Competitive Procurement 19
7330 Noncompetitive Procurement Methods 19
7330.1 Inadequate Competition 20
7330.2 Sole Source 20
7330.3 Public Emergency or Unexpected Emergency Situation 22
7340 Documentation of Procurement Action and Submittal to TDA 22
7350 Contract Provisions 23
7350.1 Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards 23
7350.2 Debarment and Suspension Certification 23
7350.3 Lobbying Certification (Applicable to contracts over $100,000) 25
7350.4 Civil Rights Statement 25
7350.5 Other Provisions 25
7360 Texas Department of Agriculture Approval of Contracts 26
7400 Additional Guidance 26
7410 Compensation for Purchased Services 26
7420 Disputes 26
7430 Disposal of Equipment/Supplies 26

7500 Administrative Costs 27
7510 Allowable Costs 27
7510.1 Determining Allowable Costs 27
7510.2 Allowable Costs in SFMNP 28
7520 Unallowable Costs 29

7100 Financial Controls

A CE must comply with all applicable financial management requirements in 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 7 CFR Part 249, *Senior Farmers' Market Program* (SFMNP), and TDA policies, and must provide for the following:

- Identification, in its accounts, of the Federal awards received and expended, and the Federal programs under which they were received. Federal program and Federal award identification must include (2 CFR §200.302(b)(1)):
    - The Catalog of Federal Domestic Assistance (CFDA) title and number, for example, Senior Farmers' Market Nutrition Program #10.576;
    - Federal Award Identification Number (FAIN) and year;
    - Name of the Federal agency[1]; and
    - Name of the pass-through entity[2], if any.
- Accurate, current, and complete disclosure of the financial result of each Federal award or program (2 CFR §200.302(b)(2).
    - Up-to-date correct information supported by documentation
    - Accounts for all elements of the SFMNP
    - Complies with generally accepted accounting principles (GAAP)
- Records that identify adequately the source and applications of funds for federally-funded activities. The records must contain information pertaining to the Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation (2 CFR § 200.302(b)(3)).
    - Source documentation includes, but is not limited to cancelled checks, paid bills, payroll, purchase orders, and contract and subcontract award documents.
- Effective control over, and accountability for, all funds, property, and other assets (2 CFR § 200.302(b)(4)). The CE must adequately safeguard all assets and assure that they are used solely for authorized purposes (2 CFR §§ 200.302(b)(4) and 303).
- Comparison of expenditures with budget amounts for each Federal award (2 CFR § 200.302(b)(5)).
- Written procedures for determining if costs are allowable in accordance with 2 CFR Part 200, Subpart E (2 CFR § 200.302(b)(7)).
- Internal controls that ensures the CE (2 CFR § 200.303):

[1] USDA is the Federal agency for SFMNP.
[2] TDA is the pass-through entity for SFMNP.

- *Manages* the SFMNP in compliance with Federal statues, Federal regulations, TDA rules, policies, and guidance.
- *Complies* with Federal statutes, Federal regulations, TDA rules, policies, and guidance.
- *Evaluates and monitors* its compliance with Federal statues, Federal regulations, TDA rules, policies, and guidance.
- *Takes prompt action* when instances of noncompliance are identified, including noncompliance identified in audit findings.
- *Safeguards* to protect personally identifiable and other information.

These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States[3] or the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).[4]

Federal awards include, but are not limited to, reimbursement for participation in any of the child nutrition and food distribution programs administered by TDA.

7110 Conflicts of Interest and Ethical Standards

Organizations participating in the SFMNP are required to disclose and identify any conflicts of interest and potential conflicts of interest including related party transactions, less-than-arms-length transactions, ownership interest in equipment, supplies, vehicles and facilities, or disclose any other information that inhibits TDA from making an informed assessment of whether a particular cost is allowable.

Related parties include, but are not limited to, the following relationships:

- Brothers/sisters
- Spouse
- Parents/grandparents
- Children/grandchildren
- Half-brothers/sisters
- Domestic partners and parents thereof
- Any individual related by blood or affinity whose close association is the equivalent of a family relationship
- Affiliates of the organization
- Principal owners of the organization and immediate members of their families
- Management of the organization and immediate members of their families

[3] https://www.gao.gov/products/GAO-14-704G

[4] https://www.coso.org/Pages/ic.aspx

A less-than-arms-length transaction is one that is not between independent, unrelated, well-informed parties acting independently in their own interests. In a related party transaction, one party to the transaction is able to control or substantially influence the actions of the other(s). Such transactions include, but are not limited to, those between divisions of an organization; organizations under common control through common officers, directors or members; and an organization and a director, trustee, officer, key employee of the organization or immediate family, either directly or through corporations, trusts or similar arrangements in which a controlling interest is held, or one in which one party stands to benefit more than the other from the transaction. All related-party transactions are less-than-arms-length transactions.

A CE cannot allow a conflict of interest or potential conflicts of interest when procuring goods and services and must have written policies and procedures against conflicts of interest. No officer, agent, consultant, contractor, volunteer, or other employee of a CE may engage in any activity which causes or could cause or cause the appearance of a conflict of interest in the operation of the SFMNP, including, but not limited to, to the following:

- Renting or leasing from a firm in which any officer, agent, consultant, or employee (or relative) has an interest and this related party transaction has not been fully disclosed. Rental costs under "less-than-arm's-length" leases must meet the requirements in 2 CFR §200.465.
- Soliciting or accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, sites, or parties to subcontracts.
- Soliciting donations or fees from the participating farmers' markets and farmers.
- Asking farmers' markets or farmers to engage in any kind of business on the CE's behalf.

CE's must disclose annually any conflicts of interest or potential conflicts of interest including related party transactions, less-than-arms-length transactions, and any ownership interest in equipment, supplies, vehicles and facilities when it submits its budget to TDA as part of its application packet for participation in the SFMNP. At a minimum, the following information must be submitted to TDA:

- Budget item(s) impacted
- Amount of the contract or cost for the item(s)
- Relationship or ownership interest to the CE
- Any other information that inhibits TDA from making an informed assessment of whether a particular cost is allowable

Information regarding conflicts of interest or potential conflicts of interests may be submitted in writing to TDA via email at SquareMeals@TexasAgriculture.gov. The email subject should include "SFMNP Conflict of Interest Disclosure" and the name of the CE. For CEs that do not have access to email, please contact TDA at (877) TEX-MEAL.

This disclosure must be made in each program year's budget or each time before the cost is incurred. The disclosure must be made although it was previously disclosed to TDA. Conflict of Interest Disclosures require prior approval from TDA each year or before each occurrence of a transaction. When the conflict of interest or potential conflict of interest is properly disclosed, approval of the budget by TDA meets the requirement for prior approval unless TDA specifically disallows the cost in writing.

7120 Written Code of Standards – Ethical Conduct

In accordance with 2 CFR §§ 200.318 and 400.2, a CE must establish and maintain a written code of standards of conduct which govern the performance of its officers, employees, or agents who participate in the selection, award, and administration of contracts. The written code will prohibit conflicts of interest and potential conflicts of interest. This written code must:

- Prohibit owners, members, officers, or employees from soliciting gifts, travel packages, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- Prohibit owners, members, officers, or employees from accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- Prohibit an owner, member, officer, or employee from participating in the selection, award, and administration of any contract in which the owner, member, officer or employee is related to a party to the contract or has a financial interest in the entity which is a party to the contract.
- Set standards when financial interest is not substantial or the gift is an unsolicited item of nominal value, and therefore may be acceptable.
- Provide for disclosure and prior written approval by TDA for all less-than-arms-length transactions.
- Provide for penalties, sanctions, or other disciplinary actions to be applied for violations of the standards.

For CEs having a parent, affiliate, or subsidiary organization that is not a state or local government, the CE must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of the relationships with a parent company, affiliate, or subsidiary organization, the CE is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

7200 Procurement

7210 Overview

Procurement is the orderly process of acquiring, by lease or purchase, goods and services such as facilities, equipment, bookkeeping, and auditing. SFMNP CEs must comply with state and federal procurement requirements. These requirements enable CEs to purchase goods and services at the best available price and avoid conflicts of interest when making purchases.

Procurements must be conducted in a manner that allows for full and open competition meaning that everyone is on a "*level playing field*" and has the same opportunity to compete. Procurement ensures:

- Vendor participation
- Competitive cost of goods and services
- Quality goods and services

Improper procurements may lead to disallowed costs, withholding or recovery of reimbursements, corrective action, or termination from future SFMNP participation.

7220 The Procurement Process: A Multi-step Approach

A CE must follow the procurement process in order to ensure that all procurement requirements are met. As the process may take many months to complete, advanced planning and execution is strongly recommended. CEs are required to develop written procurement procedures. A CE's written procurement procedures will address how the CE will accomplish each step of the procurement process.

An overview of the procurement process is as follows:

1. **Writing** procurement procedures
2. **Forecasting** quantities needed/**Scheduling** when quantities are needed
3. **Selecting** the proper procurement method
4. **Developing** a solicitation
5. **Advertising** the solicitation
6. **Evaluating** proposals and offers
7. **Awarding** the contract
8. **Managing** the contract

Procurement Procedures: Why a CE Must Have Them
• Required by regulations (2 CFR § 200.319(c)) • Ensure full and open competition • Help identify potential suppliers for goods and/or services procured using the corresponding procurement method • Help the CE determine which procurement methods will be used • Identify parties that will address issues raised throughout the procurement process • Prohibit conflicts of interest • Ensure ethical standards with a written code of conduct

7230 Written Procurement Procedures

A CE must use its own documented procurement procedures which reflect applicable state, local, and tribal laws and regulations, provided that the procurements conform to applicable federal law (2 CFR §§ 200.318 and 200.319(c)).

Maintaining and following written procurement procedures ensures that a CE will conduct all purchases

- Efficiently and effectively;
- In compliance with federal, state, and local regulations; and
- While preventing fraud, waste, and abuse.

Written procurement procedures must include the position(s) which are responsible for carrying out each step, as well as the timing the actions will take place. The procedures must provide that proposed procurement actions will be reviewed by the CE's officials to avoid the purchase of unnecessary or duplicative items, and where appropriate an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. (2 CFR § 200.318(d)). The procedures must encompass each procurement method discussed in this handbook. The level of detail should be reflective of the CEs operations.

At a minimum, a CE's written procedures must address the following elements of the procurement process:

- **Forecasting and Scheduling**

CEs plan procurements by evaluating resources, projecting expenses, and determining needs prior to initiating a procurement process by assessing the following:

- Current approach
- Storage capacity
- Equipment
- Resources, such as income, revenue, and staff
- Other operational needs

- **Selecting a Proper Procurement Method**

The aggregate amount of the goods or services will determine the procurement method to be used; however, a CE may consider other factors as well.[5] A CE should consider the following:

- Any factors, other than the aggregate amount of the procured goods and services, which will determine the procurement method to be used
- How to avoid the acquisition of unnecessary or duplicative items (2 CFR § 200.318(d))
- How to obtain a more economical purchase, considering the consolidation or breaking out of procurements (2 CFR § 200.318(d))
    - **NOTE**: A CE may not break up a procurement that exceeds the small purchase threshold for the sole purpose of avoiding following formal procurement procedures. This would be a violation of federal requirements and may result in unallowable costs and/or findings.
- Cost Analysis/Equitable Distribution—How the CE will perform a cost analysis with every procurement action in excess of the small purchase threshold, including contract modifications.
    - While a formal cost analysis is not required for micro-purchases, a CE must document how such purchases will be rotated **among qualified suppliers** and equitably distribute purchases.
    - Small purchase procedures also do not require a formal cost analysis; however, CEs must still obtain **at least three price quotes** from an adequate number of qualified sources.

[5] See *Procurement Methods* in this section for more information.

- **Solicitation Development**

When developing specifications, requirements, invitations for bids, or requests for proposals, CEs must consider the following:

- Type of contract
- Contract duration
- Goods and services specifications correspond with items and/or services being procured; specifications may include product name, variety, grade, size, quantity, cleanliness, packaging, delivery, and other product/service requirements.
- Full and open competition is maintained when using all procurement methods.
- CEs may *not* create specifications which would eliminate or unduly restrict full and open competition, which would include, but are not limited to, the following situations (2 CFR § 200.319 (a)):
    - Specifying a brand name product instead of allowing an equal product to be offered limits full and open competition
    - Product specifications which are too detailed, restricting competition
    - Placing unreasonable requirements on bidders
    - Requiring unnecessary experience and/or excessive bonding
    - Noncompetitive pricing practices between firms or between affiliated companies
    - Noncompetitive contracts to consultants/contractors that are on retainer contracts with the CE already
    - Organizational conflicts of interest
    - Any arbitrary action in the procurement process
- Solicitations must be clearly stated so bidders can fully understand the need for goods and services (2 CFR § 200.319(c)(1))
- Solicitations must clearly outline requirements the bidder must fulfill in order to be responsive (2 CFR § 200.319(c)(2))
- Renewal options
- Modification and change procedures, considering:
    - Communication of changes to contractor regarding initial estimated needs and actual needs
- Default and breach provisions, remedies, penalties
    - This includes how protests and disputes will be handled by the CE.
    - Supply copies of dispute resolution procedures to all potential bidders that includes name and address of person who will make a determination whether the protest should be sustained.
    - Disclose information regarding all protests to TDA.
- CEs must ensure contractors do not develop any specifications, requirements, statements of work, IFBs, RFPs, contract terms and conditions, or any other procurement documents. CEs must draft their own specifications and procurement documents.

    - If a CE does allow a contractor to create any procurement documents, a CE must indicate in its procedures how that contractor will not compete for the contract or award.
    - If a CE chooses to use a contractor's information or assistance in developing procurement documents and the contractor is then allowed to compete for the award, the CE must not use any SFMNP funds for the resulting award.
- Local or geographic preference (if applicable and allowed)
    - A CE must include a definition(s) of "local" in its written policies and procedures if applying a geographic preference. However, this definition of "local" may not be so limiting so as to restrict full and open competition.
- Evaluation and scoring factors, with cost as the primary factor.

NOTE: CEs must draft their own specification and procurement documents. Any CE that copies a list of features or evaluation and ranking criteria drafted by a potential contractor and then permits that potential contractor to submit a bid has violated federal and state procurement regulations.

- **Advertising/Publicizing the Bid**

A CE must advertise competitive bids and must publicize competitive proposals (e.g., through advertisements) (2 CFR § 200.320). CEs should consider the following:

- Due dates —Time needed for pre-bid and award meetings, etc.
- Advertisements must provide sufficient information for potential bidders such as:
    - The general nature of the goods or services to be procured
    - Method of procurement that will be used
    - Ways the bidder can obtain the solicitation or more information
    - Due date for solicitation response
- Methods of advertisement to allow for full and open competition. This will vary from city to city, and a CE must be able to document how the method of advertisement will ensure circulation of the bid/proposal to the general public for the type of goods/services which are being acquired, as well as ensure that the CE is receiving an adequate number of bidders
    - State, regional, or nation-wide newspapers
    - Trade periodicals
    - Designated internet sites
    - Direct mailing (for small purchase procurement method only)
    - Other print media that serves the business community and general public
- CEs must take all necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus area firms are utilized when possible. (2 CFR 200.321).
    - Include qualified small and minority businesses and women's business enterprises on solicitation lists.

- Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential resources.
- When economically feasible, divide total requirements into smaller tasks or quantities to permit maximum small and minority business and women's business enterprises participation.
- Where the requirement permits, establish delivery schedules which will encourage participation of small and minority businesses and women's business enterprises.
- Use the services of the Small Business Administration and the Minority Business Enterprise of the Department of Commerce.
- If subcontracts are to be let, require the prime contractor to take the affirmative steps above.

- **Evaluating responses**

The CE must ensure that the solicitation is awarded to a responsive and responsible vendor. CEs must consider the following:

- *Responsive* means the contractor's goods or services meet all of the CE's specifications as outlined in the solicitation
- *Responsible* means a contractor can and has the ability to fulfill the terms and conditions of the proposed procurement (2 CFR § 200.318(h)). A CE should determine whether a contractor is responsible by investigating the contractor's:
  - Integrity
  - Compliance with public policy
  - Record of past performance
  - Financial and technical resources
- Pre-qualified lists of persons, firms, or products used in acquiring goods and services are current and include enough qualified sources so as to ensure full and open competition (2 CFR § 200.319(d))
  - Potential responsive and responsible bidders not included in these pre-qualified lists cannot be excluded from bidding
  - *NOTE*: While pre-qualified lists may not be common for SFMNP CEs to have and use, if an SFMNP CE has a list of pre-qualified bidders, they must follow this requirement to allow for full and open competition.
- Contractors that are determined not to be responsible are ineligible for contract award
  - The CE must document this decision and supporting reasons as to why the contractor(s) was not responsible
- Cost must be used as the primary factor
- Bids must be evaluated without consideration of any included unallowable cost provisions
- Any and all bids may be rejected if there is a sound documented reason

- **Ethical Conduct**

A CE cannot allow a conflict of interest or potential conflicts of interest when procuring goods and services. See Item 7110, *Conflicts of Interest and Ethical Standards* for more information. **NOTE**: In the absence of a written code of standards, or when TDA determines that a violation of the code has occurred, TDA will issue a finding and require corrective action.

- **Awarding and Managing the Contract**

The CE must award and effectively manage the contract (2 CFR § 200.318(h)). A CE must consider the following:

- Must be awarded to the lowest priced, responsive and responsible bidder whose proposal is most advantageous to the SFMNP with price as the primary factor
- The contract is a
    - formal, legally enforceable agreement
    - record of the procurement transaction
    - a dispute resolution mechanism
- The CE must first receive TDA approval of an award to a contractor that is not the lowest bidder prior to awarding the contract (for competitive sealed bids)
- The CE must monitor the contractor performance to ensure the following:
    - Performs in accordance with the terms, conditions, and specifications of the contract
    - Receives quantity and quality of the goods and services requested
    - Receives the goods and services on time
    - Is charged the correct prices as bid and within budget
- The CE is responsible for settling any contractual and administrative issues which may arise after an award. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. (2 CFR § 200.318(k)).
    - The CE must specify dispute resolution measures for any action that diminishes full and open competition. Procedures must be provided to all potential bidders including the name and address of the person who will handle protests. The CE must disclose information regarding all protests to TDA.

REMINDER: CEs are responsible for maintaining up-to-date procedures and training staff on these procedures prior to the start of SFMNP operations, and as needed throughout the program year (e.g., when there is a change to a procedure). Procedures are subject to review by TDA. TDA may issue a finding(s) and/or require corrective action(s) if a CE's procedures do not comply with SFMNP regulations and/or if a CE is not following its own procedures.

7300 Procurement Methods

CEs must use the appropriate procurement method depending on the cost of the good(s) or service(s) they need to procure. The types of procurement methods a CE must use when

procuring (e.g., purchasing) goods and services are discussed in detail below and include (2 CFR § 200.320):

- Informal Procurement Methods
    - Micro-purchase
        - Small Purchase
- Formal Procurement Methods
    - Competitive sealed bids (Invitation for Bid (IFB))
        - Competitive proposals (Request for Proposal (RFP))

Whenever a CE is purchasing goods or services using federal funds in support of the SFMNP program, the appropriate procurement method must be followed.

7310 Simplified Acquisition Threshold

TDA's simplified acquisition threshold, also called *small purchase threshold*, delineates the highest total cost limit for using the informal procurement method.

- If the purchase is *less* than the simplified acquisition threshold, the purchase may be made using an informal or formal method.
- If the purchase is *equal to or greater than* (exceeds) the simplified acquisition threshold, the purchase must be made using the formal process.

The aggregate amount of the goods/services will determine which procurement method will be used. While the federal simplified acquisition purchase limit is set at $350,000, TDA has set a more restrictive threshold of $100,000.

7320 Overview of Procurement Methods

Procurement regulations allow certain methods to be used by CEs to procure goods and services. Those methods are determined by aggregate amount of the contract award based on the value of the purchase, scope, and need of the good and service. Procurement methods are divided into two categories; informal and formal. Informal procurement methods may be used when the total cost is less than the simplified acquisition threshold, or $100,000. Formal methods must be used when the estimated cost of the goods and services equals or exceeds the $100,000 simplified acquisition threshold.

With the exception of the noncompetitive proposal, the chart below provides an overview of the types of procurement methods a CE must use when conducting the procurement of goods and services.

Overview of Procurement Methods

Simplified Acquisition Threshold

<$100,000	**$100,000***	***≥$100,000***
(may choose) [6]		*(must choose)*
Informal Procurement Methods*		***Formal Procurement Methods***

Total Purchase Amount is	**Total Purchase Amount is**	**Total Purchase Amount is**		
Equal to or Less (≤) than $15,000 ($0.01 to $15,000)	Greater Than (>) $15,000 (= $15,000.01 or more)	Equal to or Greater than $100,000.00		
May choose	*Must choose*	*Must choose*	**or**	*Must choose*
Micro-Purchase	**Small Purchase**	**Sealed Bid** *Invitation for Bid (IFB)*		**Competitive Proposal** *Request for Proposal (RFP)*

*While a CE is not required to follow formal procurement methods for purchases below $100,000, a CE may choose to use a formal procurement method.

[6] CE may choose to use a formal procurement procedure for a total cost that is less than the simplified acquisition threshold in order to get a better price.

7320.1 Informal Procurement Method: Micro-purchase

A micro-purchase is the acquisition or purchase of goods and/or services that have an aggregate cost that does not exceed $15,000. The $15,000 aggregate total for a micro-purchase amount is the total cost for a single invoice for a single purchase or transaction. It is not an accumulation of weekly, month, or annual purchases. Rather, it is an individual purchase with an individual invoice.

A formal cost analysis is not required when a CE uses the micro-purchase method. However, the CE must have a method to document that the cost of the good and/or service is reasonable.[7] Acceptable documentation includes, but is not limited to, the following:

- Newspaper advertisements from various suppliers/vendors
- Online advertisements from various suppliers/vendors
- Documentation of phone quotes from various suppliers to include the following:
    - Supplier/vendor name
    - Name of the person providing information
    - Date(s) of contact
    - Information provided, including product and pricing
- Other documentation that allows TDA to determine the cost was reasonable if price was not the determining factor, such as:
    - Maps showing distance between vendors when distance is the factor
    - Procedures that specify micro-purchase must be used because space is a factor, such as refrigeration/storage space

Purchases must be distributed equitably among all suppliers. The CE cannot make all of its micro-purchases from one supplier and must, when feasible, "share the wealth" among suppliers. However, CEs that are located in rural areas may be limited in their ability to distribute purchases equitably among a number of merchants or suppliers because it is not economically feasible to do so, i.e. cost and time of travel. In these cases, the CE must document the reasons it is not feasible for the CE to distribute purchases among a variety of suppliers.

Routine purchases must not be broken into smaller purchase amounts in order to qualify for micro-purchasing. If the CE is routinely using the micro-purchase method for the same items, the CE must maintain documentation that demonstrates why this is the most suitable method for purchasing these goods and/or services and why the use of another procurement method is

[7] 2 CFR § 200.404 states, "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost."

not possible or reasonable. If the CE breaks larger purchases into smaller amounts to qualify as a micro-purchase, then the costs are unallowable.

7320.2 Informal Procurement Method: Small Purchase

If purchasing services, supplies or other property with an aggregate cost that is greater than $15,000 and less than $100,000, a CE may use small purchase procedures, or a formal procurement method. The $100,000 threshold applies to the following:

- Single items (for example, rent), and
- Many items of the same general type (office supplies).

CEs cannot circumvent the procurement process by using small purchase procedures to award multiple contracts under $100,000 to different vendors for a single item or many items of the same general type.

Small purchase procedures require CEs to obtain at least three price quotations from an adequate number of qualified sources. Price quotations must be documented; the CE must document the date, vendors consulted, and quotes received (including for verbal quotes). USDA also allows for store advertisements to be used as documentation when receiving quotes.

When receiving price quotations, the CE must provide the vendor with a full and accurate description of the type of goods/services needed, so potential vendors can properly respond with an accurate quote.

If a CE is unable to obtain at least three price quotations, the CE must evaluate whether it has limited competition in any way. If the CE is able to document that it was unable to receive at least three price quotations after attempts to receive more quotes from qualified vendors, then the CE must document this.

Routine purchases must not be broken into smaller purchase amounts in order to qualify for the small purchase method. If the CE is routinely using the small purchase method for the same items, the CE must maintain documentation that demonstrates 1) why this is the most suitable method for purchasing these goods and services and 2) why the use of another procurement method is not possible or reasonable.

NOTE: If the CE routinely uses the small purchase method for the same goods or services, formal competitive bids may provide lower costs.

If the small purchase solicitation results in a contract, the CE must meet all requirements related to the development and use of a contract described in this handbook.

7320.3 Formal Procurement Method: Competitive Sealed Bids (Invitation for Bid)

For purchases with an aggregate amount that equals or exceeds the small purchase threshold, or $100,000, CEs are required to follow formal procurement procedures (2 CFR § 200.320). One formal procurement method is competitive sealed bids.

CEs following this procurement method must ensure the following conditions are met:

- Bids are publicly solicited, using an IFB and are formally advertised to the general public
- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;
- The IFB will include:
    - any specifications and pertinent attachments, and
    - must define the items or services in order for the contractor/bidder to properly respond;
- Bids will be opened publicly at the time and place prescribed in the invitation for bids;
- A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- Any or all bids may be rejected if there is a sound documented reason.

7320.4 Formal Procurement Method: Competitive Proposals (Request for Proposal)

Competitive proposals are another type of formal procurement method used when a contract award equals or exceeds $100,000. Competitive proposals are used when the conditions are not appropriate for the use of competitive sealed bids such as when several factors are of equal or greater importance than price. A RFP is used to solicit responses with this method.
CEs following this procurement method must ensure the following conditions are met:

- RFPs must
    - Be publicized
    - Identify all the evaluation factors and their relative importance
    - Be solicited from an adequate number of qualified sources (e.g., more than one vendor must submit an offer)
- The CE must have a written method for conducting technical evaluations of the proposals received and for selecting vendors
    - RFPs are generally more qualitative in nature
        - In addition to price, the following factors may be considered: technical expertise, past experience, years in business, marketing capabilities, etc.

    - Price must be the primary consideration when awarding a contract; however, a contract may be awarded to a proposal that is not the lowest in price
- A firm fixed price contract or a cost reimbursable contract will be awarded to the proposal that is most advantageous to the program, with price and other factors considered

7320.5 Additional Steps for Competitive Procurement

The following steps must be followed when soliciting competitive sealed bids:

- Publicly announce the proposed contract at least once and not less than 14 calendar days before the opening of bids. Include the time and place of the bid opening in the public announcement.
- Notify TDA about the time and place of bid opening at least 14 days before the bids are opened.
- Open the bids publicly at the time and place stated on the invitation for bid.
- Obtain TDA approval before awarding the contract, if required. Refer to Item 7500, *Texas Department of Agriculture Approval of Contracts*.
- Before program operations begin, CEs must
- Submit copies of all bids that were received, the name of and reason for selecting the contractor, a copy of the awarded contract and certification of independent price determination.
- Notify the chosen contractor by telephone, and then in writing, to provide the contractor with the necessary time to prepare an acceptance letter.
- Notify the rejected bidders, in writing, of the name of the selected contractor.

All required documentation should be submitted via email to TDA at SquareMeals@TexasAgriculture.gov. The email subject should include "SFMNP Documentation" and the name of the CE. For CEs that do not have access to email, please contact TDA at 1-877-TEX-MEAL (1-877-839-6325).

7330 Noncompetitive Procurement Methods

Procurement by a noncompetitive method is an appropriate method of procurement when one or more of the following circumstances apply:

- Inadequate Competition
- Sole Source
- Public Emergency or Unexpected Emergency Situation

7330.1 Inadequate Competition

After the CE actively and appropriately attempted to solicit offers from a number of sources, competition is deemed inadequate – that is, the number of offers that met the solicitation specification and technical requirements (i.e., responsible and responsive offers) were less than expected. This would include when a CE receives only one responsible and responsive offer. One example of when a noncompetitive proposal may be used is when a CE is so remotely located that there is a very limited number of qualified sources in the area. In this case, a CE may pursue a noncompetitive procurement if it has 1) ensured that the specifications in the original IFB or RFP are not too restrictive, thereby, limiting other potentially qualified bidders, and 2) the solicitation has been publicized.

After engaging in competitive purchasing procedures, the CE does not need TDA approval to award a noncompetitive bid when there are a limited number of offers as long as documentation is retained by the CE demonstrating that the CE did not limit competition. Documentation would include, but is not limited to, the following:

- Proof of due diligence in ensuring that competition was not limited, which may include:
    - Performing reviews of the solicitation and advertising process
        - Surveying suppliers, distributors, or manufacturers to determine why a bid was not submitted
        - Copies of the solicitation, advertising, mailing lists, communication documents, contact logs, and other relevant documentation to support their findings.

7330.2 Sole Source

The good and/or service is available only from a single (sole) source distributor, supplier, or manufacturer. For sole source method to be used there must be only one possible source for the good and/or service. Sole source noncompetitive procurement requires TDA approval. Before offering a sole source noncompetitive contract, a CE must verify that the good and/or service can only be procured from a single source. A solicitation where there is only one offer is not necessarily sole source. There may be other suppliers, distributors, or manufacturers that could have submitted an offer but chose not to.

EXAMPLE: There are three companies that commonly provide the type of equipment that a CE is attempting to procure. Company A chooses not to bid because it is unable to meet the delivery timeline. Company B no longer distributes the line of products that would have met the specifications and technical requirements. Therefore, Company C is the only offeror. In this situation, the single offer submitted is not sole source. Rather, it is an inadequate competitive response to the solicitation and the CE must follow the guidance above for inadequate competition.

For a sole source method to be used there must be only one possible source for the good and/or service. A CE cannot accept a statement from the supplier, distributor, or manufacturer as verification that the good and/or service is only available from a single source. In order to determine if the good and/or service is sole source, a CE must do the following:

- Attempt to solicit offers from other suppliers, distributors, or manufacturers
- Retain records that demonstrate its efforts to solicit offers for the good and/or service from other suppliers, distributors, or manufacturers.

TDA must approve all sole source procurement transactions before the award of the contract. To request approval to use a sole source contract, the CE must submit a request to TDA in writing (paper, fax, or email). In its written request, the CE must include the following information:

- Description of the CE's actions to ensure that the supplier, distributor, or manufacturer is sole source
    - CE's actions may include questioning other vendors of similar goods/services to determine if those vendors can meet the precise needs of the CE. If not, written justification should be provided to TDA as to why a particular vendor would not qualify as a source.
- Copies of the CE's solicitation, advertising, and other relevant documentation that demonstrate that the supplier, distributor, or manufacturer is a sole source.

When there is a compelling need to purchase a specific brand product and/or service, such as compatibility with current equipment, the CE must have documentation that demonstrates other available brands are not compatible with the CE's:

- Current equipment,
- Replacement part inventory, and
- Maintenance staff's expertise.

However, even if the CE meets the brand name sole source purchase criteria listed above, the CE must still determine if there is more than one supplier for the brand of equipment or the services. If there are multiple suppliers, the CE must follow normal procurement processes in awarding a contract.

NOTE: In some cases, suppliers for specific brands may be affiliated or associated suppliers which may result in collaboration among the suppliers and may restrict competition. CEs will need to address this as appropriate to ensure full and open competition.

TDA will provide written notification of approval or disapproval.

7330.3 Public Emergency or Unexpected Emergency Situation

A public emergency (exigency) or unexpected emergency situation[8] will not permit a delay resulting from the additional time required for a competitive solicitation for the good and/or service. Emergency noncompetitive procurement requires TDA approval.

To request approval to use a noncompetitive method during an emergency, the CE must submit a request to TDA in writing (paper, fax, or email). In cases of extreme emergency, a CE may call TDA directly to alert TDA about the situation. The request must still be submitted in writing, but a phone call will raise TDA's awareness of the need for an expedited response. In its written request, the CE must include the following information:

- Explanation of the circumstances that require an emergency purchase
- A detailed description of the goods and/or services to be procured
  - Supplier, distributor, or manufacturer from whom the good and/or services will be procured
- Period of time the CE plans to use the noncompetitive method for the emergency

TDA will provide written notification of approval or disapproval.

Requests for TDA's review and approval of noncompetitive procurement processes may be submitted in writing to TDA via email at SquareMeals@TexasAgriculture.gov. The email subject should include "SFMNP Noncompetitive Procurement Request" and the name of the CE. For CEs that do not have access to email, please contact TDA at (877) TEX-MEAL.

7340 Documentation of Procurement Action and Submittal to TDA

CEs must document and maintain records that sufficiently detail the procurement process (2 CFR § 200.318(i)). These records must include, but are not limited to, the following:

- The reasons for choosing the specific method of procurement.
- Copies of all opened bids, a certificate of independent price determination and an explanation for selecting a particular contractor.
- List of contractors to whom a copy of the IFB was sent.
- List of newspapers, magazines or other method of public notification in which advertisements were placed and the dates that they appeared.
- Copy of the contract.
- Basis for the cost or price of a contract.

[8] An unexpected emergency situation might include a supplier cancelling a contracted delivery without adequate notice or a presidentially declared disaster.

CEs must submit the following items to TDA:

- Notification of the date, time and location for bid opening a minimum of 14 calendar days before the bid opening date (for competitive bidding).
- Copies of all opened bids, a certificate of independent price determination and CE explanation for selecting a particular contractor.
- The list of contractors to whom a copy of the IFB was sent.
- A list of newspapers, magazines or other method of public notification in which advertisements were placed and the dates that they appeared.
- A copy of the contract between the contractor and CE before the start of program operations.
- A copy of the award letter and a copy of each letter sent to all rejected bidders after the bid award has been determined.

All required documentation should be submitted via email to TDA at SquareMeals@TexasAgriculture.gov. For CEs that do not have access to email, please contact TDA at 1-877-TEX-MEAL (1-877-839-6325).

7350 Contract Provisions

7350.1 Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

All contracts using federal funds must contain the contract provisions identified in 2 CFR Part 200, Appendix II, *Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.* While all provisions may not be applicable to all contracts, CEs must ensure the appropriate provisions are included in all contracts.

7350.2 Debarment and Suspension Certification

TDA requires CEs to obtain debarment certifications for covered contracts. The three types of covered contracts are:

1. Any non-procurement transaction that involves federal funds of any amount.
2. Any procurement contract for goods or services at or above the small-purchase threshold of $100,000.
3. Any procurement contract for goods or services where a person or entity will have a critical influence on or substantive control over the covered transaction. Such a person or entity includes, but is not limited to, the following:
    a. consultant,
    b. principal investigator,
    c. provider of audit services required by TDA or a federal funding source, or
    d. researcher.

In its written procedures, the CE must define how it will obtain a debarment and suspension certification from each of its contractors. The certification must ensure that the federal contract award will not be made to a contractor (vendor) listed on the government wide exclusions in the System for Award Management (SAM). A CE may provide the debarment certification by having the contractor (vendor) do one of the following:

- Include the following debarment and suspension certification in the written agreement with the contractor:

  (1) The prospective contractor certifies to the best of its knowledge and belief that it and its principals:

  (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

  (b) Have not within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

  (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

  (d) Have not within a three-year period preceding this agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.

  (2) Where the prospective contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this proposal.

- Require the contractor to sign and submit the TDA *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts* (H2048); or
- Print the page from the System for Award Management (SAM) which indicates the contractor is not presently debarred or otherwise excluded from participation in the contract by any federal department or agency or by the State of Texas and maintain that document on file with the subcontract documents. The System for Award Management can be accessed at: https://www.sam.gov .

For a copy of *Certification Regarding Debarment Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts* (Form H2048), access the TDA website at http://www.squaremeals.org/, go to "Programs," click on "Farmers' Market Nutrition Program," choose "SFMNP Administration and Forms," then input the form title or form number in the appropriate search field.

7350.3 Lobbying Certification (Applicable to contracts over $100,000)

Contractors that apply or bid for an award exceeding $100,000 must provide the required *Certification Regarding Federal Lobbying* (Form H2049).[9]

If applicable, a contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award; in this case, a contractor must complete and submit *Standard Form – LLL, Disclosure of Lobbying Activities*.[10]

7350.4 Civil Rights Statement

TDA requires all vendor agreements include an assurance of nondiscrimination.

7350.5 Other Provisions

Other required contract provisions include:

1. Notice of awarding agency requirements and regulations pertaining to reporting.
2. Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention that arises or is developed in the course of or under such contract.
3. Awarding agency requirements and regulations pertaining to copyrights and rights in data.
4. A provision to allow for the audit, examination, excerpt, and transcription of records that are pertinent to the contract by the USDA, the Comptroller of the United States, TDA and their authorized representatives.
5. The mandatory retention of all required records for three years and four months after the end of the contract period. If any litigation, claim, negotiation, audit or other action involving the records has been started before the end of the retention period, the records shall be kept until all issues are resolved.
6. A requirement that mandates compliance with the energy efficiency standards and policies contained in the Texas Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

[9] This may be viewed and downloaded at http://www.squaremeals.org/Programs/FarmersMarketNutritionProgram/SFMNPAdministrationForms.aspx

[10] This may be viewed and downloaded at http://www.squaremeals.org/Programs/FarmersMarketNutritionProgram/SFMNPAdministrationForms.aspx

7360 Texas Department of Agriculture Approval of Contracts

A CE must forward the bid(s) to TDA for approval before awarding a contract if one or more of the following conditions apply:

- Only one bid was received in response to the solicitation,
- The bid selected was not the lowest bid that was received. The CE must also include an explanation for the award decision.

TDA responds to the request for contract approval within 5 working days of receipt. Requests for TDA approval may be submitted in writing to TDA via email at SquareMeals@TexasAgriculture.gov. The email subject should include "SFMNP Contract Review" and the name of the CE. For CEs that do not have access to email, please contact TDA at (877) TEX-MEAL.

7400 Additional Guidance

7410 Compensation for Purchased Services

If a CE agrees or contracts with a consultant or subcontractor for the purchase of a service, the CE will compensate the consultant or subcontractor for that service based on the provisions of the contract or agreement. When a contract or agreement identifies a fee or compensation that is based on a set percentage, the subcontractor or consultant cannot require additional fees from the CE.

EXAMPLE: A subcontractor or consultant cannot charge sales tax on services in addition to a set percentage that is assessed for that service as stated in the contract or agreement. If a subcontractor or consultant charges sales tax on the service provided, the tax must be extracted from the compensation (set percentage) that is stated in the contract or agreement.

7420 Disputes

It is a CE's responsibility to obtain legal counsel for the resolution of any disputes arising from participation in a third-party arrangement outside of the SFMNP Agreement.

7430 Disposal of Equipment/Supplies

When items of equipment/supplies acquired with program funds are no longer needed, the CE will notify TDA of any intended disposal. Items of equipment/supplies with a current per unit fair market value of less than $10,000 may be retained, sold, or otherwise disposed of with no further obligation to the CE.

Individual equipment items or unused supplies in aggregate with a current fair market value of more than $10,000 may be retained or sold. If sold, the CE will return to TDA an amount based on the percentage of program funds used for the original purchase of the equipment or supplies.

TDA will review records related to the disposal of equipment or supplies during any administrative review.

7500 Administrative Costs

Administrative costs are limited to the CE's allowable expenses for planning, organizing and managing the SFMNP. These costs are approved as part of the CEs *Application for Participation / Plan of Operation*, annual budget, and whenever budget amendments are submitted to TDA.

7510 Allowable Costs

This section provides an overview of the Federal cost principle requirements as found in 2 CFR part 200, subpart E which establishes the principles for determining the allowable costs incurred by CEs as part of SFMNP. Additional guidance in this area can be found in:

- 7 Code of Federal Regulations (CFR) Part 249, *Senior Farmers' Market Nutrition Program*,
- 2 CFR Part 200, *Uniform Administrative* Requirements, *Cost Principals, and Audit Requirements for Federal Awards*
- Other applicable federal and state rules, regulations, and guidance for financial management systems including the CEs Agreement with TDA.

7510.1 Determining Allowable Costs

Allowable costs must be:

- Reasonable and Necessary
- Allocable
- Consistent

Costs that do not conform to the cost principles summarized in this section are unallowable. Reimbursement must be used only for those costs that are **reasonable** and **necessary** for SFMNP purposes and otherwise satisfy the allowability criteria set forth in 2 CFR Part 200, subpart E and USDA implementing regulations in 2 CFR Parts 400 and 415. SFMNP purposes include the administration and operation of the SFMNP. (7 CFR §249.12(a)) All costs must be budgeted in the approved SFMNP *Application for Participation / Plan of Operation*. All costs must

be allowable expenditures under the SFMNP and any other applicable Federal, State, or local law and regulations or guidance.

A CE's costs must meet the following general criteria in order to be allowable under SFMNP (2 CFR §200.403):

- Necessary and reasonable for proper and efficient performance and administration of the SFMNP.
- Be allocable to the SFMNP under the Federal cost principles in 2 CFR Part 200.
  - Be authorized or not prohibited under Texas State or local laws and regulations.
  - Conform to any SFMNP-specific limitations or exclusions in 7 CFR Part 249 as well as any limitations or exclusion in 2 CFR Part 200.
  - Be consistent with the policies and procedures that apply uniformly to all activities of the CE.
  - Be accorded consistent treatment. A cost may not be assigned to the SFMNP as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the SFMNP as an indirect cost.
  - Be determined in accordance with generally accepted accounting principles (GAAP).
  - Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or prior period.
  - Be net of all applicable credits (purchase discounts, rebates, allowances, etc.) (2 CFR §200.406).
  - Be adequately documented.

A cost is considered **reasonable** if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing when the decision was made to incur the cost. A cost is considered **necessary** if it is of a type generally recognized as ordinary and necessary for the CE's operations or the proper and efficient performance of the SFMNP. (2 CFR § 200.405)

A cost is **allocable** to SFMNP if the goods or services involved are chargeable or assignable to SFMNP in accordance with the relative benefits received. (2 CFR § 200.405) A cost must be **consistent** with the policies and procedures that apply uniformly to both federally-financed and other activities of the CE.

7510.2 Allowable Costs in SFMNP

The following costs are specifically identified as allowable in the SFMNP (7 CFR §§ 249.2 in the definition of administrative costs and § 249.12(b)):

- Administration and start-up,
- SFMNP voucher issuance, or participant education covering proper redemption procedures,

- Nutrition education services provided to participants and guardians of participants, and used for training site staff members,
- Interpreters and translators for SFMNP materials,
- Eligibility determination and outreach services,
- Voucher and farmers' market management,
- Training,
- Required reporting and recordkeeping,
- Preparing contracts for farmers and farmers' markets,
- Audits and fair hearings, and
- Monitoring and reviewing SFMNP operations.

CEs must obtain prior approval in accordance with 2 CFR Part 200, subpart E and USDA implementing regulations in 2 CFR Parts 400 and 415 prior to charging to the SFMNP any capital expenditure and other cost items designated by 2 CFR Parts 200, subpart E, 400 and 415 as requiring prior approval. (7 CFR §249.12(a)(2))

7520 Unallowable Costs

Federal regulations identify specific costs or categories of costs that cannot be charged to any federally funded program. These costs are never allowed. Unallowable costs are generally defined in 2 CFR Part 200, subpart E under "General Provisions for Selected Items of Cost" (2 CFR §§ 200.420-475). Expenditures by CEs that are not applicable to SFMNP objectives are considered unallowable. (7 CFR §249.12(a)(3))

CEs are responsible for understanding the principles to be applied in establishing the allowability of certain items involved in determining cost. Failure to list a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles described above and in 2 CFR §§ 200.402 – 411 (2 CFR §200.420).

Unallowable costs include, but are not limited to, the following:

- Administrative costs not approved by TDA,
- Bad debts,
- Contingencies,
- Contributions and donations,
- Entertainment,
- Fines and penalties,
- Fund raising,
- Interest and other financial costs, such as insufficient funds/returned check charges and late payment fees,

- Legislative expense,
- Political or partisan costs,
- Under-recovery of costs under grant agreements (these are costs exceeding income in other federal programs, including all grant agreements regardless of funding source or program year. Also included are disallowed costs in the current or prior program years.),
- Personal income taxes, corporate income taxes, and taxes resulting from non-SFMNP operations,
- Constructing or operating a farmers' market, and
- Use of SFMNP funds to supplement congregate meal programs.

Unallowable costs may never be claimed for reimbursement or counted toward the State matching requirement.

Section 8000
Denials, Terminations, and Appeals

Table of Contents

8100 Application Denials 2
8200 Termination of the SFMNP Agreement 2
8210 Termination by Mutual Consent 2
8220 Termination for Cause 2
8300 Actions Subject to Appeal 3
8400 Appeal Procedures 4
8500 Disputes 5

Section 8000
Denials, Terminations, and Appeals

8100 Application Denials

The Texas Department of Agriculture (TDA) will deny a CE's application and may terminate the *SFMNP Agreement* if TDA determines at any time that a CE:

- Is ineligible to participate in the SFMNP,
- Submitted false information to TDA,
- Did not comply with SFMNP requirements,
- Failed to maintain adequate records,
- Claimed reimbursement for administrative costs that were not related to SFMNP operations,
- Fails to maintain integrity with respect to voucher redemption,
- Has an outstanding or unresolved audit, or
- Failed to comply with procurement standards or contract requirements.

8200 Termination of the SFMNP Agreement

TDA must terminate a CE's *SFMNP Agreement* if it is determined that there is cause for termination or if TDA and the CE mutually consent to terminate the agreement.

8210 Termination by Mutual Consent

TDA and a CE may mutually consent to terminate the *SFMNP Agreement* with 30 days' notice. Termination by mutual consent generally occurs as a result of a CE's decision to withdraw from participation, and can occur at any time during the program year.

NOTE: Termination by mutual consent is not an adverse action. Therefore, a CE cannot appeal this termination.

8220 Termination for Cause

TDA may terminate for cause the *SFMNP Agreement* if the CE

- Fails to resolve SFMNP noncompliance as detailed in a corrective action plan.
- Submits falsified documents or fraudulent billings.
- Fails to provide services specified in the *SFMNP Agreement*.
- Fails to submit a complete and correct application within the specified time.
- Fails to meet basic eligibility requirements.

- Fails to comply with applicable bid procedures.
- Fails to maintain required records.
- Fails to submit a balanced and reasonable budget.
- Claims reimbursement for administrative costs that are not related to SFMNP operations.
- Has an outstanding or unresolved audit.

Before terminating the *SFMNP Agreement* for cause, TDA will consider

- The severity of the noncompliance or violation,
- The reason for the noncompliance or violation,
- Efforts to correct the noncompliance or violation, and
- Whether providing or arranging additional training or technical assistance would help a CE to correct the problem.

If the *SFMNP Agreement* is terminated, TDA will notify the CE in writing of the specific reason for termination.

8300 Actions Subject to Appeal

CEs have the right to appeal any action that

- Denies an application for participation, imposes a sanction, or disqualifies it from participating in the SFMNP,
- Terminates operation of the SFMNP at a CE's sites,
- Terminates a CE's *SFMNP Agreement*,
- Denies or suspends SFMNP payment,
- Denies a CE's application for a specific site,
- Demands the remittance or settlement of any overpayment, or
- Otherwise affects a CE's participation in the SFMNP or claim for reimbursement.

Exception: A CE cannot appeal the termination by mutual consent of the *SFMNP Agreement*. (7 CFR §249.16(a))

An applicant may appeal denial of certification of SFMNP benefits, except that no appeal is available if certification is denied solely because of lack of sufficient funding to provide SFMNP benefits to all eligible applicants. A participant may appeal the disqualification/suspension of SFMNP benefits. (7 CFR §249.16(a)(1)(i) and (ii))

8400 Appeal Procedures

TDA is the responsible entity for conducting SFMNP appeals. TDA, CEs, sub-distributing agencies and farmers' market associations have authority to take adverse action pursuant to their roles in the program operation.

Actions adversely affecting participation in FMNP that may be appealed are provided above in Section 8300.

Written notice of adverse action must be provided by the party taking action.

The written notice must

- State the cause for adverse action,
- State the effective date of the action, including whether or not the adverse action will be postponed until an appeal decision is made, if applicable, and
- Include the procedure for requesting an appeal, if applicable.

The written notification must be provided not less than 15 calendar days before the effective date of the adverse action.

Requests for appeals must be in writing and postmarked within 10 calendar days of receiving the notice of adverse action. The request must clearly identify what is being appealed and include a photocopy of the notice of adverse action.
The request for an appeal may be mailed or faxed to:

Texas Department of Agriculture
Legal Division
Attn: Docket Clerk
P.O. Box 12847
Austin, Texas 78711

Fax number: (800) 909-8530
Submit a request for appeal via overnight delivery to:

Texas Department of Agriculture
Legal Division
Attn: Docket Clerk
1700 North Congress Avenue, 11th Floor
Austin, Texas 78701

TDA will acknowledge the receipt of the request for an appeal within five days of its receipt of the appeal request.

TDA will schedule a hearing to be held within 14 calendar days of receiving the appeal request, unless there is a request to reschedule. The person or organization requesting the appeal will have one opportunity to reschedule the hearing date. A request to reschedule a hearing allows seven additional calendar days to reschedule the hearing.

The case record will be available for review prior to the hearing. At the hearing, both parties in the appeal are provided the opportunity to

- Question and cross-examine witnesses,
- Be represented by counsel, or
- Be represented by a designated representative, if the appeal is filed by a SFMNP participant.

Within 60 calendar days of receipt of request for appeal, the TDA administrative review official (ARO) will issue a written decision that will be based solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the SFMNP. The ARO's decision is final.

8500 Disputes

If a CE disputes or disagrees with SFMNP guidance, policies or procedures, notify the TDA USDA Foods Specialist at CommodityOperations@TexasAgriculture.gov or at 1-877-TEX-MEAL (1-877-839-6325).

Section 9000
Terms, Definitions, and Acronyms

Table of Contents

9100 Terms and Definitions 2
9200 Acronyms 5

Section 9000
Terms, Definitions, and Acronyms

9100 Terms and Definitions

Administrative costs — Direct and indirect costs (as defined in 7 CFR 249.12(a)(1)(ii)), exclusive of food costs, which TDA determines to be necessary to support SFMNP operations. For a list of allowable administrative costs, see Item 7500.

Administrative review official (ARO) - An independent and impartial official appointed by TDA and familiar with SFMNP requirements who presides over an appeal. The ARO's decision is the final administrative determination of the appeal.

Appeal — A request for review of an adverse action through a fair and impartial hearing.

Applicant — Any person who applies to receive SFMNP benefits.

Authorized representative – An authorized representative is authorized on behalf of a CE to make written agreements with TDA to operate the SFMNP, to sign documents or reports about the agreement, and to present claims for reimbursement, when appropriate, to TDA.

Bulk purchase – Bulk quantities of certain produce items, such as apples or sweet potatoes, are purchased directly from authorized farmers by TDA or the CE, then divided among and distributed directly to eligible SFMNP participants.

Certification — The use of criteria and procedures to assess and document each applicant's eligibility for the SFMNP.

Compliance buy – A covert, onsite investigation in which an SFMNP representative poses as an SFMNP participant or proxy and attempts to transact one or more SFMNP vouchers.

Contracting entity (CE) — A public agency or private nonprofit organization that enters into an agreement with TDA to administer the SFMNP at the local level. A CE determines the eligibility of applicants, distributes vouchers and bulk purchase foods, and provides nutrition education to low-income persons, either directly or through another agency with which it has entered into a written agreement.

Dual participation — Simultaneous participation by an individual in the SFMNP at more than one local service area. Dual participation is not permitted.

Elderly persons — Persons 60 years of age or older.

Eligible foods – Fresh, nutritious, unprepared, locally grown fruits, vegetables and herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes.

Farmer – An individual authorized to sell eligible foods at participating farmers' markets and through bulk purchase agreements.

Farmers' market or farmers' market association – An association of local farmers who assemble at a defined location for the purpose of selling their produce (eligible foods) directly to consumers.

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

Food Costs – The cost of eligible foods purchased at authorized farmers' markets or through bulk purchases.

Household – A group of related or nonrelated individuals who are living together as one economic unit.

Local agency – Any nonprofit entity or local government agency that certifies eligible participants, issues SFMNP vouchers, arranges for distribution of eligible foods through bulk purchases, and/or provides nutrition education or information on operational aspects of the Program to SFMNP participants.

Locally grown – Produce grown within Texas borders or adjoining states; New Mexico, Oklahoma, Arkansas, or Louisiana.

Nonprofit agency – a private agency that is exempt from the payment of Federal income tax under the Internal Revenue Code of 1986, as amended.

Nutrition education – Individual or group sessions that provide relevant materials in keeping with the individual's personal, cultural, and socioeconomic preferences and the Dietary Guidelines for Americans that emphasize relationships between nutrition and health and encourage participants to build healthful eating patterns and to take action for good health.

Participants — Elderly people age 60 and over who are at or below the 185% poverty level who are receiving SFMNP benefits.

Program — The Senior Farmers' Market Nutrition Program (SFMNP).

Roadside stand — A location at which an individual farmer sells his/her produce directly to consumers. This is in contrast to a group or association of farmers selling their produce at a farmers' market.

Proxy – A person authorized by an eligible participant to act on their behalf, including application for certification, receipt of SFMNP vouchers or bulk purchases, and redemption of vouchers at a farmers' market.

Voucher – A check or other negotiable financial instrument by which benefits under the SFMNP are transferred to participants.

9200 Acronyms

ADA — Americans with Disabilities Act
ARO – Administrative Review Official

CACFP — Child and Adult Care Food Program
CAP — Corrective action plan
CE – Contracting entity
CFR — Code of Federal Regulations
CSFP — Commodity Supplemental Food Program

FDP — Food Distribution Program
F&N — Food and Nutrition Division of the Texas Department of Agriculture
FMNP —Farmers' Market Nutrition Program
FNS — Food and Nutrition Service of the United States Department of Agriculture

IFB — Invitation for bid
IRS — U.S. Internal Revenue Service

RFP — Request for proposal

SAO — State Auditor's Office
SBP — School Breakfast Program
SFMNP – Senior Farmers' Market Nutrition Program
SFSP — Summer Food Service Program
SMP — Special Milk Program
SNAP – Supplemental Nutrition Assistance Program
SSI – Supplemental Security Income

TDA — Texas Department of Agriculture
TEFAP — The Emergency Food Assistance Program
USDA — United States Department of Agriculture

WIC — Special Supplemental Nutrition Program for Women, Infants and Children.

Section 10000
Email Notification and *SFMNP Handbook* Online

Table of Contents

Email Notification 2
SFMNP Handbook Online 2

Section 10000
Email Notification and *SFMNP Handbook* Online

Email Notification

The Texas Department of Agriculture (TDA) emails a notification when this handbook is revised. TDA emails the notification to the SFMNP contact person[1] of each contracting entity.

SFMNP Handbook Online

The *Senior Farmers' Market Nutrition Program Handbook* is available online at http://www.squaremeals.org/Programs/SeniorFarmersMarketNutritionProgram/SFMNPPolicyamp;Handbook.aspx. Users may view and print the handbook, as needed.

[1] The contracting entity provides the email address of its SFMNP contact person in TX-UNPS.

Section 11000
Resources

Table of Contents

11100 Allowed/Disallowed Foods in the SFMNP 2
11200 Sanctions 3
11300 TDA Civil Rights Training 4

11100 Allowed/Disallowed Foods in the SFMNP

Senior Farmers' Market Nutrition Program Allowed Foods

Apples	Cantaloupes	Figs	Lemons	Peaches	Squash
Apricots	Carambola/Star Fruit	Garlic	Limes	Pears	Strawberries
Artichokes	Carrots	Grapefruit	Melons	Peas (Shelled)	Sweet Potatoes
Asparagus	Cauliflower	Green Onions	Micro Greens	Peppers	Swiss Chard
Beans	Celery	Greens/tops	Mushrooms	Persimmons	Table Grapes
Beets	Collard Greens	Head Lettuce	Mustard Greens	Plums	Tomatoes
Blackberries	Corn	Herbs (fresh cut)	Nectarines	Potatoes	Turnips
Blueberries	Cucumbers	Honey	Okra	Pumpkins	Watermelons
Broccoli	Dates	Kale	Onions	Radishes	Note: Edible parts of allowed fruits and vegetables (such as blossoms or stalks) are permitted to be sold separately.
Brussels Sprouts	Dewberries	Kohlrabi	Oranges	Raspberries	
Cabbage	Dragon Fruit	Leaf Lettuce	Papaya	Spinach	
Cactus/Nopales/ Prickly Pear	Eggplants	Leeks	Parsnips	Sprouts	

Senior Farmers' Market Nutrition Program Disallowed Foods

Dried Fruits	Flowers (Decorative)	Roasted Peppers
Aloe Vera	Jams	Seafood
Baked Goods	Meat	Seeds
Cheese	Non-food items	Sun-dried Tomatoes
Cider	Nuts of any kind	Syrup
Decorative Gourds	Pecans	Wild Rice
Dried Chili Peppers	Picante Sauce	
Dried/Potted Herbs	Potted Fruit or Vegetable Plants	
Dried Fruits/Vegetables	Preserves	
Eggs	Processed Foods	

11200 Sanctions

Texas Farmers/Farmers' Market Sanction Policy

Infraction		Explanation/Example	Points
1	Redemption of invalid vouchers: • Redeemed after end date	Must not exceed 5% of redeemed vouchers	1 Point
2	Providing unauthorized food or goods, except for firearms, ammunition, or controlled substances as defined in 21 USC 802 (including alcohol and tobacco), which have a higher points penalty. See #9 below.	Nuts or Clothing	5 Point
3	Charging SFMNP customers more than other customers	$4.00 worth of food for a participant is less than for a non-participant	5 Points
4	Requiring cash to be paid by SFMNP participant in addition to voucher		5 Points
5	Asking SFMNP participants to pay for vouchers not redeemed by TDA		5 Points
6	Falsifying information on vouchers	Date redeemed	5 Points
7	Charging for food items not received	Rain checks	5 Points
8	Providing false information on a farmer/farmers' market application		15 Points
9	Exchanging vouchers for money or non-food items	Alcohol, tobacco, firearms, ammunition, or other controlled substance	25 Points
10	Refusing to provide access to records, prices, or redeemed vouchers to TDA staff or contractors		15 Points

A CE may disqualify a farmer or farmers' market from participation in the SFMNP if the sanction score reaches 15 points or more during the year of participation. Disqualification of a farmer prohibits that farmer from selling at markets or roadside stands. The disqualification periods are:

Total Number of Points	Disqualification Period	
15 Points	1 Year	May not accept vouchers for the current program year
20 Points	2 Years	May not accept vouchers for the current program year and the next program year
25 Points	3 Years	May not accept vouchers for the current program year and the next two program years

Farmers and farmers' market associations have the right to appeal sanctions. For information on how to request an appeal, see Item 8400.

11300 TDA Civil Rights Training

The TDA online Civil Rights training is located at www.squaremeals.org. Under Quick Links near the bottom of the home page, click on Civil Rights Training, select Civil Rights, and then select the Civil Rights course.

At the end of the civil rights course, there is a quiz and a certificate of completion to print and maintain in your SFMNP files.