
POLICY TRANSMITTAL NO. 05-53	DATE: DECEMBER 2, 2005
OFFICE SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:2-22-1

EXPLANATION: 340:2-22-1 Instructions to Staff are revised to reflect the current procedures regarding distribution of United States Department of Agriculture (USDA) donated foods and the administration of school nutrition programs.

Original signed on 12-1-05

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WF # 05-EE (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS as the rulemaking agency; the “2” specifies the Chapter number; and the “1” specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

REMOVE

340:2-22-1

INSERT

340:2-22-1, pages 1-10, revised 12-1-05

SUBCHAPTER 22. COMMODITIES

340:2-22-1. United States Department of Agriculture (USDA) donated foods

Commodities. United States Department of Agriculture (USDA) donated foods are available to eligible outlets statewide within Oklahoma. These foods are referred to as commodities and are delivered to specified receiving points statewide. Guidelines and eligibility requirements for the USDA donated foods program are located in the Code of Federal Regulations (CFR) Chapter 7 Parts 210, 220, 215, 235, and 250. 1-4

INSTRUCTIONS TO STAFF

1. (a) **Eligibility.** To participate in the Food Distribution Program, an organization completes an application packet and signs a contract describing the terms the organization must accept before receiving commodities. There are criteria to determine eligibility for the program or category for recipient agency (RA) participation. Application packets are mailed upon request by the Commodity Distribution Unit (CDU). On-site visits are made to determine eligibility and adequate storage facilities. CDU provides technical assistance for record keeping and other United States Department of Agriculture (USDA) requirements. The Commodity Distribution Procedures Handbook is on the CDU Web site at <http://www.okdhs.org>.

(1) Non-profit organizations document their status by providing Internal Revenue Service Form 501-C.

(2) Organizations that may apply to receive donated commodities are described in (A) through (E).

(A) Public and private schools that participate in the National School Lunch Program (NSLP) and Residential Child Care Institutions (RCCIs) that participate in NSLP. Eligibility for NSLP is determined by the Oklahoma Department of Education (ODOE) for public schools and public RCCIs and by CDU School Nutrition Program (SNP) staff for private schools and RCCIs. To participate, schools must be recognized as part of the educational system in Oklahoma by ODOE.

(B) Child and Adult Care Food Program (CACFP) contractors. Eligibility for classification as CACFP is established by the Child Nutrition Section of ODOE. Based on CDU and ODOE procedures, the first year of CACFP participation must be cash in lieu of commodities.

(C) Charitable institutions. This is not an entitlement program. The only USDA items allocated to this category are bonus items. CDU determines eligibility for a new recipient in this category. The RA must sign a contract to be eligible for bonus foods offered.

(D) Summer Food Service Program sponsors. The participant is approved by ODOE Child Nutrition Office or CDU SNP staff as an eligible recipient in this category and must sign a contract with CDU.

(E) Nutrition Services Incentive Program NSIP, Title III, and the Indian NSIP, Title VI. Participants elect and advise CDU on an annual basis of their intent to participate.

(i) This participation may be 100% cash in lieu of commodities or a percentage split of cash and commodities.

(ii) The election for Title III programs is made by the Oklahoma Department of Human Services (OKDHS) Aging Services Division (ASD) which reimburses for cash in lieu of commodities to Title III participants.

(iii) Title VI participant information is provided to CDU by USDA Regional Office from the Office of Native American Programs.

(F) Soup kitchens and food banks. Eligible participants are distributed foods purchased with The Emergency Food Assistance Program (TEFAP) entitlement.

(i) CDU contracts with the Regional Food Bank of Oklahoma in Oklahoma City and Community Food Bank of Eastern Oklahoma in Tulsa to distribute TEFAP foods to needy households and congregate meal sites that provide meals to predominately needy persons at shelters and soup kitchens statewide.

(ii) Statewide distribution is done by sponsoring agencies that contract with the food banks.

(I) When administrative funding is depleted, food banks may charge sponsoring agencies that distribute the foods.

(II) Households and individuals served are not charged for foods

or meals for any reason.

(iii) Food banks:

(I) distribute numerous other items that are not part of USDA TEFAP and are not subject to USDA or CDU review;

(II) determine eligibility of sponsoring agencies; and

(III) are subject to oversight and review by CDU of operations regarding the distribution of USDA foods.

(iv) Sponsoring agencies determine the foods are provided to predominately needy households or individuals with eligibility based on the means tested amount set by CDU in TEFAP State Plan. Self-declaration of needy is accepted.

(v) The Regional Food Bank of Oklahoma and Community Food Bank of Eastern Oklahoma submit claims to CDU on a monthly basis for the total pounds of USDA foods distributed in the preceding calendar month. Claims are reimbursed using TEFAP administrative funds at a contractually set amount.

(b) Allocation. The allocation process is based on the entitlement or planned assistance level (PAL) for each category. PAL in each category is allocated to each RA based on the annual total number of meals.

(1) The products allocation process is based on fair share and calculated by CDU.

(A) The method of allocation varies based on commodity type, amount available, and the RA.

(B) The Forecast Order Form is the method used to determine products to order as they are made available by USDA. The form;

(i) is completed entirely by the RA and submitted to CDU within the PAL shown by the declared deadline or the RA is not eligible to participate; and

(ii) provides information for CDU to determine quantities and specific

products the RA may utilize.

(2) Each month a shipping document is placed on the CDU Web site at <http://www.okdhs.org> indicating the:

(A) items that will be delivered; and

(B) delivery date, time, and site.

(3) The RA may not refuse products at the delivery site. When the RA indicates they can use a specific quantity of a product or indicates they will accept the product as a bonus item, they are expected to take that amount when it is received by CDU.

(4) USDA surveys CDU prior to a bid for purchase of Group A food products to determine amounts to order.

(A) Group A foods are fruits, vegetables, and meats, which are seasonal items.

(B) RAs are encouraged to maintain flexibility in menu planning for Group A foods.

(5) Circumstances affecting USDA purchases of commodities include market conditions and price support requirements. CDU considers the amounts, types, and cost of foods RAs prefer.

(6) Bonus items are purchases made by USDA that are not deducted from the RA's PAL or the state's entitlement in the designated category.

(A) Bonus items are fair shared by RAs in the designated category.

(B) RAs may refuse bonus items not listed on the Forecast Order Form.

(c) Periodic reviews.

(1) RAs are subject to periodic on-site reviews.

(A) USDA requires 25% annually in most categories. Each RA is reviewed at least once in a four year period.

- (B)** The **RA completes a self-review form each year and mails to CDU any deficiencies requiring corrective action.**
- (2)** **Charitable institutions do not have a percentage review requirement or frequency. They are reviewed at the discretion of CDU if there are reported or suspected program irregularities.**
- (3)** **Allegations** regarding suspected program violations or fraud are investigated.
- (4)** **CDU staff makes on-site visits and conducts an investigative review for every commodity loss of more than \$100 or when accumulated losses in a program year meet or exceed \$100.**
- (d)** **Assessment fees. CDU charges the RA an assessment fee each year based on the total number of eligible meals served.**

(1) **Billings** are mailed in April and payment is due by May 15.

(2) **Meal counts** are determined by the information obtained from the current contracts and updates of meal counts provided from ODOE for public schools, public RCCIs, and CACFP.

(3) **Meal counts are provided by:**

(A) **CDU School Nutrition Program (SNP) staff for private schools and RCCIs;**

(B) **OKDHS ASD for NSIP Title III; and**

(C) **Office of Native American Programs in USDA, Food and Nutrition Services (FNS), Regional Office for NSIP Title VI.**

(4) **The current assessment fee rate is 1.1 cent per meal.**

(A) **Failure to pay the assessment fee results in termination of the RA.**

(B) **The CDU administrator may exempt categories, such as charitable institutions, that have no entitlement.**

(C) **The contract requires the RA to pay an assessment fee based on the**

total number of eligible meals served. A prorated fee may be assessed for partial year participation with approval of the CDU administrator.

2. (a) Commodity Warehouse (Warehouse). The Warehouse provides storage of USDA donated foods until they are palletized and delivered.

(1) CDU attempts to deliver the products to RAs the month following receipt in the Warehouse.

(2) The Warehouse does not store foods for RAs. If additional storage space is needed, commercial facilities must be used by the RA.

(3) Unallocated products are stored at the Warehouse until they are distributed to RAs that have PAL remaining and can use the product timely.

(4) Regulations regarding storage and distribution are in Part 250 Chapter 7 of the Code of Federal Regulations (CFR).

(b) Warehousing. USDA donated commodities are stored and delivered from the Warehouse operated by CDU. FNS notifies CDU when commodities are purchased by USDA.

(1) The Warehouse is notified of the shipping date and approximate arrival time by the vendor or railroad.

(2) Commodities are stored until CDU completes eligible outlet allocations and coordinates with the Warehouse to schedule delivery.

(A) Warehousing food items requires precautions be taken daily to ensure that strict guidelines are followed in the storage, rotation, and issue of stock.

(B) Care must be taken in observation and recording of packaging dates and receiving dates, to issue oldest food items first.

(3) As dry food items are received, they are stored on pallets according to category and date. Pallets are marked with date received, pack date, and other information that expedite the pulling process, such as tie or number of cases per layer.

(4) Lockers for cold storage are used for perishable food items. Contracted

commercial facilities are used if the unallocated inventory of CDU exceeds the space available at the Warehouse. Perishable items are stored by pack date and date received.

3. (a) Delivery of commodities. Delivery of commodities is made directly to most RAs. Sites that cannot accommodate a truck are given a drop site for the distribution and are responsible to meet the truck at the designated site.

(1) Shipping documents are numbered in sequence of delivery, dated, and signed by the truck driver.

(2) RAs are responsible for providing their own help and equipment to unload from the tailgate or side opening of the truck.

(3) The truck driver:

(A) is responsible to get the order to the tailgate of the truck or side door;

(B) does not load onto or into the RA's vehicle;

(C) does not unload beyond the tailgate or side door at direct drop sites; and

(D) is provided a copy of scheduled deliveries. When preparing schedules, factors considered are:

(i) loading the truck(s) to allow for the best weight distribution;

(ii) scheduling the delivery points;

(iii) unloading ease;

(iv) determining the number of sites that can be delivered on one trip, according to weights allocated;

(v) scheduling time needed to load the truck(s);

(vi) driving time from the Warehouse to first destination point;

(vii) driving time between destination points and return trip to the

Warehouse;

(viii) unloading time at each delivery site;

(ix) scheduling lunch breaks; and

(x) providing accommodations planning in proposed overnight locations.

(b) Inventory reconciliation and unclaimed deliveries. When an inaccurate count places too much of a product on the truck(s), excess items are returned to the Warehouse along with any unclaimed deliveries and the inventory is adjusted.

(1) When there is a shortage on a delivery, the RA that was shorted product is given the product at a later date or a credit.

(2) Refusal of any or part of a delivery by the RA is not allowed at the delivery site unless there is obvious damage to a product.

(3) Items that are unclaimed or loaded in error are returned to the Warehouse for inventory adjustment.

(c) Commodities picked up from the Warehouse. Schools, day care centers, institutions, nutrition programs for older persons, soup kitchens, food banks, and summer food service programs are authorized to pick up the allotment of commodities from the Warehouse, with prior approval and agreed upon arrangements by the Warehouse manager or designee.

(1) Eligible outlets are responsible for furnishing transportation and loading allotted food items.

(2) The RA within an approximate 20-mile radius of the Warehouse may pick up allotted commodities on a monthly basis, when the allocation for that month has been determined, and the shipping document has been placed on the CDU Web site at <http://www.okdhs.org>. The RA must contact the Warehouse to make specific date and time arrangements for the pick-up.

(d) Summer food service program. Delivery is made statewide once per year beginning on or about June 15 depending upon when the products are

received at the Warehouse.

(1) Sites that miss delivery may arrange to pick up their allocation at the Warehouse.

(2) Participants who are approved or submit their application and agreement after the deadline may be issued an allocation if there are foods remaining for the program. They must go to the Warehouse to pick up the food.

(e) Shipping documents. A shipping document for each delivery is created and placed on CDU DF7 Application on the Web site at <http://www.okdhs.org> where the RA can retrieve. An e-mail message is sent to schools advising them to check the CDU Web site at <http://www.okdhs.org> for the current shipping document.

(1) The shipping documents:

(A) specify the date, drop site, and approximate time of delivery;

(B) are sequentially numbered and reflect a dollar value of items received;

(C) must be signed and dated by a representative of the RA.

(2) The person receiving the commodity shipment signs the shipping document and provides a picture identification (ID) upon request.

(A) Failure to comply results in refusal of the CDU driver to release the order.

(B) The RA may pick up the order at a later date at the Warehouse once the procedural requirements are satisfied.

4. (a) School Nutrition Program (SNP). CDU maintains an agreement with USDA for the operation of NSLP, School Breakfast Program (SBP), After School Snack Program, and Special Milk Program (SMP), for non-profit private schools and RCCIs. OKDHS groups these programs as SNP.

(1) ODOE administers SNP for public schools and RCCIs.

(2) Guidelines for SNP are in Parts 210, 220, and 215 of Chapter 7 of the CFR.

(b) Funding. State Administrative Expense (SAE) funds as defined in Part 235 of Chapter 7 of CFR are received to use for:

(1) administrative expenses in supervision and technical assistance in connection with SNP; and

(2) functions and expenses associated with food distribution.

(c) Reimbursement payments. Participant schools and RCCIs sign a contract each year to receive reimbursement payments. CDU SNP staff:

(1) determines eligibility to receive reimbursement for free and reduced rate meals, after school snacks, and free milk in non-profit private schools and private non-profit RCCIs;

(2) completes Coordinated Review Effort (CRE) on-site reviews for each school food authority once in a five year cycle;

(3) conducts School Meals Initiative (SMI) reviews along with a Nutrient Analysis to ensure the required USDA dietary guidelines are followed;

(4) makes technical assistance visits at the request of RCCIs or schools;

(5) makes routine technical assistance visit to all sites each year to:

(A) monitor proper certification procedures for participation in the programs; and

(B) provide information regarding:

(i) accurate meal counts for reimbursement claims; and

(ii) completion of claim forms for reimbursement; and

(6) provides reimbursement payments based on the monthly claims submitted.