

ACDA

Resource Guide: Processing

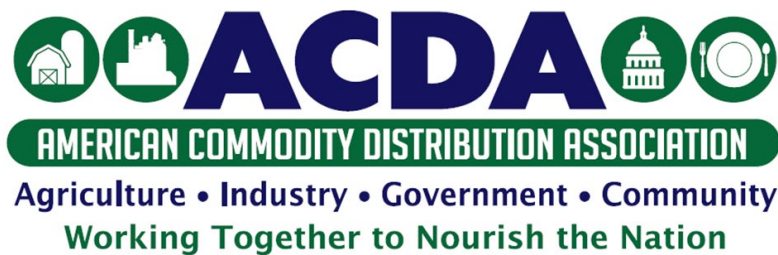


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Introduction/Overview

The USDA Foods Program (formerly known as the USDA Commodity Distribution Program) provides approximately 15-20% of the food served in the National School Lunch Program (NSLP). The program, established in 1935, serves two key roles: to support American agriculture and to provide nutrition assistance to children and families. USDA Foods are distributed to child nutrition assistance programs that serve school children through school meal programs. Additionally, USDA Foods distributes food to The Emergency Food Assistance Program (TEFAP), Food Distribution Program on Indian Reservations (FDPIR), Commodity Supplemental Food Program (CSFP) for the elderly, and to supplemental disaster feeding.

The rules governing Processing can be found in the Code of Federal Regulations, 7 CFR Part 250 (Donation of USDA Foods) and 7 CFR Part 235 (State Administrative Expense Funds).

State Distributing Agencies (SDA) and Recipient Agencies (RA) receive two types of support from the USDA, cash reimbursement (cash in lieu) for meals served or entitlement funding to distribute to school districts. The funds allocated to states are based on a yearly established per meal rate. For schools, the amount of funds available is calculated by multiplying the number of creditable lunches claimed in the previous year times the per meal rate. While USDA Foods is a federal program, it is administered to RAs through SDAs. The yearly meal rate published by USDA can be found at: <https://www.fns.usda.gov/school-meals/rates-reimbursement>.

The goal of this handbook is to provide a practical, easy-to-use resource for understanding and utilizing USDA Foods used by the various entities supporting school meals through processing. This handbook provides an overview of USDA Foods and includes sections targeted at various stakeholders such as RAs, processors, and distributors.

Working with USDA

School meal programs are administered at USDA by the Food and Nutrition Service (FNS). The Food Distribution Division (FDD) oversees the USDA Foods program. The FNS's mission is to strengthen the nation's nutrition safety net by providing food and nutrition assistance to school children and families through USDA Foods distribution and other nutrition assistance to low-income families, emergency feeding programs, Indian Reservations, and the elderly.

Managing USDA Foods efficiently and effectively is an important goal of the Food and Nutrition Service (FNS), Food Distribution (FDD), and FNS regional offices. FNS administers and provides USDA food for the following programs: National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), Nutrition Services Incentive Program (NSIP), Child Adult Care Food Program (CACFP), The Emergency Food Assistance Program (TEFAP), Commodity Supplemental Food Program (CSFP), and Food Distribution Program on Indian Reservations (FDPIR). USDA uses funds for donated foods to Buy American. This is the purchase of foods in the commercial market, distribution, or recipient agencies in the continental U.S., and in Hawaii, to the maximum extent practical, from domestic foods or food products. Domestic foods or food products are defined as: (1) Agricultural commodities that are produced in the U.S.; or (2) Food products that are processed in the U.S. substantially using agricultural commodities that are produced in the U.S. The Buy American provision is also applicable to food purchases made with cash in lieu of donated foods received in NSLP and CACFP.

USDA Foods procurement is administered by the Agricultural Marketing Service (AMS). Their mission is to help to stabilize prices in domestic agricultural markets by balancing supply and demand. The two agencies work together to meet the demands of their dual missions.

ACDA Mission

To strengthen the impact of domestic USDA Foods Programs.

ACDA Vision

Working together to nourish the nation.

The American Commodity Distribution Association (ACDA) is a non-profit professional association devoted to the improvement of the U.S. Department of Agriculture's (USDA) commodity distribution system. ACDA members include association agencies that distribute USDA Foods; agricultural organizations; recipient agencies, such as schools; industry groups, such as food manufacturers and processors; and allied organizations, such as non-profit, anti-hunger groups. ACDA members distribute over 1.5 billion pounds of domestically produced USDA Foods annually to programs such as the National School Lunch Program and School Breakfast Program, the Emergency Food Assistance Program, the Summer Food Service Program, the Commodity Supplemental Food Program, and the Child and Adult Care Food Program.

ACDA was formed in 1974 as the National Association of State Agencies for Food Distribution (NASAFD). In June 1990, the Association's name was changed to demonstrate the growth and commitment of the organization in representing a broad spectrum of government food distribution interests including the processing of USDA donated foods. The purpose of the Association is to provide a collective voice in promoting the USDA Donated Food Distribution Programs as a means of strengthening the American agricultural economy and provide food assistance to needy Americans.

ACDA Resources can be found at www.commodityfoods.org

USDA Foods: Entitlement

USDA Foods Program supports domestic nutrition programs and American agricultural producers. USDA Foods Program purchases 100% American-grown and produced foods for use by schools and institutions participating in the following nutrition programs:

- National School Lunch Program (NSLP)
- Child and Adult Care Food Program (CACFP)
- Summer Food Service Program (SFSP)

Each school year SDAs receive an allocation of entitlement dollars to request USDA Foods. USDA Foods are selected and purchased by USDA. The SDA communicates Planned Assistant Levels (PAL) to each RA. PAL is an annual estimate of entitlement dollars that will be assigned to the RA to request USDA Foods.

A RA's PAL is calculated by multiplying the number of lunches claimed in the previous school year (SY) times an established donated foods per meal rate. The donated foods per-meal rate is based on a formula defined in Section 6 of the Richard B. Russell National School Lunch Act (NSLA) and includes an annual adjustment that reflects the three-month average value of the Price Index of Foods used in schools and institutions. The rate is updated each year in July.

USDA Donated Foods per meal rate can be found at: <https://www.fns.usda.gov/usda-fis/value-donated-foods-notice>

RA Entitlement is calculated by the donated foods per meal rate plus the 12% provision (at least 12 percent of the total cash reimbursements and USDA Food assistance provided in NSLP in a school year must be provided as USDA Foods) times the total reimbursable lunches served.

Example:

\$.3975 = USDA Foods Per Meal Rate of \$.26 + 12% donated foods provision for 2021-2022

300,000 lunches served x \$.3975 = \$119,250 Entitlement Dollars for 2021-2022 SY

USDA Foods Programs – Spending Entitlement

USDA Foods are available to child nutrition programs in three categories: Direct Delivery (formerly known as Brown Box), USDA Foods Processing, and USDA DoD Fresh Fruit and Vegetable Program. Based on state permissions, RAs can elect to spend their entitlement dollars with any of the three programs.

USDA Foods Programs have a Foods Available List (FAL). The FAL is updated yearly, published each December, by FNS and AMS. The FAL is a list of healthy options for USDA Foods that may be offered by USDA to SDAs. All USDA Foods on the list are assigned a material code. It is important to use these codes when you are processing to ensure you are requesting the correct items. Check with your SDA to see which foods are available in your state.

FAL can be found at: <https://www.fns.usda.gov/usda-foods/usda-foods-expected-be-available>

USDA Foods Categories

USDA Foods Processing

USDA Foods processing allows SDAs and eligible RAs, such as school districts, to contract with federal and state-approved processors to convert raw bulk USDA Foods into more convenient, ready-to-use end products.

Some of the more popular raw bulk USDA Foods diverted for processing are beef, cheese, poultry, pork, fruits, and vegetables.

Direct Delivery

USDA purchases end products for delivery to State agency warehouses or contracted warehouses, or directly to schools for the National School Lunch Program. There are two types of direct delivered end items: raw and minimally processed. Minimally processed refers to food that has been further processed to reduce labor, preparation, and/or cooking time of the product, and may include additional ingredients like seasonings.

Direct Delivered items can include raw products such as beef, poultry, and pork. Direct Delivered minimally processed examples are listed below.

- Fruits/Vegetables: Options such as frozen fruit cups, salsa, spaghetti sauce, and potato wedges are examples of minimally processed choices available.
- Meat/Meat Alternate: Some examples of meat/meat alternate products would be chicken Fajita, diced chicken, Deli roll products of turkey and ham, diced and sliced pork ham, hamburger patties, and beef or pork crumbles. In addition, there are a variety of ready-to-use cheese products that easily fit into most school meal operations. Many of the USDA Foods proteins are formulated to have lower sodium and fat profiles to help schools meet the meal pattern requirements.
- Grains: USDA purchases a number of products to help schools meet their grain requirements. These products include whole-grain products such as pancakes, pasta, tortillas, and rice.

DoD Fresh Fruit and Vegetable Program

USDA has an agreement with the Department of Defense to purchase fresh produce for schools. The DoD Fresh program is managed by the Defense Logistics Agency (DLA) which operates a nationwide system to purchase and distribute a wide variety of high-quality fresh produce to military installations, federal prisons, and veterans' hospitals. Either SDAs or their schools place orders directly through the Fresh Fruit and Vegetable Order Receipt System (FFAVORS) for a variety of available, American grown fresh produce. RAs can request their SDA to allocate a portion of their planned assistance level for DoD Fresh purchases. As produce orders are delivered, the RAs planned assistance level is drawn down, like a debit system.

USDA Foods Diversions and Ordering

Order Versus Requests

Throughout this manual, we refer to “ordering” USDA Foods and “requesting” USDA Foods. While it is a convenient way to discuss the acquisition process for RAs and SDAs as orders, there is no guarantee that USDA will buy or deliver items requested by the states. So, while a school director may think they are “ordering” USDA Foods, they are, in fact, placing requests for the items and quantities they want.

Order-driven Systems

USDA requires that states have systems to take orders from RAs in a manner that encourages USDA food use. WBSCM is the system utilized by SDAs to place orders with USDA and allows continuous ordering based on specified ordering periods for various products. States should have systems to solicit orders from RAs as new products become available that may be of interest.

Web-based Supply Chain Management (WBSCM)

WBSCM is a comprehensive, integrated system that is accessible to all partners in the USDA Foods system. AMS uses WBSCM to post solicitations for bids, make purchases, and pay invoices. FNS uses WBSCM for entitlement allocations, annual offering catalogs, delivery and receipt, and inventory management. States use WBSCM to open catalogs, take requests, place orders, monitor delivery status, and manage inventory.

In many states, the SDA “rolls down” access to WBSCM directly to RAs. This means that RAs have access to the reports, can submit orders, track status and receipt, and other related tasks necessary in managing their USDA Foods. Use Google Chrome while working in WBSCM.

The WBSCM Service Desk is a helpdesk available to assist in answering technical questions and resolving system issues. An online service portal is also available to log incidents, check status, and access knowledge resources always.

The USDA hosts a website that contains a vast amount of information about WBSCM and how to use it. You can find the site at: <https://www.usda.gov/topics/food-and-nutrition/web-based-supply-chain-management>

- Standard Service Desk Support
- Hours - 7:00 AM to 5:00 PM Central Time Zone, M-F, excluding Holidays.
- Phone: 1-877-927-2648
- Email: WBSCM.servicedesk@caci.com

Summary End Product Data Schedules (SEPDS)

The SEPDS form is a listing of all products from a processor with information critical to your use of USDA Foods. The SEPDS includes what USDA Food item(s) are being processed, such as turkey chilled - bulk or coarse ground beef, their USDA material codes (100124 for the turkey, and 100154 for the beef). For each case of end product, the SEPDS includes the weight, the number of servings, and the amount of donated food. This will help you calculate how much USDA Foods you need to divert to the processor and what you can expect back from them. The value of the USDA Foods used in a product is determined in November of the current year for the following school year.

Yields

An important factor to consider when making a decision about further processing is “yield.” There are several methods of determining yields:

100 Percent Yield: The minimum weight or number of finished units of processed end items that will be produced and returned using a fixed amount of USDA Food. The exact amount of “donated food” that is required to produce one finished case is available on the SEPDS. Under 100% yield the processor is accountable for making an RA “whole” if the actual production is short from the yield; conversely, the RA may expect to receive all cases from an “overrun.” Some RAs have found the lack of predictability of exact number of cases per order to be problematic in planning for receipt and menu planning.

Guaranteed Yield: This yield is most common for the further processing of USDA meat. A further processor must have a USDA approved Process Control Certification Program (PCCP) in place, in order to offer this option of guaranteed return to an RA. Under guaranteed yield, a further processor guarantees a fixed number of cases will be produced using a fixed amount of meat. This ensures that the RA will receive a predictable number of cases from the diverted meat sent to a further processor. A processor must meet and maintain internal controls as overseen by USDA in the PCCP program to offer guaranteed yield to its school customers.

Standard Yield: This yield is most common for the further processing of USDA poultry. The standard yield is fixed by USDA and is set at a level that requires the processor to add commercial equivalent raw materials to achieve the set yields for each component part of the poultry—chicken and turkey. Although this adds to the cost of the end items for RAs, it has the benefit of ensuring that they will receive a predictable number of cases of finished product which assists in menu planning.

Roles & responsibilities

The USDA Foods program is a complex, sequential process. Each stakeholder has a responsibility to ensure the integrity and effectiveness of the program; states for administration, inventory management, order processing, recordkeeping, and monitoring; RAs for effectively using their entitlement dollars, inventory management, and recordkeeping; USDA for procurement and administration; distributors for inventory management, billing, and recordkeeping; and processors for processing, inventory management, reporting, and recordkeeping. This section will share information about the various partners’ roles.

Following is a list of many of the roles and responsibilities of the stakeholders. Some are required by law. Some are simply good business practices. ACDA’s website provides many sample forms and systems to assist in carrying out these duties.

States (SDA)

The State Distributing Agency plays a critical role in the USDA Foods program. Their responsibilities go in both directions – up to USDA – and down to RAs. They are the conduit through which RAs place orders and receive products, directly or indirectly. SDAs have oversight and monitoring responsibility. USDA Foods may be used in demonstrations or tests relating to their utilization, as necessary. Following is a list of some SDA responsibilities and activities as well as the support and services you can expect from your SDA.

- Provide USDA Foods to RAs that participate in NSLP
- Ensure that RAs are able to submit donated food orders through the FNS electronic donated foods ordering system, or through a comparable electronic food ordering system.
- Provide RAs with the opportunity to provide input, at least annually, in determining foods from the full available list in determining what will be available for ordering.

- Offer the RA, at a minimum, the national per-meal value of donated food assistance multiplied by the number of reimbursable lunches served by the school food authority in the previous school year.
- Ensure the safe and effective storage and inventory management of Donated Foods, and their efficient and cost-effective distribution to RAs.
- Report food losses to FNS and ensure that restitution is made for such occurrences.
- Provide RAs with a list of approved processors.
- Determine which VPT systems will be accepted from each processor.
- Share SEPDS with RAs
- Consolidate RA orders, coordinate with other SDAs to meet truckload shipping requirements, and forward requests to FDD for delivery of USDA Foods.
- Enter into a State Participation Agreement (SPA) with a multi-State processor to permit the sale of end products produced under the processor's National Processing Agreement (NPA) to eligible RAs in the State or to directly purchase such end products. Enter into an In-State Processing Agreement with an in-State processor to process donated foods into finished end products,
- Ensure inventory protection for the value of donated foods equal to the average monthly value of donated food inventories in the prior year.
- Monitor, establish, and enforce policies that ensure inventory levels at RAs and processors conform with limits established in regulation.
- USDA Food inventory may not exceed an amount needed for a six-month period, based on an average amount of donated foods utilized in that period.
- Receive and reconcile Monthly Performance Reports (MPRs).
- Secure FNS approval for distribution changes including the justification for changes in services provided under existing charges, in addition with justification for new charges.
- Follow procedures established by USDA and develop and maintain a system to communicate hold and recall information in a timely manner.
- Implement the State Emergency Notification System (SENS) to improve recall notification to RAs.
- Ensure compliance with food safety and food recall requirements.
- Provide training and education to RAs.
- Serve as a resource to RAs for USDA Foods related issues.
- Are required by law to ensure that RAs have the maximum options available to them to use entitlement.
- Provide, at the request of RAs, information including types and quantities that may be ordered; specifications and nutrition value; and procedures for the disposition of out of condition and recalled foods.
- Enter RA and processor complaints in WBSCM.
- SDAs conduct audits of RAs.

Recipient Agencies (RAs)

RAs should maintain open lines of communication with the state, processors and distributors. RAs have an agreement with the state to order, store and use their donated food in accordance with local, state and federal regulations. USDA foods should be forecasted and used within the current school year. Below is a list of additional responsibilities.

- Plan menus to meet meal pattern requirements
- Accurately forecast USDA Foods when menu planning.
- Determine USDA Foods and quantities to request using entitlement dollars.
- Develop and award bids for processing.
- Place requisitions for USDA Foods using WBSCM or other state designated system or method.
- Protect USDA Foods against theft, spoilage, damage, or other loss.
- Enter into agreements with distributors and/or processors, when applicable.
- Receipt shipments through electronic means and maintain records of all shipments received.

- Forward responses to surveys to state, designating processor and quantity of USDA Foods to divert.
- Monitor orders to processor to assure steady drawdown of inventory.
- Donated food inventory may not exceed an amount needed for a six-month period, based on an average amount of donated foods utilized in that period
- Monitor processor and distributor invoices to assure value pass through of USDA Foods are received.
- If contracting with a distributor to store and deliver USDA Foods, should have signed agreements governing roles and responsibilities for handling USDA Foods, as well as a title of transfer.
- Follow recall guidance as provided by Food Safety and Inspection Service.
- For food safety notifications, RAs should register on www.fsis.usda.gov/recalls/.
- Report complaints relating to donated foods to your state distributing agency.
- RAs may not be required to make any payments or perform services in connection with the receipt of donated foods. Voluntary contributions may not be solicited in connection with the receipt of USDA Foods, except NSIP donated foods.

USDA

Much of USDA's responsibility has been presented in the discussion of USDA Foods available and the USDA purchasing role. The USDA determines which foods will be available to States. As it pertains to RAs, the USDA role is limited to their oversight of the states. USDA has an agreement with states for program administration, and states have agreements with school districts and other RAs. USDA does not have a contractual relationship with the RAs.

Administering both procurement and distribution is complex. Additional USDA roles and responsibilities are as followed:

- Establish annual entitlement and communicate to states.
- Collaborate with AMS to develop a purchasing plan for USDA Foods offered.
- Buy Agricultural commodities that are produced in the United States.
- Communicates Foods Available List (FAL) and purchase schedule to SDAs.
- Manages and finalizes SDA orders.
- Approves NPAs, EPDS', and SEPDS'.
- AMS approves all meat and poultry EPDS', even in-state processors.
- Sets the level of bonds required for processors.
- Maintains updated list of NPAs.
- Monitors national MPR of inventories at processors.
- Reviews independent audits required for processors.
- Food recalls are managed and communicated by FSIS.
- Notifies processor and States of processor recalls.
- USDA conducts audits of SDAs.

Distributors

Distributors store and deliver USDA Foods in accordance with awarded RA bids, state policies, and processor agreements. A processor providing end products containing USDA Foods to a distributor must enter into a written agreement with the distributor. The agreement must reference, at a minimum, the financial liability for the replacement value of USDA Foods, not less than monthly end product sales reporting frequency, requirements in 7CFR 250.11, and applicable value pass-through (VPT) system to ensure that the value of USDA Foods and finished end products are properly credited to RAs.

In order to ensure that the distributor sells end products only to eligible RAs, (this pertains more to the Value Pass-Through method Fee for Service,) the processor must provide the distributor with a list of eligible recipient agencies and either: (1) The quantities of approved end products that each RA is eligible to receive; or (2) The quantity of USDA Foods allocated to each RA and the USDA Food needed per case of each approved end products.

An RA can contract with a distributor to act as an authorized agent to place orders on their behalf. When entering into an agreement with a distributor, title to finished end products containing donated foods transfers to the recipient agency upon delivery and acceptance by the contracted distributor.

When a RA enters into a contract for the distribution of USDA foods, the following must be considered:

- Receipt of USDA Foods – The RA can allow the distributor to act as an authorized agent to purchase donated foods on behalf of the RA.
- Transfer of Title - Once USDA Foods leave the processor, the RA must determine responsibility for the replacement of the value of the product if the USDA Food is damaged/destroyed prior to receipt at RA's physical location.
- Determine the VPT method used to ensure proper drawdown and costing.
- Distributors should maintain a just-in-time tracking system for all USDA Foods.
- As required, maintain system to receive, store, deliver, and monitor USDA Foods accurately.
- System should track the USDA Foods Program participant data such as eligible USDA Food items, RAs USDA Food balances, usage, invoices, and credits.
- A best practice allows for a distributor to communicate with the Third-Party tracking systems. Examples include GPOs, K12 Food Service, and ProcessorLink.
- Systematically receive and upload allocation files from Third-Party tracking systems.
- Send customer invoices/credits to Third-Party tracking systems.
- Follow recall procedures established by USDA.

Planning and Forecasting

Menu Planning

The menu drives the school operation; it must take into account student likes and dislikes, as well as meet the nutritional requirements for reimbursable school meals. USDA Foods should not drive a district's menu. In fact, your menu should determine what USDA Foods you elect to use. It is important to develop a menu for your operation that first meets your students' needs and then determines what USDA Foods are available that support your menu. It does not benefit districts to bring in USDA Foods that students will not eat under the assumption that USDA Foods save you money. A best practice is to divert what you will use and use what you divert.

Forecasting

Once RAs determine what the menu is going to be and what USDA Foods they want to use, the next step is to determine the quantity of product that will be needed for a given period of time. It is important to use historical data - whether inventory counts, meal counts, or production records - to forecast students' participation each time a product has a menu placement. Once this estimated count is calculated, one can determine how often the item is on the menu and estimate how much of a given product should be requested from USDA.

Many processors have spreadsheets or commodity calculators available that will assist in determining how many pounds of raw product need to be sent to a processor to meet your menu needs. If a processor's calculator is not available, refer to their SEPDS for the product to determine the number of pounds of USDA Foods needed per case.

Analyzing Costs and Value

Do not assume that just because a product contains USDA Foods it represents a savings. Several factors need to be evaluated before you proceed with processing USDA Foods:

- Does the product that contains USDA Foods have a commercial equivalent? A commercial equivalent will guarantee consistency on your menu.
- Can you afford the commercial equivalent if you run out of USDA Foods?
- What is the cost of processing the USDA Foods?

- What are the state charges, if any, for USDA Foods?
- What is the handling fee that you pay your distributor?
- What are your storage fees and how many months will your product be in storage?

The true value of a product manufactured with USDA Foods =
Value of USDA Food + state charges + processing costs + storage and handling fees

In the end, RAs need to determine what is the best use of their Planned Assistance Level (PAL): direct delivery, USDA Foods processing, and DoD Fresh Produce. Like all other purchasing decisions, the use of your entitlement must be in the best interest of students and the child nutrition program operated. USDA cost analysis too link:

https://www.fns.usda.gov/sites/default/files/USDA_Foods_Cost_Analysis_Tool.xlsx

Tracking USDA Foods

RAs must have a system to ensure the tracking of the value of the USDA Foods from processing to receiving USDA Foods. The purpose is to ensure the RA receives the total value of the USDA Foods. Third-party tracking systems are available to manage and track sales transactions for USDA Foods. Two third-party programs widely used are ProcessorLink and K12 Foodservice. These programs provide a useful tool to confirm what processed products have been received by the RA. RAs should set up accounts with each of these agencies to monitor sales verification and pounds balances with USDA Foods processing manufacturers.

Recordkeeping and Retention

Refer to 7CFR 250.19

Best Practices include:

- Retain all documentation for agreements, contracts, reports, audits, and claim actions.
- Receipt of end products purchased from processors or distributors.
- Crediting for the value of USDA Foods contained in end products.
- RA Processing Agreements, if applicable.
- Procurement documents, as applicable.
- All documentation must be maintained for 3 years plus the current year.
- SDAs must keep a record of the value of USDA Foods distributed to all RAs.
- By agreement, distributors must provide processors with a usage report in a mutually agreed format including the RA, product(s) sold, and the number of cases delivered.

Retention

Each processor is to keep records of the methodology used for selecting records for each sample and retain the responses from the RA for three years plus the current year following the close of the federal fiscal year for which they pertain unless longer retention is required for the resolution of an audit, litigation, or investigation. These retention requirements also apply to records of corrective action taken to resolve each error (such as adjusting the USDA Foods Processing Reports) and subsequent plans and actions to prevent or reduce future errors.

Regulations

In regulation, 7 CFR 250.36, we read about end product sales and crediting for the value of donated foods:

“To ensure that the distributing or recipient agency, as appropriate, receives credit for the value of donated foods contained in end products, the sale of end products must be performed using one of the methods of end product sales, also known as value pass through systems, described in this section. All systems of sales utilized must provide clear documentation of crediting for the value of the donated foods contained in the end products.”

There are four allowable VPT methods: refund or rebate, direct discount, indirect discount and fee-for-service. There may be an approved alternative method, which must be approved by FNS and the SDA. SPAs notate the method selected by the processor and the SDA. Only those methods approved by the SDA can be utilized.

RAs divert USDA Foods to processors. The RA’s decision as to which processor to send its diverted USDA Foods is not necessarily tied to a procurement at the time the district submits its requests to the state. In some cases, the diversion occurs prior to a procurement process and award. If the procurement results in award to a processor other than the one to which the diversion was made, either there is no draw down of the inventory at the original processor, or a transfer must be made to the successful processor. If the RA does not vigilantly monitor entitlement utilization, they may not be aware of existing inventory at a processor. All stakeholders need to be aware of the various VPT methods and continuously monitor the utilization of USDA Foods.

Transfer of Title: 7 CFR 250.11(e); FD-40 Policy memo

It is important to understand that Title of USDA Foods inventory can only be owned by a government entity (USDA, State Agency, or RA). USDA requires processors to maintain a bond for the value of USDA Foods inventory received by the processor. There are three scenarios when title transfers.

- When the processor ships end items directly to the RA, title of USDA Foods transfers upon receipt by the RA.
- When the processor ships end items directly to the SDA, title of USDA Foods transfers upon receipt by the SDA and to the RA when the SDA distributes to them, (check with the SDA for state specific rules).
- When the processor ships end items to a commercial distributor, title of USDA Foods transfers to the RA upon receipt by the commercial distributor. An RA may allow a commercial distributor to be their purchasing agent of end items containing USDA Foods through an agreement. This allows for commercial distributors to forecast for end items and secure inventory on the RA’s behalf. The RA may be held accountable for inventory at the commercial distributor.

Value Pass-Through Methods

Refund or Rebate

Utilizing this VPT method, an RA orders end products containing USDA Foods from their commercial distributor and pays the full price of the item. The full price is the VPT of the USDA Foods content of the item + the fee-for-service from the processor + any delivery fees from the distributor (commercial or state run) + any fees for storage and handling. The RA sends proof of delivery to the processor and the processor issues a check to the RA for the value of the USDA Foods contained in the case(s) of processed end products received. When the check is issued, the processor draws down the inventory of USDA Foods allocated to the RA. The processor must provide to the agency within 30 days of receiving a request from that agency. The refund request must be in writing, which may be transmitted via email.

The common practice is for the processor to create and utilize a rebate form, which the RA submits to the processor with appropriate proof of delivery. This VPT method requires more tracking and record keeping for the RA to ensure that they request rebates for all eligible purchases.

One of the negatives of the rebate system is the oversight, particularly for smaller RAs. The cost of small quantities being submitted may be high relative to the value of the rebates. If the RA does not submit the reimbursement claim, the inventory is not drawn down. Assembling the claim information and submitting it may be time consuming for the RA. In addition, issuing a large number of small checks is time consuming and expensive for the processor.

USDA requires monthly reconciliation and check issuance for rebates unless the check is less than \$25. Some states have been granted waivers allowing longer accumulation time and less frequent distribution of rebate checks.

A concern for some RAs is that rebate checks are often not recognized as CN funds when received at the district office and are deposited in the general fund. Since these costs are paid with CN funds, they must be credited to that fund as well.

Direct Discount

The processor must sell end products directly to the SDA or RA (i.e., distributors are not involved,) at a net price that incorporates a discount from the commercial case price for the value of the USDA Foods contained in or needed to produce the end products. Inventory is drawn down from the appropriate agency's bank upon acceptance of the end product by the SDA or RA. Direct discount is used for commercial product and the price paid by the eligible recipient is calculated by subtracting the value of the USDA Foods contained in or needed to produce the product from the commercial price.

Indirect Discount a.k.a. Net off Invoice

The processor delivers end products to a commercial distributor, who must sell the end products to an eligible SDA or RA at a net price that incorporates a discount from the commercial case price for the value of the USDA Foods contained in or needed to produce the end products. A commercial distributor is always involved under this system. Product sales under this system begin as commercial sales and the products being sold are commercial products. An SDA or RA procures commercial products from a distributor and the distributor procures those products from the processor. The distributor pays the processor at the commercial price. If the eligible SDA or RA to which the product is being sold has the necessary USDA Foods inventory with the processor, the sale is converted from a commercial sale to an NOI sale. The SDA or RA then pays the distributor the NOI price which is calculated by subtracting the value of USDA Foods contained in or needed to produce the product from the commercial price and adding a fixed fee for storage and distribution by the distributor.

The benefit of NOI to the RA is that they pay only the net price (FFS cost) and a single item code is purchased with or without the USDA Foods ingredient. A challenge to the RA is tracking entitlement. Since the product is commercial (i.e. does not include the discount for USDA Foods) until sold to an eligible RA, the USDA Foods in each case are not recognized until after the sale. With multiple Donated Foods (DF) items, there may be many permutations of price and drawdown. This adds complexity to the process.

Under NOI, the distributor bears the cost of PTV upfront. The benefit to the distributor is two-fold. NOI increases sales volume by making processing more available to customers. In theory, NOI also decreases the number of SKUs by combining USDA Foods and non-USDA Foods items under a single code.

NOI also requires careful monitoring and auditing of entitlements by the distributor. The commercial price net of the PTV can only be billed if the RA has inventory at the processor. There is a significant challenge in this respect. Inventory/entitlement balances are only as current as sales data is uploaded. The processor can only draw down inventory when a sale is reported. If a distributor is delayed in reporting sales, the processor may show inventory that has already been sold. If an RA is using multiple distributors, one may discount a sale for which no inventory exists. Third-party systems like K12 and ProcessorLink facilitate data transfer but are still dependent on the timely reporting of sales. It is important that the RA monitors the tracking system frequently for these reasons.

Net off Invoice is a VPT system affiliated with commercial products. NOI is used for fully substitutable products like cheese but can also be used for limited substitutable products like poultry. For red meat, NOI requires that the processor have a substitution plan whereby the entire commercial product utilizes a raw ingredient that is equal to or exceeds USDA's specifications including pathogen testing. This may increase the cost of goods as commercial products that are not included in the inventory of items that can be sold as USDA Foods may not include ingredients that meet USDA standards.

The practice, sometimes referred to as **closed stock-keeping unit (SKU) NOI**, under which the processor sets up a separate SKU for a specific NOI product and restricts the sale of that product to only agencies with the necessary USDA Foods inventory, is allowable under the regulatory definition of NOI. This practice is essentially an internal accounting mechanism and is an allowable practice provided that it follows the procedures outlined above under Indirect Discount (NOI). The most common use of this practice is for sales of beef and pork end products.

Fee For Service (FFS)

The FFS method allows the processor to charge a price per case, which includes the processor's cost of ingredients (other than the USDA Foods), labor, packaging, overhead, and other costs incurred in the conversion of raw USDA Foods into an end product. FFS is traditionally used for poultry or red meat since the majority of the end product consists of the USDA Foods.

There are three basic types of FFS:

- Direct FFS - The SDA or RA procures end products directly from the processor, pays the FFS price, and the processor delivers the product to the SDA or RA. The processor's invoice to the SDA or RA must identify any charge for delivery of end products separately from the FFS price. Inventory is drawn down from the appropriate agency's bank upon delivery or pickup. Direct fee-for-service is used for noncommercial product and the price paid by the eligible recipient is calculated by summing all the costs to produce the end product, not including the value of the USDA Foods contained in or needed to produce the product.
- Fee-for-service through a distributor- The SDA or RA procures end products directly from the processor and separately procures storage and/or distribution services from a commercial distributor. The processor ships multiple pallets of product to a commercial distributor (or the commercial distributor picks the product up from the processor,) with a breakout of which RA owns which products. The SDA or RA pays the processor the FFS price and separately pays the commercial distributor a fee for storage and/or distribution. Inventory is drawn down from the SDA or RA's bank upon delivery to/pickup by the agency's contracted commercial distributor.
- Modified Fee-for-service- The RA procures end products from a distributor, pays the distributor the FFS price plus a fixed fee for storage and distribution, and the distributor delivers the end product to the RA. The commercial distributor, acting as the RA's authorized agent, procures and purchases end products produced with USDA Foods from the processor on behalf of the RA and pays the processor the FFS price. Inventory is drawn down from the RA's bank (i.e. title transfers) upon delivery to/pickup by the RA's contracted commercial distributor.

Food Safety and Emergency Preparedness

Food Safety is a critical issue for all of the partners in the USDA Foods programs. The first line of defense is keeping unsafe USDA Foods out of the supply chain. But when an incident occurs, or is believed to have occurred, how USDA, SDAs, processors, distributors, and RAs respond is extremely important. Systems for addressing food safety issues, particularly in the event of recalls is ever evolving, and readers of this manual should regularly check the USDA websites and their SDA for updates.

In the event that a USDA food purchased by USDA is sent to a processor and is subject to a recall, notification procedures have been developed by the FNS Office of Food Safety to ensure that products produced from those products are not served in schools. All participants in the USDA processing program should consult this manual, which can be found on the Institute of Child Nutrition website: "Responding to a Food Recall." In the RA section of this manual, "Participant's Responsibilities," it is emphasized that all parties should adhere to the USDA policies for responses to recalls and that 24-hour access to contact information must be provided in all contracts.

Managing Recalls: Roles and Responsibilities

Purchasing and distributing USDA Foods is a collaborative partnership among federal agencies, SDAs, and RAs, such as local school districts, as well as processors and distributors; all have important roles and responsibilities for USDA Foods in accordance with 7 CFR Part 250, and FNS regulations and policies. At minimum, each group is required to:

- Have recall procedures in place.
- Implement the recall procedures upon notification of a recall of USDA Foods.
- Assign a Food Safety Coordinator and an alternate, and submit the names, titles, email addresses, and telephone and fax numbers of the coordinator and alternate to the appropriate entity. To speed up the notification process, contact information should be provided for 24-hour access.
- Establish a notification system for food safety contacts and be verified annually.
- For a complete list for each area of responsibility refer to the USDA “Responding to a Food Recall” procedures.

USDA Recall Resources

The USDA developed a handbook with instructions for responding to a recall. The document “Responding to a Food Recall” can be found on USDA’s Food Safety Food Resources website and the Institute for Child Nutrition Website.

Procurement

Federal procurement requirements are based on the simple premise that all procurement must be fair, open, and competitive. Regardless of the procurement method used, awards must be made only to responsive and responsible offerors. Responsive means that the offeror and their offer meet the requirements of the procurement. Responsible means that the offeror has the means to execute the procurement and has the ability to provide the goods and/or services required.

It is important to note that all RA procurement is subject to federal law even though not all school foodservice revenue comes from the federal government. A school district cannot segregate revenue by source and apply different rules to the non-federal portion. In general, federal law falls into two categories – statutes and regulations. Statutes are the laws passed by Congress and signed by the President. By and large, statutes set broad policy for the government. Federal agencies, like USDA, then write regulations to implement the statutes.

The laws governing school meal programs, including procurement, are contained in two statutes – the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966. Regulations are found in Title 7 of the Code of Federal Regulations - Agriculture. Distributing agencies and recipient agencies must comply with procurement regulations in 7 CFR 3016.36, 7 CFR Part 200.317-.327, and Appendix II as applicable, to obtain services of commercial enterprises to conduct USDA Foods activities. Procurement must also ensure compliance with other applicable regulations and the SDA’s written agreement with FNS.

This manual does not provide detailed training on basic procurement. Readers are encouraged to use one of the resources identified below. However, in general, sound competitive practices are established procedures that are consistently followed resulting in procurements that are conducted fairly, with integrity and uniformity, so that the goods and services procured meet the needs and quality standards of the purchaser at the best possible price. Sound competitive practices foster full and open competition and are free from real and perceived conflicts of interest.

Specifications for goods and services should be as detailed as possible to ensure receiving exactly what the district requires. They should not limit or prohibit any responsible vendor from responding. Estimated quantities should be as accurate as possible and updated regularly. Forecasting quantities and guaranteeing minimums will ensure adequate production levels and may decrease pricing.

Procurement Methods

There are several ways to meet the fundamental principles of procurement - fair, open, and competitive purchasing.

Invitation for Bids (IFB) is a formal method used when the only significant point of differentiation between vendors is the price.

Requests for Quotation (RFQ) is similar to bidding except that it is less formal. In some cases, it is much less formal such as by simply calling several vendors and asking for the price on the goods or services a district is requesting. This is utilized when purchases are under the federal, state, and/or local bid thresholds.

A Request for Proposals (RFP) differs from bids and quotes in that there are other factors that are considered in making an award. For example, service may be of critical importance, or the skills and experience of the vendor may be required. While RFPs are frequently used when procuring services, there are a growing number of districts that are using RFPs to obtain goods when they are looking for additional requirements as part of the contract.

A Request for Information (RFI) is a method of identifying the range of possibilities available when a district is unsure what to include in their procurement. As with all forms of procurement, RFIs must be open to all potential respondents. The RFI might be used to prequalify vendors moving forward. USDA has determined that a district cannot make an award based on an RFI but must issue a subsequent IFB or RFP that is more exact.

A Sole Source Procurement is very rare and there must be clear and compelling reasons for engaging in this type of procurement. Approval by the SDA is required for sole source purchases.

Some jurisdictions allow what is known as an Intergovernmental Agreement or a “piggyback” clause. This type of contract allows other entities to make purchases against a legally awarded contract by the initiating agency. For example, a school district may award a bid for milk and dairy products that other districts in the area may use for their own milk purchases. There are three considerations to these contracts. The first is that state law and local/district rules must allow this, and both the issuing district and the district that wishes to piggyback on the contract must agree. Second, the vendor must agree as well. In one model, all potential agencies are listed in the IFB or RFP, and offerors check which, if any, of these agencies they are willing to serve. Third, is that the agency wishing to take advantage of a piggyback contract must accept it as written. They cannot negotiate changes to the award. Vendors accepting piggyback options frequently include a broad range of options in their contracts to allow flexibility.

Provisions for Bids

The following topics are mostly specific to USDA Foods that are recommended to be addressed in bid documents so that the bidding process is an easier and more cost-efficient process for both the RA and the manufacturer/distributor. They help ensure consistency with the basic principles of fair, open, and competitive procurements.

Notice and Publication

Every potential bidder must be given an opportunity to respond. RAs are legally required to publish/post all IFBs and RFPs. Prospective bidders may be notified via advertisement in national or local newspapers, email, facsimile, and/or posted on a designated website for retrieval.

Factors Used for Evaluation

Clearly list the factors that will be used to evaluate and determine the winner of the bid. Any clarifications to the IFB or RFP provided to prospective bidders during the solicitation phase must be provided in writing to all. The factors should reflect their importance to the program, so factors should be weighted. With respect to USDA Foods, factors might include years of experience in processing, existence of current NPAs, a clean record with USDA for food safety, taste

preference, and compliance with reporting and record keeping. They might also include the means used to manage and communicate inventory status, such as using a well-supported third-party software program.

Timing

It is valuable to determine when a new contract period starts, how long it lasts, whether the contract may be renewed and if so, how many times, and escalator clauses to allow adjustments that reflect changing market conditions.

Delivery Location of End Products

This information must be on the bid or proposal provided to RAs or otherwise documented within the procurement process.

Product Specifications

Beyond standard requirements for purchasing goods, a USDA Foods IFB or RFP should include language related to the use of USDA Foods. Also, if desired, include language about offering items that have commercial equivalents so there is consistency throughout the term of the bid with or without USDA Foods. Where USDA Foods are to be used, the specification should indicate USDA ingredient(s) that will be processed.

CN Labeling

USDA has a certification program called CN Labeling. THERE IS NO REQUIREMENT that USDA Foods need to be CN labeled. The value and cost of the CN Label is not part of this manual.

To meet federal menu planning requirements, it is important to ask for nutritional statements for all USDA Foods processed items being bid.

Quantity Desired

You should include a realistic estimate of the quantity of each item you anticipate purchasing for the term of the bid. However, actual purchases may be contingent on the availability of the USDA Foods items used in producing the end product. The procurement should clearly state this. If bidding both USDA Foods processed and commercial products, include the total quantity needed, with language that requires delivery of the processed item whenever USDA Foods are available.

Value Pass-Through Method

VPT is discussed elsewhere in this manual. However, it is critical to include a requirement that responders identify which methods they will be using, and that the SDA has approved this method in your state.

Record Keeping:

As previously mentioned, many processors use one of several third-party systems for managing inventories. The procurement should request information about which third-party program the bidder uses or what method it uses to track USDA Foods and entitlement dollars. You might also ask if there are any additional costs to you for these services.

Title to Product

Title to USDA Foods transfers to the distributing agency or RA, as appropriate, upon acceptance of the USDA Foods at the time and place of delivery. Title to USDA Foods provided to a multi-state processor, in accordance with its NPA, transfers to the distributing agency or RA, as appropriate, upon acceptance of the finished end products at the time and place of delivery, however, when an RA has contracted with a distributor to act as an authorized agent, title to finished end products containing USDA Foods transfers to the RA upon delivery and acceptance by the contracted distributor. Notwithstanding transfer of title, distributors and RAs must ensure compliance with the requirements of this part in the distribution, control, and use of USDA Foods. Section 7 CFR 250.11(c) addresses this issue. You should include language in your solicitation that you are not responsible for USDA Food products until you have received them, either in your

district or to your approved commercial distributor. Similarly, any storage or distribution bid should include language regarding liability for USDA Foods.

Food Recall Procedures and Points of Contact

According to the USDA Foods recall guidance manual, RAs must have a provision in the bid/response for food recall procedures and contact information for a point and backup person for handling food recalls.

Buy American

This is the requirement that all goods purchased for school meal programs must be predominantly produced, processed, and packed in the United States. The Buy American provisions are part of the school lunch act in section 12(n), and the implementing regulations are 7 CFR 250.23. There are also several policy memos which address Buy American requirements either stand alone or as part of Q & A guidance on procurement. Regulations require that all procurement clearly state this.

Suspension and Debarment

This is also a technical issue. However, it is important to include language that prohibits companies that are debarred from doing business with USDA as they may not participate in the procurement. The RA can obtain this assurance by checking the System for Award Management (SAM) at www.sam.gov and documenting this process by printing a copy of the status. In addition, or in lieu of, the RA can have the bidder certify that they are not debarred, suspended, or proposed for debarment through the collection of a certification, or by adding a term or condition in any lower tier award agreement to the bidder requiring disclosure or non-procurement debarment and suspension status. The current “USDA Certification Regarding Debarment Suspension, and Other Responsibility Matters” directive can be found at: www.aphis.usda.gov/library/directives/pdf/aphis-2280-1.pdf

Market Basket

Market basket is used when RAs award contracts based on an evaluation of the lowest price a vendor can offer for a representative sample of goods the program operators wish to obtain. This practice, sometimes called a “market basket” analysis, is used to evaluate bids/proposals to a solicitation for awarding a contract. When using this type of solicitation award analysis, FNS recommends the aggregate value be 75% or more of the estimated value of the contract to be awarded. Market basket analysis is permissible when procuring processed end products containing USDA Foods purchased using the Net-Off-Invoice (NOI) value pass-through system. Market basket analysis is not appropriate in fee-for-service processing contracts as these are service contracts and do not lend themselves to this type of analysis. Further information can be found in SP 04-2018 “Market Basket Analysis when Procuring Program Goods and Modifying Contracted-For Product Lists” published January 2018.

Geographical Preferences

There is a growing emphasis on the purchase of locally grown products; Child Nutrition programs may apply a geographic preference when procuring locally grown or raised agricultural products. USDA has published several guidance and Q&A documents on this issue. Refer to the USDA website for current information.

Rules to Note

There are a few special issues that are addressed in the statutes, regulations, and guidance to make note of. Copies of policy memos referenced here are included in the appendices.

Inventory Management

An ongoing concern in the USDA Foods program is ensuring the timely use of USDA Foods distributed to RAs. Sections 7 CFR 250.14(f)(2) and 7 CFR 250.30(n) both address this issue by limiting inventory not to exceed six months usage. Also, policy memos issued in 2012 (FD 107 and FD 064 rev.) add specific guidance on this.

Value of Inventory

As is discussed elsewhere in this manual, there are several ways that the value of USDA Foods is determined. This becomes very important during both program and financial audits. Policy Memo FD 104 issued in 2012 addresses this.

Prompt Reporting of VPT Sales

It is the distributor's responsibility (or manufacturer if sales are direct) to post VPT sales of USDA Foods end products to the manufacturer reporting agency (i.e. ProcessorLink, K-12 Foodservice, etc.) Prompt reporting is imperative to ensure proper draw down of the RAs entitlement balance.

Food Service Management Companies

FSMCs are a special case in school foodservice, and there are regulatory sections governing them in both the program area (7 CFR 210.16) and food distribution (7 CFR 250.17(b), 50-54).

Cooperatives and Buying Groups

An increasing number of RAs are joining together through co-ops and buying groups. USDA issued a policy memo (SP 35-2012) in June of 2012 with guidance addressing this.

Bidding Commercial and Processed Goods with One Solicitation

RAs may elect to have the same distributor manage both commercial and USDA Food processed items. USDA provides guidance and instructions for this in FD 119.

Resources

The most important resource for learning about procurement is the law. Procurement law for programs administered by USDA can be found at 7 CFR 3016.36. Go to <https://www.govinfo.gov/app/details/CFR-2012-title7-vol15/CFR-2012-title7-vol15-sec3016-36> to read about the procurement regulations.

Procurement regulations specific to Child Nutrition are at 7 CFR 210.21 and can be found at: <https://www.fns.usda.gov/farmtoschool/usda-procurement-regulations>. This section refers back to 7 CFR 3016.36 as its authority. The regulations for food distribution are provided at 7 CFR 250.

Additionally, USDA issues guidance and policy memos that provide clarification and explanations for regulations. These policy memos carry the weight of law. There are two databases of the guidance materials, one for school meals and one for food distribution. They can be found at <https://www.fns.usda.gov/nslp> and <https://www.fns.usda.gov/fdd/regulations>, respectively. It is worth reviewing the lists of titles for these policies to familiarize yourself with their range of topics. Also worth noting is that policies may be updated from time to time, but will retain their original reference number. For example, a recent update affected FDD 007, first published in 2003. Look for “revised” in older policies.

The Institute of Child Nutrition (ICN), formerly the National Food Service Management Institute, is a federally funded program based at the University of Mississippi. ICN provides a great deal of information, research and training for school meal programs. In addition, the ICN offers three online procurement training modules (USDA State Agency Guidance to Procurement Topics 1, 2, and 3) that are now available to all. This training is available at: <https://theicn.org/icn-resources/>

School Nutrition Association (SNA) has developed a toolkit to assist in procurement. The School Nutrition Procurement Toolkit includes a number of sample forms and materials that can assist RAs in building a strong procurement system. This toolkit can be found at: <http://schoolnutrition.org/content.aspx?id=20868>

Federal procurement law for grantees and sub-grantees (states and schools) defers to states and local agencies for the final word in the legal requirements for purchasing. This is known as the federalism principle. The most common example of the federalism principle is what is commonly referred to as a “bid limit.” A bid limit is the maximum amount an agency can spend without utilizing a formal procurement method. The federal bid limit, which they refer to as small purchase threshold, is \$150,000. That is, any purchase using federal funds with a value of less than \$150,000 does not require a formal bid or proposal. However, most States and many school boards set a lower limit on the buyer’s authority. It is as important that RAs understand their local and state procurement laws and guidelines as federal law. American Commodity Distribution Association (ACDA) has worked with USDA for many years to develop materials for the USDA Foods program, including this manual. Many resources are available at: <http://www.commodityfoods.org>.

Co-Ops and Buying Groups

Many school districts have found great benefit from joining a purchasing cooperative or buying group. In fact, USDA recommends cooperative purchasing as a means to reduce costs by increasing the volume of procurement contracts. However, as with all purchasing decisions, districts should weigh all of the issues and do what will be in the best interest of the program.

Types of Co-ops

There are a number of ways that school districts can organize together to save money in their procurement processes. Some co-operative purchasing focuses on USDA Foods and processing only. Others are used for a broader range of

products and services. The fundamental premise in cooperative purchasing is to lower costs by increasing the volume. When vendors reduce their operating costs or improve the economies of production through volume, customers benefit. For this manual, we will only look at USDA Foods co-ops, but the same principles apply elsewhere. One of the benefits of USDA Foods co-ops is their ability to combine the ADP of the participating agencies. Most USDA Foods are distributed in truckload quantities. So pooling ADP increases what may be offered to the co-op. In its simplest form, a co-op can be a group of school districts within a geographic area agreeing to pool their purchasing power through a single agency. In this case, the school boards of all the districts agree to abide by a common procurement, most likely an Invitation for Bid (IFB). Only one district executes the procurement on behalf of all the districts. The participating agencies jointly agree on the specifications for each product on the bid list and agree to abide by the majority or consensus decision. They then estimate the quantities to be purchased by the combined agencies.

There are two significant issues that must be addressed in this type of co-op, although they are common to most group buying. First is the restriction of choice. When a school district decides to participate in a cooperative buying program, it must agree to abide by the co-op's decisions. If each district can order any items they want, regardless of the group's common list, the volume benefits diminish for the vendor and, hence, prices reflect this. Second, if the successful vendors are required to manage USDA Foods inventory balances and billing for each district individually rather than the buying group as a whole, there is no savings on administrative costs. Similarly, if the vendor is expected to deliver to each district rather than a single, common delivery point, there is no savings to pass on to the member districts. In the lead district model, the participating agencies' boards approve the transfer of their USDA Foods entitlement to the lead agency and pay that district for its share of the costs and charges.

A variance on the above model brings a third-party administrator to the table. There are several examples of both for-profit and non-profit co-op buying administrators. In all cases, however, the administrator requires compensation for their efforts. The most benign model has the participating agencies pay a prorated share of the operational costs based on their share of the total volume of USDA Foods they receive. Others require an annual fee and a per case cost of either the USDA Foods shipped to the co-op and its processors, or end products delivered to the recipient agencies.

A question arises in cooperative buying groups regarding their authority and their responsibility. 7 CFR 250.3 includes a definition that says that if a company, whether for-profit or non-profit, manages any aspect of the recipient agency's program, it is considered a food service management company (FSMC) and subject to regulations governing FSMCs. Some third-party administrators say that they are only providing administrative services and not making any decisions (managing) procurement. It is important to have roles and responsibilities clearly defined both in principle and practice.

Food Service Management Companies (FSMC) and Donated Foods

FSMCs must use all USDA foods received in the RAs food service or must use commercial substitutes in place of USDA foods only as permitted in 7 CFR 250.51(d). FSMCs must meet the requirements in 7 CFR 250.14(a) of this proposed rule for the safe storage and control of donated foods.

Inventory Systems

Every partner in the USDA Foods program has a responsibility for managing inventory. Federal law limits inventory at any point in the process to no more than six months' usage on hand. This limit applies to individual RAs as well as aggregate inventory in a state. It applies to individual donated USDA Foods, as well.

Let's look at a hypothetical example – coarse ground beef which is a bulk item diverted to processors in 42,000 lb. truckloads. Processors sell end products like cooked beef patties or spaghetti sauce with ground beef to schools. In theory, RAs divert the exact amount of USDA Coarse Ground Beef to their processor of choice to produce the number of cases of products they need for the school year. Read the section on planning for tips on how to do this accurately.

Sometimes an RA doesn't use all of the products they had planned. Over time, their inventory of coarse ground beef at the processor builds up. Sometimes an RA changes vendors after they have made their diversion requests and may not

be able to transfer the existing balance to the new processor. Sometimes, RAs may forget to consider their existing inventory at a processor when making determinations for the new school year. Regardless of the cause, processors and RAs are responsible for reducing inventory of USDA Foods levels to less than a six month's supply. States are responsible for monitoring inventory levels at both the processor and the RA and facilitating inventory management through enforcement of the regulations.

There are two primary ways of controlling inventory levels. The first is not to send additional quantities of a USDA Food to a processor whose inventory is too high. This may be applied broadly to the processor, or it may be applied to individual RAs whose balance is the cause of the excess inventory. For example, if, based on usage history, a processor has a full year's inventory of coarse ground beef in storage, even though RAs request diversion of additional pounds to that processor, the SDA can refuse to place those orders until the inventory comes into compliance. Or, if an individual RA has enough coarse ground beef to meet its historical usage for more than six months at a processor, additional requests for diversion to that processor by that RA may be declined or delayed by the state.

The second way to reduce inventory is through transfers. Transfers can be between processors, between states or between RAs. Let's take a brief look at each.

Processor to processor transfers – If an RA selects a new processor for the new school year, they may request that their existing balance at the old processor be transferred to the new processor. Frequently, such transfers occur on paper as the changes between processors by RAs may balance each other.

Transfers between states may occur if one state's inventory exceeds its six-month limit. States may transfer excess inventory to another state that can use the product more efficiently.

All transfers must be managed by the SDA. Detailed guidance about inventory management can be found in USDA Policy Memos. FD-064 was updated in early 2012.

Single Bank Inventory Management

This concept was introduced in Policy Memo No. FD-020 (see Appendix No. 10). The main premise of this policy was to eliminate the obligation of the RA to maintain and report separate inventories and values of commercial and USDA Foods. Since USDA has promoted commercial labeling of USDA Foods and the increase of processed raw USDA Foods by commercial vendors, it had become increasingly difficult for RAs to discern the difference between the two. This policy represents a paradigm shift in how USDA Foods are valued once the RA receives them. In essence, once the RA receives the USDA Foods items, they become indistinguishable from commercial product. As a result, the concept of backhauling has changed. Since the majority of states now participate in Single Inventory, the burden of responsibility is now the RA's to require the processor to account for inventory tracking of backhauled product, instead of RAs needing their SDA's permission to do this.

Food Claims on Losses

There is a requirement that 100 percent of the substitutable USDA Foods product given to the processor actually be contained in the finished end product returned to the eligible RA. The processor guarantees a fixed number of cases will be produced using a fixed amount of meat or poultry. Any manufacturing losses (the difference between 100% and the manufacturing yield) are to be made up by the processor with commercial USDA Foods of domestic origin and equal or better quality than the USDA Foods that was provided.

The processor is responsible for the value of the product, including the PTV of the USDA Foods until delivered to the identified location. If the receiving location/purchaser is a state warehouse, the state takes title on receipt. The state is then responsible to ensure proper allocation and delivery to RAs. When received at the RA, title transfers to them at that time.

Much as a forward warehouse is considered an extension of the processor's facilities, when a third-party distributor is identified as the RA's receiving location, the distributor's warehouse is considered to be an extension of the RA's facilities. All of the terms of a contract between the distributor and the RA should be clearly stated including liability and responsibility, costs for delivery and storage, etc. The RA is responsible for the PTV of the goods stored at the distributor and must recover those costs from the distributor for loss or damage. Recovery should include both the PTV and the FFS for lost or damaged goods as well.

USDA Foods Complaint Process

USDA endeavors to provide quality products and services to RAs. However, as is true with any program, particularly one as large and complex as the USDA Foods program, problems occur. USDA has a process in place to address problems when they occur.

School Food Authorities which operate Child Nutrition Programs should report USDA Foods Complaints to their State Distributing Agency (SDA) as soon as a defect is found with a USDA Food. If the product does not meet the expectations, you should document the necessary information:

- Sales Order Number
- Vendor/Product (Lot #, BIUB date, pack date, etc.)
- Description of issue
- Quantity of unacceptable product
- Injuries or Illness occurred

USDA Foods Compliant Procedures for agencies can be found at: <https://www.fns.usda.gov/usda-foods/how-file-complaint>. The SDA will decide whether the complaint can be resolved at the State level, and if not, the SDA will enter the complaint into the Web-based Supply Chain Management (WBSCM) Application.

Audit Requirements

In-state processors must obtain an independent Certified Public Accountant (CPA) audit in the first year USDA Foods are received for processing, while multi-state processors must obtain an audit in each of the first two years USDA Foods are received for processing. After this initial requirement period, in-state and multi-state processors must obtain a CPA audit at a frequency determined by the average value of USDA Foods received for processing per year. Processors must pay for their required audits.

- Annually, if receiving more than \$5,000,000 in USDA Foods;
- Every two years, if receiving between \$1,000,000 and \$5,000,000 in USDA Foods; or
- Every three years, if receiving less than \$1,000,000 in USDA Foods.

The value of USDA Foods used in determining if an audit is required is the contract value shown on the SEPDS multiplied by the pounds of each USDA Food received. The audit procedures are contained in FNS Audit Guide for Processors. Audit results must be submitted to the SDA or FNS, as applicable, by December 31st of each year in which an audit is required. Any deficiencies must be corrected. FNS may prohibit further diversion of USDA Foods for processing, terminate the processing agreement, and collect the surety bond or letter of credit for non-compliance with the audit requirement or failure to correct identified deficiencies.

Inventory Management

Current and proposed federal regulations require the processor to maintain 6-month inventory levels or less. Please reference FD-064: Processing Management of Donated Food Inventories at Processors issued March 20, 2012.

FD-064: <https://fns-prod.azureedge.us/sites/default/files/resource-files/FD-064%20REVISED%20ProcessorInventoryLevels.pdf>

Application of the Six-Month Inventory Limit:

The six-month inventory limit established at 7 CFR250.30 (n) is applicable to wide inventory of donated foods at processors and also to individual SFA donated food inventories at processors. For the purpose of calculating inventory levels, SDA's and processors must use the school year, which begins on July 1 and ends on June 30 of the following calendar year. The average monthly usage is determined by taking the year-to-date usage reported on a processor's June monthly performance report (for the period ending June 30) and dividing by ten months. Multiplying the resulting number by six will produce the allowable six-month inventory level.

7CFR 250.30 (n)

Inventory controls. (1) Distributing agencies shall monitor processor inventories to endure that the quantity of donated foods for which a processor is accountable is the lowest cost-efficient level but in no event more than a six-month supply based on the processor's average monthly usage, unless a higher level has been specifically approved by the distributing agency on the basis of a written justification submitted by the processor.

The key to maintaining inventory at a six-month level is working closely with all stakeholders. Request permission, in writing, when necessary, from the SDA to exceed these levels. The following guidance will assist in this process.

- Processors are to work directly with RAs to develop a USDA Foods specific demand plan for diversions, based on RA's menu needs and potential carry over balances.
 - Planning should occur prior to SDA surveys (which may be extended as they are now Jan-March with changing USDA deadlines.)
 - Processors should work with their sales agents (direct, broker, and distributor) educating them on the importance of demand planning with RAs. USDA Foods diversions need to coincide with pre-planned menu needs to ensure that the RA is not over-sold.
 - Processors may provide USDA Foods Calculators to RAs to assist in the calculation of the volume of raw USDA Foods needed to produce finished product (servings, cases), for diversion to meet next year's menu needs.
 - Annual Plan (for diversions).
 - Monthly Plan (for drawdown).
- Processors must have an active inventory protection instrument (surety bond or letter of credit) on file with USDA FNS (for National processors) or the SDA (for in-state processors) prior to receiving any USDA Foods for processing.
 - Inventory protection ensures processor performance and covers inventory liability.
 - The amount of inventory protection required is determined annually and must be received by FNS or the SDA prior to USDA Food purchases for the upcoming school year.
- Processors are to monitor inventory levels for RAs on a regular basis (monthly) to ensure consistent utilization throughout the school year. Processors need to monitor SDA aggregate inventory as well, to ensure the six-month inventory level, based on average monthly usage, is not exceeded.
- Processors need to identify RAs with no immediate drawdown early in the school year (within 60 days of startup), to ensure USDA Foods are processed and finished products are shipped.
 - Contact the RA to find out why orders have not been placed.
 - Resolve issues – start shipping.
 - After 90 days, processors are encouraged to communicate in writing, to zero and low drawdown RAs, the need to start utilizing USDA Foods pounds on hand.
- Processors are to work with the SDA to ensure that their aggregate inventory levels do not exceed the average usage for a six-month period. (7 CFR section 250.30). Monitoring individual RA usage will assist in this effort.

- Follow the state outlined procedure for maintaining inventory levels.
- Review data with the SDA on RAs that are not utilizing diverted pounds and their response to inquiries.
- SDA designates transfer of underutilized pounds to eligible RAs or another state.
 - When necessary, set up “state” account to hold pounds for re-allocation. Work Cooperatively with SDA to resolve instances of perceived RA and state excessive inventories.
 - Processors should be aware that individual states may have implemented “sweep” procedures to deal with excess inventories.
 - SDA’s may require written documentation from processors addressing carry over inventory to the next school year. (reference 7CFR 250.3 (n))

Performance Monitoring

It is critical that all the partners in processing USDA Foods area be accountable for their part of the program. Like all purchases, RAs must ensure that they are, in fact, receiving what they order at the price agreed to. This includes monitoring vendors' performance. In the case of USDA Foods, this also includes tracking the food and making sure the agency receives the full value of the donated food.

SDAs bear the greatest responsibility for monitoring processor performance. They do this through Monthly Performance Reports (MPR). Each MPR must be reconciled against sales, transfers, receipts and inventory data, and discrepancies must be resolved. A core element in the USDA Foods program is that federal dollars, whether the dollars or the USDA Foods they buy, are accurately accounted for.

Monthly Performance Reports

Reports submitted monthly by the processor to the Distributing Agency detailing receipts of USDA Foods pounds, sales of finished end products to Recipient Agencies, and information on the inventory of USDA Foods.

Manufacturer's Product Formulation Statement (PFS)

- Guidance for Accepting Processed Product Documentation for Meal Pattern Requirements (11/28/2014)
- PFS Tip Sheet - Evaluate if the Document is Acceptable
- PFS for Meat/Meat Alternate Product
- PFS for Documenting Fruits/Vegetables
- Sample PFS for Vegetables
- Sample PFS for Fruits
- PFS for Documenting Grains
- Crediting standard (16g) required Beginning SY 2013/2014
- Sample PFS for Grains

Please visit: www.commodityfoods.org where you will find many helpful documents under Processing. Members may access additional documents under the Members Only section. Once there, scroll down to Proprietary Processing Forms.

Distributors

Distributor Agreements (See Distributor Responsibilities)

Authorized Agents

When an RA has contracted with a distributor to act as an authorized agent, title to finished end products containing donated foods transfers to the RA upon delivery and acceptance by the contracted distributor. Notwithstanding transfer of title, distributors and RAs must ensure compliance with the requirements of this part in the distribution, control, and use of donated foods. Section 7 CFR 250.11(c) addresses this issue.

Fee-for-service through a distributor is used when the processor ships multiple pallets of product to a distributor with a breakout of who owns what products. What is commonly known as modified fee-for-service is used when the recipient agency has an authorized agent bill them for the total case price.

Pooled vs. Non-Pooled Inventory

The USDA discourages the use of “Pooled” inventory. “Pooled Inventory” is when an RA orders food to be to a processor. The USDA delivers food to processor who manufacturers end products. The distributor submits orders for finished products to the processor who delivers end products to the distributor. Since inventory is “Pooled,” a title transfer cannot occur. The RA submits an order, and the distributor delivers the end product to the RA. The distributor notifies the processor of delivery to a specific RA. The title transfer of end products containing donated food occurs from USDA to RA.

The USDA recommends the use of “Non-Pooled” inventory. “Non-Pooled” inventory is when the RA orders food to be delivered to a processor. The USDA vendor delivers food to the processor and the RA submits orders for finished end products to the processor and/or distributor. The processor manufacturers the end product and delivers it to the distributor and/or RA. A specific RA is assigned to each product. The title transfers from the USDA to the RA.

ACDA Recommended Forms <http://www.commodityfoods.org/processing-resources>

FDD Policy Memos

[FNS Documents & Resources \(Compact View\) | Food and Nutrition Service \(usda.gov\)](#)

Glossary of Terms

Agricultural Marketing Service (AMS): The USDA Agency is responsible for purchasing USDA Foods such as meat, poultry, fish, fruits, vegetables, grain, dairy, peanut, and oil products under price support activity. AMS also provides end-product certification that, at a minimum, certifies that diverted or substituted meat and poultry USDA Foods are replaced with generically identical USDA Foods of US origin that meet USDA specifications. AMS purchases all USDA Foods.

Average Price File for Processors: This file lists the price of USDA Foods used for processing and includes the material numbers, description, pack sizes and other pertinent information. The pricing information is used to determine the value passthrough for the upcoming Agreement year that begins on July 1. The price represents the average of prices over the previous 12 months.

Backhaul: The delivery of donated foods to a processor (usually picked up by the processor,) for processing from a distributing or recipient agency's storage facility. The processor may not substitute or commingle donated foods that are backhauled to it from a distributing or recipient agency's storage facility. There may be an additional charge per pound to pick up the food. Any substitution of backhauled USDA Foods product is expressly prohibited. RAs may need their SDAs permission to backhaul USDA food to a processor.

“Brown Box” USDA FOODS: Former name of foods requiring no further processing. Now referred to as Direct Delivery. See Direct Delivery.

Carrier: A commercial enterprise that receives a shipment of donated foods from a vendor or from a federal storage facility.

Child Nutrition (CN) Labeling Program: CN labeling is a fee for service program administered by the Food and Nutrition Services (FNS) directly with commercial food processing firms and in cooperation with the following USDA agencies or the U.S. Department of Commerce:

- Food Safety and Inspection Service (FSIS)
- Agriculture Marketing Service (AMS)
- National Marine Fisheries Service (NMFS)

It evaluates formulations to determine the contribution a serving of a commercially prepared product makes toward the school meal pattern requirements. When approved, a label is placed on the end product that states that the product meets USDA specifications and can be credited as a component(s) of the reimbursable meal pattern requirement. As such, CN labels are a form of certification that the labeled products meet its stated contribution to reimbursable school meals. RAs may rely on the label in menu planning. If the product is found not to meet its stated contributions, the school is held harmless for menu deficiencies.

Commingling: The storage of donated foods with commercially purchased foods.

Contract Value of USDA Food: The price assigned to a USDA food that reflects USDA's current acquisition price, transportation, and, if applicable, processing costs related to the food.

De-escalation Clause: a provision in a contract which calls for a reduction in price in the event of a decrease in specified costs.

Direct Delivery: Previously known as “brown box”: End items which USDA purchases for delivery to Recipient Agencies. Direct delivery items include both unprocessed and minimally processed products as well as “value-added” items. Unprocessed or minimally processed items include items such as canned or frozen fruits and vegetables, raw ground beef, cut up chicken and whole-body turkey, and brown rice. Value-added products include items like turkey taco meat, roasted chicken pieces, sliced cheese, and frozen fruit cups.

Direct Diversion: Items purchased in bulk form for shipment to further processors on behalf of RAs. Diverted items include chilled chickens and turkey, coarse ground beef and pork, and similar items that are used in making finished-end products for RAs. (See Foods Available list)

Diverted Products: Items procured by USDA and shipped to a processor in response to diversion requests.

DoD-Department of Defense (DoD) Fresh: Is a fresh fruit and vegetable program which supports domestic fresh produce for which RAs can use entitlement funds for purchasing.

Disaster: A Presidentially declared disaster or emergency, in accordance with Robert T. Stafford Disaster Relief and Emergency Assistance Act, in which federal assistance, including donated food assistance, may be provided to persons in need of such assistance as a result of the disaster or emergency.

Distributing Agency: A state agency entering into agreement with FNS via a form FNS-74, to receive, store, and distribute donated foods. Retains permanent agreement with amendments and ensures compliance with Part 250 regulations. Private nonprofits may not act as distributing agencies although they may act as sub- distributing agencies.

Distribution Charge: The cumulative charge imposed by distribution agencies on school food authorities to help meet the costs of storing and distributing donated foods and administrative costs related to such activities. Funds obtained must be used to meet the costs of storing and distributing donated foods and related administrative costs. These funds may not be used to purchase foods to replace losses or to pay claims.

End Product: A finished product containing any amount of USDA Foods product that has been commercially processed.

End Product Data Schedule (EPDS): A detailed document containing proprietary information that is sent to USDA for approval by the Processor. This form includes product formulation, USDA Foods ingredients and the quantity and value of USDA Foods ingredients credited for each case of finished end product sold to recipient agencies. EPDS are submitted by processors to USDA, but not publicly available.

Entitlement: The total USDA Foods assistance available to a State Distributing Agency for the school meals program. It is calculated by multiplying the number of lunches claimed in the prior year by the annually established per-meal rate.

Entitlement Rate: the per-meal entitlement established in any given year.

Escalation Clause: a provision in a contract which calls for an increase or decrease in price in the event of a change in specified costs.

Fair Market Value (FMV): the price of commercial products used to establish the value of USDA Foods. FMV has been replaced with the average price.

Fee-For-Service (FFS): Fee for Service and all Value Pass Through methods are defined in USDA policy memo FD-40 (revised), published July 16, 2021. Fee-For-Service is a value pass-through method which separates the value of donated USDA Foods from the other costs of production.

Fee-For-Service Through a Distributor (FFSD): A type of Fee for Service as described in USDA policy memo FD-40 (revised.) Processor delivers end items to the RA's Distributor with many orders on one truck. A breakout is given to the Distributor and title is transferred at time of delivery to the RA. Typically, the Processor invoices the RA directly and the Distributor sends a separate invoice to the RA for storage and delivery fees.

Food and Nutrition Service (FNS): The USDA federal Agency responsible for administering domestic food assistance programs and the distribution of donated foods to State distributing agencies for further distribution and use.

Food Distribution Division (FDD): The FNS division responsible for administering the donation of USDA Foods to domestic nutrition assistance programs.

Food Recall: An action to remove food products from commerce when there is reason to believe the products may be unsafe, adulterated, or mislabeled. The action is taken to protect the public from products that may cause health problems or possible death.

Food Safety Inspection Service (FSIS): The USDA Agency whose primary mission is to inspect the wholesomeness of meat and poultry products.

Grader: A person licensed as a representative of AMS to monitor, examine, and certify the production of end products made of poultry or red meat containing USDA Foods products. The fees assessed by USDA for graders are included in the cost of USDA Foods processed items.

Guaranteed Yield: A concept in processing where the processor guarantees a fixed number of cases will be produced using a fixed amount of meat or poultry. Calculations are based on the pounds needed to produce a case of finished product.

Invitation for Bid (IFB): Invitation for bid to processors to submit a proposal for a product based on pricing, with award to lowest bid from responsive and responsible bidders.

Indirect Refund Sale: The processor sells product to the distributor at the commercial price. The distributor invoices the RA this price plus the distributor markup. Refunds for the value of the USDA Foods product are made to the RA upon receipt of the refund application.

Inventory Management: The accounting of USDA Foods product for which a Distributing Agency, Recipient Agency, or processor is liable or responsible. In processing, the inventory can include food in physical inventory (on hand), in finished USDA Foods processed products, or in book inventory.

Limited Substitution: A term describing a processor's ability to substitute commercial poultry for USDA purchased poultry with the concurrence of both AMS and FNS.

Manufacturing Yield: The actual yield a processor achieves when converting raw USDA Foods into a finished end product.

Monthly Performance Reports (MPR): Reports submitted monthly by the processor to the Distributing Agency detailing receipts of USDA Foods pounds, sales of finished end products to Recipient Agencies, and information on the inventory of USDA Foods. Reports for a given month are due to the State DA by the last day of the following month.

Multi-State Food Processor: A processor who has entered into a processing agreement with agencies in more than one state or a processor who has entered into a processing agreement with an agency that is in a state other than where the

processor's plant or business office is located. If finished product crosses a state line, the processor is considered a multi-state processor.

National Processing Agreement (NPA): A processing agreement between a multi-state processor and USDA where USDA approves all End Product Data Schedules (EPDS) and holds the surety instrument for inventory protection. This is used in conjunction with State Participation Agreements signed between the individual state and the processor. The NPA ensures that a multi-state processor complies with all of the applicable requirements that is related to the processing of donated foods.

National Monthly Performance Report (NMPR): A report submitted to FNS under the National Processing Agreement that summarizes the individual state monthly performance reports for the purposes of national monitoring of the processor's inventory balances. Reports for a given month are due by the last day of the following month.

"Net Off Invoice" (NOI)/Indirect Discount: A VPT system. Processors sell finished product to distributors at commercial price. Distributor sells end product to RA at price minus the value of the USDA Foods products used. Distributor submits documentation to processor that product was sold and receives a credit from processor.

Office of Food Safety (OFS): The overall goal for OFS is to protect people served by FNS programs from foodborne illness. The OFS office provides food safety, technical assistance, education, and training to FNS programs.

One Hundred Percent Yield (100%): A requirement that 100 percent of the USDA Foods product given to the processor actually be contained in the finished end product returned to the eligible Recipient Agency. The processor guarantees a fixed number of cases will be produced using a fixed amount of meat or poultry. Any manufacturing losses (the difference between 100% and the manufacturing yield) are to be made up by the processor with commercial USDA Foods of domestic origin and equal or better quality than the USDA Foods that was provided.

Per Meal Rate: The national average value of USDA Foods shall be adjusted each July 1 to reflect the annual percent change for the five major food components in the Bureau of Labor Statistics Producer Price Index during the months of March, April, and May in the Price Index for Food Used in Schools and Institutions.

Planned Assistance Level (PAL): The total USDA Foods assistance available to a School Food Authority / Recipient Agency for the school lunch program is calculated by multiplying the number of lunches claimed by the School Food Authority in the prior year by the established per-meal-rate.

Processing: A commercial enterprise's use of a commercial facility to-convert USDA Foods into an end product, repackaging of USDA Foods, and to use USDA Foods in preparation of meals.

Processor: Any commercial facility which processes or repackages USDA Foods. However, commercial enterprises, which handle, prepare, and/or serve products or meals containing USDA Foods on-site solely for the individual Recipient Agency under contract are exempt under this definition. School food authorities that provide meals to other eligible outlets are exempt from being defined as processors if they provide accountability for the USDA Foods they are given and return any profit from the venture to their own school food service account.

PTV: The Pass-through Value of USDA Foods - This is the value of the USDA Foods ingredients included in processed end products expressed in price per pound or case. Review USDA policy memo FD-40 (revised) published July 16, 2021.

Request for Proposal (RFP): An invitation to processors to submit a proposal for end products that will identify risks and benefits that can be evaluated in conjunction with pricing.

Rebate: A VPT method by which a Recipient Agency purchases a processor's end products at the commercial price and receives from the processor, by means of a refund application, a payment equivalent to the value of the USDA Foods contained in the end products. See the definition of Refund Application and Indirect Refund Sale.

Recipient Agency (RA): Any of the following organizations within a state eligible to receive USDA Foods: schools (public and private), residential child care institutions, charitable institutions, nutrition programs for the elderly, summer camps, Summer Food Service Program participants, and soup kitchens.

Recipient Agency Processing Agreement: An agreement between an RA, or cooperative buying group, and a processor to process donated foods and to purchase the finished end products.

Re-donation: A USDA Foods item that has been shipped to one State Distributing Agency (SDA), then returned to the custody of USDA and given to another SDA.

Refund Application: An application (usually a preprinted form) completed by a Recipient Agency or distributor and sent to the processor that certifies the purchase of end products. Receipt of the refund application obligates the processor to refund the value of the USDA Foods product contained in the end products purchased. This application may be sent electronically. This method is used when working under the Rebate/Refund value pass through method.

Refund System: see Rebate.

SA/ SDA: SA means State Agency; SDA means State Distributing Agency. The terms are interchangeable and refer to the authorized state agency that manages USDA Foods distribution.

SEPDS: Summary End Product Schedule - This is the summary list of all approved products offered by a processor. It is generated from the EPDS's submitted to USDA and includes only the crediting information. Processor SEPDS' forms can be found on the USDA Partnerweb website.

Single Inventory: This concept was introduced in Policy Memo No. FD-020 (See Appendix No. 10). The main premise of this policy was to eliminate the obligation of the RA to maintain, and report separate inventories and values of commercial and USDA Foods. Since USDA has promoted commercial labeling of USDA Foods and the increase of processed raw USDA Foods by commercial vendors, it had become increasingly difficult for RAs to discern the difference between the two. This policy represents a paradigm shift in how USDA Foods are valued once the RA receives them. In essence, once the RA receives the USDA Foods items, they become indistinguishable from commercial product. The burden of responsibility is on the RAs to require the processor to account for inventory tracking of backhauled product, instead of RAs needing their SDAs permission to do this.

Split Shipment: A shipment of donated foods from a vendor that is split between two or up to five State Agencies sharing a full truck load for one Processor.

Standard Yield: A concept that originated in poultry processing where the processor guarantees a fixed number of cases will be produced using a fixed amount of USDA Foods product. The standard yield is fixed by USDA and is set at a level that requires the processor to add commercial equivalent raw materials to achieve the set yields. Standard yield is the minimum weight or number of finished units of processed product that will be produced and returned using a fixed amount of USDA foods. This information is obtained from the End Product Data Schedule (see EPDS). Standard yield could be used for other USDA Foods when a processor has significant manufacturing loss in the production of an end product.

State Distributing Agency (SDA): The agency, usually an agency of State government, which enters into an agreement with FNS for the distribution of USDA Foods to eligible Recipient Agencies.

State Participation Agreement (SPA): An agreement between an individual state and a multi-state processor, which defines how the processor may do business in that particular state. Used in conjunction with a National Processing Agreement (NPA)

Sub-Distributing Agency: A state agency, public agency, or a nonprofit organization selected by the distributing agency to perform one or more activities required of the distributing agency in accordance with a written agreement between the parties. A sub-distributing agency may also be a recipient agency.

Substitutable Food: A USDA Foods product that may be replaced by a commercially purchased food of domestic origin, generically identical and equal or better in quality.

Transfer: The moving of USDA Foods raw pounds from one entity to another. There are physical transfers, where the material is physically moved from one location to another and there are paper transfers, whereby the value of USDA Foods is paid for either in entitlement dollars or a check. State to State as well as Processor to Processor transfers must be pre-approved by FNS.

USDA Foods: Food provided by USDA to states to issue to eligible RAs. USDA Foods are formerly referred to as “commodities.” Although USDA Foods are purchased with “entitlement funds,” those funds are provided by law to eligible RAs.

Value Pass-Through System (VPT): A method used to ensure that the full value of the USDA food contained in the end product is passed on to the eligible purchasing Recipient Agency. See the definitions for Refund System, Indirect Refund Sale, Fee-for-Service, Fee-for-Service Through a Distributor and NOI.

WBSCM: The Web Based Supply Chain Management (WBSCM) system is an integrated, internet-based commodity acquisition, distribution, and tracking system built on Systems, Applications and Products (SAP).

Direct Discount: A VPT method where the Processor invoices the RA directly, charging the commercial price and then applying a discount for the value of the USDA Foods for the end item. Refer to policy memo FD-40 (revised) published July 16, 2021.

Partnerweb: PartnerWeb is for FNS Employees, approved contractors, state agencies and approved partners.

Frequently Used Acronyms

AAA	Area Agencies on Aging
ACDA	American Commodity Distribution Association
ADP	Average Daily Participation
AMS	Agricultural Marketing Service, USDA
AR	Administrative Review
BMI	Business Management Improvement
CACFP	Child & Adult Care Food Program, FNS/USDA
CAP	Commodity Acceptability Progress [Reports]
CCC	Commodity Credit Corporation, FSA/USDA
CDC	Centers for Disease Control and Prevention, DHHS
CFR	Code of Federal Regulations
CIL	Cash in Lieu
CPA	Certified Public Accountant
CI	Charitable Institutions
CID	Commercial Item Description
CLOC	Commodity Letter of Credit
CN	Child Nutrition
CNOB	Child Nutrition Operations Branch, FDD/FNS/USDA
CPI	Consumer Price Index
CR	Civil Rights
CSFP	Commodity Supplemental Food Program, FNS/USDA
CSNOI	Closed SKU NOI
DA	Distributing Agency aka/ SDA
DF	Donated Foods
DHHS	Department of Health & Human Services
DoD	Department of Defense
FPCP	Further Processor Certification Program
FPMP	Further Processing Monitoring Program
HH	Household Branch, FDD/ FNS/USDA
IFB	Invitation For Bid
ITO	Indian Tribal Organizations aka/DA
MFFS	Modified Fee for Service
MPR	Monthly Performance Reports
NAFDPIR	National Association of Food Distribution Programs on Indian Reservations
NMPR	National Monthly Performance Report
NO	National Office
NOI	Net Off Invoice
NPA	National Processing Agreement
NSBP	National School Breakfast Program, FNS/USDA
NSAB	Nutrition Services Access Branch, FDD/FNS/USDA
NSIP	Nutrition Services Incentive Program FNS/USDA
NSLA	National School Lunch Act
NSLP	National School Lunch Program, FNS/USDA
OGC	Office of General Counsel, USDA
OFS	Office of Food Safety, USDA
OIG	Office of the Inspector General, USDA
OMB	Office of Management and Budget
PNS	Product Formulation Sheet
P.L.	Public Law

PAL	Planned Assistance Level
PART 250	Regulations for Distribution and Control of Donated Foods
PIMB	Policy, Integrity, & Monitoring Branch, FDD/FNS/USDA
PCCP	Process Control Certification Program
PO	Purchase Orders
PTV	Pass Through Value
PR	Purchase Requisition
RA	Recipient Agency
RFI	Request for Information
RFP	Request for Proposal
RFQ	Requests for Quotation
SA	State Agency
SO	Sales Order
SC	Summer Camps
SDA	State Distributing Agency aka/ DA
SEA	State Education Agency
SEPDS	Summary End Product Data Schedule
SFA	School Food Authority
SFSP	Summer Food Service Program, FNS/USDA
SKU	Stock Keeping Unit
SNEB	Society for Nutrition Education and Behavior
SNA	School Nutrition Association
SNAS	Supplemental Nutrition and Safety / FNS/USDA
SNS	School Nutrition Specialist
SOC	State Option Contracts [Program], AMS/FNS/USDA
SPA	State Participating Agreement
SY	School Year or Standard Yield depending on the reference
TANF	Temporary Assistance for Needy Families
TEFAP	The Emergency Food Assistance Program, FNS/USDA
USDA	United States Department of Agriculture
VPT	Value Pass Through
WBSCM	Web Based Supply Chain Management
DLA	Defense Logistics Agency
EFOs	Emergency Feeding Organizations
EPDS	End Product Data Schedule
EPLS	Excluded Parties List System
FAL	Foods Available List
FDA	Food and Drug Administration, DHHS
FD	Food Distribution
FDD	Food Distribution Division, FNS/USDA
FDPIR	Food Distribution Program on Indian Reservations, FNS/USDA
FEMA	Federal Emergency Management Agency
FFS	Fee For Service
FFSD	Fee For Service through Distributor
FMV	Fair Market Value
FNCS	Food, Nutrition and Consumer Services, USDA

FNIC	Food and Nutrition Information Center
FNS	Food and Nutrition Service, USDA
FNSRO	Food and Nutrition Service (FNS) Regional Office
FOIA	Freedom of Information Act
FSA	Farm Service Agency, USDA
FSIS	Food Safety and Inspection Service, USDA
FSMC	Food Service Management Companies
FY	Fiscal Year
HACCP	Hazard Analysis and Critical Control Point
VSMC	Vended School Meals Company

USDA Org Chart link

<https://www.usda.gov/sites/default/files/documents/usda-organization-chart.pdf>

Distributor-Processor Agreement

https://appriver3651014754.sharepoint.com/:w:/s/clients/ACDA/EWpfkeBlvc5Oulp-veP1_BQBYWnSRhaiMls7KO3i6YDXCA?e=12Ydka

Link to WBSCM

<https://www.eauth.usda.gov/eauth/b/usda/login?TYPE=33554433&REALMOID=06-be19f7dd-1616-41ef-a7d1-1f37e94bb4b4&GUID=&SMAUTHREASON=0&METHOD=GET&SMAGENTNAME=-SM-crGa%2F962M%2Fpz65iQf7uQoLLEEany7PZiR7eY%2B9%2FIVctfC6ByyjlH4n0WPo1ezZSP%2Fxm8bXzU8XtUJbH6WtfN89Gan4mSILqu9umBXYFSKT4D38ljBbWQ6u3Uyii35AKB&TARGET=-SM-https:%2F%2Fportal.wbscm.usda.gov%2F>

Link to Partner Web

https://partnerweb.usda.gov/_login/default.aspx?ReturnUrl=%2f_layouts%2f15%2fAuthenticate.aspx%3fSource%3d%252F&Source=%2F

Link to FD-040

<https://www.fns.usda.gov/usda-fis/fd-40-inventory-draw-down-usda-foods-processing-revised>

Link to FD-064

<https://www.fns.usda.gov/usda-fis/management-donated-food-inventories-processors>

Link to K12 Foodservice

<https://www.k12foodservice.com/>

Link to Processor Link

<https://www.processorlink.com/LoginForm.aspx?ReturnUrl=%2f>