



*American Commodity Distribution Association*

★ AGRICULTURE ★ INDUSTRY ★ GOVERNMENT  
WORKING TOGETHER

# Recipient Agency

# Commodity Processing Handbook

**Produced by  
ACDA Processing Committee  
Procurement Subcommittee  
November 2008**

## **TABLE OF CONTENTS**

<b>A. INTRODUCTION</b>	<b>1</b>
<b>B. THE PROCESS</b>	<b>1</b>
<b>C. PROCUREMENT</b>	<b>7</b>
<b>D. PROCUREMENT TOPICS OF CONSIDERATION</b>	<b>9</b>
<b>E. WEB RESOURCES</b>	<b>21</b>
<b>F. PROGRAM HISTORY</b>	<b>22</b>
<b>G. GLOSSARY OF TERMS</b>	<b>25</b>
<b>H. GLOSSARY OF ACRONYMS</b>	<b>34</b>
<b>I. APPENDIX</b>	<b>37</b>

## **A. INTRODUCTION**

This handbook is designed and intended to assist Recipient agencies (RAs) by providing guidance for commodity processing. The Food Distribution Program has gone through several changes in recent years to allow more cost savings and efficiencies to school districts and to other entities receiving USDA commodity foods. This will allow customers to enjoy and expect to be served high quality, nutritious foods on a consistent basis. As a result, participation increases. Menus are the driver behind commodity purchases instead of surplus commodities driving menus. This is very important because it creates choices and opportunities to manage and control overall costs.

## **B. THE PROCESS**

Every year USDA does an estimate of each school district's Planned Assistance Level (PAL). This is the projected commodity entitlement rate (\$0.1875 per meal rate for 2007-08) times the number of school lunches claimed from the preceding school year. Typically, commodities represent approximately 20% of the food served in the school lunch program. With careful planning, commodity foods can represent much more. But always keep in mind that the entitlement value you receive from your state agency really belongs to the State. If you misuse or don't use your diverted commodities in a timely and responsible manner, State Agencies have the authority to transfer that asset away from you!

Ask yourself:

- What will you do with entitlement dollars if it is not used for processing?
- Do you really want to view entitlement as a cost element or should you view it as a resource to be managed that reduces purchased food costs?
- Are there other ways to utilize entitlement dollars that saves you more money?

More information about program history is located in section F of this handbook. For further understanding of some terms used in this document, a Glossary of Terms is located in section G of this handbook.

In order to utilize and maximize commodity entitlement dollars in the most efficient, economical way, RAs must stop thinking of commodities as being "free". There are real values assessed to commodity foods and these values must be taken into consideration when making decisions to process commodity foods. Most importantly, extensive planning and commitment is required. The process begins with what many would consider the main marketing focus of the food service program: the menu.

1. **MENUS** - Most school districts have established menu patterns based on the demands from the students. The menu history, in relation to the types of foods offered, menu comments from staff and customers, and food trends, are taken into consideration when planning for the future. Attention should be given to continuity of popular center-of-the-plate items (entrees/proteins) and high volume items (potatoes, tomatoes, etc.) when considering commodity processing. Plan the menu as directed by the customer's tastes, preferences, and meal requirements. Make a commitment to planned menus.

2. **PRODUCT SELECTION** - Meet with manufacturers and/or manufacturer's representatives and attend food shows and/or conference events on a regular basis to learn about new products and food trends. Network with peers to share ideas and successes.

When analyzing products, calculate the "true cost" of commodity end products. Multiply the pounds of commodity food needed to produce one case by the commodity value per pound. Then add the fee-for-service cost and the distribution cost to this number to retrieve the true cost per case. Divide this number by the number of servings per case to obtain the true cost per serving.

3. **PRODUCT TESTING (aka/"Cutting")** – Perform product tests for acceptability and blind product cuttings for comparison of "like" items (to determine preferences) with students on a continual basis. Keep records of the brands/code numbers sampled and the results of the tests to document why decisions were made and to provide follow up with the salesperson/processor.

4. **USAGE** – Usage is reflective of your menus and it drives your purchases. It is very important to develop an annual purchase plan. Determine the anticipated, estimated number of servings needed to fulfill the menu requirements for a fiscal school year. This can be done by reviewing production record calculations routinely to get a "feel" for how many servings that are actually served when something is menued. Also take into consideration usage may vary depending on what a product is menued against. For example: if chicken patties on a bun is menued with pizza and menued another day with beef tacos, review the chicken patty usage for several times each are served together to get an average usage each time each of the different entrees are menued together. You will be able to estimate your usage much more accurately if you take the time to analyze this factor.

Obtaining accurate estimated quantities becomes an important factor to enable vendors to provide the most competitive prices for your district. Accuracy adds integrity to your program. If estimated usage is inflated, awarded vendors may overstock which could result in issues and negativity. RAs may not be considered good customers which may impact competition in the future.

Many processors have commodity calculators that aid in figuring out exactly how much commodity foods need to be diverted for a specific number of servings.

5. **KEEPING TRACK OF DIVERTED COMMODITY INVENTORY:** If you make the decision to have your commodity diverted for processing, it is your responsibility to utilize your commodity in a timely and responsible manner. Not using your commodity and letting it sit at a processor is a poor use of your commodity asset. Keep in mind that if you don't responsibly use your commodity your State Agency can transfer it to another RA. Some processors mail remaining inventory reports to RA's. If you are not receiving them, you can request them. Before you divert your commodity to a processor, ask if they have a delivery schedule (for non hybrid VPT systems) and schedule your commodity usage to move your commodity on a scheduled basis. Be a good steward of your commodity and a good customer by moving your commodity responsibly and often.

6. **SURVEYS** – The State Distributing Agency (DA) overseeing the Food Distribution Program normally issues surveys or requisitions to RAs in the winter/early spring

each year for utilization of commodities for the following fiscal school year, (beginning July 1). There could be as many as three (3) separate surveys due at different times: the Planned Usage for “brown box” commodities (see definition on page 18), the Request for the diversion of cheese and related group “B” commodities to processors, and the Request for the diversion of all other commodities to processors. To calculate the number of raw pounds of commodity foods needed for diversion, first determine the number of servings needed to fulfill the menu requirements for the year. Next, simply multiply the number of cases needed by the pounds of commodity food needed to produce one case. The result will dictate the number of pounds of commodity food to request for diversion to your awarded processor(s). Group B commodities are also considered “staple” of fundamental types of foods. The Summary End Product Data Schedule (SEPDS) provides the correct draw down for each product. It shows the pounds of commodity food per case. Processors also use this information to, which is multiplied by the quantity of cases purchased to determine the draw down the processor needs to file with DA. Further information can be obtained by contacting the DA.

7. **PROCUREMENT** – in a perfect world, procurement of commodity processed foods is accomplished prior to submitting surveys to the DA so that processor selection is appropriate. It has been noted that one of the difficulties is making firm menu decisions and obtaining fair prices for deliveries beginning as much as nine (9) months after the award of the bid. In this scenario, procurement would need to take place in the fall time of the year for contracts beginning the following July/August. Regardless of the order of events, competition is the goal of all Federal procurement requirements. 7CFR3016). For more information on this topic go to page 3, section 12. Procurement.
8. **MAINTAINING MENU CONSISTENCY** - Insure that the bid document requires an equivalent commercial product in the event that the raw commodity has not been purchased/delayed in order to maintain menu consistency. The commercial equivalent should be the same in nutritional analysis, pack, portion size, cube size etc, to maintain seamless transparency between commodity and commercial.
9. **ORDERS AND DELIVERY** – Schools can place orders for delivery directly from processors or handled and delivered by a food service distributor. If you are unsure of all the methods of delivery options for commodities available to you in your State, call your DA for more information.

In the instance that a school chooses to have a distributor receive their product on their behalf, it is strongly recommended that the attached RA/Distributor Agreement form (see Appendix No.1 or No.2) be utilized to insure that each party has a clear understanding of respective roles and responsibilities.

10. **MANAGEMENT OF COMMODITY BALANCES**
  - a. Use the beginning commodity balance (allocation at the beginning of each school year + roll over balance\*, if any, from previous year) to monitor commodity balances as the year progresses and deliveries are received. Be a good customer by utilizing what you committed to when making commodity diversions to processors.

Additionally, the federal regulations are pretty liberal in allowing districts to transfer\* commodities among processors and among themselves in an effort to consume commodity balances and entitlement dollars. This must be done through your State DA, and the State may be able to help you identify another district in a similar situation for the same commodity at the processor you want to change to.

*\*Each State Agency has different procedures related to commodity rollover balances and transfers. Contact your State Agency to find out what their policies and procedures are. If you are unsatisfied with your State DA's policies, work with your local and State School Nutrition Association to dialog with the State DA to reach a solution that will continue to grow the commodity program in your State and broker a feasible policy for all stakeholders.*

- b. Through well-written procurement specifications ensure that the processor and/or food service distributor contracted to handle your commodities has a tracking system to identify, track, and report sales to processors in a timely basis. Many processors subscribe to one of several services that track commodities. The salesperson who calls on you from a processor should be able to tell you what website to go to get your balance information for that processor. If you divert commodities, you can find out what your inventory balance is at the processor and other important information. Requiring the further processor to have an on line commodity tracking system is an important part of your bid document.
  - c. Participate in the manufacturer's sales verification program to ensure that you are getting the full value of commodity foods. Sales verification is a program requirement for specific Value Pass Through (VPT) systems. Please refer to page 6, section 12 for more detailed information on this topic.
  - d. Insure that you plan your menus and delivery cycles before you place diversion orders to insure minimizing unnecessary carry over inventories.
11. **HOLD AND RECALL PROCEDURES**

The current Hold and Recall procedures on the Food Distribution website is the most up to date information on handling this issue. To review this document, see Appendix No. 11 or go to the following website: <http://www.fns.usda.gov/fdd/foodsafety/hold-recallpros.pdf>

It is further recommended that the following are addressed in an RA's bid document:

- a. Further processors must verify that they have a traceability system in place from receipt of raw commodity to delivery to designated delivery site of finished product as requested by either RA, state or distributor
- b. Require that further processors conduct a mock recall at least once per year.
- c. Further processors must provide an easily accessible, (website preferable) means for RA's to access the specific location of lot number and item code location on products

- d. Further processors must have a public notification system capability on website to provide updates on Hold and Recall Data.

## C. PROCUREMENT

Federal procurement requirements are based on sound competitive purchasing procedures. Regardless of the procurement method used, awards must be made only to responsible contractors, possessing the ability to perform successfully under the term and conditions of the proposed procurement. Contractor integrity, compliance with public policy, record of past performance and financial and technical resources are valid factors in determining contractor responsibility.

An excellent resource for procurement guidance is the National Food Service Management Institute's: First Choice: A Purchasing Systems Manual for School Food Service, 2nd Edition, which can be found at the following link:

<http://www.nfsmi.org/Information/firstchoice/fcindex.html>

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 apparent conflicts of interest. The intent of this portion of the handbook is to provide information for consideration when soliciting responses to procurement of services and/or goods

The first thing the RA must determine is whether a procurement should be formally or informally solicited. If the procurement falls below the applicable small purchase threshold (whether the applicable threshold is a Federal, State, or local limit), a less formal means of solicitation may be used. However, if the procurement's value is above that threshold, more formal methods must be employed. These more formal approaches will be discussed below.

Thus, for either commercial or commodity processed food items, each district should compare their State and local procurement requirements against Federal procurement requirements to determine which requirements are more restrictive. If the RA is in a State with a \$10,000 small purchase threshold, the RA would only be able to use the small purchase method if the procurement fell below the \$10,000 limit, as the dollar amount set by the State is lower and, hence, more restrictive than the Federal threshold currently set at \$100,000.

If the RA determines that the purchase falls below the small purchase threshold competition is still required. Small purchases must:

- Be conducted in a manner that maximizes full and open competition;
- Be awarded only to responsible contractors with the ability to perform successfully;
- Use a solicitation that clearly describes the product or service to be procured, without restricting competition;
- Be documented in records that detail the history of each procurement; and

- Be monitored under a contract administration system to ensure that contractors perform in accordance with the requirements of their contracts.

A procurement conducted below the small purchase threshold may be less formal and complex nonetheless it must still contain the normal features of a “good procurement”. The difference lies in the complexity. One must incorporate the required features of a “good procurement” into a small purchase procurement, while still having a “relatively simple and informal” process.

Formal procurement methods are established procedures that must be followed when the proposed purchase is expected to equal or exceed the small purchase threshold. The two formal procurement methods available are:

- a. **Competitive Sealed Bidding commonly referred to as sealed bidding.** The sealed bidding method uses an Invitation for Bid (IFB), through which a firm fixed price contract, fixed price contract with economic price adjustment or fixed price contract with prospective price redetermination is awarded to the lowest priced responsible, responsive bidder. Under an IFB, bids are publicly solicited. The nature of a product being purchased using a sealed bid is such that if all bids are responsive to the published specifications they will differ along no dimension other than price.
- b. **Competitive Proposals, formerly called competitive negotiation.** The competitive proposal method, formerly called competitive negotiation, uses a Request for Proposal (RFP) through which a firm fixed price or cost reimbursable contract is awarded to the responsible offeror, price and other terms. This procurement method is effective when expectations or accomplishments can be identified, but how the expectations or accomplishments will be met has not been identified. This method is useful for developmental projects or when either the soliciting party or the offeror can perform required functions.
  1. The response to a competitive proposal solicitation consists of two distinct elements:
    - A. Technical proposal, in which the offeror explains how the task will be accomplished
    - B. Cost proposal, which provides the costs for accomplishing the technical proposal.

Offerors to a competitive proposal must be ranked using the criteria identified in the solicitation. Negotiations are conducted with top ranked offerors. In contrast to an IFB, when using an RFP, the award may need to be based on a comparative evaluation of price, quality, and contractual factors in order to determine the most advantageous offering with qualifying factors including technical and performance factors.

It is important to recognize, however, that obtaining the best product at the lowest price is the goal in both the sealed bid method and the competitive proposal method.

While multiple value pass through systems (which are described in detail later in this document) are approved by USDA-FNS, not all States approve all pass through value methods. RAs should contact the DA to first determine which value pass through methods

are available in their State prior to issuing any formal solicitation such as a request for proposal (RFP) or invitation for bid (IFB) and before committing to ordering processed end products as result from diversion of raw commodities to a Processor. The RA should contact the State Distributing Agency overseeing the Food Distribution Program, the USDA Regional Office, or the State Agency that provides procurement assistance with any questions.

#### **D. PROCUREMENT TOPICS OF CONSIDERATION**

The following topics are recommended to be addressed in bid documents so that the bidding process is easier and is a more cost efficient process for both the RA and the manufacturer/distributor.

1. RAs are legally required to publish/post all IFBs and RFPs. Prospective bidders may be notified is via advertisement in national or local newspapers, email, facsimile, and/or posted on a designated website for retrieval.
2. The first page of the solicitation should contain:
  - RFP or IFB number
  - Bid opening day, date, and time
  - Complete address to return the bid
  - Contact person and phone number/email address should the offeror have questions.

It is best to hold bid openings on any day except Mondays and any time after 1:00 p.m. Consult your school calendar to ensure that the planned date for the bid opening is indeed a day the office is open for business. In the absence of applicable State and local rules, solicitations should be publicly announced and bids should be solicited from an adequate number of suppliers providing them with efficient time prior to the date set for the opening of the bids.

All submissions must be safeguarded. Submissions should be kept in a secure location, preferably locked or otherwise protected with access to submissions must be limited to authorized personnel. In addition, a record of all submissions received must be kept and include the following pertinent data:

- Name of individual or firm;
- Date the submission was received;
- Whether the submission arrived sealed or unsealed; and
- Method by which the submission was received, i.e., by mail, messenger, etc.

Submissions must be processed according to the procedures identified in the solicitation documents. At a minimum, the following procedures must be observed:

- The name of the individual or firm making the submission must be recorded.
- All submissions missing required information must be rejected.
- All nonresponsive submissions must be rejected.

3. **TIME:** The announcement must be advertised sufficiently in advance of the due date to permit potential contractors the opportunity to obtain the solicitation and prepare a response. Consideration must be given to the complexity of the solicitation requirements when establishing the due date for responses. This means RAs should allow the manufacturer/distributor adequate time for the completion of the bid. (3 weeks minimum) Also, it is recommended that requests for bids/requests for proposals for commodity processed foods should be planned to be due after December 1st. There must be consideration of the timeliness of the November 15th price file, issued by USDA FNS.
4. **SCOPE:** Provide the scope and intent of RFP/IFB. Clearly give a brief explanation of what the goal of the bid is. This message gives the prospective respondent the first impression of the business and what the needs might be.
5. **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.
6. **BID COVENANTS:** Consider bid covenants stating the minimum requirements/conditions to do business with a Recipient Agency or coop. Work with Recipient Agency purchasing personnel/department to insure minimum covenants are covered.
7. **BID PERIOD:** Indicates the time frame for which the bid is intended.
8. **RENEWAL CLAUSE:** Indicates the time frame for which the bid may be mutually renewed.
9. **ESCALATION CLAUSE:** Indicates a provision for price increase, which should be tied to a third party publicly published index, such as the CPI.
10. **PERFORMANCE:** Recommended that the performance expectations are qualified. Minimum and maximum delivery variants, protocol for product substitution, documentation requirements (receipts in multiple copies if necessary), any consequences for contract variances not Stated. Are references available for both current and recently lost customers of comparable sized districts?
11. **PRODUCT SPECIFICATIONS:** Describe specifically what product is requested for purchase. Include in the description desired portion size or range in size, breading content, ability to bake and or fry the product, fully cooked or raw, bulk packed or individually wrapped, etc. More information and resources on product specifications can be found through the National School Food Service Management Institute: <http://www.nfsmi.org/Information/firstchoice/fcindex.html> Specifications should never be overly restrictive such that they eliminate competition.
  - a. **CN Labeling and Nutritional Information:** State whether the product needs to have CN labeling. State whether a nutritional analysis is required for each product offered. Clearly identify any additional nutritional requirements such as maximum grams of fat, sodium levels etc.
  - b. **Commodity Ingredients:** Indicate USDA commodity ingredient(s) that will be processed. Indicate direct diversion or a backhaul arrangement. (Try to avoid

backhauling if at all possible. It's not a good value for your district unless you are paying storage fees on excess inventory that is hard to move)

- c. Yield: Request product yield information and indicate how/if yield will be used to evaluate the bid. Yield information helps estimate projected costs and to determine your total needs for a year. RA's should request a processors' approved Summary End Product Data Schedule (SEPDS) to determine bulk commodity pounds needed. Many School Food Service Bids include the verbiage that EPDS' need to be included with bid submission. FNS Policy Memo No. FD-038 addresses this issue. (see appendix 9) Once the National Processing Agreement Program began,(during the 2005-2006 school year), End Product Data Schedules were removed from public circulation. As a result, the terms EPDS and SEPDS became interchangeable. SFA's should be revising their bid documents to reflect this change.
    - 1. Standard Yield or Guaranteed Return: If these are not required, how are shortages and overages to be handled by the processor? (This pertains to Guaranteed Minimum Return (GMR) items)
  - d. Brands: Product testing is an effective way to determine customer preferences. Acceptable brands that are determined as the result of testing can be listed in bid specifications as long as there was free an open competition when performing such testing to justify the brand preferences chosen. The RA should develop criteria of items/characteristics of importance. Factors of importance can include whether the District requires commodity/commercial matched products in terms of fat, nutritional, portion size, pack, case weight to insure smooth transition when commodity food is not available to meet menu obligations. Communicate the criteria and expectations clearly. This can be done by soliciting a "Request for Information" for a particular category of food or a particular food item prior to going out for bid pricing. RAs must be very careful in this area as competition can be unreasonably restricted if a specific brand name is used instead of issuing product specifications
  - e. Quantity Desired: The realistic quantity the supplier can count on the district purchasing. The more accurate the figures, the more aggressive it will allow both manufacturer and distributor to be on cost. It may be expressed in raw poundage expected to process servings per item, or finished cases needed. The accuracy in estimating the quantities identified in the solicitation are critical in the vendor's ability to establish a fair price and will have a direct impact on the potential of contract renewals and fair and equitable terms in subsequent contracts.
12. VALUE PASS THROUGH METHOD: There are several methods to consider when obtaining the value of the commodities in processed foods. Each of the current options is explained below. Each State determines what method(s) it will allow. It is important to find out what method(s) each processor from which you wish to purchase items offers in your State. The cost/benefit of the value pass through method should be factored into your purchasing decisions.
- a. Fee-For-Service (FFS) – RA invoiced directly from processor a per pound/case price excluding the value of the commodity. Under Fee For Service (FFS), based

on the size of the district's order, processors may be limited in the number of deliveries that they can make throughout the school year. The timing of these deliveries has many factors but the net result is that once delivered to the Distributing Agent, the invoice is payable to the processor. If the RA is unable to accept some or the entire product from the distributor for whatever reason, the RA ends up paying for product that they cannot access for sometime. This may or may not fit into the cash management goals of the district.

- b. Rebates: Using Rebates as the value pass through method can make your procurement method simpler, but you must do the capital layout for the commodity value up front and wait to get your refund from each processor after the fact.
- c. FFS through Distributor – Distributor acts as Processor's billing agent and invoices RA a per pound/case price excluding the value of the commodity + distribution fees. (Also known as Modified Fee for Service)
  1. Title of Product
    - A. The DA holds title to the commodity food after receipt from processor until the RA receives it under single State processing agreements. USDA holds the title for nationally approved processing agreements.
    - B. It is strongly recommended that the RA request that the distributor have an endorsement on the distributor's property insurance to cover product in their care and control.
  2. Invoicing Methods
    - A. RA is invoiced the fee for service directly by the processor with handling and delivery billed by the distributor.
    - B. RA is invoiced the fee for service and the delivery charges by the processor with each item listed individually.
    - C. Distributor bills RA at the total case cost under provision of FD-025 (March 29, 2004) (included).
  3. Payment Methods
    - A. Invoices for non-substitutable commodities are paid by the RA when the product is received at the designated delivery location (warehouse, commodity distribution warehouse, or commercial distributor).
    - B. Invoices for substitutable commodities are to be paid by the RA upon receipt of product.
    - C. If the distributor is charging the RA a total case price rather than detailing the charges on two lines, fee for service and handling/delivery charge, per USDA FD-025 (see appendix No.3), the RA needs to insure that the processor is providing additional information to the DA.

- D. Show written assignment of billing responsibility to the distributor breaking out fee for service plus delivery/handling charge to equal the total case price. Product pricing and delivery/handling fees should be determined through a procurement process.
4. Record Keeping
- A. RA and distributor are required to retain proof of delivery.
- B. The proof of receipt of commodity value lies with the RA. Invoices should be kept as proof of receipt and payment following applicable federal, State, or local regulation for record retention.
- C. RA is responsible for verifying the accuracy of fee for service and delivery/handling charges.
- d. Indirect Discount (Net Off Invoice or NOI) – RA invoiced directly from distributor at net price + distribution fees. The use of Hybrid Value Pass Through Methods, such as Net Off Invoice (NOI), may eliminate the need for storage costs. However, the RA will need to assess any increase in service and delivery fee a Distributor may require for this type of transaction to cover possible associated administrative costs. Additionally, note that the delivery fee is already included in the commercial price from which the value of DF is deducted.
1. NOI Requirements:
- Processor has approved SEPDS with State Agency
  - Sale to eligible RA
  - RA has a positive inventory “on the books” or “in the bank”
  - Distributor must sell at net price + distribution fees
  - Poultry Processors with Substitution Approval/ Standard Yield
  - Fully Substitutable Commodities
  - Identical Commodity/Commercial Products
  - Processor sells to distributor at gross price
  - Distributor sells product to any customer
  - Sales Verification:
    - Processor responsible to conduct RA sales verification
    - Several methods to verify RA sales:
      - Email and/or web-based notification
      - Written correspondence
      - Verbal communication
    - RA responsible to confirm receipt of NOI product AND commodity value

- RA may also be contacted by State Agency to confirm same sale
- 2. Title of Product
  - A. RA takes title of product once the distributor delivers product.
- 3. Invoicing and Payment
  - A. Distributor invoices the RA the net price. The invoice must identify the gross case price and the value of commodity food(s) per case.
  - B. The gross price must be negotiated or bid.
  - C. The RA ends up being billed at a price after the commodity discount is given.
  - D. Record Keeping
    - 1. RA should have a tracking system in place to compare and validate distributor and processor verification requests to verify sales. (DA is required to randomly sample RAs for verification.)
  - E. RA can expect the State Agency to...
    - 1. Provide a list of eligible processors to process in their State.
    - 2. Provide diversion information (number of pounds/cases) to RA and processor.
    - 3. Upon request, provide SEPDS showing all products available, the types of commodities that can be processed, the commodity value per pound, the amount of commodity food per finished case, and the value of the commodity food per finished case.
  - F. RA can expect the Processor to...
    - 1. Upon request, provide the SEPDS.
    - 2. Pass through value of commodity(s) contained in the finished product.
    - 3. Provide competitive prices to distributor(s) offering bids to the RA (through procurement process, if applicable). RAs are encouraged to bid distribution as a separate line item from processing as they are two separate business decisions, but check with your State DA as to the distribution methods allowed in your State.
    - 4. Inform the distributor of the number of pounds/cases that will be put into the distributor's commodity tracking system on behalf of the RA.
  - G. RA can expect the Distributor to...
    - 1. Prepare invoices with the bid price for the food product listed on the first line and the value of the product, (provided by the

processor), deducted on the second line thus giving the net case price.

2. Clarify how distributor will communicate sales/velocity reports to processor.
3. Maintain a program that meets audit requirements that tracks and deducts the commodity value of the product delivered to the RA and tracks the remaining allocation (entitlement).
4. Agree that no brand or item code substitution is allowed.
5. Agree that the distributor will slot all items the RA has requested for processing that meet distributor's volume requirements, keeping in mind that special order items must meet volume requirements and business practice guidelines. Distributors reserve the right to deny stocking commodity items for RAs that do not meet the volume requirements.

#### H. Participation

1. Processor must inform RA of authorized distributors to conduct NOI on their behalf.
  2. RA should confirm with the DA that processor is approved for NOI.
  3. RA should verify with the DA and the processor which end products are included in the processor's NOI program.
  4. RA should consider the need for CN labeled products, product variety, and distributor's ability to stock requested items.
13. **PRICING:** Design your bid document to accommodate desired units of delivered product: by serving, pound, case, etc., with space available to list commercial and commodity equivalent if available, allowing bidders to list value pass through and/or fee for service. Be careful to avoid unallowable pricing methods such as cost plus percentage of cost and cost plus percentage of income.
14. **COST ANALYSIS:** RA needs to fully understand what the service and distribution fee will be for the product chosen. When bidding with NOI, RA's should request the gross case bid price, the commodity value per case and the net price each be identified on the bid response. If RA receives only the net case price, an RA cannot be certain that it is receiving the correct/full value of the commodity food per case. Any non-profit discount, volume discount should be reflected separate from the commodity discount or reflected in the gross price listed. This type of analysis of costs will allow the district to determine the cost competitiveness of the delivery and service fee as compared to all other delivery and service fees for commercial products.
15. **RECORD KEEPING:** Some processors offer Internet based systems designed at maintaining customer's accounts. District needs to reference commodity agreement it has with State DA to ensure program recordkeeping requirements are addressed.

If your State doesn't require a two line invoicing for NOI, you may want to specify it in your bid document(s)

RA should ask the Processor if they offer some type of on-line system to help manage the account. Some more advanced sites offer a commodity "calculator". This feature allows the RA to enter a total amount of finished product needed by manufacturer product number to meet menu needs and the system will calculate how many pounds of USDA commodity is needed to produce the finished cases required.

16. **INVENTORY RECONCILIATION:** It is recommended that the Distributor's ability to provide a system to reconcile inventory at predetermined intervals be included in the bid document. It is important that it is clarified if you are requesting that a physical or book inventory is required.
17. **STORAGE FEES:** Storage costs should be a part of the distribution bidding process. Most third party warehouse and distribution arrangements include some period of time where storage is included in the delivery fee. Once that time period has passed, typically the warehouse or distributor charges a monthly storage fee based upon a case rate. These fees may or may not include summer months and are usually charged on a calendar month.

The RA must also know the warehouse or Distributor delivery frequency and storage charges prior to making any diversion decisions. Storage costs can be significant if not managed and they can greatly decrease the advantage of further processing over purchasing commercial product.

18. **AVAILABILITY:** There are many factors that affect when a processor will be able to make deliveries of product. These include but are not limited to timing of raw material purchases by USDA; market conditions that might prevent raw material purchases; lack of volume to gain delivery efficiency back to the designated warehouse or distributor; whether or not a processor is vertically integrated or is awaiting a USDA award for raw material from another supplier; etc. These factors contribute to a variable delivery system, which may impact delivery of all processed commodity end products. A Vertically integrated company is a company that does all of its business processes internally and does not purchase raw goods from other companies. For example: A vertically integrated poultry manufacturer would grow it's own chickens, vs. buying them from an outside source. Or a pizza manufacturer might grow it's own wheat, own it's own mill to mill it into their own flour to make their pizza. In addition, they might make their own cheese and pepperoni.
19. **INSURANCE:** If a third party distribution agent other than that offered through contract to the State is chosen by the RA, it is strongly recommended that the RA request that the distributor extend proper insurance over the Recipient's product to protect against loss or damage. The insurance coverage shall include loss of products at the full market value should a disaster occur.
20. **DELIVERY REQUIREMENTS:** Describe when, where, frequency, how many locations, when deliveries will and will not be accepted and whom to call to schedule delivery. In many cases, the State Office of Food Distribution has already made arrangements for the warehousing and distribution of processed commodity items. If they have not or if the RA has chosen to secure their own distribution channel with

- the State's approval, The RA needs to make delivery expectations very clear. It is recommended that the RA require a demonstration of ability to provide product for predictable deliveries throughout school year. This can be done by requesting references from the distributor and thoroughly checking them out.
21. **TRANSPORTATION AND TITLE:** Describes which entity is liable for the product based on possession. This also can include prohibition of collect freight charges and that all pricing will be quoted on a delivered cost basis.
  22. **DELIVERY/FREIGHT CHARGES:** Be specific in regards to how freight is to be billed, especially fuel surcharges.
  23. **PENALTIES AND/OR CONTRACT TERMINATION:** Consider stating penalties for missing delivery delays, failure to submit needed information to appropriate parties, etc. This can be monetary or removal from bid, but should only be used on major incidences that prevent having the products available in a timely manner or having the delivered product differ from the sample product approved and affect operation of service to student customers. Make sure the district interests are covered, but at the same time work to develop good lines of communication and fair business practices with your vendors. If fines and penalties are frequent for minor offenses, you may have difficulty down the road attracting desirable vendors to do business with.
  24. **REGULATORY:** Include Certificates of Debarment; Certification on Lobbying; Certification of adherence to Clean Water/Clean Air Act; Any other State or local required certifications or licenses. The DA can assist with these requirements.
  25. **RISK AND SAFETY:** Are any Indemnification Agreements required? Are any third party sanitation inspections required? Insurance Certificates? Do they list the school district as an additional insured? What level of coverage does the school district require? Are copies of the suppliers recall program required? HACCP program? You can reserve the right to inspect their facility and safety reports, inventory practices. A district can also require a distributor to perform lab testing to evaluate of products that integrity may have been jeopardized. You can require distributor to absorb lab costs and reimbursement of product which has tested positive for harmful bacteria.
  26. **PAYMENT TERMS:** What is the school district's payment policy? Does the district pay from delivery tickets, bills of lading or is a formal invoice required? Are monthly Statements required? Can the school district offer the supplier electronic payment? Does the district take advantage of early payment discounts if available? Does the supplier offer a drop size incentive? Payment is due by the RA when the end products are delivered to the point of destination. In other words, if the RA arranges to have processed end products delivered to the State commodity warehouse or another facility/distributor of choice, the RA is expected to pay the processor upon delivery to the warehouse/distributor, and should not wait to pay bills upon receipt at the school district.
  27. **SAMPLES:** Will samples be provided upon request? It is imperative when requesting samples for testing that the samples be required to be equivalent to the commodity product.

28. **PRODUCT SUBSTITUTION:** RAs must hold all vendors accountable for the terms, conditions, and product specifications of solicitations to address substitution of products in lieu of products containing commodities.
29. **BUY AMERICAN:** All USDA commodities provided to schools and other outlets must be of 100% domestic origin. Any substitutions for those commodities made by a processor must be 100% domestic origin. Processing agreements can allow for the combining of commodities with other non-domestic ingredients to achieve a new product as long as 51% of the final processed product consists of agricultural commodities that were grown or raised domestically.

All school food authorities shall, in regard to commodity and commercial products, obtain assurance from bidders that the item (s) are processed domestically and are grown domestically, or contain at a minimum of 51% domestically grown products in accordance with 7 CFR 210.21(d). Exceptions to this requirement based on cost, availability and/or quality must be justified by the bidder and approved by the school. This can be in the form of a provision contained in the IFB/RFP or a separate document that the bidder must sign to complete the bid package. Ex: "By signing this solicitation, our company makes the assurance that the item(s) that we have offered proposed pricing on in this solicitation are processed domestically and are grown domestically, or contain at a minimum of 51% domestically grown products in accordance to 7 CFR 210.21(d)."

30. **SUSPENSION AND DEBARMENT:** School food authorities must verify that all sub-awardees, to include contractors and subcontractors, are not excluded or disqualified from doing business with the RA based on non-procurement debarment and suspension regulations. The RA can obtain this assurance by checking the Excluded Parties List System (EPLS) (<http://www.epls.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 enter into requiring disclosure or non-procurement debarment and suspension status.

State Agencies and Other Non-Federal Entities may meet the requirement by any one of three methods spelled out at 7 CFR sec. 3017.300. They are:

- a. Checking the Excluded Parties List System (EPLS) (<http://www.epls.gov>)
  - b. Collecting a certification that the entity is neither excluded nor disqualified. Since a Federal certification form is no longer available, a State or local agency electing this method must devise its own.
  - c. Including a clause to this effect in the sub-grant agreement or procurement contract.
31. **BACKHAULING:** The definition of Backhauling is listed in the definitions. The purpose for discussing backhauling in this document is to explain some issues related to the process. Backhauling should be an absolute last resort to processing. Backhauling sometimes becomes necessary when an RA has already received a commodity and was unable to use it in their foodservice operation in a reasonable and timely manner.

In an effort to not let the commodity become an unusable asset, a RA contracts with a processor to receive their product and make it into another end item. It does become a solution in this situation, but it is a costly method of processing. There is generally some sort of fee to transport the product to the processor, whether it be in labor for the RA to transport or in freight charges if the RA contracts with the processor to pick up.

The next burden on the RA in backhauling is to require that the processor put a tracking mechanism in place, to ensure the RA receives full credit for all of the commodity shipped to them. In addition, the RA should require a performance bond for the value of the commodity from the processor to protect their asset. However, not all RA's do either one of these, which puts them in a vulnerable position. RA's need to consider if things go a rye, what financial or legal recourse do they have in place to protect this asset?

The last point is the undesirable nature that backhauls represent for the processor. Processors are required to segregate the backhauled product that they have received from the RA and cannot commingle the backhauled product with commercial product. It is also not substitutable. So that means that a processor will need to shut down their line to process that district's run. This is not an efficient business practice. The recommendation is for the RA to learn from the situation to have commodities diverted to a processor in the initial order, if at all possible, to reduce their liability and cost. Fewer Processors are agreeing to participate in backhauling because of the increased risk, liability and cost backhauling represents. Sometimes smaller businesses eager to get their "foot in the door" to a school district will agree to backhaul some product to become part of the "solution" to a problem a RA has.

32. **BID INTEGRATION:** Trends in relation to the procurement of commodity processed foods indicate the inclusion of this category of food onto commercial foods bids. This is happening because of the establishment of the indirect discount value pass through methods, also known as "NOI" (net off invoice). This approach has progressed into a sensible business practice for all players (processors, distributors, and RAs) as it streamlines procurement and provides seamless purchasing. All players must be understanding of each other's needs and must provide excellent service at all levels. Net Off Invoice is embraced as a logical system that reduces costs by gaining many efficiencies.

Commodity entitlement dollars are maximized when making decisions for diversion of raw commodities for further processing into high quality end products. Raw commodity foods should be considered as ingredients of high quality end products that meet program nutritional requirements and student (customer) preferences. Commodity processed end products provide brand association and more importantly, consistency throughout the school year. There is cost savings in relation to regularity, reliability, and continuity of products.

There are many advantages of combining all foods under a single procurement. First, consider the cost associated for all parties with writing/responding to bids, managing numerous contracts, accounts payable, and accounts receivable. The cost is time and the salary associated of employing a person with purchasing/financial responsibility and authority to do the actual work. When

contracts are minimized, the management of contracts is minimized; therefore, overall costs are reduced. As a result, invoices will decrease: one invoice to check, one bill to pay. Time is money.

Another advantage of combining all foods under a single procurement refers to distribution efficiency. Typically schools will enter into contracts with a food service distributor for non-commodity foods and supplies to be delivered to their sites. Typically part of the cost of the products has to do with several variables, drop size being one important part. Then cost of stopping a truck is substantial. When more products are ordered and delivered at one time, the overall drop size is considered a better value and therefore all food prices are likely to be reduced. Seamless distribution will reduce food costs.

By streamlining procurement of all food products will ensure compliance with procurement regulations. Many RAs assume that state agencies and/or the federal government have taken the responsibility of procuring commodity processed foods through master processing agreements (at the state level) and national processing agreements (at the federal level). It is the RA's responsibility to ensure compliance with local, state, and federal regulations. It is in the best interest of the RA to procure in the most practical manner by combining as many food items/supplies under the same contract, provided there is free and open competition.

Advantages of combining commodity foods onto commercial bids include:

- Minimization of Contracts
- Menu Consistency
- Branded Products
- High Quality Products
- Multiple Commodity Ingredients within a case
- Seamless Distribution
- One invoice to check; one bill to pay
- Full compliance with Procurement Regulations
- Seamless Purchasing

**E. Web Resources:**

Commodity Foods Network:

[www.commodityfoods.usda.gov](http://www.commodityfoods.usda.gov)

American Commodity Distribution Association:

[www.commodityfoods.org](http://www.commodityfoods.org)

Food Distribution Home Page:

[www.fns.usda.gov/fdd](http://www.fns.usda.gov/fdd)

Commodity Files:

<http://www.fns.usda.gov/fdd/pcims/Nov15CommodityFiles.htm>

Food Distribution Training Power Point Presentations:

<http://www.fns.usda.gov/fdd/ppt-slides/default.htm>

School Nutrition Association

[www.schoolnutrition.org](http://www.schoolnutrition.org)

USDA Food Buying Guide: (this is a great resource for specifications)

<http://teammnutrition.usda.gov/Resources/foodbuyingguide.html>

Approved National Processing Agreement Manufacturers

<http://www.fns.usda.gov/fdd/programs/national/NPA-ApprovedProcessors.htm>

National Food Service Management Institute

<http://www.nfsmi.org>

## **F. Program History: Processing: Past, Present, Future**

### **WHAT IS PROCESSING?**

Each year, schools, institutions, and day care centers throughout the nation receive millions of dollars' worth of commodity food for their meal service operations from the U.S. Department of Agriculture (USDA). USDA plans purchases and buys the food under price-support and surplus-removal legislation and offers it to these Recipient Agencies through the Food Distribution Program of the Food and Nutrition Service. While some food items provided by USDA are purchased in ready-to-use forms, such as canned fruits or vegetables, other foods are provided in forms or quantities that may not be easily used, such as frozen whole turkeys. In order to make efficient use of these foods, many Recipient Agencies have turned to the food processing industry to convert the USDA commodity foods into more convenient and usable forms.

Through processing, Recipient Agencies can economize on food costs, increase food safety, benefit from reductions in food preparation time and outlays for equipment, and make the most efficient use of USDA Commodities. Processing helps Recipient Agencies provide more varied and higher quality meals, reduces waste in the food preparation process, and stabilizes costs through portion control. Processing increases the opportunities for Recipient Agencies to realize significant cost savings.

Processing has become an integral part of day-to-day food service operations and its use will continue to increase as new menu items are developed by industry and introduced to the American palate. The processing of commodity food must be conducted in accordance with the State Processing Program regulations (7 CFR Part 250).

### **WHAT GOVERNS THE PROCESSING PROGRAM?**

The processing program is governed by law, regulations, and policy memoranda. The following laws affect the processing program:

The Agriculture Act of 1935

The National School Lunch Act of 1946

The Agriculture Act of 1949

The Child Nutrition Act of 1966

The Commodity Distribution Reform Act of 1987

These laws are amended from time to time and current law can be found on the Food Distribution website. The regulations that govern processing are found in Chapter 7 of the Code of Federal Regulations Part 250. They are also available on the Food Distribution website.

Policy memoranda are FNS' interpretation of the regulations or a ruling on a particular practice not specifically addressed by regulation. They are available on the Food Distribution website.

### **HISTORY OF THE STATE PROCESSING PROGRAM**

USDA's domestic food assistance programs administered by the Food and Nutrition Service (FNS) are this nation's primary defense against hunger and malnutrition. Through the Food Distribution Programs, millions of Americans receive commodity food assistance on a daily basis to help meet some of the nutritional needs of children and needy adults. The programs also help support markets for food that American farmers produce.

To aid American farmers, USDA buys food under price-support and surplus-removal legislation and makes this food available to State Distributing Agencies. In addition, for some programs, funds are appropriated to purchase foods, the type and variety of which are controlled by market conditions. USDA pays for the initial processing and packaging of the food and for transporting it to designated points within each State. Distributing Agencies are then responsible for storing the food, transporting it throughout the State, and Distributing it at the local level to eligible Recipient organizations participating in the various food programs.

In August of 1935, Section 32 of Public Law 74-320 provided the first significant authority for Federal food donations. This legislation made funds available to USDA to encourage the domestic consumption of certain agricultural commodities by diverting them from normal channels of trade. The intent of Section 32 was to remove price-depressing surpluses from the market through Federal purchases and to put them to use in such a way as not to interfere with normal channels of trade. Fruits, vegetables, meat, and poultry are obtained under Section 32 authority. These foods are called Group A foods and are purchased by USDA's Agricultural Marketing Service (AMS).

In 1943, State Agencies took over full administrative and financial responsibilities of the commodity food program at the State level and became known as "Distributing Agencies." In 1946, the National School Lunch Act was passed. This Act provided for funds to be spent by USDA for agricultural commodities to be distributed among schools according to the needs and preferences of schools. Section 6 of this Act authorized USDA to purchase high protein meat and meat alternates that could not be obtained in sufficient quantities under other purchase authorities. Section 6 also required USDA to make commodity foods available to States for school programs at a minimum level of commodity assistance. This level of commodity assistance is called the entitlement level.

Also during this time period, Section 416 of the Agricultural Act of 1949 authorized the acquisition and distribution of dairy products, grains, and oils through price-support activities. These foods are called Group B foods and are acquired by USDA's Farm Service Agency (FSA).

Historically, a State's entitlement level is composed of 80 to 90 percent Group A foods with the balance in Group B; however, this ratio may vary depending on market conditions and State preferences. Additional foods, known as "bonus" foods that are not counted against a State's entitlement level, may come from either Group A or Group B.

Although the food donation programs date back to the 1930's, the authority for processing commodity foods has only existed since the first processing regulations were issued in October 1958. It was not until the early 1970's that FNS began taking an active role in encouraging commodity food processing. The impetus for this encouragement came from changes in Child Nutrition legislation, guaranteeing a designated level of commodity food assistance based on meals served within the State. As the supply of commodity foods became more constant, States and schools saw the opportunity to convert commodity products into more convenient

or table-ready items. This change helped expand commodity food use from a limited number of commodities to a broader array of commodities.

However, with the dramatic expansion in commodity food processing, FNS and USDA's Office of the Inspector General (OIG) became aware that oversight responsibilities had not kept pace with program growth. Both agencies soon discovered that more controls were needed to protect Federal, State, and local interests. In order to determine the severity of the problem, OIG conducted two national audits in 1978 and 1985. These audits, which verified that the regulations governing the State Processing Program needed to be strengthened in program accountability, oversight responsibilities, and contractual provisions, resulted in two major revisions in the processing regulations in 1981 and 1986. The major areas of concern that were disclosed by these audits were:

More State and Federal monitoring of processor operations was needed in the State Processing Program;

Processors were maintaining excessive commodity food inventory levels;

Processors were substituting inferior quality commercial foods for commodity food; and

There were insufficient Federal regulations and guide-lines in place that contributed to poor program accountability.

Since that time, the Processing Program has dramatically changed. With the increase in the variety of commodity foods made available by USDA came the need to maximize commodity food usage to produce nutritionally sound, well-accepted meal items, while keeping labor costs to a minimum. Distributing Agencies and processing companies soon learned that working together was beneficial for everyone concerned.

## **It's not Rocket Science**

The whole theory behind processing commodities is to get the school food service directors what they need, when they need it, at the best possible price. Commodities represent about 17-20 per cent of the food that is served in the school lunch program. USDA tries to buy commodities at the rawest level possible. School foodservice directors usually don't have the time, labor, or inclination to take the raw commodities and prepare them for meal service. USDA has made significant strides in getting out of the way and letting the States, Recipients, and the processors set up business arrangements that are beneficial for all parties concerned. But, USDA does need accountability for the funds that are spent on behalf of the American tax payer.

## G. GLOSSARY OF TERMS

**Agreement- Commodity Food, Processing:** A legal document entered into between a processor and USDA FNS, a DA, or eligible RA that provides for the further processing of USDA commodity foods. Processing agreements are not viable until the DA approves them prior to the commencement to processing.

**Agricultural Marketing Service (AMS):** The USDA Agency responsible for purchasing surplus-removal items such as meat, poultry, fruits, and vegetables. AMS also provides end product certification that, at a minimum, certifies against non-diversion and non-substitution of commodity food. AMS purchases Group A commodities.

**Alternate Protein Product (APP or TVP):** A product that can be used to satisfy all or part of the meat/meat alternate requirement of the Child Nutrition meal pattern requirements when combined with meat, poultry, or seafood. Vegetable protein products are safe and suitable edible products produced from vegetable (plant) sources, including, but not limited to soybeans, peanuts, wheat, and corn.

**Authorized Signature:** Signatures of company individuals responsible for all terms and conditions of the processing agreement. In a sole proprietorship, the owner must sign the agreement; in a partnership, a partner must sign the agreement; in a corporation, a duly authorized corporate officer must sign the agreement. If an employee other than these specified individuals signs the agreement, a power of attorney authorizing the employee's signature must accompany the agreement.

**Backhaul:** The pick up of a commodity food from a State or Recipient Agency facility by a processor for processing and return. There may be an additional charge per pound to pick up the commodity food. Any substitution of backhauled commodity is expressly prohibited. RA's may need their State DA's permission to backhaul commodity to a processor. Check with your State DA as to their Backhaul policies. (see "Single Inventory" definition for more information)

**Batching:** This is a term used when the same kind of non-substitutable commodity food is received by the processor from more than one State or locality, and those foods are combined during a production run. This term also describes the quantity of product processed in a cycle by the processor. Batching during production runs that involves direct delivery of product by USDA vendors is generally encouraged due to the benefits gained through increased efficiency during processing, reduced AMS grading costs, and potentially increased yields of finished product. Batching of product from several States may only be done with written concurrence of each State prior to reprocessing.

**Bonus Commodity:** A food item not charged against entitlement or against a program's appropriated funds. These foods are acquired through the price-support operations of the Commodity Credit Corporation or surplus-removal operations of AMS.

**Bulk Pack Chicken and Turkey:** Refers to chickens and turkeys that are specifically packed for further processing. Unless specifically required or agreed to by both the supplier and further processor receiving the product, this product will be delivered in a chilled (not frozen) form. Necks and giblets are not included with bulk pack product. Bulk pack turkeys may not be pre-basted.

**Buy-Back Parts:** Unused poultry parts not incorporated into end products. These remaining parts may be purchased by the processor, who would then credit the value to the DA or RA. Credit may not be given for primal parts such as breast and thighs or breast or thigh meat.

Credit or buy-back arrangements between the DA or RA and the processor must be established prior to any processing, documented as part of the agreement, and made available to the grader.

**By-Products:** Products other than the specified end products produced during processing. If by-products are sold or used by the processor, their net value must be credited to the DA or RA. Processors who do not sell or use any resulting by-products are not required to credit the DA or RA for the value of the by-products. In these instances, a processor arranges for the destruction of the by-product and incurs any costs associated with its destruction. Credit arrangements for by-products between the DA or RA and the processor must be established prior to any processing, documented as part of the agreement, and made available to the grader.

**“Brown Box” Commodities:** an unofficial name for further finished products which USDA purchases for Recipient Agencies, like canned or frozen fruits and vegetables, batter breaded chicken, sliced cheese and turkey taco meat. Generally, these products are not diverted to processors for further processing, but it is done on some items like frozen fruit to be made into pies or cups, or to a “pre-platter” that assembles multiple food items to create whole meals for districts.

**Catch Weights/Random Weights:** Catch weight refers to the marked weights on products that, by the nature of their manufactured characteristics, are not packed to a standard weight. On these products, the weight of each container must be individually recorded. Recipient agencies, when releasing raw products with random weights to processors for further processing, should assure that the processor credits the actual net weights received instead of providing figures based on average net weights.

**Child Nutrition Labeling Program:** A voluntary program administered by the Child Nutrition Division of FNS that evaluates formulations to determine the contribution a serving of a commercially prepared product makes toward the Child Nutrition Program 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.

**Commingle:** To store, combine, or blend commercial food and substitutable commodity food together into a single inventory at a processor’s plant.

**Comminuted Meat:** An edible product resulting from the mechanical separation and removal of most skeletal muscle of livestock from the bone or poultry carcasses. Comminuted meat can also be called mechanically deboned meat (MDM).

**Commodities:** Foods commodity or made available for donation to eligible Recipient agencies by USDA.

**Commodity File:** A USDA computer generated print-out that lists the commodity food items, pack sizes, the most recent prices per pound, unit gross and net weights, commodity codes, and other information. The November 15 Commodity File is used to determine the appropriate contract value for each commodity food for the upcoming agreement year that begins on the following July 1st.

**Condemned Meat:** Meat or poultry that has been determined by FSIS to be unfit for human food due to adulteration, disease, contamination, or other conditions rendering it unusable for

human consumption. Condemned meat or poultry can also refer to product that has fallen on the floor or was improperly handled during production.

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

**Contracting Agency:** The USDA, Distributing Agency, subdistributing agency, or Recipient Agency that enters into an agreement with a commercial food processor for the conversion of raw commodity food into finished end products.

**Delivery Order Number (D/O):** A unique number assigned to each shipment of food. Each D/O number is comprised of series of numbers and letters in the following order: an alpha numeric 4 digit commodity code, the 3 digit State Agency number, the order year indicated by a single letter and a sequential 3 digit number to uniquely identify loads. Each delivery order specifies the State, quantity, shipping period, planned usage, and destination of a shipment. Multiple D/Os may be included on a food requisition.

**Direct Discount Sale:** The selling of a finished end product by a commercial food processor, directly to the Distributing Agency or the Recipient Agency. Under this procedure, the processor directly invoices the Distributing Agency or Recipient Agency at the commercial price minus the value assigned to the commodities contained in the case as a net case price. The processor must maintain delivery and/or billing invoices to substantiate the quantity of end products delivered and the net price charged per case.

**Direct Refund Sale:** The selling of a finished end product by a commercial food processor, directly to the Recipient Agency. Under this value pass-through system, the processor invoices the Recipient Agency directly for the commercial/gross case price of the end product. The Recipient Agency must then submit a refund application to the processor. Various methods of submitting the rebate application are acceptable. These include but are not limited to Email requests, using a distributor's velocity report, or the internet.

**Direct Shipment:** Food ordered by a Distributing Agency to be shipped directly from the USDA vendor to the processor, rather than shipping it to a Distributing Agency's or Recipient Agency's storage facility. Since the normal shipping practice is to ship foods to the Distributing Agency, this is sometimes called a "diverted shipment," "direct diversion," or "direct delivery."

**Distributing Agency (DA or SDA):** The Agency, usually an Agency of State government, which enters into an agreement with FNS for the distribution of commodity food to eligible Recipient agencies.

**Distributor:** A commercial food purveyor who purchases, receives and/or stores commercial food products or end product made using commodities. Distributors in turn, may sell, deliver, bill, or any combination of the three, the Recipient Agency or the Distributing Agency for the goods and/or services provided.

**Diversion:** A food shipment that has not been received (still in transit) that is rerouted to another location or State Distributing Agency.

**Commodity Food:** Food commodity or available for donation by USDA to eligible Recipient Agencies. Commodity food is also referred to as "commodities." Even though most commodities are purchased with "entitlement dollars", those dollars were provided by law to eligible Recipients.

**Economic Adulteration:** Addition of an ingredient(s) to a product in excess of the generally accepted needs of the end product that results in a lowered value of the item being produced.

**ECOS:** Electronic Commodity Ordering System is a web based federal ordering system for State Agencies to use their entitlement money to order commodities to be purchased by USDA. The system also allows for State DA's and Recipient Agencies to be notified when the commodities that were purchased arrive at the further processor. Not all State DA's have implemented the RA ECOS module, but many of them have very similar automated commodity ordering programs. Use of ECOS is mandatory for State DA's to order commodity foods for their State. However, ECOS is optional for Recipient Agencies. It is the State DA's decision to implement ECOS to the RA level or not.

**End Product:** A finished product containing any amount of commodity food that has been commercially processed.

**End Product Data Schedule:** A standard form used to describe the finished end product being produced. Information detailed on this form includes formulation, quantity of commodity food needed to produce a specific number of units of end product, packaging and yield information.

**Entitlement or Planned Assistance Level (PAL):**The total commodity assistance available to a State for the school lunch program is calculated by multiplying the number of lunches served in the prior year by the established per-meal-rate.

**Fabrication Procedures:** The manufacturing procedures used in making further processed poultry products. For example, when grinding or chopping, the fabrication procedures may include type of equipment used, size of grind, speed of chop, or other procedures that would affect the quality of the finished product.

**Farm Service Agency (FSA):** The USDA Agency responsible for acquiring Group B products such as grain, dairy, peanut, and oil products under price-support activity.

**Fee-For-Service:** The price charged by pound or by case representing a processor's costs of ingredients (other than commodity foods), labor, packaging, overhead, and other costs incurred in the conversion of the commodity food into the specified end product. Fee-for-service is an alternative to using a standard value pass-through system. It has traditionally been used when processing meat and poultry products or other non-substitutable commodity foods.

**Food and Nutrition Service (FNS):** The USDA Agency responsible for administering domestic food assistance programs.

**Food Distribution Division (FDD):** The FNS division responsible for administering the donation of commodities to domestic food assistance programs.

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

**Formulation:** The quantitative listing of all ingredients contained in an individual end product.

**Full Substitution:** See substitutable food

**Grader:** A person licensed as a representative of AMS to examine and certify the production of end products containing USDA commodity food.

**Gross Price:** Under processing, the price paid by the contracting Agency before the value of commodity food used in the production of the end product is considered.

**Group A Commodities:** Commodities which have a commodity code beginning with the letter "A". This group of commodities include fruits, vegetables, chicken, poultry, beef, and eggs. These commodities are obtained under Section 32 and Section 6 funding authority of Public Law 74-320

**Group B Commodities:** Commodities which have a commodity code beginning with the letter "B". This group of commodities include cheese, flour, oil, dried beans, pasta and other grain items. Authorization for acquisition and distribution of Group B commodities are obtained under Section 416 of the Agricultural Act of 1949.

**Guaranteed Minimum Return:** The minimum weight or number of finished units of processed product that will be produced and returned using a fixed amount of commodity food. This information is obtained from information on the end product data schedule.

**Guaranteed Return:** A concept in red meat processing where the processor guarantees a fixed number of cases will be produced using a fixed amount of meat. Calculations are based on the pounds needed to produce a case of finished product (Col. 8).

**Grader:** An AMS employee that monitors production in either a poultry or red meat processing facility that utilizes commodity food.

**Indirect Discount System (Net Off Invoice – NOI):** When the processor sells finished product containing commodities to a distributor at a gross price and the distributor sells that product to an eligible Recipient Agency at the commercial price minus the value assigned to the commodities contained in the case as a net price. Under this system, the distributor must then apply for a refund from the processor for the value of the commodity food. This system is also referred to as the "hybrid" system.

**Indirect Refund Sale:** A value pass-through system under which the processor sells end products containing commodities to a distributor at the commercial/gross price of the end product. The distributor then sells the end product to an eligible Recipient Agency at the commercial/gross price, plus delivery costs. The Recipient Agency then submits a refund application to the processor for the value of the commodity food contained in the end product.

**Inventory:** The accounting of commodity food 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 foods, or in book inventory. Processors who choose to deliver finished product before receiving commodity food may encounter negative inventory. The processor does this at his own risk as USDA is not required to make the processor whole. See the definition of Perpetual 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. A written plan must be submitted and be approved by both agencies to be able to process poultry product under limited substitution. The limitation pertains to only allowing substitution for bulk poultry and parts. Substitution of backhauled products is prohibited.

**MGC-44 (fka/ LS-44), USDA Commodity Meat Production Information Form:** A red meat grading certificate issued by AMS grading that accompanies the monthly performance report. It indicates the total pounds of commodity food put into production and the number of cases and/or pounds of end product produced from that starting weight.

**Mechanically Separated Meat (Comminuted Meat):** In poultry processing this term generally means the product that results from subjecting poultry frames to a mechanical deboning process where the raw product is finely ground and then by a mechanical separating process the meat is separated from the bone residue. The resulting product is generally used for manufacture of hot dog or bologna type products and, in lesser amounts, is sometimes added to other products such as cooked roll type products, nuggets, patties, etc. It should not be confused with another mechanical separation process being utilized by the poultry industry which yields product that has a somewhat coarser texture. This type of product is generally found to be more acceptable in ground chicken or turkey products or in other cooked products where a firmer texture in the finished product is desired. Note: Product labeled as ground is generally recognized by the poultry industry and FSIS as being derived from whole bone-in parts with or without skin in natural proportion.

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

**Monthly Performance Reports:** Reports submitted monthly by the processor to the Distributing Agency detailing receipts of commodity food, sales of finished end products to Recipient Agencies, and information on the commodity food inventory.

**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 multi –State processors and USDA where USDA approves all EPDS and holds the surety instrument for inventory protection. Used in conjunction with State Participation Agreements signed between the individual State and the processor.

**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.

**Net Case Price:** The price of a processed end product paid by the Recipient Agency after the value of commodity food contained in the end product has been deducted from the gross price.

**“Net off Invoice” (NOI):** see Indirect Discount System

**Non-substitutable Food:** A USDA commodity food that cannot be substituted with a commercially purchased product under the terms of a processing agreement.

**One Hundred Percent Yield:** A requirement that 100 percent of the substitutable commodity food given to the processor actually be contained in the finished end product returned to the eligible Recipient Agency. Any manufacturing losses (the difference between 100% and the manufacturing yield) are to be made up by the processor with commercial foods of domestic origin and equal or better quality than the commodity that was provided. This requirement was established to encourage efficient processing.

**Out-Of-Condition:** Foods found to be infested, deteriorated, or contaminated as the result of improper storage or latent defects for which the vendor, processor, Recipient Agency, Distributing Agency, etc., is responsible.

**Permeable Casing:** This refers to the primary container used to hold raw poultry products during the cooking and/or smoking process such as some turkey breast products or turkey ham casings. This type of casing allows for the loss of a certain amount of moisture from the product during the cooking and/or smoking of the product. Products cooked in this type of casing should be repackaged in a moisture and vapor proof casing before freezing.

**Per Meal Rate:** The national average value of commodity 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.

**Perpetual Inventory:** A daily accounting record of the receipt and usage of commodity food, which is updated with each transaction of receipt or usage. Perpetual inventory tracks on paper the amount of commodity food that should be in physical inventory at any given time and is periodically reconciled with physical inventory.

**PCIMS:** Processed Commodities Inventory Management System. Mainframe computer system used by USDA to process and track USDA food for nutrition assistance programs. <http://www.fns.usda.gov/fdd/pcims/default.htm>

**Planned Assistance Level (PAL):** see Entitlement

**Poultry specific by-products:** Typical by-products which result from processing poultry can be chicken broth, inedible bone, fat, skin, and tails. Note: By-products can also be buy-back parts; see definition above.

**Pre-Plater:** A processor who takes one or more commodities and/or finished end products made from commodities and repackages them as a component of a complete individual meal for use in school food service.

**Primal Cuts/Primal Meat:** The meat or product derived from the breast and thigh of chickens and turkeys. Products derived from the breast and thigh (intact meat portions) may not be purchased or credited by the processor under buy-back or credit procedures. Note: Buy-back or credit can only be given for carcass parts such as drumsticks, wings, tails, skin, necks, comminuted meat and frames, and giblets (when present). Buy-back arrangements between the Distributing Agency and processor must be established in writing prior to any product processing.

**Processor:** Any commercial facility which processes or repackages commodity foods. However, commercial enterprises, which handle, prepare and/or serve products or meals containing commodity 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 commodities they are given and return any profit from the venture to their own school food service account.

**Production Records:** Records kept by the processor that document the production of the finished end product. The records show the types and amounts of ingredients used to produce the end product and the amount of end product produced.

**Production Run (Red Meat and Poultry):** Term used to describe a specified manufacturing period. In most cases, a production run is based on each end product manufactured as Stated on an individual MCG-44 for red meat (beef or pork) or an individual grading certificate for

poultry. The exception to this practice is when production occurs over two or more days and two or more MCG-44's or grading certificates are generated.

**Recipient Agency (RA):** Any of the following organizations within a State eligible to receive USDA commodity 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.

**Redonation:** Commodity that has been shipped to one State Distributing Agency (SDA), then returned to the custody of USDA, and then given to another SDA.

**Refund Application:** An application (usually a pre-printed 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 contract value of the commodity food contained in the end products purchased. This application may be sent electronically.

**Refund System:** A value pass-through system 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 commodity foods contained in the end products. See the definition of Refund Application, Direct Refund Sale, and Indirect Refund Sale.

**Rework:** Wholesome, salvageable product generated during a production run that is not acceptable as the specified product Stated on the end product data schedule. Product such as broken patties or nuggets, or other defects such as missing breading, lumps, and ridges would be classified as rework product. Rework may NOT contribute to the yield achieved during a production run.

**Sale:** A sale represents the total number of units of a specific end product sold to a Recipient Agency. The documentation of a sale typically consists of a delivery ticket (showing the Recipient Agency signed for the particular product) and a billing invoice issued by the processor/distributor that delivered the product. Performance reports are compiled by summarizing the information contained in the sales documents for a specific reporting month. A processor may bill and report a sale each time a delivery takes place or he may choose to bill for product delivered over a specific period of time (i.e., on a monthly basis).

**School Year:** The school year begins each July 1 of the calendar year and ends June 30 of the following calendar year.

**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 report separate inventories values of commercial and commodity foods left over at the end of the year. Since USDA has promoted commercial labeling of commodity foods and the increase of processed raw commodities by commercial vendors, it had become increasingly difficult for RA's to discern the difference between the two. This policy represents a paradigm shift in how commodity food is valued once the RA receives it. In essence, once the RA receives the commodity food it becomes indistinguishable amongst 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 RA's needing their State DA's permission to do this.

**Standard Yield (SY):** A concept that originated in poultry processing where the processor guarantees a fixed number of cases will be produced using a fixed amount of commodity. The standard yield is always fixed at a level that requires the processor to add some commercial product to achieve the required yield. Standard yield could be used for other commodities when a processor has significant manufacturing loss in the production of an end product.

**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.

**Summary End Product Data Schedule:** A compilation of the information that was provided through the submission of individual EPDS's to USDA under a National Processing Agreement. This schedule provides relevant information to Recipients regarding case weight, serving sizes, approximate servings per case, and the commodity food needed to produce a case of finished product.

**Sub-Distributing Agency:** An Agency performing one or more distribution functions for a Distributing Agency other than, or in addition to, functions normally performed by common carriers or warehouse operators. A Sub-Distributing Agency may also be a Recipient Agency.

**Substitutable Food:** A USDA commodity food that may be replaced by a commercially purchased food of domestic origin and of equal or better quality to the commodity food provided by USDA.

**Surety Instrument:** A bond or letter of credit that is provided to USDA or the State to provide protection against a loss of commodities by a processor.

**Tare Weight:** The weight of the commodity food packaging (containers).

**Transfer:** A giving of commodity by an eligible Recipient to another eligible Recipient. Transfers between like Recipients are approved by the State or States involved and transfers between unlike Recipients must be approved by FNS.

**Tote:** A large bulk container used to ship large quantities of product to a manufacturer. Tomato paste totes contain 3,200 pounds of product. Bulk kernel corn totes contain 2,700 pounds of product.

**Truck Lot:** A quantity of food equal to a truck shipment. Generally, a truck lot is equal to approximately 40,000 pounds of commodity food and contains between 700 to 1,400 cases of food, depending upon the food item. This quantity can be found in the commodity file.

**Value Pass-Through System (VPT):** A system used to ensure that the full value of the commodity food contained in the end product is passed on to the eligible purchasing Recipient Agency. See the definitions for Direct Sale, Refund, Indirect Sale, Fee For Service, and Discount System.

**WBSCM:** Web Based Supply Chain Management. Future internet based computer system to be used by USDA to process and track USDA food for nutrition assistance programs.

**Wholesomeness:** This term means freedom from external evidence of any disease or condition which may render a carcass or product unfit for food.

## H. Glossary of Acronyms

AAA	Area Agencies on Aging
ACDA	American Commodity Distribution Association
AMS	Agricultural Marketing Service, USDA
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
CI	Charitable Institutions
CIC	Commodity Improvement Council, USDA
CID	Commercial Item Description
CLOC	Commodity Letter of Credit
CPI	Consumer Price Index
CR	Civil Rights
CSFP	Commodity Supplemental Food Program, FNS/USDA
DA	Distributing Agency aka/ SDA
DASNP	Deputy Administrator for Special Nutrition Programs (SNP), FNS/USDA
DHHS	Department of Health & Human Services
ECOS	Electronic Commodity Ordering System
EFOs	Emergency Feeding Organizations
EPDS	End Product Data Schedule
FDA	Food and Drug Administration, DHHS
FDD	<a href="#">Food Distribution Division, FNS/USDA</a>
FDPIR	Food Distribution Program on Indian Reservations, FNS/USDA
FEMA	Federal Emergency Management Agency
FFS	Fee For Service
FNCS	Food, Nutrition and Consumer Services
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
FSP	Food Stamp Program, FNS/USDA
FY	Fiscal Year
HACCP	Hazard Analysis and Critical Control Point
HHP	Household Programs, FNS/USDA
IFB	Invitation For Bid
ITOs	Indian Tribal Organizations
KCCO	Kansas City Commodity Office, FSA/USDA
NAFDPIR	National Association of Food Distribution Programs on Indian Reservations
NFSMI	National Food Service Management Institute
NOI	Net Off Invoice
NPA	National Processing Agreement
NSIP	Nutrition Services Incentive Program FNS/USDA
NSLP	National School Lunch Program, FNS/USDA
OANE	Office of Analysis, Nutrition and Evaluation, FNS/USDA
OGC	Office of General Counsel, USDA
OIG	Office of the Inspector General, USDA
OMB	Office of Management and Budget
P.L.	Public Law
PCIMS	Processed Commodities Inventory Management System
RFP	Request For Proposal
S&I	Schools & Institutions
SBP	School Breakfast Program, FNS/USDA
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
SNE	<a href="#">Society for Nutrition Education</a>

SNA	<a href="#"><u>School Nutrition Association</u></a>
SNP	Special Nutrition Programs, FNS/USDA
SOC	State Option Contracts [Program], AMS/FNS/USDA
SPA	State Participation 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	<a href="#"><u>United States Department of Agriculture</u></a>
VPT	Value Pass Through
WBSCM	Web Based Supply Chain Management
WIC	Women, Infants and Children, FNS/USDA

## I. Appendix

Appendix No.1	Net off Invoice RA and Distributor Sample Agreement
Appendix No. 2	Fee for Service RA and Distributor Sample Agreement
Appendix No. 3	Policy Memo FD-025 Fee-For-Service Billing Methods through a Distributor
Appendix No. 4	Vendor Meeting Sample Form
Appendix No. 5	Cafeteria Manager Survey Sample Form
Appendix No. 6	Food Sample Form
Appendix No. 7	Student Survey I Sample Form
Appendix No. 8	Student Survey II Sample Form
Appendix No. 9	Policy Memo FD-038 <a href="#">Elimination of Pricing Information on End Product Data Schedules and Summary of End Product Data Schedules</a>
Appendix No. 10	Policy Memo FD-020 - Single Inventory and Related Commodity Issues
Appendix No. 11	RA and Distributor Agreement NEW w/Food Defense clause
Appendix No. 12	<a href="#">Commodity Hold and Recall Process:</a> <a href="http://www.fns.usda.gov/fdd/foodsafety/hold-recallpros.pdf">http://www.fns.usda.gov/fdd/foodsafety/hold-recallpros.pdf</a>

**FEE FOR SERVICE  
RECIPIENT AGENCY & DISTRIBUTOR SAMPLE AGREEMENT**

*In an effort to protect recipient agencies (RA) and the integrity of the food distribution program, this sample agreement can be used as a guideline when preparing a scope of work, bid specifications, or contract for your entity.*

This agreement is for the 20\_\_ - 20\_\_ school year, between recipient agency (\_\_\_\_\_) and distributor (\_\_\_\_\_). Both parties signing below acknowledge our mutual responsibilities.

The following responsibilities are required for this fee for service through distributor agreement.

Distributor will invoice RA for: (check one)

- \_\_\_\_\_ Handling/Storage/Distribution Fee Only
- \_\_\_\_\_ Fee for Service and Handling/Storage/Distribution Fees

1. Distributor will provide proof of added property insurance endorsement to cover any damage to commodity products while in their care.
2. Distributor will provide written fee schedule for any additional storage costs that the RA may incur after \_\_\_\_\_ days.
3. Distributor will provide deliveries according to the following schedule: \_\_\_\_\_
4. This agreement will be effective \_\_\_\_\_ (enter date MMDDYY)
5. Information provided to RA will be treated as proprietary and confidential. (Please specify which information).
6. RA or distributor may terminate this agreement for cause upon 30 days with written notification or without cause upon 60 days written notification of the other party.\* (*This statement must be consistent with the entity's boiler plate terms and conditions.*) Disposition of remaining inventory covered in this agreement will be in accordance to the terms and conditions of the processing agreement

If the distributor is invoicing the RA for the Fee for Service, then:

1. Distributor will provide two line items on their invoice – one for the fee for service amount and the other for the handling/storage/distribution fees. If they only provide one line item on the invoice, distributor will break out the fee for service and the handling/storage/distribution fees as required by FD-025 (March 29, 2004) providing the information to the RA.
2. Distributor will provide a usage/velocity report to the processor with products and cases delivered to the RA in a timely basis, week preferred. The RA reserves the right to obtain the same usage/velocity reports from the Distributor.

\_\_\_\_\_  
Distributor Name

\_\_\_\_\_  
Recipient Agency Name

\_\_\_\_\_  
Distributor Contact

\_\_\_\_\_  
Recipient Agency Contact

\_\_\_\_\_  
Phone Number/Fax Number

\_\_\_\_\_  
Phone Number/Fax Number

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Distributor Address

\_\_\_\_\_  
Recipient Agency Address

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
RA Number

**VALUE PASS THROUGH (NET OFF INVOICE)  
RECIPIENT AGENCY & DISTRIBUTOR SAMPLE AGREEMENT**

Appendix 2

*In an effort to protect recipient agencies (RA) and the integrity of the food distribution program, this sample agreement can be used as a guideline when preparing a scope of work, bid specifications, or contract for your entity.*

This agreement is for the 20\_\_ - 20\_\_ school year, between recipient agency (\_\_\_\_\_) and distributor (\_\_\_\_\_). Both parties signing below acknowledge our mutual responsibilities.

The following responsibilities are required for this value pass through agreement.

1. Distributor will itemize or note the value of the commodity on each invoice. If distributor is unable to provide more than one line on their invoice, they will provide a summary report of pricing noting the gross price and the value of the commodity.
2. Distributor will have the technology in place to meet the reporting requirements of the processor(s).
3. Distributor will provide RA with a summary of how they will handle sales verification, usage/velocity reports, and commodity tracking for audit requirements.
4. Distributor agrees to provide usage/velocity report on behalf of the RA to the designated processor(s) on a (specify frequency- weekly preferred) basis.
5. Distributor agrees to provide the product(s) specified in the bid and will not substitute other brands.
6. Distributor agrees to slot all products agreed upon on a regular basis.
7. Distributor will provide deliveries according to the following schedule:  
\_\_\_\_\_
8. This agreement will be effective \_\_\_\_\_(enter date MMDDYY)
9. Information provided to RA will be treated as proprietary and confidential. (Please specify which information).
10. RA or distributor may terminate this agreement for cause upon 30 days with written notification or without cause upon 60 days written notification of the other party.\* *(This statement must be consistent with the entity's boiler plate terms and conditions.)*

\_\_\_\_\_  
Distributor Name

\_\_\_\_\_  
Recipient Agency Name

\_\_\_\_\_  
Distributor Contact

\_\_\_\_\_  
Recipient Agency Contact

\_\_\_\_\_  
Phone Number/Fax Number

\_\_\_\_\_  
Phone Number/Fax Number

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Distributor Address

\_\_\_\_\_  
Recipient Agency Address

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
RA Number



## Food Distribution National Policy Memorandum

United States  
Department of  
Agriculture

**DATE:** March 29, 2004

Food and  
Nutrition  
Service

**POLICY NO.:** FD-025: State Processing

3101 Park  
Center Drive

**SUBJECT:** Fee-For-Service Billing Methods Through a Distributor

Alexandria, VA  
22302-1500

Processing regulations at §250.30(e)(1)(iv) currently allow two types of billing arrangements when distributors deliver fee-for-service (FFS) processed end products.

- (A) A recipient is invoiced by the processor for the FFS and separately by the distributor for delivery and storage; or
- (B) The processor arranges for delivery through a distributor on behalf of a recipient. The processor's invoice includes separate, identifiable charges for both the FFS and the distributor's charges.

To bring delivery of processed commodities more in line with commercial distribution Practices, FNS will allow distributors to charge recipients a total case price if the following requirements are met:

- Written assignment from the processor to the distributor as billing agent: Total case price = FFS contract price + Delivery and Storage charges.
- The distributor details, in writing, distribution fees to each recipient, so that the Recipient can identify what the total price represents on the invoice.
- Processor provides a list of all recipients and case allocations eligible for FFS Pricing to distributors, State agencies, and USDA upon request.
- Processor retains financial obligations for sales to ineligible recipients. The Commercial distributor can never assume this obligation. The processing Agreement is between the processor and the State agency and/or USDA.

Cathie McCullough  
Director  
Food Distribution Division

AN EQUAL OPPORTUNITY EMPLOYER  
(Food Distribution Web site: [www.fns.usda.gov/fdd](http://www.fns.usda.gov/fdd))

**VENDOR MEETING**

**DATE:** \_\_\_\_\_

**COMPANY NAME:** \_\_\_\_\_

**COMPANY REPRESENTATIVE:** \_\_\_\_\_

**BROKER NAME:** \_\_\_\_\_

**BROKER REPRESENTATIVE:** \_\_\_\_\_

+++++

**PRODUCTS SHOWN**

**1.** \_\_\_\_\_  
PRODUCT INFORMATION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2.** \_\_\_\_\_  
PRODUCT INFORMATION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OTHER:**

## FOOD & NUTRITION SERVICES

Appendix 5

### CATERIA MANAGER SURVEY

**PRODUCT:** \_\_\_\_\_

**DATE SAMPLED:** \_\_\_\_\_

1. Please rate the student acceptability of the product tested. (1-5, 5 being the best).
2. Do you feel this would be a good addition to the elementary school or junior high lunch menu? What about for faculty? How do you feel this item would be best used?
3. Please list any problems you would foresee with the product, such as preparation, serving, etc.
4. Please give any feedback you received from the students, as well as any input you have on the product.

Thank you for your input. Please return this form to Food & Nutrition

# FOOD SAMPLE FORM

DATE: \_\_\_\_\_

ITEM: \_\_\_\_\_

MANUFACTURER:

\_\_\_\_\_  
\_\_\_\_\_

CODE NUMBER: \_\_\_\_\_

CASE PACK: \_\_\_\_\_

BROKER: \_\_\_\_\_

**BROKER REPRESENTATIVE: NAME - E-MAIL - TELEPHONE NUMBER  
(or attach business card)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**\*\* ATTACH NUTRITIONAL INFORMATION TO FORM**

**STUDENT SURVEY I – “HAMBURGERS”**

1. Which hamburger do you prefer? (Please circle the corresponding letter.)

**A**

**B**

2. Would you like to have this type of hamburger on the school menu?

**YES**

**NO**

3. Please write any comments you have

---

---

**STUDENT SURVEY – “HAMBURGERS”**

1. Which hamburger do you prefer? (Please circle the corresponding letter.)

**A**

**B**

2. Would you like to have this type of hamburger on the school menu?

**YES**

**NO**

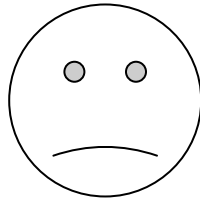
3. Please write any comments you have

---

---

**STUDENT SURVEY II – “Cheeseburger Mac”**

4. Do you like the cheeseburger macaroni casserole?



5. Would you like to have this type of casserole on the school menu?

**YES**

**NO**

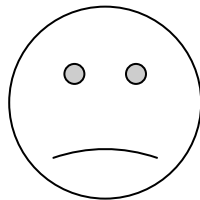
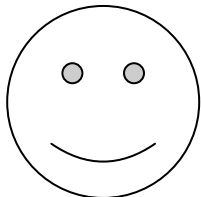
6. Please write any comments you have

---

---

**STUDENT SURVEY – “Cheeseburger Mac”**

1. Do you like the cheeseburger macaroni casserole?



2. Would you like to have this type of casserole on the school menu?

**YES**

**NO**

3. Please write any comments you have

---

---



United States  
Department of  
Agriculture

**DATE:** November 2004

Food and  
Nutrition  
Service

**POLICY NO:** FD-038: State Processing

3101 Park  
Center Drive

**SUBJECT:** Elimination of Pricing on End Product Data Schedules and  
Summary End Product Data Schedule

Alexandria, VA  
22302-1500

Pricing information on the End Product Data Schedule (EPDS) is the main reason a processor resubmits the EPDS every school year, causing a tremendous paperwork burden for State agencies. The American Commodity Distribution Association Processing Committee recommended that we remove all pricing information from the EPDS. FNS has determined it is in the best interest of the commodity processing program to eliminate all pricing information, except the commodity value, from the EPDS and the Summary End Product Data Schedule (SEPDS).

The pricing information on EPDS is misleading. Many recipients believe that the State has sought competitive pricing in compliance with procurement regulations, when in reality, the processing agreement and instructions state that the pricing represents the maximum amount a processor could charge. Not understanding this, many recipients could determine that processing donated foods is prohibitively expensive.

State and recipient agencies are expected to follow federal, State, and/or local procurement rules for obtaining processed end products. No procurement or bidding of processed end products occurs at the federal level with the National Master Processing Agreement (NMPA). The purchasing agency, which may be either the State or the recipient agency, continues to be responsible for competitive purchase of commodity processed products or processing services.

USDA is implementing a phase-in of National Master Processing Agreements (NMPA) for school year 2005-2006, which will eliminate the EPDS from public circulation. Relevant end product data will be listed on a SEPDS. The NMPA is a permanent agreement with processors intended to streamline and reduce paperwork for States and processors and make processing more accessible to school districts.

State agencies will be able to take advantage of USDA approval of EPDS and SEPDS, whether they can participate in the NMPA this year or not. The terms EPDS and SEPDS may be used interchangeably in procurement documents, since the EPDS will no longer be circulated. For example, if the procuring agency requires an EPDS to be submitted with bid prices, a processor can substitute a SEPDS in place of the EPDS.

**AN EQUAL OPPORTUNITY EMPLOYER**



## Food Distribution National Policy Memorandum

United States  
Department of  
Agriculture

**DATE:** May 23, 2003 (revised)

Food and  
Nutrition  
Service

**POLICY NO.:** FD-020: National School Lunch Program (NSLP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), & Nutrition Services Incentive Program (NSIP)

3101 Park  
Center Drive

**SUBJECT:** Single Inventory and Related Commodity Issues—Clarification of Regulatory Changes and Other Guidance

Alexandria, VA  
22302-1500

The Food and Nutrition Service (FNS) has taken steps to more fully integrate Department of Agriculture (USDA) commodities with other foods utilized by school food authorities (SFAs) in the National School Lunch Program (NSLP), service institutions in the Summer Food Service Program (SFSP), child and adult care institutions under the Child and Adult Care Food Program (CACFP), local agencies participating in the Nutrition Services Incentive Program (NSIP), and charitable institutions and summer camps.

Most USDA commodities are now packed with commercial labels, instead of the USDA label, which has resulted in reduced costs for food purchases and more timely deliveries. In publishing a final rule on October 23, 2002, we amended regulations under 7 CFR Part 250 to allow for streamlined commodity inventory controls, including reporting and recordkeeping requirements, for SFAs and the other recipient agencies listed above. We plan to propose other regulatory changes later this year to further simplify requirements for commodity inventory management, as part of a "plain language" rewrite of 7 CFR Part 250.

The purpose of this memorandum is to clarify the recent regulatory changes, and to provide interim guidance for taking additional actions in advance of further regulatory amendments. To summarize, the October 23 final rule:

- Removed the requirement, in Section 250.14(b)(4), that recipient agencies maintain inventories of donated foods separate from inventories of other foods.
- Removed the requirement, in Section 250.14(e), that recipient agencies do an annual physical inventory of storage facilities, report commodities found to be lost, stolen, or out-of-condition and excessive inventories, and take corrective actions as a result of such findings.
- Removed the prohibition, in Section 250.14(f), against recipient agencies' maintaining excessive commodity inventories, and the requirement that distributing (State) agencies determine if recipient agencies' commodity inventories are excessive.

AN EQUAL OPPORTUNITY EMPLOYER  
(Food Distribution Web site: [www.fns.usda.gov/fdd](http://www.fns.usda.gov/fdd))

**RECIPIENT AGENCY  
AND  
DISTRIBUTOR  
Agreement**

The following agreement will be in effect for the 2009-2010 school year (July 1, 2009-June 30, 2010) between \_\_\_\_\_ “Recipient Agency” (RA) and \_\_\_\_\_ “Distributor”, collectively the “Parties”. Both Parties signing below acknowledge and agree to be contractually obligated, by the following responsibilities when delivering products containing USDA food:

**RA BUSINESS PRACTICES:**

- a) delivery times are:
- b) advance notice of delivery is:
- c) No substitutions of brand or item without prior approval
- d)
- e) Other: \_\_\_\_\_

**DISTRIBUTOR RESPONSIBILITIES:**

**REPORTING AND REIMBURSEMENT:**

- a) Distributor agrees to provide RA with a report of product usage by item code and manufacturer (in lieu of data transfer) in a format specific by RA
- OR
- b) The Distributor agrees to provide data transfer of product usage by item code and manufacturer to RAs designated system via electronic channels either daily  or weekly  (choose one).
- c) The Distributor agrees to provide a monthly remaining USDA product inventory report to the RA.
- d) Distributor will provide RA with a certificate of insurance naming the Processor as a beneficiary for both property and liability coverage in the amount of \_\_\_\_\_dollars.
- e) Reimbursement to RA for lost and/or damaged cases must include at a minimum: transportation charges to distributor, USDA food value (based upon current USDA purchase value), and fee for service.
- f) All provisions outlined in FD-025 for Fee for Service through a distributor must be followed. Distributor will itemize or note the value of the individual USDA food(s) (if combined item) on each RA invoice. If unable to provide more than one line on their invoice, they will provide RA with a report of pricing stating the gross price and the value of the USDA food(s).
- g) Data must follow the guidance on the attached ACDA approved Agreement. This will insure accurate reporting to the Processor.
- h) Program will take effect \_\_\_\_\_ (enter date MMDDYY).

**FOOD DEFENSE**

Distributor must have Hazard Analysis Critical Control Point (HACCP) plan on file that may be reviewed by RA for recall/hold control procedures. This should include, but not limited to:

- i) Distributor must have traceability systems in place from receipt to delivery to designated delivery site.
- j) Distributor must provide evidence of conducting a mock recall for product once per year.
- k) Distributor must provide with 24/7 accessibility of staff in the event of a USDA Hold/Recall—individuals with contact numbers and back ups must be provided with the bid document.
- l) Distributor must have public notification capability on website to provide updates on USDA Hold and Recall data for customers .

OR

- m) Distributor must provide a communication plan to the RA for hold and recall situations.
- n) RA or Distributor may terminate this Agreement in writing from either party upon:
  - 1. \_\_\_\_\_ days with cause
  - 2. \_\_\_\_\_ days without cause

Disposition of remaining inventory covered in this Agreement will be in accordance with terms and conditions of all applicable approved ACDA Processing Agreements.

<b>Recipient Agency</b>	<b>INFORMATION</b>
NAME	
ADDRESS	
CITY	
STATE	
ZIP	
WEB ADDRESS	
24/7 contact info:	

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**DISTRIBUTOR CONTACT INFORMATION**

	NAME	PHONE	EMAIL
Sales Rep			
Bid Coordinator			
Information Systems			

**Note: for multiple processors at a distributor, reproduce and complete this form as necessary. Include all documents with this agreement.**

PROCESSOR	INFORMATION
NAME	
ADDRESS	
CITY	
STATE	
ZIP	
WEB ADDRESS	

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**PROCESSOR CONTACT INFORMATION**

	NAME	PHONE	EMAIL
Sales Rep			
Bid Coordinator			
Information Systems			

## FORMAT FOR ELECTRONIC TRANSFER OF DATA

### Type of Data Transmission: Fixed Length Flat File

<u>Length</u>	<u>Position</u>	<u>Description</u>
10	1-10	Distributor Number (assigned by Processor)
35	11-45	School District Name
35	46-80	School District Address1
35	81-115	School District Address2
35	116-150	City
03	151-153	State
10	154-163	Zip Code
16	164-179	Phone
20	180-199	Invoice Number (Distributor)
10	200-209	Invoice Date
18	210-227	Processor's Product Code
18	228-245	Case Count
13	246-258	Allowance Amount
10	259-268	School number assigned by Distributor
15	269-283	School Recipient Agency # (assigned by State)
10	284-293	Catch Weight Pounds
10	294-303	Bid Number
10	304-313	Vendor number (Distributor's number for Processor)

#### Note:

- ☞ Numeric values should be right justified within data element length and should not be preceded by zeros.
- ☞ Non-numeric values and dates should be left justified within data element length
- ☞ Dates should be in the format: 05/21/2004 (four digit year)
- ☞ Use a file name that identifies distributor name and date (i.e.,  
abcdistribution\_093004)

July 12, 2001

**SUBJECT:** Commodity Hold and Recall Process

Attached is the U.S. Department of Agriculture's (USDA) process for handling commodity holds and recalls. It was jointly developed by the Food and Nutrition Service, the Agricultural Marketing Service, the Farm Service Agency, and the Food Safety and Inspection Service. The process is effective August 1, 2001.

This new process:

- institutionalizes USDA's food recall/hold process;
- defines Federal, State and local agency roles and obligations;
- streamlines and expedites the reimbursement process;
- defines reimbursable costs;
- streamlines and improves communication at all levels;
- provides information to State and local agencies more quickly;
- limits commodity holds;
- removes adulterated product from recipient agencies quickly.

If you have any questions, please contact your FNS Regional Office or email the Director of the Food Distribution Division at [fdd-pst@fns.usda.gov](mailto:fdd-pst@fns.usda.gov).

/s/

LES JOHNSON  
Director  
Food Distribution Division

Attachments

# Commodity Hold and Recall Process

July 12, 2001

## I. INTRODUCTION

The commodity hold and recall process is used when a food safety issue is raised about a U.S. Department of Agriculture (USDA) purchased commodity. The new process pertains exclusively to USDA-purchased commodities delivered to approved entities (recipient agencies and processors). It changes the existing recall process in the following ways:

- institutionalizes USDA's commodity food recall/hold process;
- streamlines and clarifies communications among USDA agencies – Agricultural Marketing Service (AMS), Food Safety and Inspection Service (FSIS), Farm Service Agency (FSA) and Food and Nutrition Service (FNS) - and with the U.S. Department of Health and Human Services' Food and Drug Administration (FDA) and the Department of Defense's Defense Supply Center Philadelphia (DOD);
- streamlines and expedites communications between USDA and State distributing agencies (SDAs) and local recipient agencies (RAs);
- removes adulterated product from RAs as soon as possible, but not later than 30 days after recall;
- defines reimbursable costs and expedites product replacement and reimbursement to SDAs and RAs;

The process does not relieve vendors of their responsibility for replacement and reimbursement of recalled products.

To make it easier to explain the new process, this memorandum is divided into three primary areas: 1) Decision and Notification, 2) Product Disposition, and 3) Reimbursement/Replacement Process. The appropriate responsibilities among the Federal, State and local levels are discussed for each area. Attached are appendices providing acronyms and a description of allowable reimbursable costs.

## II. DECISION AND NOTIFICATION PROCESS

**As a reminder, if you suspect a food safety issue, immediately contact your local or State health department. In addition, please contact the Food and Nutrition Service (FNS) through their commodity hotline at 800-446-6991.**

### A. Federal Responsibilities

The responsible regulatory agencies, FSIS or FDA, receive food safety concerns from many sources including hotlines, sampling and testing programs, vendor notification, and State and local

agencies including health departments. When the product involved is a USDA purchased commodity the following actions will take place:

1. FSIS immediately alerts FNS and, depending on the product, the appropriate Procurement Agency – AMS, FSA, or DOD - that there is a potential recall. The procurement agency identifies the potential destinations and amount of product involved. (Note: FSIS is responsible for regulating meat, poultry and egg products. FDA regulates the remaining products including fruits, vegetables, dairy, fish, grains and nuts. FSIS will act as a liaison between FNS and the procuring agency, on all recalls, including those regulated by FDA.)
2. FSIS/FDA begins its investigation, including product testing and within **10 calendar days** makes a recommendation on the disposition of the product.
3. In the event initial testing is inconclusive, FSIS or the Under Secretary of Food Safety in conjunction with the procurement agency and FNS staff, makes a recommendation to FNS as to whether to put the product on hold. FNS will communicate hold decisions to SDAs, who will then inform the affected RAs. The hold is to provide time for additional testing and data collection and may result in a recommendation to the company for a recall.
4. When a firm recalls a product, FSIS or the Under Secretary of Food Safety communicates the recall decision to FNS and the appropriate Procurement Agency. FSIS prepares a recall notice and recommended press release and supporting information and supplies it to FNS within 24 hours of the recall decision. **FNS notifies SDAs within 24 hours of the recall and provides them with the recall notification, press release and other information needed to track the product and document reimbursable costs.** Commercial processors, where applicable, will be notified immediately if a recalled commodity has been shipped to their plant. At the same time, the Procurement Agency begins discussions with the vendor for pick-up and replacement of recalled product.

#### B. SDA Responsibilities

1. The SDA shall assign a State Food Safety Coordinator and alternate, and provide the names, titles, email addresses, phone and fax numbers to FNS. Contact information must be provided for contacts during and after normal work hours. The SDA shall have a similar contact list for its RAs.
2. Upon receipt of a recall notification, SDAs must contact each affected RA as soon as possible, but **no later than 24 hours** after receiving the recall notification. SDAs will disseminate the recall notification, press information and other information needed to track the product and document reimbursable costs to affected RAs.

3. SDAs should contact the appropriate distributor/warehouse, directing them to place the commodity on hold and to determine: a) the amount of recalled product still in storage at the State level, and b) the location and amount of product delivered to RAs.

### C. RA Responsibilities

1. Each RA is responsible for appointing a Food Safety Coordinator and providing the name, title, email address, phone and fax numbers to the SDA.
2. In the event of a food recall, affected RAs will receive from the SDA a recall notification, press release, and request for information to be returned.
  - The recall notification will provide the name of the product, affected lot numbers and other product information.
  - Additional information will be included to assist RAs to respond to requests from media, parents, school district officials and others.
  - RAs must provide the location and quantity of product in storage, amount of product already consumed and document reimbursable costs.
3. RAs must **immediately** notify their sites of the recall, identify the location of the affected products (verify that the food items bear the product identification codes), isolate the commodities to avoid accidental use and take an accurate inventory by location.

The quantity and location of the product must be submitted to the SDA within **10 calendar days** of the recall. This quick turnaround is important for the following reasons:

- When a recall occurs, USDA contracting officers work with the vendor to expedite removal of the product and replacement of the product. During these discussions, it is important for both USDA and the vendor to know the scope (locations and quantity) of the recall;
- USDA needs the cost data as soon as possible in order to expedite the reimbursement.

## III. PRODUCT DISPOSITION

### A. Federal Responsibilities

As SDAs and RAs are compiling inventory information, the Procurement Agency will work with the vendor to determine the best course of action for collecting the recalled product at local or centralized locations. In certain circumstances, product may be destroyed on-site, if agreed by the vendor and approved by FSIS.

## B. SDA Responsibilities

SDAs will be in constant communication with RAs and affected warehouses/distributors. In the majority of situations, the recalled product will be returned to the vendor from central locations within each State. In those situations, SDAs will contact each affected distributor/warehouse to arrange for timely pick-up of the recalled product from each school. If the distributor delivers to a central location at the RA, it is normally the RA's responsibility (depending on their contract with the distributor/warehouse) to consolidate the product from affected schools to a central location within the RA's area of responsibility for pick-up. **The recalled product should be consolidated for pick-up as soon as possible, but no later than 30 days after the date of the recall notification.**

## C. RA Responsibilities

RAs will work with the SDA and the contracted warehouse/distributor to determine the appropriate method and timeframe for picking up the recalled product.

## IV. REIMBURSEMENT/REPLACEMENT PROCESS

On October 31, 1998, Congress enacted Public Law 105-336, the William F. Goodling Child Nutrition Reauthorization Act of 1998 (the Act). Section 15 of the Act authorized the Secretary to reimburse States for State and local costs associated with the removal of commodities if the Secretary determined that the commodities posed a health or safety risk. The law stipulates that reimbursable costs are limited to "storage, transportation, processing and distribution of the commodities."

When a recall occurs, in most cases the vendor/processor is responsible for replacing the affected product and reimbursing Federal, State and local agencies for allowable costs incurred as a result of the recall. USDA will request that vendors make restitution for those SDAs that have submitted timely documentation within **20 working days from the date of the recall notification**. Should payment from the vendor not occur, USDA may reimburse the State and local agencies for specified costs and seek reimbursement of those expenditures from the vendor/processor.

Described below are several types of recalls and holds and a discussion and corresponding replacement/reimbursement instructions:

### A. Food Safety Recalls

When a commodity is recalled, USDA will proceed according to the type of commodity product involved, as follows:

1. Commodity Delivered As Purchased by USDA (e.g.; frozen ground beef, bought and delivered to the SDA as frozen ground beef.)
  - Vendor assumes responsibility for replacement and costs incurred by the SDA/RA. Should vendor default or delay restitution 20 days after notification, USDA will initiate action to replace the product and may reimburse SDA/RAs for certain costs as described in paragraph E below. USDA continues to seek reimbursement from the vendor.
2. Reprocessed Commodity Delivered to SDA/RA (e.g., bulk chicken into breaded, cooked chicken nuggets)
  - USDA purchases bulk commodities for further processing at the request of SDA's. SDA's contract directly with processors to have the commodity made into a processed product. USDA is not a party to that contract. In some cases, the raw product may be the source of contamination resulting in a health or safety risk and in other situations the source of contamination may be the reprocessor's plant. In addition, in some cases the processor may be substituting equivalent commercial product for the commodity product (called Substitution). Each scenario is unique, and resolution will proceed in the following manner:
3. When Raw Product Is Recalled (With No Substitution)
  - When bulk product that has already been further processed (end product) is determined to pose a health or safety risk, the commodity vendor is responsible for all costs incurred by the USDA, the SDA and/or RAs, including processing costs pursuant to the terms of the processing contract. Should vendor default or delay restitution 20 days after notification, USDA will initiate action to replace the raw product and reimburse SDAs/RAs for processing costs while seeking reimbursement from the vendor.
  - USDA is not a party to the processing contract and cannot make payments directly to processors – only to an SDA who in turn can pay processors. SDAs should submit copies of paid processor bills with their reimbursement package. In situations where a State has not paid a processor but the processor has incurred processing expenses, the SDA must work closely with USDA and the processor to come to an acceptable solution.
4. When Raw Product Is Recalled (With Substitution)
  - With USDA approval, processors may substitute commercial product for donated commodities to produce finished end products for SDA/RAs. The processor may then

use the USDA commodity to produce commercial product for sale to commercial outlets. This is a commercial recall and USDA will not assume responsibility for costs incurred beyond replacement of the implicated commodity. USDA will seek reimbursement from the vendor as in other cases.

#### 5. When End Product is Recalled (Commercial Recall)

- When the bulk product delivered to the processor is safe, but the end product is determined to be a health or safety risk, normally due to a problem at the processing plant, it will be treated as a commercial recall. The processor assumes responsibility for all costs incurred by the USDA, the SDA and/or RAs, pursuant to the terms of the processing contract. USDA will not assume responsibility for costs incurred.

#### B. Administrative Recalls

The Department may occasionally decide to remove products from distribution when it decides safety is a concern, even though the products technically meet purchase specification requirements and are free to move in commercial distribution channels. FNS shall be responsible for notifying the SDAs. Since these products ostensibly meet purchase specification requirements, USDA will develop strategies for disposition and replacement of the product, and reimburse States and recipient agencies for their reimbursable costs, including any incurred processing fees, within acceptable limits. Although commodities are normally delivered 6 to 8 weeks after purchase, USDA will attempt to expedite delivery of replacement products. USDA will coordinate product removal, replacement and expense reimbursement.

#### C. Specification Recalls

A commodity that does not meet product specifications may be voluntarily, or at USDA's request, be recalled. If recall at the direction of USDA, FNS shall be responsible for notifying the appropriate SDAs. The vendor, working with the relevant Procurement Agency, is responsible for retrieving and promptly replacing the identified commodity, and reimbursing SDAs/RAs for transportation and storage expenses.

#### D. Holds

Commodities may be placed on hold for up to 10 calendar days to prevent use until further testing and inspection can clarify a suspected problem. FNS is responsible for notifying the appropriate SDAs. FSIS (or FDA through the Under Secretary of Food Safety), in consultation with FNS staff and the responsible procurement agency, is responsible for making the recommendation to

FNS to put the product on hold. If a product is held beyond 10 days for further testing, USDA may instruct the SDA to immediately consolidate the product and put it under SDA control. USDA may reimburse SDAs/RAs as follows:

1. Product Placed on Hold, Then Released

- If the hold extends beyond 10 calendar days, USDA may reimburse SDAs/RAs up to 1 month's standardized storage cost, if applicable. If held product is returned to the SDA warehouse, USDA may reimburse for one round trip (remove the recalled product to State control and return it to the RA) to and from SDAs warehouse/distributor.

2. Product Placed on Hold by Local Health Inspector, Then Released or Voluntarily Recalled by Vendor

- In instances in which USDA, through FSIS and FDA, does not concur with local health inspectors that probable cause existed for the hold, USDA assumes no responsibility for costs incurred by the SDAs/RAs.

## V. REIMBURSABLE/REPLACEMENT PROCESS AND RESPONSIBILITIES

When a donated commodity poses a health or safety risk, the vendor must replace the product and reimburse the SDAs/RAs in accordance with their contracts. Should the vendor default or delay restitution more than 20 days after notification, USDA may replace the commodities and reimburse the SDAs/RAs. Subsequently, USDA will seek reimbursement from the vendor. USDA may reimburse SDAs for the following expenses:

- One month standardized storage costs (see Appendix B);
- One round trip transport of commodities;
- On-site destruction of commodities, when approved by USDA; and
- Processing costs, when an SDA/RA has further processed the product under an approved agreement, subject to the limitations in Section IV.A.

### A. Federal Responsibilities

1. The responsible Procurement Agency will closely monitor the process to attempt to ensure the vendor/processor initiates reimbursement within 20 days of the recall notification. During this time, the procurement agency will process the reimbursement documentation/invoice received from the SDAs. Should the vendor/processor delay restitution or default, AMS/FSA will authorize the National Finance Center (NFC) to electronically transmit reimbursement to each SDA **within 4 working days**, provided the SDA has established a vendor express account as outlined below. If the SDA has not established a vendor express account, they will be mailed a check within 10 working days.

2. For claims not received within the initial timeframes, a final disbursement will be completed **within 90 calendar days** after the start of the recall.
3. FNS Regional Offices will review documentation submitted by local agencies and the SDA during management evaluations. Findings of inadequate documentation can result in a claim against the SDA.
4. FNS and the responsible procurement agency, in consultation with the vendor, will make a decision regarding replacement of product or entitlement credit **within 60 calendar** of the recall notification. The preferred method is replacement of product. If the vendor agrees to replace the product, it will not be delivered to the SDA between April 1 and August 1, except when mutually agreeable to the vendor and the SDA.

#### B. SDA Responsibilities

In order to take advantage of the expedited payment system, each SDA must complete and submit to AMS a Vendor Express application. Once processed, each SDA will receive a unique Vendor Express Number. This is a one-time process. In the event that the SDA changes banks or other pertinent information, a change must be submitted to AMS.

1. After receiving the reimbursement documentation from the RAs, SDAs must consolidate this information, including any State expenses, and submit a USDA Public Voucher and documentation via fax or mail to the appropriate USDA program within **3 working days**. In other words, the Procurement Agency must receive the consolidated State information within 15 calendar days from the recall notification date (10 calendar days at the RA and up to 3 working days at the SDA). State agencies failing to meet this deadline will be reimbursed at close-out (90 calendar days).
2. SDAs are responsible for ensuring the sufficiency and accuracy of the RA documentation prior to submission to the Department. Documentation not supplied to USDA must be maintained on file as per Federal record retention requirements and be available for review
3. Upon receiving the electronic funds transfer from USDA, SDAs shall reimburse RAs in a timely manner. (Note - In some cases, the SDA does not have payment capabilities. In those instances, it is important that the SDA reach an agreement with the Child Nutrition State agency to process payments to RAs. There may also be other outlets involved (charitable institutions, Regional Office Administered Programs, summer camps, etc.) with which the SDA has no agreement. In those cases, the SDA must work closely with USDA to ensure timely reimbursement to these entities.)

### C. RA Responsibilities

The quantity and location of the product must be submitted to the SDA within 10 calendar days for the RA to be reimbursed within 30 days of the recall notification. If the RA does not meet this deadline, reimbursement will be made at the close-out of the recall process (90 calendar days). Refer to Appendix B for a discussion of reimbursable costs.

## Appendix A

### Commonly Used Acronyms and Definitions

AMS	Agricultural Marketing Service (USDA)
DOD	Defense Supply Center Philadelphia, Department of Defense
FDA	Food and Drug Administration (US Dept of Health and Human Services)
FNS	Food and Nutrition Service (USDA)
FSA	Farm Service Agency (USDA)
FSIS	Food Safety and Inspection Service (USDA)
Processor	Any commercial facility which further processes or repackages donated food under contract with a State agency
Procurement Agency	AMS or FSA or DOD
RA	Recipient agency (e.g. school district)
SDA	State distributing agency
USDA	United States Department of Agriculture
Vendor	A business that has a contract with USDA to provide commodities

## Appendix B

### Reimbursable Costs

#### A. Reimbursable SDA Costs

1. Transportation - In some cases, transportation charges are incurred by the SDA. USDA will reimburse for appropriate transportation costs incurred by the SDA, based on the fixed standardized charges contained in the distributor/warehouse contract (whether per case or per pound). In some cases, the SDA's costs may exceed these fixed charges because the contracted distributor/warehouse/trucker could charge more to remove the recalled product because it is a special trip or the SDA may have to contract with a different firm entirely to handle pickup. In these cases, USDA will consider, with appropriate documentation, reimbursing the actual charge.
2. Storage - USDA will reimburse for one month's storage (at the contracted price), as appropriate. If the product is stored longer than the 30 days, additional storage costs may be reimbursed at close-out.
3. Processing (State processing contracts) - USDA may reimburse SDAs for processing fees associated with the further processing of commodities. Please review Section IV.
4. On-Site Destruction - USDA may approve the on-site destruction of recalled commodities. SDAs will be reimbursed for the actual costs associated with this destruction (with proper documentation). Since this activity will not take place within the first 7 days after the notification of the recall, these costs will be reimbursed at close-out.
5. Non-Reimbursable Costs - Listed below are examples of non-reimbursable costs:
  - Overtime compensation for employees as a result of the recall;
  - Long-distance telephone calls, postage, and other administrative costs;
  - Costs associated with processing payment to RAs;
  - Value of the recalled product (since it will be replaced or credited).

#### B. Reimbursable RA Costs

As stipulated by the Act, allowable costs are limited to: storage, transportation, processing and destruction, where applicable. In an effort to expedite payment to RAs, USDA will reimburse using standardized costs in the following manner.

1. Transportation - USDA will reimburse for one round trip (original delivery and return of the recalled product) between the distributor/warehouse and the RA. This will be based

on the fixed standardized charges contained in the distributor/warehouse contract (whether per case or per pound). In some cases, the costs may exceed these fixed charges because the contracted distributor/warehouse/trucker could charge more to remove the recalled product because it is a special trip or the SDA or RA may have to contract with a different firm entirely to handle pickup. In these cases, USDA will consider, with appropriate documentation, reimbursing the actual charge.

2. Storage - If the RA contracts with a local warehouse to store commodities, USDA will reimburse for 1 month's storage (at the contracted price), as appropriate. In the event the product is stored longer than 30 days, additional storage costs may be reimbursed at close-out.
3. Processing - USDA may reimburse RAs, through the SDA, for reasonable processing fees associated with the further processing of commodities. Please review Section IV.
4. On-Site Destruction - USDA may approve the on-site destruction of recalled commodities. If approved, RAs will be reimbursed for the actual costs associated with this destruction (with proper documentation). Since this activity will not take place within the first 7 days after the notification of the recall, these costs will be reimbursed at close-out.
5. Non-Reimbursable Costs - Listed below are examples of non-reimbursable costs:
  - Cost of storage at the school level;
  - Overtime compensation for employees as a result of the recall;
  - Long-distance telephone calls and other administrative costs;
  - Reimbursement for commercially purchased food used in place of the recalled product (since it will be replaced or credited).