



USDA Foods Processing - Instruction Manual

(a) Contract approval.

It is the policy of DHHS Food Distribution to sign a State Participation Agreement with any USDA approved multi-State processor wishing to do business in Nebraska unless one or more of the following criteria is not met.

- (1) The nutritional contribution provided by end products;
- (2) The marketability or acceptability of end products;
- (3) The means by which end products will be distributed;
- (4) Price competitiveness of end products and processing yields of donated foods;
- (5) Any applicable labeling requirements; and
- (6) The processor's record of ethics and integrity, and capacity to meet regulatory requirements.

(b) Monitoring and review of processing activities.

DHHS monitors processor sales by reviewing monthly performance reports and sales of end products through US Foods, Inc. US Foods, Inc. transmits sales velocity reports to DHHS in the same manner and frequency as transmitted to processors or their agent. CNPweb records transactions and tracks entitlement usage at the sponsor level as well as diverted food usage at the state level.

(c) Recordkeeping and reporting requirements.

All parties involved in donated food (DF) processing are required to retain their records relating to transactions and requirements for donated foods for a period of three years from the close of the fiscal or school year to which they pertain. However, records pertaining to claims or audits that remain unresolved during this period must be retained until such actions have been resolved. The processor must submit a performance report to DHHS (or to the recipient agency, in accordance with a Recipient Agency Processing Agreement) on a monthly basis. Performance reports must be submitted not later than 30 days after the end of the reporting period. The performance report must include the following information for the reporting period, with year-to-date totals:

- (1) A list of all recipient agencies purchasing end products;
- (2) The quantity of donated foods in inventory at the beginning of the reporting period;
- (3) The quantity of donated foods received;
- (4) The quantity of donated foods transferred to the processor from another entity, or transferred by the processor to another entity;
- (5) The quantity of donated foods losses;
- (6) The quantity of end products delivered to each eligible recipient agency;
- (7) The quantity of donated foods remaining at the end of the reporting period;
- (8) A certification statement that sufficient donated foods are in inventory or on order to account for the quantities needed for production of end products;
- (9) Grading certificates, as applicable; and
- (10) Other supporting documentation, as required by the distributing agency or recipient agency.

(d) Inventory controls.

Processors must notify DHHS or schools, as appropriate, when donated food inventories exceed a six month supply. DHHS may transfer donated food inventory to help alleviate inventory excesses or shortages.

(e) Refund applications.

If utilizing the Rebate or Refund value pass through system, schools should request the refund for the value of donated foods from the processor within 30 days from the close of the month in which the sales were made. This may be done via email or other written correspondence.

(f) Regarding net off invoice (NOI) sales in Nebraska.

In response to the requests of recipient agencies in Nebraska, DHHS published a formal Invitation to Bid to select a contractor to implement an indirect discount value pass through system for sales of end products and distribute all other USDA foods donated to child nutrition (CN) programs. The announcement of the bid was published in newspapers across Nebraska. All known distributors operating in Nebraska were also individually notified in writing. The bid was published on the Department of Administrative Services procurement website under agency processed bid opportunities. US Foods, Inc. is the awarded distributor pursuant to the [bid](#) and is the only distributor that will conduct these activities related to donated foods. Any sales through other distributors are commercial sales, without a discount for donated food content.

(g) Information needed in procurement documents.

Schools should buy food for their lunch program in the same manner they are normally required to. However, when donated foods are involved, the following information needs to be contained in formal procurement documents (i.e., the bid or proposal or the school's solicitation).

(1) The price to be charged for the end product or other processing service;

This is self-explanatory. The bid or proposal must have the prices to be charged.

(2) The method of end product sales that will be utilized and assurance that crediting for donated food will be performed in accordance with the applicable requirements for such method of sales in 7CFR§250.36;

If a processor sells through US Foods, Inc., the method of end product sales is Indirect Discount. US Foods, Inc. must assure in its bid or proposal, crediting for donated food will be performed in accordance with 7CFR§250.36(d). The value of donated food is deducted from the price on the US Foods, Inc. invoice.

If a processor utilizes any other method of sales, the processor must assure that schools will receive credit for the value of donated foods either through discount in the sales price, refund or rebate after a sale or by providing end products on a fee for service basis.

- (i) Direct Sale – The price charged is reduced by the value of donated food in the end product.
- (ii) Rebate or Refund – The price charged is not reduced. Schools must apply for a rebate or refund from the processor after the sale occurs.
- (iii) Fee-for-Service – The price charged includes all costs to produce and deliver the end product to the school or the school's agent not including the value of donated food used in its production. Under Fee-for-Service, the following billing and shipping arrangements could apply:

- Bill to school, ship to school. Title transfers to school upon delivery to the school.
- Bill to school, ship to agent. Agent bills distribution fee to school. Title transfers to school upon delivery to the agent.
- Bill to agent, ship to agent. Agent bills processing and distribution fees to school if authorized by the school. Title transfers to school upon delivery to the agent.

A school may choose to assign an agent to bill them for the total case price when distribution services have been procured separately from processing services. This agent assignment must be in writing. When a processor bills to the school or an agent under Fee-for-Service, it does not include the value of donated food used in its production. Therefore, title to the end product transfers to the school upon delivery to the agent, consistent with 7CFR§250.11(e).

(3) The value of donated food contained in the end products;

This is documented on processors’ Summary End Product Data Schedules (SEPDS). These documents are available to schools from DHHS upon request and are available to schools in CNPweb for processors who have a State Participation Agreement with DHHS. The bid or proposal a school obtains from processors or US Foods, Inc. must have these values listed for each end product that is bid or the school may include the values in their solicitation. The discounts or rebates obtained should be reviewed by the school and compared to the values on the SEPDS to ensure they are receiving the correct credit.

(4) The location for the delivery of the end products.

This is self-explanatory. This information must be on the bid or proposal provided to schools or otherwise documented within the procurement process.

(h) Donated food banks.

In order to receive a discount or rebate or to be able to buy end products on a Fee-for-Service basis, there must be a bank of donated food at a processor to withdraw from. If schools buy through US Foods, Inc., they use a bank that is managed by DHHS. This is known as a single bank, to be used by all eligible sponsors, until sponsor entitlement is completely used or until the bank is completely drawn down. When schools request rebates or buy directly from processors, they establish a bank exclusive to them. This is known as a sponsor bank. Sponsor banks are requested via a survey in CNPweb. If there are enough requests, DHHS will be able to divert donated foods to a processor. There will be times when less than full truckloads are requested in aggregate and the USDA may not be able to fulfill the request.

(i) Methods of sale (value pass through systems).

Pass through system:	Rebate or Refund	Direct Discount	Indirect Discount	Fee for Service
Type of bank:	Sponsor	Sponsor	Single	Sponsor*
Schools buy from:	Processor or any commercial distributor	Processor	US Foods, Inc.	Processor
Pass through performed by:	Processor	Processor	US Foods, Inc.	Processor
How pass through is performed:	Processor cuts a check to the school.	Discounted invoice	Discounted invoice	DF value is not included in fee.

*A school may provide US Foods, Inc. written approval to act as an authorized agent for the total case price (i.e., including the fee-for-service and the delivery charge) in accordance with 7 CFR §250.36 (e)(2). When US Foods, Inc. acts as an agent for the total case price, the donated food values related to those transactions are instead charged to the single bank.

(j) Methods of procurement.

When non-Federal entities other than States buy products or services using Federal funds, there are procurement standards (2CFR§200.318-326) they are required to follow. These standards apply to school procurements using Federal funding even if donated foods are not involved. Procurement standards are published by the Office of Management and Budget (OMB) and referenced throughout USDA program regulations. Any requirements

beyond Federal standards or lower bidding thresholds would be self-imposed by non-Federal entities in their own procurement procedures. According to the OMB, the methods of procurement to be followed are:

- (1) Micro Purchase – Up to \$10,000.00, spread equitably among qualified suppliers if practical and the price is considered reasonable by the school.
- (2) Small Purchase – Up to \$250,000.00, school obtains quotes from adequate number of sources.
- (3) Sealed Bids – Formally advertised by school, contract awarded to lowest bidder.
- (4) Competitive Proposals – Formally advertised by school, contract awarded to most advantageous firm with price and other factors considered.
- (5) Noncompetitive Proposals – Single source availability, emergency, when authorized by pass through entity or when competition is deemed by the school to be inadequate.

If schools choose the Small Purchase method, they should have items re-quoted anytime total expenditures approach \$250,000.00 with the same source, unless their procedures call for a lower threshold. Schools could also develop a long term contract to be bid, if the school determines this would be in the best interest of the food service operation.

(k) Evaluating prices of end products.

Example A. If buying directly from USDA processors, schools could evaluate prices like this:

Specified item X	Processor A	Processor B	Processor C
Commercial price	\$45.00/case	\$51.00/case	\$40.00/case
DF discount or rebate	\$(10.00)/case	\$(15.00)/case	\$(10.00)/case
Net price	\$35.00/case	\$36.00/case	\$30.00/case
CN servings per case	100	120	85
\$ per serving	\$0.45 (\$45/100)	\$0.425 (\$51/120)	\$0.47 (\$40/85)

Processor B has the lowest price per serving in this example.

Example B. If buying through distribution, schools could evaluate prices like this:

Specified item Y (brand A or equivalent)	Distributor A (equivalent brand B)	Distributor B (brand A)	US Foods, Inc. (brand A)
Commercial price	\$30.00/case	\$29.50/case	\$30.00/case
DF discount or rebate (as applicable)	USDA processing not involved	\$(10.00)/case (rebate)	\$(10.00)/case (discount)
Net price	\$30.00/case	\$19.50/case	\$20.00/case
CN servings per case	120	120	120
\$ per serving	\$0.25 (\$30/120)	\$0.246 (\$29.50/120)	\$0.25 (\$30/120)

Distributor B has the lowest price per serving in this example.

Example C. If buying from processors on a fee for service basis, schools could evaluate prices like this:

Specified item Z	Processor A	Processor B	Processor C
Processing fee (delivered to school or agent)	\$90.00/case	\$80.00/case	\$85.00/case
Value of DF used in production.	\$50.00/case	\$45.00/case	\$60.00/case
Total cost	\$140.00/case	\$125.00/case	\$145.00/case
CN servings per case	120	110	100
\$ per serving	\$1.167 (\$140/120)	\$1.136 (\$125/110)	\$1.45 (\$145/100)

Processor B has the lowest price per serving in this example.

(l) Procurement Flowchart.

Is the purchase valued over \$250K?	Yes formal procurement (RFP or ITB)	No next question >>>>
Is the purchase valued under \$10K?	Yes micro purchase (if allowed by school policy) (NOI/FFS – single bank – US Foods, Inc.)	No small purchase (get quotes) (NOI/FFS – single bank – US Foods, Inc.) or (rebate – sponsor bank – any other distributor)
Factors to consider (small purchase/RFP).	Overall price or cost, delivery day/time, donated food content/value/available entitlement, lead times, minimum order qty., administrative cost (rebate vs. NOI), customer service. It's your choice, but no arbitrary actions.	

(m) Timeline.

In the Fall prior to the next school year, schools should decide which donated food products would be most beneficial to their food service programs. In general, schools may choose any combination of USDA Pre-order items, diversions/end products, or they may allocate entitlement to the Department of Defense Fresh Fruit and Vegetable Order Receipt System (DoD FFAVORS).

Timeline	USDA pre-order	Processing diversions/end products	DoD FFAVORS
August to October		Determine what kinds of food to buy next school year, including commercial products and donated foods. Attend food shows, etc.	
November		Write bid specifications (formal procurement)	
December	Complete item selection survey. (SurveyMonkey)	Obtain quotes. (informal procurement) Solicit bids. (formal procurement) Publish RFP. (formal procurement)	
January to March		Evaluate quotes/bids/proposals. Award contracts. (formal procurement)	
March	Request items in CNPweb survey.	Request sponsor bank OR if single bank, provide DHHS an estimate of donated food required for diversion in CNPweb survey.	Request \$ transfer in CNPweb survey.
March to April		DHHS Food Distribution orders full truckloads of donated food for USDA Pre-order and to fill sponsor/single banks.	Establish user ID and password for FFAVORS
January to June		Schools communicate with brokers, processors and distributors. Confirm items to be locally stocked.	
July	Review August allocations.	Issue PO pursuant to a quote, bid or proposal or conduct micro-purchases if allowed by school policy and procedure.	Place orders in FFAVORS.
Ongoing		Request refund(s) from processor(s) if Rebate or Refund is the pass through system used and school has a balance in a sponsor bank.	

(n) USDA foods expected to be available.

<https://www.fns.usda.gov/fdd/foods-expected-be-available>

(o) List of USDA approved processors.

<https://www.fns.usda.gov/fdd/npa-approved-processors>

(p) Prior DHHS policy memorandums.

Prior DHHS policy memorandums regarding permissible contractual arrangements and methods of end product sales are replaced with this Manual.

(q) Civil rights.

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- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

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