

## Food and Nutrition Service, USDA

## § 253.11

to such commodities. If the commodities are declared unfit for human consumption in accordance with § 250.13(f) of this chapter, they shall be disposed of as provided for under that section. When out-of-condition commodities do not create a hazard to other food at the same location, they shall not be disposed of until FNSRO or the responsible commodity contractor approves. When circumstances require prior disposal of a commodity, the quantity and manner of disposition shall be reported to the appropriate FNSRO. If any damaged or out-of-condition commodities are inadvertently issued to a household and are rejected or returned by the household because the commodities were unsound at the time of issuance and not because the household failed to provide proper storage, care or handling, the State agency shall replace the damaged or out-of-condition commodities with the same or similar kind of commodities which are sound and in good condition. The State agency shall account for such replacements on its monthly inventory report.

(Approved by the Office of Management and Budget under control number 0584-0071)

(44 U.S.C. 3506)

[44 FR 35928, June 19, 1979, as amended at 47 FR 746, Jan. 7, 1982. Redesignated by Amtd. 1, 47 FR 14137, Apr. 2, 1982, and further redesignated at 64 FR 73384, Dec. 30, 1999.]

### § 253.11 Administrative funds for State agencies.

(a) *Payments.* Within the limitation of funds available to carry out the provisions of this part, FNS shall, beginning with fiscal year 1980, make available to each State agency 75 percent of approved administrative costs. Any approval for payment of funds in excess of 75 percent shall be based on compelling justification that such additional amounts are necessary for the effective operation of the Food Distribution Program on an Indian reservation. Compelling justification may include, but not be limited to, such factors as the need for a larger Federal contribution during a State agency's first year of operation of the program, and the need to assure that no State agency currently operating the program receives a level of funding that would cause a diminution of program services. Ad-

ministrative costs must be included in annual or revised budget information submitted by the State agency to FNS for approval prior to the contribution of Federal funds. Administrative costs must be allowable under part 277 of this chapter.

(b) *Use of funds by State agencies.* Any funds received under this section shall be used for any costs which are allowable under part 277 of this chapter and which are incurred in operating the Food Distribution Program for households on a reservation. The value of services rendered by volunteers, part 277 notwithstanding, shall be allowable to meet the matching administrative costs requirements for the Food Distribution Program. In no event shall such funds be used to pay any portion of such expenses if reimbursement or payment therefor is claimed or made available from any other Federal source. State agencies shall also adhere to the provisions of part 277 of this chapter, as apply to the Food Distribution Program, which establish:

(1) Uniform requirements for the administration of funds to State agencies; and

(2) Principles for determining costs applicable to activities assisted by the Food Stamp Program funds provided to State agencies. The provisions of part 277 are generally adaptable to this section and the appropriate provisions shall be used in complying with paragraphs (b) and (f) of this section.

(c) *Application for funds.* (1) Any State agency administering a Food Distribution Program that desires to receive administrative funds under this section shall submit form SF-424, "Application for Federal Assistance," to the appropriate FNS Regional Office at least three months prior to the beginning of a Federal fiscal year. The application shall include budget information, reflecting by category of expenditure the State agency's best estimate of the total amount to be expended in the administration of the program during the fiscal year. FNS may require that detailed information be submitted by the State agency to support or explain the total estimated amounts shown for each budget cost category. As required by 7 CFR part 3015, Subpart V, agencies of State government shall submit the

application for Federal assistance to the State clearinghouse before submitting it to the FNSRO. ITOs shall not be subject to this requirement.

(2) Approval of the application by FNS shall be a prerequisite to the payment of any funds to State agencies.

(d) *Availability of funds.* (1) FNS shall review and evaluate the budget information submitted by the State agency in relationship to the State agency's plan of operation and any other factors which may be relevant to FNS' determination as to whether the estimated expenditures itemized by budget category are reasonable and justified. FNS shall give written notification to the State agency of (i) its approval or disapproval of any or all of the itemized expenditures, (ii) the amount of funds which will be made available, and (iii) the period for which funds are available.

(2) FNS shall review and evaluate applications submitted by State agencies for administrative funds available under this section in the following order of priority and shall give preference in making payments of funds under this section in the same order of priority:

(i) Applications from State agencies which desire to continue a Food Distribution Program now in operation,

(ii) Applications from State agencies, in the order received, which FNS determines are immediately capable of effectively and efficiently administering the Program, and

(iii) Applications from other States agencies, in the order received.

(e) *Method of payment to State agencies.* (1) Payments are made to State agencies through a Letter of Credit or an advance by Treasury check. The Letter of Credit funding method shall be used by FNS except when the advances to be made within a 12 month period are estimated to be less than \$120,000. However, FNS may, at its option, reimburse a State agency by Treasury check regardless of the amount in response to a valid claim submitted by the State agency.

(2) The Letter of Credit funding method shall be done in conjunction with Treasury Department procedures, Treasury Circular No. 1075 and through an appropriate Treasury Regional Dis-

bursing Office (RDO). The Standard Form 183, "Request for Payment on Letter of Credit and Status of Funds Report," shall be correctly prepared and certified by a duly appointed official of the State for requesting payment from an RDO.

(3) The advance by Treasury check method shall be done by use of the Standard Form 270, "Request for Advance or Reimbursement," and procedures associated with its use. State agencies receiving payments under this method may request payments before cash outlays are made.

(4) Any State agency receiving payment under the Letter of Credit method or the advance by Treasury check method shall have in place and in operation, a financial management system which meets the standards for fund control and accountability prescribed in part 277 of this chapter, as amended. The State agency shall demonstrate on a continuing basis its willingness and ability to have and to function within procedures that will minimize the time lapse between the transfer of funds and its disbursement to meet obligations. For any State agency which does not meet the requirement of this paragraph, the reimbursement by Treasury check method shall be the preferred method for FNS to make payments to that State agency.

(f) *Accounting for funds.* Each State agency which receives administrative funds under this section shall establish and maintain an effective system of fiscal control and accounting procedures. Expenditures and accountability of such funds shall be in accordance with the appropriate provisions of part 277. The accounting procedures maintained by the State agency shall be such as to accurately reflect the receipt, expenditure and current balance of funds provided by FNS and to facilitate the prompt preparation of reports required by FNS. The accounting procedures shall also provide for segregation of costs specifically identifiable to the Food Distribution Program from any other costs incurred by the State agency. Any budget revisions by a State agency which require the transfer of funds from an approved cost category to another shall be in accordance with the budget revision procedures set

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forth in OMB Circular No. A-102, Attachment K, and shall be approved by FNS prior to any transfer of funds.

(g) *Return, reduction, and reallocation of funds.* (1) FNS may require State agencies to return prior to the end of the fiscal year any or all unobligated funds received under this section, and may reduce the amount it has apportioned or agreed to pay to any State agency if FNS determines that:

(i) The State agency is not administering the Food Distribution Program in accordance with its plan of operation approved by FNS and the provisions of this part, or

(ii) The amount of funds which the State agency requested from FNS is in excess of actual need, based on reports of expenditures and current projections of Program needs.

(iii) Circumstances or conditions justify the return reallocation or transfer of funds to accomplish the purpose of this part.

(2) The State agency shall return to FNS within 90 days following the close of each Federal fiscal year any funds received under this section which are unobligated at that time.

(h) *Records, reports, audits.* (1) The State agency shall:

(i) Keep such accounts and records as may be necessary to enable FNS to determine whether there has been compliance with this section, and

(ii) Adhere to the retention and custodial requirements for records set forth in § 277.4 of this chapter.

(2) The State agency receiving funds either through a Treasury RDO Letter of Credit system or Treasury check shall submit quarterly reports to FNS on Form SF-269, "Financial Status Report," by the 30th day after close of the reporting quarter and shall submit such other reports as may be required by FNS.

(3) The appropriate provisions of part 277 are adaptable to this section for additional guidance.

(Approved by the Office of Management and Budget under control number 0584-0071)

(44 U.S.C. 3506)

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## PART 254—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR INDIAN HOUSEHOLDS IN OKLAHOMA

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AUTHORITY: Pub. L. 97-98, sec. 1338; Pub. L. 95-113.

SOURCE: 49 FR 32756, Aug. 16, 1984, unless otherwise noted.

### § 254.1 General purpose.

This part sets the requirement under which commodities (available under part 250 of this chapter) may be distributed to households residing in FNS service areas in Oklahoma. This part also sets the conditions for administration of the Food Distribution Program by eligible Oklahoma tribes determined capable by the Department.

### § 254.2 Definitions.

(a) *Exercises governmental jurisdiction* means the exercise of authorities granted to ITOs under the Oklahoma Indian Welfare Act of 1936 or by BIA regulations (25 CFR part 81 et. seq.).

(b) *FNS service area* means the areas over which FNS has approved the food distribution program in Oklahoma, excluding urban places unless approved by FNS under 254.5(b).

(c) *Food Distribution Program* means a food distribution program for households on Indian reservations administered pursuant to section 4(b) of the Food Stamp Act and 1304(a) of Pub. L. 97-98.

(d) *Indian tribal household* means a household in which at least one household member is recognized as a tribal member by any Indian tribe, as defined in § 253.2(d) of this title.

(e) *Indian tribal organization (ITO)* means (1) any Indian tribe, band, or group organized under the Oklahoma Indian Welfare Act of 1936, and which has a tribal organization approved by the Bureau of Indian Affairs; (2) a tribal organization established and approved under Federal regulations issued by the Bureau of Indian Affairs; or (3) an intertribal council authorized