

Attachment E – Claims Policies and Procedures (Memo April 30, 1998)
RFx 3000022510

LOUISIANA FOOD DISTRIBUTION DIVISION

CARE OF USDA FOODS

A recipient agency is responsible for USDA Foods after taking possession of them, including transfers to a recipient agency within a state contract warehouse. Each recipient agency must take prudent and reasonable care of USDA Foods as follows:

Ordering

Recipient agencies must order only quantities of food that can be used and stored without waste and must have adequate storage facilities for the amount of food requested or accepted.

Except in unusual circumstances, recipient agencies must not have more than a 6 month supply of commodities on hand at any time and must notify the Food Distribution Division promptly if supplies exceed this limit. Recipient agencies should calculate the number of months supply by using previous rates of use. Additionally, school and childcare and adult centers that are closed during summer months should reduce inventory levels toward the end of the program year.

Receiving

Recipient agencies are encouraged to check temperatures of delivered commodities and indicate on receiving documents if temperatures appear to exceed the following maximums:

<u>Items</u>	<u>Temperature</u>
Freezer	10°F.
Cooler	40°F.
Dry Storage	70°F.

Recipient agencies must check each delivery carefully for possible shortages and damage before accepting commodities. These checks must include inspections for rodent and insect infestations, disfigurements and discolorations. If any delivered food is found to be out of condition, it must be segregated from other food. The recipient must (1) indicate on the receiving document the status of the out of condition food, (2) contact the local sanitarian to inspect and determine the disposition of the food, and (3) submit a Claim Determination Form (Appendix A, attached) to the Food Distribution Division to report the loss of donated food. Any shortages found during the delivery check should be noted on the receiving documents.

Recipient agencies must check coolers/freezers every other day at a minimum, even during summer vacation and holiday periods. Warehouses under contract with the Louisiana Department of Agriculture and Forestry (LDAF) must check coolers/freezers every day. The only allowable exception is if a recipient agency or warehouse is not able to make cooler/freezer checks on weekends, in which case checks should be made late Friday afternoon and early Monday morning. It is recommended that agencies using refrigeration equipment with built in thermometers place additional thermometers inside cooler/freezer to further safeguard against excessive temperatures. Automated alarm systems may be used if it produces written records of temperature ranges and dates. State warehouses should record temperatures daily.

Automated alarm systems may be used if they produce documentation showing each time the acceptable range is exceeded. The acceptable range for freezers shall be 0° F or below, and the cooler standard range shall be 35° - 45° F. The Temperature Log (Appendix B, attached) produced by automated alarm systems must show the date and temperature range of the refrigeration unit monitored. Documentation is required each time the acceptable range is exceeded.

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Recipient agencies that do not use automated alarm systems must maintain a Temperature Log that shows the exact date and time of each check, the recorded temperature, and the signature and title of the person conducting the check. Warehouses must submit the original Temperature Log for losses caused by equipment malfunction and any other losses in which the temperature maintained by the product would be relevant.

Suggested Storage Temperatures

All USDA Foods should be stored at proper temperatures as specified on USDA packaging, warehouse industry standards, fact sheets, specifications and/or LDAF guidance.

Insect and Rodent Control

Recipient agencies must protect all USDA donated commodities from insect and rodent infestation, including fumigation and extermination as required. It is recommended that pest control be performed once a month at a minimum. Receipts should be on file and available for review.

There must be no external openings in the structure of the buildings in which foods are stored that would allow rodent and insect infestation.

Recipient agencies must not store donated foods on floors or against walls of storage areas.

Inventories

Recipient agencies must keep a perpetual inventory of USDA donated commodities at each site and central storage location. Recipient agencies must submit commodity inventory reports to the Food Distribution Program Manager by the 10th of the month following the month of inventory. Contract warehouses must submit commodity inventory reports to the Food Distribution Program Manager by the 5th of the month of inventory.

Recipient agencies must reconcile perpetual inventories with physical inventories monthly and submit claim forms for the amount of any inventory shortages/overages.

Theft Control

Recipient agencies must supply secure locks on buildings in which donated commodities are stored and should lock freezers/coolers and other storage areas separately.

Losses

All losses of USDA Foods in Louisiana must be reported to the LDAF on a Claim Determination Form as follows: recipient agencies must report in WBSCM within 2 days of receipt.

If the loss is a result of theft, the recipient agencies must have the appropriate law enforcement office investigate, and a copy of the officer's report must accompany the Claim Determination Form.

If the loss is due to infestation, spoilage, or damage, the recipient agencies must contact the local health department to inspect the commodity. If the sanitarian determines that the commodities are unfit for human consumption, the sanitarian will seize the commodity through an Official Notice of Seizure, order destruction of the commodity, and issue a Report on Destruction of Material. If the sanitarian determines that the commodities are only out of condition, a recipient agency may investigate selling the commodities to a salvage company to reduce the cost of claims. The warehouse must contact the LDAF before the sale is completed.

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LDAF Program Managers may certify that foods have been destroyed but only when sanitarians refuse to make this determination and then only for losses valued at less than \$100.00.

Losses involving refrigeration malfunctions must be accompanied by an original Temperature Log and repair or service bill or other suitable documentation that proves that negligence was not involved.

Records

All records and documentation of claims shall be retained for 3 years following the end of the Federal fiscal year in which the case was settled.

Penalties

Federal laws allow fines of up to \$10,000.00 and prison terms of up to 5 years for embezzlement, willful misapplication, theft, or fraud in the Commodity Distribution Program. Losses involving refrigeration malfunctions must be accompanied by an original Temperature Log and repair or service bill or other suitable documentation that proves that negligence was not involved. Recipient agencies will also be held liable for commodities that are lost, infested, stolen, or damaged while in the possession of a carrier, warehouse, or other agency. The warehouse, in turn, should take action against its carrier, warehouse, caterer, or other agency to reclaim its losses. There should be a written agreement or contract between the warehouse and other agencies assigning responsibility for handling or storing donated foods.

If it is determined that the loss is due to: (1) negligence by the warehouse, (2) improper stock rotation, or (3) the loss not properly documented, the recipient agency will be held liable for the loss.

Claims

A claim is any demand or basis for a demand for payment of a lost commodity. The original amount of the claim is the USDA value of the commodity at the time of the loss. Claims may be resolved by repayment, or establishing a repayment schedule as indicated below:

Repayment

Repayment shall be made on all claims for losses of USDA donated food items.

Repayment Schedule

At the option of the LDAF or the Regional Office, losses of USDA donated food items may be repaid through cash payment to the LDAF or through a repayment schedule. Contact the LDAF to determine what repayment options are acceptable for specific losses.

Processing Claims

The LDAF will make a claim determination within 30 days of receipt of commodity losses reported by the warehouse.

The LDAF shall make or recommend to warehouse appropriate changes in policies, operating instructions, regulations, or agreements needed to eliminate losses.

The LDAF must pursue claims for losses valued at greater than \$100.00 and will pursue claims for lesser amounts that involve violation of Federal or State statutes. Additionally, the LDAF must transmit to the Regional Office all future claims against any agency that exceed \$2,500.00 in losses in a fiscal year.

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Corrective Action

Any warehouse that has a claim assessed against it for the loss of USDA commodities must take corrective action to prevent future losses simultaneously with the claim action.

Information

Additional information or answers to questions may be obtained by contacting:

Louisiana Department of Agriculture and Forestry
Food Distribution Division
5825 Florida Blvd, Ste. 4000
Baton Rouge, Louisiana 70806
Telephone (225) 922-1328

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Appendix A

MANDATORY LOUISIANA DEPARTMENT OF AGRICULTURE AND FORESTRY
 Claim Number _____
 SWCDF FOOD DISTRIBUTION DIVISION
 (State use only)
 4/98 **STATE WAREHOUSE CLAIM DETERMINATION FORM**

See instructions on the reverse side of this form.

NAME OF STATE WAREHOUSE _____ DATE OF LOSS _____

ADDRESS _____

NAME OF SITE WHERE LOSS OCCURRED _____

1	2	3	4	5	6	7	8	9	10	11	12
USDA FOOD ITEM	UNIT SIZE	USDA VALUE PER UNIT AT TIME OF LOSS	NO. OF UNITS LOST	TOTAL USDA VALUE	PACKING DATE ON CONTAINER	DATE FOOD REC'D AT SITE OF LOSS	CONTRACT OR PLANT NUMBER	ORDER NUMBER AND DATE	WAREHOUSE FROM WHICH FOOD RECEIVED	DATE FOOD PICKED UP OR DELIVERED TO WAREHOUSE	LDAF LOT NUMBER

TOTAL USDA VALUE OF ALL ITEMS LISTED: _____

COMMENTS (Continue on separate sheets):

SIGNATURE _____ TITLE _____ DATE _____

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FOOD DISTRIBUTION DIVISION**

**INSTRUCTIONS
STATE WAREHOUSE CLAIM DETERMINATION FORM**

A state warehouse is a warehouse under contract to or operated by the LDAF to receive and store USDA donated food through the Food Distribution Program. **State warehouses must report each loss of USDA donated food on this State Warehouse Claim Determination Form, regardless of the value of the loss.** Mail the completed form and appropriate attachments to the Food Distribution Division by the 25th of the month following the month of loss. Examples of appropriate attachments are described in the explanation of column 13.

Column 1: List each food item lost on a separate line, e.g., cheese, butter, rice, etc.

Column 2: List the unit size of each food lost, e.g., 6/5#, 32/1#, 32/1#, 25#, etc.

Column 3: List the USDA value of each food item at the time of the loss. See the Product Price Information listing published periodically by the Food Distribution Division.

Column 4: List the number and fraction of cases or bags lost.

Column 5: List the total USDA value of USDA food lost by multiplying the number in column 3 by the number in column 4.

Column 6: Record the packing date that is printed on the container of the USDA donated food that was lost.

Column 7: Record the date the USDA donated food was placed in the warehouse.

Column 8: Record the contract or plant number(s) from the containers of USDA donated food that was lost.

Column 9: Record the State Account or name of agency account to which the lost food was stored. Indicate multiple if the lost food was stored to more than one account.

Column 10: Record the delivery order number from shipping documents.

Column 11: Record the lot number assigned by the LDAF.

Column 12: Record the date the loss of USDA donated food was deleted from computer and other records.

Column 13: List the specific reason for the loss, e.g., theft, insect infestation, rodent defiled, damaged packaging, refrigeration malfunction, freezer burned, recalled by Food and Drug, received in State in poor condition, outdated, cans puffed and dented, molded, concealed damage, or whatever caused the loss.

The reason for the loss determines the attachments needed. Attach as many of the following documents as are needed to explain the loss, e.g., police report, report on destruction of material, official notice of seizure, warehouse unloading tally sheets, reports on condition of arrival, Temperature Log, rodent/insect treatment reports, inventory on hand after a loss, repair/service bill for refrigeration equipment, Bill of Lading, statements by persons knowledgeable of the loss, statement of corrective action, etc.

Failure to report losses of USDA donated food may constitute a violation of Federal or State statutes with penalties of up to 5 years in prison, a \$10,000.00 fine, or both.

