

Section 2000

Eligibility and Application Requirements

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Section 2000

Eligibility and Application Requirements

As a Commodity Supplemental Food Program (CSFP) contracting entity (CE), the CE accepts final administrative and financial responsibility for all sites at which it operates or delegates program activities. For complete details, organizations interested in applying should contact the Food and Nutrition Program Specialist who handles the CSFP¹.

2100 Eligibility Requirements

The CE must demonstrate adequate administrative and financial responsibility to manage an efficient and effective distribution system to be considered a potential CSFP CE. An organization may be eligible to participate as a CSFP CE if it meets the following conditions:

- Accept final administrative and financial responsibility for program operations
- Are a nonprofit organization or a public agency
- Attend all required Texas Department of Agriculture (TDA) training
- Provide adequate supervisory and operational personnel to effectively manage and monitor CSFP operations
- Restrict employees from securing additional employment that interferes with their CSFP responsibilities and duties (for example, scheduling or conflict-of-interest issues)
- Have a satisfactory performance record if it participated during previous program years

2110 Potential Contracting Entities

USDA issues USDA Foods and administrative funding to TDA, which may approve only those applications and agreements from CEs that will serve eligible participants in the service areas. Preference is given to organizations that have an established system for the receipt, storage, transportation, and distribution of USDA Foods.

Currently, food banks operate in all potential CSFP service areas of Texas. However, TDA may contract with organizations other than food banks to operate the CSFP.

¹ Email commodityoperations@texasagriculture.gov or call 1-877-TEX-MEAL (839-6325).

2110.1 Food Bank Contracting Entities. The combined service areas of individual food banks include all Texas counties. A food bank that is a CSFP CE coordinates distribution of CSFP to eligible persons in the service area of that food bank.

2110.2 Contracting Entities Other Than Food Banks. TDA may contract with organizations other than food banks to ensure the operation of the CSFP in a specific service area. As necessary, TDA coordinates with the appropriate food bank CE to determine the following:

- The need for organizations other than food banks in a specific service area
- Eligible agencies or organizations available and willing to distribute USDA Foods

2120 General Requirements

2120.1 Organizational Structure. An organization is eligible to participate in the CSFP as a CE only if it is a nonprofit organization with tax-exempt status or a public agency, including, but not limited to, city, county, or state agencies.

2120.2 Tax Exemption. Nonprofit organizations must acquire and maintain tax-exempt status from the U.S. Internal Revenue Service (IRS) either individually or as part of a group ruling.

Exception: Churches are not required to provide proof of tax exemption. However, an organization must ensure that it qualifies as a church according to IRS publication 557, *Tax Exempt Status for Your Organization* and IRS Publication 1828, *Tax Guide for Churches and Religious Organizations*. Organizations that represent themselves as a church but do not meet the qualifications of a church will be required to submit to TDA proof of tax exempt status.

If an organization acquired tax-exempt status under a group ruling, it must submit proof of affiliation with the parent organization that was given tax-exempt status.

If the IRS has given an organization tax-exempt status because it is a nonprofit organization, the organization must submit either a

- formal determination of tax-exempt status from the IRS or
- proof of participation in another federally funded program that requires an IRS determination of tax-exempt status.

If an organization does not submit this proof of tax-exempt status, the application will be denied. If the IRS revokes a CE's tax-exempt status, the CE must notify TDA immediately.

2120.3 Special Filing for Small Tax-Exempt Organizations. The IRS maintains specific filing requirements for small tax-exempt organizations whose gross receipts are normally \$50,000 or less. The Pension Protection Act of 2006 (PPA) requires these organizations to file *Annual Electronic Filing Requirements for Small Exempt Organizations* (Form 990-N) (also known as the *e-Postcard*), or *Short Form Return of Organizations Exempt from Income Tax* (Form 990-EZ).

Failure to comply with the PPA could result in revocation of an organization's tax-exempt status.

Additional information about the filing requirements, as well as information on how to apply for a tax exemption, can be found at www.irs.gov.

2120.4 IRS Automatic Revocation of Exemption List. CEs and sites must maintain their tax-exempt status. (Exceptions include many faith-based organizations as well as, but not limited to, city, county, and state agencies.) The IRS maintains a list of organizations that lose their tax-exempt status at www.irs.gov/Charities-&-Non-Profits/Automatic-Revocation-of-Exemption-List.

At least annually, TDA will review the list to ensure that TDA's CEs have not lost their tax-exempt status.

At initial application and at least annually afterward, CEs must check the list to ensure that their sites are not on the list. If a site appears on the list, the CE must take the following steps:

- Notify the site in writing that it has 30 days to provide documentation that it has applied for reinstatement of tax-exempt status. If the site does not provide documentation within 30 days, the site will be terminated from the CSFP.
- Forward documentation of IRS recognition of tax-exempt status to TDA within 180 days of the notification specified in the above bullet. If the site does not provide proof within 180 days, the site will be terminated from the CSFP.

A CE may grant one 90-day extension if the site demonstrates that its inability to obtain appropriate status during the initial period was due to circumstances beyond the site's control.

2120.5 Single Audit Requirements. All nonfederal organizations must submit one or more of the following to verify their compliance with Single Audit Act requirements:

- A copy of an organization-wide or program-specific audit that has been determined to meet the requirements of the Single Audit Act
- A completed *Annual Audit* form (via TX-UNPS or paper), certifying that the CE will obtain, if necessary, an acceptable audit that meets the requirements of the Single Audit Act

Refer to the *CSFP Handbook, Section 5000, Visits, Reviews, and Audits, Item 5400* for specific information related to audit requirements.

2120.6 Debarment Certification. Debarment is an action taken by a debarring official to exclude a person or entity from participating in covered contracts. A person or entity excluded this way is “debarred.”

TDA requires CEs to obtain debarment certifications for covered contracts. Three types of covered contracts exist:

1. Any nonprocurement transaction that involves federal funds of any amount. This type of transaction includes (but is not limited to) a subgrant between TDA and the CE or between the CE and its sites.
2. Any procurement contract for goods or services above the small-purchase threshold of \$50,000.
3. Any procurement contract for goods or services where a person or entity will have a critical influence on or substantive control over the covered transaction. Such a person or entity includes (but is not limited to) a
 - o consultant,
 - o principal investigator,
 - o provider of audit services required by TDA or a federal funding source, or
 - o researcher.

TDA offers the following three options for CEs to obtain debarment certification:

- Search the website The System for Award Management (SAM) and print the webpage that shows the person or entity is not debarred. Store the printed page with the covered contract records.
- Include the following debarment certification in the CE’s subcontracts: “By signing this Agreement, the _____ (person or entity name) certifies that neither it nor any principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any federal department or agency or by the State of Texas.”
- Obtain from the person or entity TDA’s *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts* (Form H2048).

TDA will terminate the *Agreement Between Contracting Entity and Site* (Form H1501) if an organization fails to obtain one of the options above for any site, person, or entity that is a party to a covered contract. Any contract with TDA that contains federal assistance and that is held by a person or entity who is excluded from entering into such contracts will be considered void, effective on the date of exclusion.

For a copy of *Certification Regarding Debarment Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts* (Form H2048), go to www.squaremeals.org/, choose “Programs,” choose “Commodity Supplemental Food Program,” choose “CSFP Administration and Forms,” and enter the form number in the appropriate field.

2120.7 Dun and Bradstreet Data Universal Numbering System (DUNS). Nonfederal agencies and organizations that do business with the federal government must use the Dun and Bradstreet Data Universal Numbering System (DUNS) as their identifier. The DUNS number will not replace the Employer Identification Number (EIN), but will become an identifier for a nonfederal entity to apply for funding under a federal assistance program.

The DUNS number is a nine-digit number issued by Dun & Bradstreet to each business located in the Dun & Bradstreet database having a unique, separate, and distinct operation. The DUNS number is random, and the digits have no apparent significance. It is a tool of the federal government to track how federal money is distributed. The DUNS number is free of charge.

To obtain a DUNS number, access the following website at: <http://fedgov.dnb.com/webform>. A CE can also call Dun & Bradstreet using the toll-free number 1-866-705-5711 and indicate that the organization is a federal grant applicant/prospective applicant. The waiting period to obtain a DUNS number can be anywhere from 24 hours to several weeks, so organizations should request their number as soon as possible.

2200 Application Process

2210 Contract Packet

The contract packet gathers information about the organization and how it plans to operate the CSFP. Applicants complete the entire packet once, whereas renewing CEs complete portions of it annually.

If an applicant submits an incomplete or incorrect application, TDA will request in writing that the necessary information be submitted within 30 days. An incomplete or incorrect contract packet will delay participation in CSFP. If an applicant fails to address such items, the organization will be ineligible to participate.

The contract packet can be found in the Texas Unified Nutrition Programs System (TX-UNPS), which can be accessed at www.Squaremeals.org.

2210.1 Application for Participation/Plan of Operation. As part of the contract packet, applicants complete and submit the *Application for Participation/Plan of Operation*. Through it, applicants accomplish the following:

- Provide information for each proposed certification, distribution and storage site
- Provide an administrative budget
- Submit a complete management plan that includes staffing needs
- Describe the plan to integrate nutrition education into the CSFP operation
- Certify that the applicant will train administrative and site personnel
- Establish an authorized representative for the organization

2220 Amendments to a Contract

The CE may request amendments to its contract packet by contacting TDA². The CE may be required to supply supporting documentation.

A CE's claims for reimbursement may be delayed or negatively affected if it fails to properly request an amendment in advance.

For Example: If a CE wants to increase its expenditure on program outreach by an additional \$100 per year and reduce its expenditure on nutrition education by \$100 per year, TDA must approve each proposed change in advance even though the total budget would remain unaffected.

2220.1 Retroactive Budget Amendments. TDA will not approve retroactive budget amendments that increase individual budgeted line items or the total budget for any claim month before the month in which the request was received. TDA must have sufficient time to review and approve each request. All budget changes are effective for an entire claim month (that is, these changes will not be prorated for part of a month).

2230 Pre-Approval Visit

TDA conducts pre-approval visits of applicants' administrative offices and potential sites 1) to verify information provided in the *Application for Participation/Plan of Operation* and 2) to assess the ability to complete program operations. Additionally, TDA will visit the following:

- CEs that did not participate in the program during the previous program year
- CEs that, as a result of operational problems noted during the previous program year, have been determined by TDA to need a pre-approval visit before being approved in the current program year
- Sites that TDA has determined to need a pre-approval visit

² Email commodityoperations@texasagriculture.gov or call 1-800-TEX-MEAL (1-800-839-6325).

2240 Review of Contract Packets

TDA will notify an applicant of the approval or disapproval of a complete contract packet. If TDA denies an application, TDA will notify the applicant in writing of the reasons and explain the applicant's right to appeal. Refer to section 8000, *Denials, Terminations and Appeals* in this handbook for additional information.

(NOTE: If an applicant submits an Application for Participation/Plan of Operation to serve an area for which there are no allocated funds, TDA will notify the applicant that there are no funds available for program initiation or for expansion in that service area. This decision may not be appealed.)

2300 Agreements

2310 Agreement Between Contracting Entity and Texas Department of Agriculture (Form H1502)

If an applicant is approved to participate in the CSFP, the CE and TDA will complete and sign *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502) ("CSFP agreement") Then the CE will receive copies of the approved CSFP agreement as well as supporting documents that the CE will need to operate the program.

For more information about the CSFP agreement, see the *CSFP Handbook*, Section 3000, *Program Agreement*.

2320 Agreement Between Contracting Entity and Site (Form H1501)

A site is any organization that will be responsible for distributing, transporting, or storing USDA Foods; or for certifying CSFP participants³. CEs execute, with each site, the *Agreement Between Contracting Entity and Site* (Form H1501). CEs then keep the executed H1501 on file.

For more information about Form H1501, see item 2120.6, "Debarment Certification" in this handbook section.

³ For a full definition of this term, see the *CSFP Handbook*, Section 9000, *Terms, Definitions, and Acronyms*.