POLICY ALERT

Date: April 07, 2010
Reference: # TEXCAP 2011-01
To: Texas Emergency Assistance Program (TEXCAP) Contractors
Subject: Corrective Action
Effective Date: Immediately

Purpose

INFORM contractors of the policy and procedures for correcting violations in program operations.

REPLACE Item 5500, Findings, in your TEXCAP Handbook

Implementation

Immediately

Background

Corrective action includes the steps taken to eliminate identified violations in program operations. Violations of program requirements and the need for corrective action are usually discovered during an administrative or site review or a complaint is received by the Texas Department of Agriculture (TDA).

Procedure

Replace Item 5500 with the following in your TEXCAP Handbook:

If a TDA reviewer finds violation in the operation of your program, the recipient agency (RA) will receive a written report of review findings that includes:

- Each violation found;
- The factors contributing to each violation;
- Recommendations for corrective action (as agreed to and signed by the RA), including timetables for completion, and claims action to be pursued, if any; and
- Provisions to monitor or evaluate progress and the effectiveness of corrective action(s).

continued

This Policy Remains in Effect Until Further Notice
The written report may be presented at the end of the review, be mailed or e-mailed to the RA.

RAs must correct violations of program requirements. You will be instructed to write a corrective action plan to address the noncompliance. The plan must state how you will correct any program violations and include:

- An outline of actions to be taken;
- The expected outcome of each action;
- The target date for completion of each action; and
- If there is more than one violation, the date by which each violation will have been eliminated.

Violations include, but are not limited to:

- Failure to maintain adequate site or administrative records;
- Failure to follow competitive bid procedures;
- Failure to comply with civil rights laws and regulations;
- Submittal of false information to TDA;
- Noncompliance with food distribution requirements;
- Failure to adjust USDA Food orders to conform to variations in the number of participants; and
- Claims for reimbursement for administrative costs that were not related to operations.

An example of a need for a corrective action plan would be if there were a finding of a failure to maintain administrative records. The RA would be required to provide, in writing:

- The steps to rectify the lack of record maintenance;
- What the result of those steps would be; and
- The target date for each step, including the end date for the corrective action.

TDA will perform a follow up review to ensure the corrective action plan was implemented and any violations were corrected.
Sub-agency or Sub-contractor Findings and Recommendations

If you or TDA identifies program violations by a sub-agency or sub-contractor, the sub-agency or sub-contractor is required to submit a corrective action plan to you to outline how violations or problems relating to USDA Foods will be corrected. You must provide TDA with a copy of the corrective action plan.

If the corrective action plan is not complete or does not adequately address program violations, you may return the plan to the sub-agency or sub-contractor for additional clarification. You may also amend or modify a sub-agency or sub-contractor’s corrective action plan based on new information, changes in circumstances, or progress to date and/or extend time frames for good faith efforts to correct violations or problems to comply with requirements.

After the sub-agency or sub-contractor has implemented its corrective action plan, it must submit a final disposition report to you for approval. You are required to perform a follow up review to ensure any violations by the sub-contractor have been corrected. You must send a copy of the final disposition report to TDA.

TDA may terminate your Food and Nutrition Division (FND) Commodity Agreement if:

- You do not follow up to ensure the sub-contractor’s violations have been corrected; or
- The sub-agency refuses or fails to correct violations, and you do not terminate the part of the agreement with the sub-agency for receiving and using USDA Foods.

Contact

If you have any questions, please contact Commodity Operations at 877-TEX-MEAL (877-839-6325).