POLICY ALERT

Date: September 21, 1999  Reference #: TEXCAP 99-5
To: Texas Commodity Assistance Program (TEXCAP) Contractors
Subject: Distributing Commodities to "Predominantly Needy" Groups
Effective: October 1, 1999

TEXCAP Notice #98-6 has been deleted and the applicable provisions have been incorporated into this Policy Alert.

The Texas Department of Human Services (TDHS) is expanding the priorities for distributing United States Department of Agriculture (USDA) commodities distributed through the Texas Commodity Assistance Program (TEXCAP). The expansion adds a third priority which gives TEXCAP contractors the flexibility to distribute USDA commodities to subagencies that provide congregate meals to "predominantly needy" groups. The Third Priority is explained below.

In addition, this policy alert outlines limited conditions under which non-needy persons may receive meals containing TEXCAP commodities under Priorities 1 and 2.

ADDITION OF A THIRD PRIORITy

The TEXCAP handbook currently states in the section titled "Subagencies" on page 10-3 that subagencies are required to distribute USDA commodities "exclusively to needy persons and/or needy households." This requirement is being changed: subagencies are no longer required to distribute commodities exclusively to needy persons and/or needy households. A third priority for distributing TEXCAP commodities has been added to the distribution priorities outlined on pages 10-3 and 10-4 of the TEXCAP Handbook as follows:

Third Priority - (for commodities that remain after Priority 2 needs are met) a TEXCAP Contractor may distribute to recipient agencies (RAs) that provide non-emergency, prepared meals to groups that include both "needy" and "non-needy" persons. However, the groups must be "predominantly needy". Predominantly needy means that more than 50% of the persons served by the RA are needy or that more than 50% of the persons in the area where the RA is located or from which it draws its clientele are needy.

In order for RAs to receive commodities under the 3rd Priority, they must demonstrate to the TEXCAP contractors that they serve predominantly needy persons. RAs may demonstrate they serve predominantly needy persons by providing documentation that they have available which verifies the socioeconomic conditions of the area in which the RA is located or from which it draws its clientele (e.g., poverty, unemployment, vagrancy, or welfare program usage rates.)

NON-NEEDY PERSONS PARTICIPATING IN THE MEAL SERVICE - FIRST AND SECOND PRIORITIES
Under Priorities 1 and 2, RAs that serve meals are intended to serve the meals to needy persons. However, non-needy persons who participate in the operation of a food assistance program, such as staff or volunteers, may eat meals containing TEXCAP commodities prepared for needy persons under the following limited conditions:

- the number of non-needy persons is few compared to the number of needy persons, and
- eating off-premises is not practical for the non-needy persons.

**90-DAY PERIOD FOR DISTRIBUTION**

Current TEXCAP policies prohibit contractors from distributing commodities to Priority 2 RAs during the 90 days following the receipt of commodities unless the contractor can document that all the needs of Priority 1 RAs have been met. (See the section titled, "90-Day Period to Meet Priority 1 Needs", on page 10-4 of the TEXCAP Handbook.)

The following requirements replace those currently contained on page 10-4 of the TEXCAP Handbook, in the section titled, "90-Day Period to Meet Priority 1 Needs":

Except as provided below, during the 90 days following the receipt of a shipment of USDA commodities, a contractor must distribute the commodities to Priority 1 RAs only. Following the 90 day period, a contractor may distribute remaining commodities to Priority 2 RAs; and, if commodities remain after Priority 2 RA's needs have been met, the contractor may then distribute commodities to Priority 3 RAs.

Exception: A contractor that documents that all Priority 1 RA's needs have been met (as requested, or as actually needed based on available data) may distribute commodities to Priority 2 RAs prior to expiration of the 90-day period described above. If the contractor then documents that all Priority 2 RA's needs have been met, the contractor may distribute remaining commodities to Priority 3 RAs prior to expiration of the 90-day period described above.

**CONCLUSION**

The primary goal of TEXCAP is to provide USDA commodities to needy people and Priorities 1 and 2 continue to be restricted to needy people except for the limited conditions outlined above. The addition of Priority 3 gives contractors flexibility in their efforts to reach a greater number of needy persons. However, TEXCAP contractors must continue to periodically assess the food assistance needs of the residents of their service areas and, as feasible and necessary, to develop subagencies that serve only the needy. Additionally, contractor's must continue to assess the needs of specific groups or categories of needy persons, such as elderly and disabled persons and/or people living in rural or difficult-to-serve areas.

The requirement for contractors to develop needy-only outlets for USDA commodities conforms to the program's primary goal of distributing to needy people and, over time, may reduce the amount of commodities distributed under Priorities 2 and 3. TDHS will continue to monitor the distribution of TEXCAP commodities to ensure that contractors adhere to priorities and, if supported by review findings or other information received, TDHS will request corrective action as appropriate.

If you have any questions about this policy alert, contact Sam Varela at 512-467-5824.

The changes and clarifications included in this policy alert will be incorporated into the next revision of the TEXCAP Handbook.
SNP Policy Alert: TEXCAP 99-5

Updated: February 22, 2002