

## **CHAPTER 67-21-06 FOOD DISTRIBUTION PROGRAM**

### **Section**

67-21-06-01	Purpose
67-21-06-02	State Agency
67-21-06-03	Use of Federal Rules and Policies
67-21-06-04	Eligibility
67-21-06-05	Agreements
67-21-06-06	Distribution and Control of United States Department of Agriculture Foods
67-21-06-07	Storage of United States Department of Agriculture Foods - Standards for Storage Facilities
67-21-06-08	Financial Management
67-21-06-09	Maintenance of Records
67-21-06-10	Monitoring
67-21-06-11	Buy American
67-21-06-12	Civil Rights
67-21-06-13	Procurement

### **67-21-06-01. Purpose.**

The food distribution program, initiated at the federal level and in partnership with the states, is designed to make United States department of agriculture foods available to participating states and local agencies to safeguard the health and well-being of the nation's people with better diets and to encourage the domestic consumption of nutritious agricultural commodities and other foods produced by American farmers.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03; 7 CFR 250

### **67-21-06-02. State agency.**

The department of public instruction has been designated by the United States department of agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of all United States department of agriculture food distribution programs.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03; 7 CFR 250.4

### **67-21-06-03. Use of federal rules and policies.**

Unless otherwise specified in this chapter, eligibility to participate in the food distribution program is governed by federal food distribution rules. The local program must conform to lawfully issued rules and policies relating to the food distribution program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 250

### **67-21-06-04. Eligibility.**

Local agencies and programs eligible for participation in the food distribution program include:

1. Nonprofit summer camps for children.

2. Charitable institutions.
3. Nutrition programs for the elderly.
4. Disaster feeding organizations.
5. Food assistance in situations of distress.
6. School food authorities.
7. Nonresidential child and adult care institutions.
8. Soup kitchens and food banks.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 250.10

#### **67-21-06-05. Agreements.**

A local agency shall enter into a written program-specific agreement with the department as outlined in 7 CFR 250. Signature by an authorized representative of the local agency or program will serve as verification. Such records must be maintained for three years after the end of the fiscal years to which they pertain.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 250.4

#### **67-21-06-06. Distribution and control of United States department of agriculture foods.**

United States department of agriculture foods shall be available for distribution and use in accordance with the provisions of 7 CFR 250. United States department of agriculture foods may not be sold, exchanged, or otherwise disposed of without approval of the department. Any transfer of United States department of agriculture food must be documented. The quantity of United States department of agriculture foods to be made available is determined in accordance with pertinent legislation. United States department of agriculture foods shall be requested and distributed only in quantities that can be consumed without waste. The department will consistently use the United States department of agriculture food value established by the United States department of agriculture when allocating United States department of agriculture foods. The department will maintain a monthly distribution schedule that provides equitable and reliable deliveries to local and recipient agencies. The department will distribute United States department of agriculture foods only to local and recipient agencies that are eligible.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 250.13

#### **67-21-06-07. Storage of United States department of agriculture foods - Standards for storage facilities.**

Local and recipient agencies shall provide facilities for the handling, storage, and distribution of United States department of agriculture foods that are sanitary; provide safeguards against theft, spoilage, and other loss; maintain foods at proper temperature; and stock and space foods in a manner so that the United States department of agriculture food is readily identified inventory. Local and recipient agencies shall take a physical inventory of United States department of agriculture food annually according to the specific regulations of each program. The department shall take a physical

inventory of United States department of agriculture foods at all state-contracted warehouse facilities. Excess inventory must be reported to the department.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 250.14

#### **67-21-06-08. Financial management.**

Local and recipient agencies shall use program funds to pay all or part of the direct costs for intrastate storage and distribution of United States department of agriculture food. The department acts as a passthrough entity and uses state and federal program funding to pay for warehouse and transportation expenses on behalf of those programs receiving United States department of agriculture foods from a state-contracted warehouse facility. Local agencies that have depleted their state program funding are responsible for payment of warehousing and transportation within thirty days of shipment.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 250.17

#### **67-21-06-09. Maintenance of records.**

Local and recipient agencies shall maintain accurate and complete records regarding the receipt, distribution, use, and inventory of United States department of agriculture food including end products processed from bulk United States department of agriculture foods. All records required under 7 CFR 250.19 must be retained for three years from the close of the fiscal year to which they pertain, unless there are claims or audit findings that have not been resolved.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-05, 28-32-02

**Law Implemented:** NDCC 15.1-35-05; 7 CFR 250.19

#### **67-21-06-10. Monitoring.**

The state agency shall conduct onsite reviews of local agency program operations according to the federal requirements set forth for each food distribution program. The state agency will conduct an annual onsite review of state contracted warehouse and transportation facility operations.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-05, 28-32-02

**Law Implemented:** NDCC 15.1-35-05; 7 CFR 250.21

#### **67-21-06-11. Buy American.**

Local and recipient agencies, whenever possible, shall purchase only food products that are produced in the United States when using federal funds. When funds obtained in accordance with this section are used to purchase foods in the commercial market, a distributing or recipient agency in the continental United States, and in Hawaii, to the maximum extent practical, shall purchase only domestic foods or food products. Such requirement also is applicable to food purchases made with the cash-in-lieu-of-donated foods provided in national school lunch program and child and adult care food program, in accordance with 7 CFR 250.56(e) and 250.61(c). For the purposes of this section, domestic foods or food products are:

1. Agricultural commodities that are produced in the United States; or
2. Food products that are processed in the United States substantially using agricultural commodities that are produced in the United States.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 250.17

**67-21-06-12. Civil rights.**

Local agencies shall comply with the United States department of agriculture nondiscrimination regulations as referenced in 7 CFR parts 15, 15a, and 15b, and with civil rights instructions.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03; 7 CFR 250.21

**67-21-06-13. Procurement.**

The state agency and local agencies shall comply with the requirements in 2 CFR 200 subpart D and 2 CFR 400.1, as applicable, in purchasing end products, distribution, or other processing services from processors. The state agency and local agencies may use procurement procedures that conform to applicable state or local laws and regulations but must ensure compliance with the procurement requirements in 2 CFR 200 subpart D and 2 CFR 400.1, as applicable.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03; 2 CFR 200 subpart D, 2 CFR 400.1