

## FOOD BANK CLAIM PROCEDURES

### FOOD BANK LEARNS OF DISTRIBUTION SITE COMMODITY LOSS

#### Immediately:

- Contact the State Agency to report the loss.

#### Within 10 days:

- Obtain a completed Report of USDA-Donated Food Loss (FD-5) and/or the USDA Foods Complaint Form (FD-5D) from the distribution site.
- Advise the distribution site what to do with the damaged/spoiled food (i.e. destroy in a manner that ensures the USDA foods cannot be retrieved for human consumption).
- If the food was damaged/out-of-condition when received, request the agency provide as much data as possible (i.e. pack date, contract number, can codes, lot numbers, etc.).

#### Within 30 days:

- Determine if a claim exists. If the value of the loss is under \$500 and there is no evidence of fraud or theft, no further claim action is necessary. Losses due to fraud, theft, or other violations of the law must be pursued regardless of value.
- If the value of the loss is \$500 or more, determine if the recipient agency is responsible for the loss. The recipient agency may submit a written statement explaining why they feel they are not primarily at fault and outline what corrective action will be taken to prevent future losses.
- If a claim must be filed, transmit a demand letter to the eligible recipient agency (cc: State Agency). The demand letter shall include the following:
  - a. A description of the loss, including types, quantities, and values of the food loss;
  - b. The date, location, and cause of the loss, if determined;
  - c. Evidence and documentation relating to the loss;
  - d. Evidence of theft, embezzlement, willful misapplication, or fraud, as applicable;

e. A formal demand that the responsible party make restitution by means of one of the following options:

1. Purchase food to replace lost food (with prior approval of the State Agency). Distribution sites utilizing this option must provide copies of receipts or invoices to document food purchases. Replacement foods must be distributed to TEFAP eligible households or first tier agencies.

or

2. Repay the value of the lost USDA foods. Monies received for food losses may be retained by the State Agency. Checks/money orders should be made payable to FSD-USDA-Donated Food Account and mailed to Food Distribution Unit, P O Box 310, Jefferson City, MO 65102.

Note: Option 1 is the preferred method for settling a claim as replacement foods are distributed to program participants, which subsequently benefits the program purpose.

- Allow 30 days (or less) for a response from the recipient agency. If no response is received, submit a second and third demand letter at 30 day (or less) intervals. (cc: State Agency)

#### Finalizing a Claim:

- A claim may be waived, compromised, or settled by repayment or replacement of the lost food. Contact the State Agency for further information if a request to waive or compromise a claim is received.
- Once the agency responds and the claim is satisfactorily resolved, close the claim and notify the eligible recipient agency in writing. (cc: State Agency)
- If the agency does not respond after three demand letters, impose a sanction, prohibiting the receipt of TEFAP commodities until the claim is resolved. Notify the agency of the sanction in writing. (cc: State Agency)
- Food banks and eligible recipient agencies shall retain written records and documentation of all claim actions in accordance with Section VI, G, 1 of the TEFAP Policy and Procedures Manual.