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determining the donated foods from the full list that are made available to them for ordering or selection. The distributing agency must ensure distribution to school food authorities of all such selected donated foods that may be cost-effectively distributed to them, and may not prohibit the use of split shipments in determining such cost-effectiveness.

(b) *Value of donated foods offered to school food authorities.* In accordance with Section 6(c) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)), the distributing agency must offer the school food authority, at a minimum, the national per-meal value of donated food assistance multiplied by the number of reimbursable lunches served by the school food authority in the previous school year. This is referred to as the commodity offer value. For a commodity school, the distributing agency must offer the sum of the national per-meal value of donated foods and the value of the general cash payment available to it under Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753), multiplied by the number of reimbursable lunches served by the school in the previous school year. The school food authority may also receive bonus foods, as available, in addition to the Section 6 foods.

(c) *Receipt of less donated foods than the commodity offer value.* In certain cases, the school food authority may receive less donated foods than the commodity offer value in a school year. This “adjusted” value of donated foods is referred to as the adjusted assistance level. For example, the school food authority may receive an adjusted assistance level if:

(1) The distributing agency, in consultation with the school food authority, determines that the school food authority cannot efficiently utilize the commodity offer value of donated foods; or

(2) The school food authority does not order, or select, donated foods equal to the commodity offer value that can be cost-effectively distributed to it.

(d) *Receipt of more donated foods than the commodity offer value.* The school food authority may receive more do-

nated foods than the commodity offer value if the distributing agency, in consultation with the school food authority, determines that the school food authority may efficiently utilize more donated foods than the commodity offer value, and more donated foods are available for distribution. This may occur, for example, if other school food authorities receive less than the commodity offer value of donated foods for one of the reasons described in paragraph (c) of this section.

(e) *Donated food values required in crediting school food authorities.* The distributing agency must use one of the following values for donated foods in crediting the school food authority for its commodity offer value or adjusted assistance level:

(1) The USDA purchase price (cost per pound), which may be an average price for purchases made for the duration of the contract with the food vendor;

(2) Estimated cost-per-pound data provided by the Department, as included in commodity survey memoranda; or

(3) The USDA commodity file cost as of a date specified by the distributing agency.

§ 250.59 Storage and inventory management of donated foods.

(a) *General requirements.* Distributing agencies, subdistributing agencies, and school food authorities must meet the requirements for storage and inventory of donated foods in § 250.14, in addition to the requirements in this section.

(b) *Storage at distributing agency level.* The distributing or subdistributing agency, or storage facilities with which they have contracts, must store donated foods in a manner that permits them to be distinguished from commercially purchased foods or other foods, in order to ensure compliance with the requirements for the distribution and control of donated foods in this part.

(c) *Storage by school food authorities.* The school food authority may store and inventory donated foods together with commercially purchased foods and other foods, under a single inventory management system, as defined in this

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part, unless the distributing agency requires donated foods to be distinguished from commercially purchased foods in storage and inventoried separately.

(d) *Storage by storage facilities under contract with school food authorities.* A storage facility under contract with a school food authority may store and inventory donated foods together with commercially purchased foods it is storing for the school food authority, unless its contract with the school food authority prohibits this. However, the storage facility may not commingle foods it is storing for a school food authority with foods it is storing for a commercial enterprise or other entity.

§ 250.60 Use of donated foods in the school food service.

(a) *Use of donated foods in school lunches and other meals or activities.* The school food authority should use donated foods, as far as practical, in the lunches served to schoolchildren, for which they receive an established per-meal value of donated food assistance each school year. However, the school food authority may also use donated foods in other nonprofit school food service activities. Revenues received from such activities must accrue to the school food authority's nonprofit school food service account. Some examples of other activities in which donated foods may be used include:

- (1) School breakfasts or other meals served in child nutrition programs;
- (2) A la carte foods sold to children;
- (3) Meals served to adults directly involved in the operation and administration of the nonprofit food service, and to other school staff; and
- (4) Training in nutrition, health, food service, or general home economics instruction for students.

(b) *Use of donated foods outside of the nonprofit school food service.* The school food authority should not use donated foods in meals or food service activities that do not benefit primarily schoolchildren, such as banquets or catered events. However, their use in such meals or activities may not always be avoided, e.g., for a school food authority utilizing single inventory management. In all cases, the school food authority must ensure reimbursement to

the nonprofit school food service account for the value of donated foods used in such activities, in addition to reimbursement for other resources utilized from that account. Since school food authorities utilizing single inventory management cannot reimburse the nonprofit school food service account based on actual usage of donated foods outside of the nonprofit school food service, they must establish an alternate method—e.g., by including the current per-meal value of donated food reimbursement in the price charged for the food service activities.

(c) *Use of donated foods in a contract with a food service management company.* A school food authority may use donated foods in a contract with a food service management company to conduct the food service. The contract must meet the requirements in subpart D of this part with respect to donated foods, and must also meet requirements in 7 CFR part 210 and 7 CFR parts 3016 or 3019, as applicable, with respect to the procurement of such contracts. The school food authority must also ensure that a food service management company providing meals for banquets or catered events, or other food service activities that do not benefit primarily schoolchildren, ensure reimbursement to the nonprofit school food service account for donated foods used in such activities, in accordance with paragraph (b) of this section.

(d) *Use of donated foods in providing a meal service to other school food authorities.* A school food authority may use donated foods to provide a meal service to other school food authorities, under an agreement between the parties. A school food authority providing such a service may commingle its own donated foods and the donated foods of other school food authorities that are parties to the agreement.

§ 250.61 Child and Adult Care Food Program (CACFP).

(a) *Distribution of donated foods in CACFP.* The Department provides donated foods in CACFP to distributing agencies, which provide them to child care and adult care institutions participating in CACFP for use in serving nutritious lunches and suppers to eligible recipients. Distributing agencies