Food and Nutrition Service, USDA

§ 250.14 Warehousing, distribution and storage of donated foods.

(a) Standards for Warehousing and Distribution Systems—(1) Use of cost efficient and effective facilities. Distributing agencies shall use the most cost effective and efficient system for providing warehousing and distribution services to recipient agencies. For the purpose of this part, commercial facilities are defined as enterprises that provide commercial warehousing services or commercial delivery services, or those commercial enterprises that provide both warehousing and delivery services.

(2) Timeframes for evaluation. All distributing agencies shall evaluate their current warehousing and distribution systems. Initial evaluations shall be submitted to the FNSRO by June 30, 1990. Subsequent evaluations of non-commercial systems shall, at a minimum, be submitted to FNS every three years by March 31.

(3) Evaluation of current systems. The evaluation of the system in place shall, at a minimum, include the following information:

(A) A description of the principal warehousing/delivery techniques used by the distributing agency. The description should include:

(A) The frequency of delivery available;

(B) The timeframes for making deliveries;

(C) The type of delivery service offered (to the loading dock or placement in the storeroom); and

among them so that over time each recipient agency is provided an opportunity to express its views. Distributing agencies are encouraged to extract information regarding commodity acceptability from all available sources.

(3) Timeframes for submission. Distributing agencies shall submit commodity acceptability reports to the appropriate FNSRO by April 30th of each year on form FNS–663.

(D) The system for recipient agencies 
to order specific amounts of food from 
available inventory; and
(ii) An estimate of all costs that will 
be incurred in administering the Food 
Distribution Program for the upcoming 
school year. These costs include trans-
portation, storage and handling of do-
nated foods (if the current distributing 
agency system does not include deliv-
ery to recipient agencies, identifica-
tion of costs incurred by recipient 
agencies to pick up commodities at a 
warehouse and to deliver the food to a 
centralized storage facility or the indi-
vidual preparation sites), salaries of 
persons directly connected with the ad-
ministration of the program and other 
program related expenses. These ex-
penses shall include fringe benefits, 
travel expenses, rent, utilities, ac-
counting/auditing services to recipient 
agencies such as the costs for admin-
istering and monitoring the State’s 
processing program, and technical as-
sistance workshops.

(4) Comparison of existing system with 
commercial systems. All distributing 
agencies which do not use commercial 
facilities for a basic level of 
warehousing and distribution services 
shall compare the cost of warehousing 
and distributing commodities under 
their current system with the cost of 
comparable services under a commer-
cial system for the upcoming school 
year.
(i) The cost comparison shall be 
based on the costs of providing a comparable 
level of service under the existing sys-
tem (as identified in §250.14(a)(2)) versus a commercial system.
(ii) If a distributing agency is unable 
to locate any commercial facilities ex-
pressing interest in providing the basic 
level of warehousing and distribution 
services, the distributing agency shall 
indicate this in its cost comparison 
submission, together with documenta-
tion of its efforts to obtain cost esti-
mates from commercial facilities.

(iv) All initial data regarding the 
cost of the current warehousing and 
distribution system and the cost for 
comparable commercial facilities shall 
be submitted to the FNSRO by June 30, 1990. Subsequent cost comparisons 
shall, at a minimum, be submitted to 
FNS once every three years by March 
31.

(5) Approval to use other systems. Dis-
tributing agencies that do not imple-
ment a commercial warehousing and 
distribution system shall apply to the 
FNSRO for approval to use other facili-
ties and must demonstrate that other 
facilities are more cost effective and 
efficient. All requests for a waiver 
shall be accompanied with a full eval-
uation of the existing system complete 
with cost comparison data. Each re-
quest will be considered on a case by 
case basis. Initial requests for approval 
of alternative systems shall be sub-
mitted to the FNSRO by June 30, 1990. 
Subsequent requests shall, at a min-
imum, be submitted to the FNSRO 
once every three years by March 31.

(6) System implementation. (i) Distrib-
uting agencies shall implement the 
most cost effective and efficient sys-
tem for warehousing and distribution 
services to recipient agencies by July 
1, 1991. Unless otherwise approved by 
the FNSRO, subsequent to July 1, 1991, 
a distributing agency shall convert to a 
commercial system within six months 
of:
(A) The date of submission of evalua-
tion and cost comparison data indi-
cating that a commercial system is 
more cost effective and efficient (if no 
request for approval of an alternate 
system is made); or
(B) The date of the denial of a re-
quest to use an alternative system.
(ii) If at any time FNS determines that the warehousing and distribution system in place is not cost effective or efficient, the distributing agency will be required to reevaluate its system (including a cost comparison and request for continued approval to use an alternative system) in accordance with this subsection within 90 days of notification by the FNSRO.

(7) Revisions in system. All distributing agencies (using either commercial or noncommercial systems) shall request approval from the FNSRO at least 90 days in advance of any planned reduction in the level of service provided or any increase in distribution charges beyond normal inflation. If FNS determines the proposed changes are inappropriate, FNS may require the distributing agency to submit additional justification, deny the request, or request a reevaluation of the system in accordance with paragraph (a)(6)(ii) of this section.

(b) Standards for storage facilities. Distributing agencies, subdistributing agencies and recipient agencies shall provide facilities for the handling, storage and distribution of donated foods which:

(1) Are sanitary and free from rodent, bird, insect and other animal infestation;

(2) Safeguard against theft, spoilage and other loss;

(3) Maintain foods at proper storage temperatures;

(4) Excepting recipient agencies, stock and space foods in a manner so that USDA-donated foods are readily identified;

(5) Store donated food off the floor in a manner to allow for adequate ventilation; and

(6) Take other protective measures as may be necessary.

Distributing agencies, subdistributing agencies and recipient agencies shall ensure that storage facilities have obtained all required Federal, State and/or local health inspections and/or approvals and that such inspection/approvals are current.

(c) Reviews. All distributing agency-level storage facilities shall be reviewed annually. Distributing agencies shall ensure that subdistributing and recipient agencies conduct annual reviews of their respective storage facilities. Documentation shall be maintained on file at the distributing agency or local level as appropriate to reflect compliance with this section, including documentation of corrective action in cases of noncompliance. Corrective action must be taken immediately on all deficiencies identified in the review and the result of the corrective action must be forwarded to the distributing agency. Where applicable, the distributing agency shall determine and pursue claims in accordance with §250.15(c).

(d) Contracts. When contracting for storage facilities, distributing agencies and subdistributing agencies shall enter into written contracts to be effective for no longer than five years, including option years extending a contract. Before the exercise of option years, the storage facility shall update all pertinent information and demonstrate that all donated foods received during the previous contract period have been accounted for. The contract shall, at a minimum, contain the following:

(1) Assurance that the storage facilities will be maintained in accordance with the standards specified in paragraph (b) of this section;

(2) Evidence that donated food shall be clearly identified;

(3) Assurance that an inventory system shall be maintained and an annual physical inventory will be conducted; and reconciled with the inventory records;

(4) Beginning and ending dates of the contract;

(5) A provision for immediate termination of the contract due to noncompliance on the part of the warehouse management;

(6) A provision allowing for termination of the contract for cause by either party upon 30 days written notification;

(7) The amount of any insurance coverage, which has been purchased to protect the value of food items which are being stored; and

(8) Express written consent for inspection and inventory by the distributing agency, subdistributing agency,.
§ 250.15 Financial management.

(a) Distribution charges. (1) Recipient agencies may be required to pay part or all of the direct costs for intrastate storage and distribution of donated food through distribution charges assessed by the distributing or subdistributing agency, except as provided in paragraph (a)(2) of this section.

(i) Distributing and subdistributing agencies assessing distribution charges shall submit a description of their system with all data used in calculating the rate to be used for the upcoming school year to the FNSRO for approval. The initial description and data shall be submitted by June 30, 1990. Updates to this information shall, at a minimum, be submitted to the FNSRO for approval every three years by March 31.

(ii) At least 90 days before increasing distribution charges beyond normal inflation, the distributing/subdistributing agency shall submit to the FNSRO a description of the change together with all data used to calculate the change. FNS will take action on the proposed increase in accordance with paragraph (a)(1)(v) of this section.

(iii) Allowable costs include but are not limited to those program costs referenced in paragraph (f)(2) of this section, i.e., transportation, storage and handling of donated foods, salaries of persons directly connected with the administration of the program and other program related expenses. Examples of other program related expenses are administrative costs such as fringe benefits, travel expenses, rent, utilities, accounting/auditing services, computer services, and the costs of providing program services to recipient agencies such as the cost for administering and monitoring the State’s processing program, and technical assistance workshops.

(iv) Distribution charges shall not be assessed for costs which would be unallowable under the Cost Principles in the Department’s Uniform Federal Assistance Regulations, 7 CFR part 3015, subpart T. In no case may distribution charges be assessed for costs which are paid for by State Administrative Expense (SAE) funds, State or local appropriated funds or any other funds.