

**Chapter 16-740 WAC  
FOOD ASSISTANCE PROGRAMS**

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**WAC**

16-740-010	Authority.
16-740-020	Purpose.
16-740-030	Definitions.
16-740-040	Contractor funding allocation and award of contracts.
16-740-050	Applicant eligibility criteria.
16-740-060	Financial support application process.

**WAC 16-740-010 Authority.** These rules are adopted under the authority of chapter 68, Laws of 2010, which provides that the director may adopt rules necessary to implement the food assistance programs.

[Statutory Authority: 2010 c 68 and chapter 34.05 RCW. WSR 10-20-061, § 16-740-010, filed 9/27/10, effective 10/28/10.]

**WAC 16-740-020 Purpose.** The purpose of this chapter is to set forth the conditions and procedures under which state funding will be made available to assist local emergency food programs.

[Statutory Authority: 2010 c 68 and chapter 34.05 RCW. WSR 10-20-061, § 16-740-020, filed 9/27/10, effective 10/28/10.]

**WAC 16-740-030 Definitions.** "Administrative costs" means management and general expenses, including membership dues that cannot be readily identified with a particular program or direct services.

"Applicant" means a public or private nonprofit organization, tribe or tribal organization who applies for state emergency food assistance.

"Commodity program" means a program that primarily distributes USDA surplus commodities to clients (TEFAP).

"Contractor" means an applicant who has been awarded state funds under the emergency food assistance program, and who has entered into a contract with the department to provide emergency food assistance to individuals.

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or the director's authorized representative.

"Emergency food" means food that is given to clients who do not have the means to acquire that food themselves, so that they will not go hungry.

"Emergency food assistance program" or "EFAP" means the statewide activities of the department to assist local emergency food programs by allocating and awarding state funds.

"Food bank" means an emergency food program that distributes unprepared food without charge to its clients, is open a fixed number of hours and days each week or month, and such hours and days are publicly posted.

"Food distributor" means a food distribution agency that collects, warehouses, and distributes food to emergency food programs and other charities on a county, regional, or statewide basis.

"In-kind" means the value of volunteer services or donated goods such as staff time, rent, food, supplies and transportation.

"Lead agency contractor" means a contractor who may subcontract with one or more local food banks to provide emergency food assistance to individuals, and with food distributors to provide food to food banks.

"Operational expenses" means those costs clearly identifiable with providing direct services to eligible clients, or distribution services to food banks such as staff time, transportation costs, and equipment rental.

"Participating food bank" means a local public or private non-profit food bank that enters into a subcontract with a lead agency contractor to provide emergency food assistance to individuals.

"Religious service" means any sectarian or nondenominational service, rite, or meeting that involves worship of a higher being.

"Special dietary needs" means funds to purchase food that meets the nutritional needs of a special needs population.

"Tribal food voucher program" means the statewide activities of the department that allocate and award state funds to tribes and tribal organizations that issue food vouchers to clients.

[Statutory Authority: 2010 c 68 and chapter 34.05 RCW. WSR 10-20-061, § 16-740-030, filed 9/27/10, effective 10/28/10.]

**WAC 16-740-040 Contractor funding allocation and award of contracts.** At least seventy percent of the total allocation appropriated by the legislature shall be contracted to lead agency contractors. These funds shall be for the purpose of funding the activities of food banks and food distributors, the purchase of special dietary needs foods, and providing special dietary needs training. The specific appropriation for timber and salmon dependent communities shall be contracted to food banks in those communities. Of the remainder of the total allocation, not including department administrative costs, allocations shall be contracted to a discretionary program if the department elects to award such contracts, the tribal food voucher program, and additional special dietary needs training. Allocations for each county shall be contracted to lead agency contractors on the following basis:

(1) A formula for distributing the funds in proportion to need shall be established by the department in consultation with a committee appointed by the director or the director's designee. This formula may only be changed at the beginning of a biennial contract period.

(2) The department shall award the lead agency contract to an eligible contractor, as defined by the department, which is supported by a least two-thirds of the participating food banks in a county.

(3) The department may award the combined allocation for two or more counties to a single applicant.

(4) The department shall award a contract to no more than one lead agency contractor in each county, with the exception of King County, where there may be three lead agency contractors, to administer subcontracts with one or more participating food banks and food distributors.

(5) Federally recognized tribes may apply to the department directly for the food bank program without having to subcontract with the lead agency. They must meet all the same criteria and requirements as lead agencies.

(6) Within each lead agency service area, except for the additional funds specifically allocated for food banks in timber and salmon dependent communities, funds shall be allocated between food distributors, food banks, and special dietary needs foods and training based on a two-thirds vote of all participating food banks and the lead agency.

(7) The additional funds specifically allocated for food banks in timber and salmon dependent communities shall remain in the amounts identified by the legislature.

(8) If participating food banks designate funds for food distribution, they shall elect with a two-thirds vote of the participating food banks and the lead agency, an eligible distributor as defined by the department. They may choose more than one distributor with which to subcontract. The lead agency contractor shall be responsible for subcontracting with the food distributor(s).

(9) A formula for distributing the funds to each tribe and tribal organization participating in the emergency food assistance program in proportion to need shall be established by the department in consultation with a committee consisting of representatives from all tribes participating in the program. This formula may only be changed at the beginning of a biennial contract period.

(10) The department shall pay for services provided under the emergency food assistance program after the contractor submits a monthly report of expenditures incurred and a request for reimbursement.

(11) Tribes may apply for the food bank funds or the food voucher funds or both. Tribes will receive the same amount of funds whether they participate in one or both programs, computed as their share of the allocated EFAP tribal funds. It will be up to the discretion of each participating tribe how it allocates the EFAP funds.

(12) In the event that funds are not claimed by an eligible organization in a county or that a portion of the funds allocated to a county remains unspent, the lead agency contractor may request authorization from the department to reallocate funds, within its service area, to an area of unmet need.

(13) In the event that a portion of the funds allocated to a subcontracting tribe within a tribal contractor's contract remains unspent or unclaimed, the tribal contractor may request authorization from the department to reallocate funds to one of its other subcontracting tribes with unmet needs.

[Statutory Authority: 2010 c 68 and chapter 34.05 RCW. WSR 10-20-061, § 16-740-040, filed 9/27/10, effective 10/28/10.]

**WAC 16-740-050 Applicant eligibility criteria.** (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501 (c) (3), or be a public nonprofit agency, be a recognized tribe, a tribal organization with section 501 (c) (3) status, or an unrecognized tribe with section 501 (c) (3) status.

(2) The applicant for funding as lead agency must have been operating as a public nonprofit or private nonprofit with section 501 (c) (3) status for one year prior to the beginning date of the contract.

(3) The applicant for funding as a participating food bank must have been operating as a public nonprofit or private nonprofit with

section 501 (c)(3) status food bank for one year prior to the beginning date of the subcontract.

(4) The applicant for funding as a food distributor must have been operating as a public nonprofit or a private nonprofit with section 501 (c)(3) status food distributor for one year prior to the beginning date of the contract.

(5) The applicant for lead agency or tribal contractor may or may not actually provide emergency food program services.

(6) The applicant must practice nondiscrimination in providing services and employment.

(7) The applicant must not require participation in a religious service as a condition of receiving emergency food or a food voucher.

(8) Applicants within a county or multicounty region, or tribes with established parameters for service, may define their service area boundaries for the purpose of equitably allocating resources. The department encourages the provider to serve the client no matter what service areas the client resides in. If appropriate, the provider may then refer the client to the agency servicing the area in which the client resides, or to the tribe which has established jurisdiction over the individual, for further assistance. Providers must practice nondiscrimination when applying their service area policies.

(9) The applicant may not charge for food or food vouchers given to a client.

[Statutory Authority: 2010 c 68 and chapter 34.05 RCW. WSR 10-20-061, § 16-740-050, filed 9/27/10, effective 10/28/10.]

**WAC 16-740-060 Financial support application process.** (1) Potential applicants will be notified by the department that in order to be considered for state emergency food financial assistance, an application must be submitted to the department.

(2) An applicant must make formal application using forms issued and procedures established by the department. Such application shall be for the period indicated on the contract face sheet. Failure of an applicant to make application in a timely manner, as specified by the department, may result in denial of the funding request.

(3) Department funds may not supplant other existing funding sources.

(4) The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.

(5) Applicants that receive food bank or food distribution funds are subject to the following fiscal requirements:

(a) The total funds from the department received by a nontribal lead agency contractor or a food distribution subcontractor must be equally matched by funds from other sources during the fiscal year. No more than fifty percent of that match may be documented in-kind contributions. Nontribal participating food banks receiving funds from the department have two options for matching funds: They may equally match the EFAP funds, with no more than fifty percent being documented in-kind contributions; if they do not have at least one-half of their minimum match as cash, they may match their department funds by at least two hundred percent in in-kind contributions from other sources.

(b) Administrative costs for food bank and food distributor subcontractors under this program are limited to ten percent of their total contract award. Administrative costs for a lead agency contractor who also provides direct emergency food assistance services as a participating food bank and/or services as a food distributor are limited to ten percent of the contractor's allocation for providing direct services, ten percent of the contractor's allocation for providing food distributor services, and ten percent of the total contract award as food bank lead agency; total administrative costs, however, may not exceed fifteen percent of the total contract award. Administrative costs for agencies who are lead agency contractors only are limited to ten percent of their total contract award.

(6) Tribal applicants are subject to the following fiscal requirements:

(a) Tribal contractors and subcontractors must match thirty-five percent of the funds received by the department for the emergency food assistance program. No more than fifty percent of that match may be documented in-kind contributions.

(b) Of a contract award allocated to the tribal food voucher program, tribal contractors may not spend more than ten percent on administrative costs, and five percent on operational expenses. The balance of funds is to be used for food vouchers issued to clients. Of funds allocated to the food bank program, tribal contractors are subject to the same spending requirements as nontribal food bank contractors under subsection (5) (b) of this section.

[Statutory Authority: 2010 c 68 and chapter 34.05 RCW. WSR 10-20-061, § 16-740-060, filed 9/27/10, effective 10/28/10.]