



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)
<input checked="" type="checkbox"/> Permanent Rule
<input type="checkbox"/> Emergency Rule

Agency: Department of Community Development

(1) Date of adoption: August 24, 1993 Administrative Order No. 93-06

(2) Purpose:
To update and revise Chapter 365-140 WAC, State Funding of Local Emergency Food Programs

(3) Citation of existing rules affected by this order:
Repealed:
Amended: WAC 365-140-030, 040, 050, 060
Suspended:

(4) Authority for adoption:
Statute: RCW 43.63A.060, Section 222(5), Chapter 232, Laws of 1992
Other Authority:

(5.1) **PERMANENT RULE ONLY**
Pursuant to notice filed as WSR 93-08-087 on April 7, 1993 (date).
Describe any changes other than editing from proposed to adopted version:
Definitions, contractor funding allowances, awarding of contracts, and administrative cost allowances have been clarified.

(5.2) **EMERGENCY RULE ONLY**
Pursuant to RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules	Emergency Rules
<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately
<input type="checkbox"/> Other (specify) _____ *	<input type="checkbox"/> Later (specify) _____

* (If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON

AUG 25 1993

TIME 10:47

WSR 93-18-021

NAME (TYPE OR PRINT)
Gene Canque Liddell

SIGNATURE
Gene Canque Liddell

TITLE Director

DATE 8-24-93

AMENDATORY SECTION (Amending Order 87-11, filed 9/18/87)

WAC 365-140-030 Definitions. (1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "Food bank" means ~~((a site where food is collected and distributed to clients at no))~~ an emergency food program that distributes food and other products on a regular basis without a charge.

(4) "Food ~~((distribution center))~~ distributor" means a ~~((site where food is collected, warehoused, and distributed to food banks without charge on a regional, county))~~ food distribution agency that collects, warehouses, and distributes food and other products to emergency food programs and other charities on a county, regional, or state-wide basis.

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

(6) "Emergency food assistance program" means the multifaceted state-wide administrative activities carried out within the department of community development to allocate, award, and monitor state funds appropriated to assist local food banks and food ~~((distribution centers))~~ distributors, tribes or tribal organizations, and other food programs.

(7) "Applicant" means a public or private nonprofit organization, tribe or tribal organization which applies for state emergency food assistance.

(8) "Contractor" means an applicant which has been awarded state funds under the emergency food assistance program, and which has entered into a contract with the department of community development to provide emergency food assistance to individuals.

(9) "Lead agency contractor" means a contractor which may subcontract with one or more local organizations to provide emergency food assistance to individuals.

(10) "Tribal food voucher program" means the state-wide administrative activities carried out within the department of community development to allocate, award, and monitor state funds appropriated to assist tribes or tribal organizations in issuing food vouchers to clients.

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

~~((11) "Unmet need" means an area of the state, region, or county that is currently not being adequately served by existing emergency food assistance providers.))~~

(12) "Participating agency" means a local public or private nonprofit organization which enters into a subcontract with a ~~((lead agency))~~ contractor to provide emergency food program services.

WAC 365-140-040 Contractor funding allocation and award of contracts. (~~Each county of the state is allocated a portion of the total appropriation by the legislature.~~) At least sixty-five percent of the total allocation appropriated by the legislature shall be contracted for food banks and food distributors. The specific appropriation for timber-dependent communities shall be contracted to food banks in those communities. Of the remainder of the total allocation, not including department administration costs, allocations shall be contracted to the tribal food voucher program, special dietary needs foods, special dietary needs training and a discretionary program. Allocations shall be contracted to food banks and food distributors on the following basis:

(1) Sixty percent of ((total)) funds allocated for food banks and food distributors shall be provided by county to a public or private nonprofit organization for food banks.

(2) Forty percent of ((total)) funds allocated for food banks and food distributors shall be provided by county to a public or private nonprofit organization for food distribution centers.

(3) 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. The formula shall address the following:

(a) Poverty population in each county; and

(b) Unemployed population in each county ((; and

~~(c) Unmet needs in each county))~~.

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

(5) The department shall award a ((food bank)) contract to no more than one food bank lead agency contractor in each county, with the exception of Pierce County, where there may be two food bank lead agency contractors, and King County, where there may be five food bank lead agency contractors to administer subcontracts with one or more local providers of emergency food bank services.

(6) The department shall award ((a)) contracts to food ((distribution centers)) distributors which are designated jointly by the emergency food assistance program and the food bank lead agency contractors.

(7) 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.

(8) 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 ((permission)) authorization from the department to reallocate funds, within its service area, to an area of unmet need.

AMENDATORY SECTION. (Amending Order 87-11, filed 9/18/87)

WAC 365-140-050 Applicant eligibility criteria. (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501(c)3, have a sponsor providing 501(c)3 status, or be a public nonprofit agency.

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

(3) The applicant must provide food or food vouchers to individuals in an emergency, regardless of residency.

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

(5) The applicant must not deny food or food vouchers to an individual because of his or her inability to pay.

(6) Applicants for funding as participating agency or food ~~((distribution center))~~ distributor must have had a food bank program or food distribution center in operation for one year prior to the beginning date of the contract year (~~(, except in areas with unmet need)~~).

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

AMENDATORY SECTION (Amending Order 87-11, filed 9/18/87)

WAC 365-140-060 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 ~~((July 1 - June 30))~~ 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 total ((amount of funds provided to a contractor under this program may not exceed the total funding received from other sources for emergency food services during the fiscal year)) funds received by a food bank or food distributor contractor from the department for the emergency food assistance program 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; other emergency food assistance contractors are not required to meet such a match.

(5) ~~Administrative costs ((under this program are limited to ten percent of the total award for providing direct emergency food assistance services. The administrative costs of a lead agency contractor are limited to ten percent of the contractor's award for providing direct services plus ten percent of the multi-agency service provider contract total. Total administrative costs for a~~

lead agency contractor may not exceed fifteen percent of a county's total allocation.

~~(6))~~ for food bank and food distributor contractors under this program are limited to ten percent of the total contract award. Administrative costs for food bank lead agency contractors who also provide direct emergency food assistance services are limited to ten percent of the contractor's allocation for providing direct services as a participating food bank, and ten percent of the total contract award as food bank lead agency contractor; total administrative costs, however, may not exceed fifteen percent of the total contract award.

(6) Of their total contract award, tribal contractors may not spend more than ten percent on administrative costs and five percent on operational expenditures. The balance of funds is to be used for food vouchers issued to clients.

(7) 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.

~~((7))~~ (8) Department funds may not be used to defray costs of distributing USDA commodities under the commodity program.

~~((8) Department funds may not be used to defray costs of meal programs.)~~