

<b>F</b> ood & <b>N</b> utrition <b>S</b> ervice	FNS INSTRUCTION	NUMBER
	U.S. DEPARTMENT OF AGRICULTURE 3101 PARK CENTER DRIVE ALEXANDRIA, VA 22302-1500	700-1 Rev. 2

ACTION BY:           Regional Offices  
                           Indian Tribal Organizations and State Agencies

Delegation of Authority Relating to the Food Distribution Program on Indian Reservations and  
 the Food Distribution Program for Indian Households in Oklahoma

I.       ABBREVIATIONS

- CFR – Code of Federal Regulations
- FDD – The Food Distribution Division of the Food and Nutrition Service
- FDPIHO - Food Distribution Program for Indian Households in Oklahoma
- FDP – Food Distribution Program
- FDPIR - Food Distribution Program on Indian Reservations
- FNS – Food and Nutrition Service
- FY – Fiscal Year
- ITO – Indian Tribal Organization
- RO – Regional Office
- SA – State Agency
- SF – Standard Form

II.       PURPOSE

This Instruction delegates certain authorities to Regional Administrators concerning FDPIR and FDPIHO. FDPIR and FDPIHO are collectively referred to as FDP in this Instruction.

III.      AUTHORITIES DELEGATED TO REGIONAL ADMINISTRATORS

A. Application by an ITO. The Regional Administrator is authorized to accept applications from ITOs that express interest in participating in FDP. The ITO must specify whether it is requesting FDP alone or concurrently with the Food Stamp Program on all or part of the reservation. The application requirements and procedures to be followed are provided at 7 CFR Parts 253 and 254.

B. State Agency Administration. If the RO determines that the ITO is not capable of effective and efficient administration of FDP (see section III.B, below), the appropriate agency of

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the State government shall be responsible for FDP on all or part of the reservation in accordance with 7 CFR 253.4(b). In addition, the appropriate agency of the State government may administer FDP on behalf of an otherwise capable ITO if agreed to in writing by both parties.

C. ITO Capability Determinations. The responsibility for determining the capability of an applicant ITO is delegated to the Regional Administrators. Regional Administrators must follow the requirements of 7 CFR Parts 253 and 254. The capability determination shall include:

1. A determination regarding the need for concurrent operation of the Food Stamp Program and FDP on all or part of a reservation when an ITO requests FDP only.

2. Consideration of the ITO's experience in operating State and/or other Federal government programs.

3. Consideration of the ITO's management and fiscal capabilities. This would include an assessment of the ITO's ability to keep appropriate records, submit required reports, budget and account for administrative funds, and monitor and review its operations. The ROs must also consider how applicant ITOs respond to audits and determine whether there are any preexisting audit claims against the ITO. An unresolved audit claim, whether from another Federal assistance program or any other tribal activity, may indicate an inability of the ITO to properly manage the program and/or administrative funds. The unwillingness or inability of an applicant ITO to resolve the audit claim may be strong evidence that the ITO lacks proper controls and that questionable management practices might continue if there were a direct agreement with FNS. Therefore, depending on the circumstances of the unresolved audit claim, the ITO may be determined incapable of effective and efficient program operations. The ROs shall inform the ITO before the capability determination that the unresolved audit claim is a significant factor weighing against it in the capability determination. The ITO then has an opportunity to resolve the audit claim, either by direct payment or negotiating a settlement.

4. An assessment of the ITO's ability to certify households and properly order, store and issue commodities.

5. A review of the ITO's proposed budget. The budget should be reviewed to determine the ITO's basic ability to quantify program operations into dollar amounts. Reviewing the proposed budget as part of the capability determination is useful if the ITO is subsequently approved for the program, since many of the basic budgetary issues will have been identified and resolved. Resolving budget issues early will aid in meeting the mandated program implementation deadlines.

D. Agreements. Authority is delegated to the Regional Administrators to accept and sign agreements for program operations.

E. Plan of Operation and Household Application Form. The authority to approve Plans of Operation is delegated to each Regional Administrator. An approved Plan of Operation is considered permanent, with amendments to be added as changes in the administration or management of the program are made, or at the request of FNS. No amendment to the Plan of Operation shall be effective without prior approval of the Regional Administrator, and FNS may require an amendment of any plan as a condition of continuing approval. The ITO/State agency must also provide a household application form that is acceptable to the RO.

F. Annual Budget Submissions. Authority is granted to the Regional Administrators to approve annual FDP budget submissions from the ITOs/SAs. The budget submissions shall be evaluated in relation to each ITO's/SA's Plan of Operation and other factors that are relevant to a determination as to whether the proposed costs are allowable, necessary, and reasonable.

Within the limitation of funds available for the administration of FDP, FNS shall make available to each ITO/SA 75 percent of the total approved administrative costs based on the ITO's/SA's budget submission. Each ITO/SA must provide 25 percent of the total approved budgeted administrative costs, in accordance with the matching requirement at 7 CFR 253.11, unless compelling justification for a lower percentage is provided by the ITO/SA and approved by FNS. The Regional Administrators are delegated the authority to approve such requests from the ITOs/SAs for match rate of less than 25 percent. Further guidance on budget submissions and approvals is found in FNS Instruction 716-4 (Rev. 1).

G. Administrative Funds Allocation. Contingent upon the receipt of appropriated funds, the Regional Administrators will receive FDP administrative funds to be allocated to the ITOs/SAs in their region. The ROs are responsible for allocating those funds to the ITOs and SAs in a fair and efficient manner consistent with federal regulations and other guidance on funds allocation. Each RO must administer the program within its allocation.

H. Monitoring and Technical Assistance. The responsibility of monitoring program operations and providing appropriate training and technical assistance to the ITOs/SAs is delegated to the Regional Administrators. The ROs shall review program operations at the ITO/SA level to evaluate the effectiveness of the ITO/SA in carrying out the Plan of Operation and applicable policies, instructions, and regulatory requirements, and in providing efficient service to participants. Training and technical assistance shall be provided to the ITOs/SAs by the ROs, as appropriate.

### III. AUTHORITY NOT DELEGATED TO REGIONAL ADMINISTRATORS

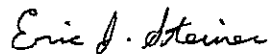
A. Urban Place Waiver Requests. The authority for granting waivers to the urban place provision has not been delegated to the Regional Administrators. It is Congress' intent that low-income households residing in urban areas where Food Stamp Program services and authorized grocery stores are readily available should participate in the Food Stamp Program, not FDP. Therefore, FDP regulations at 7 CFR 253.2, 253.5, 254.2 and 254.5 limit FDP service areas near

reservations and in the State of Oklahoma to cities or towns with less than 10,000 people. ITOs/SAs that wish to serve an area off the reservation or an area in Oklahoma with a population of 10,000 or more must submit a waiver request to the appropriate RO. The RO shall forward the following to FDD:

1. The ITO's/SA's request for a waiver;
2. The ITO's/SA's justification supporting its need to serve the urban areas; and
3. The RO's recommendation.

Authority for approving or denying urban place waivers is assigned to the Director of FDD.

B. Limited Authority for Adjusting, Compromising and Forgiving Non-Audit Claims. The Regional Administrator's authority for adjusting, compromising, and forgiving non-audit claims is limited. Further guidance can be found in FNS Instruction 410-1 (Rev. 2).



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