



State of Nevada
Governor's Finance Office
Division of Internal Audits

Audit Report

Nevada Department of Agriculture

Commodity Foods

Improving management of nutrition programs will expand program capacity and ensure long-term sustainability.

DIA Report No. 25-05
July 29, 2025

EXECUTIVE SUMMARY

Nevada Department of Agriculture

Commodity Foods

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Objective: Improve Management of Nutrition Programs

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The Nevada Department of Agriculture (NDA) should assess its nutrition program operations to ensure compliance with updated federal and state requirements and alignment with legislative intent. Since assuming responsibility in 2013, NDA has not conducted a full review of statutory provisions or federal regulations governing nutrition programs. Some documents required by federal regulations, such as cost records, have not been maintained, which increases compliance risk and may jeopardize federal funding. Unclear statutes and regulations further complicate program administration. For example, the Supplemental Food Program appears inactive and redundant due to the newer Home Feeds Nevada program, yet statutory language remains unchanged. NDA's strategic plan calls for reviewing and updating statutes. A formal review is necessary to ensure NDA's operations support long-term program sustainability.

Recalculate Shipping Fees and Submit for USDA Approval page 9

NDA should recalculate its shipping fees for the USDA Foods in Schools program and submit the updated fees to the USDA for approval. Current fees are not based on current, actual distribution and administrative costs as required by federal regulations. Additionally, shipping fees have been commingled with unrelated programs distorting financial data. To ensure compliance, NDA must develop a cost-based fee structure that accurately reflects actual expenses and accounts for State Administrative Expense (SAE) funds. Fees must be based on reasonable cost estimates, such as fuel, labor, and warehouse use, and aligned with CFR guidelines. A recalculated fee can be adjusted for inflation without USDA approval, but it must be supported by accurate cost data.

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INTRODUCTION

At the direction of the Executive Branch Audit Committee, the Division of Internal Audits (DIA) conducted an audit of the Nevada Department of Agriculture (NDA). The audit focused on the administration of federal and state nutrition programs. The audit scope and methodology, background, and acknowledgments are included in Appendix A.

DIA's audit objective was to develop recommendations to:

- ✓ Improve management of nutrition programs.

Nevada Department of Agriculture Response and Implementation Plan

DIA provided draft copies of this report to NDA for review and comment. DIA considered NDA's comments in the preparation of this report; NDA's response is included in Appendix B. In its response, NDA accepted the recommendations. Appendix C includes a timetable to implement the recommendations.

NRS 353A.090 requires within six months after the final report is issued to the Executive Branch Audit Committee, the Administrator of the Division of Internal Audits shall evaluate the steps NDA has taken to implement the recommendations and shall determine whether the steps are achieving the desired results. The Administrator shall report the six-month follow-up results to the committee and NDA.

The following report (DIA Report No. 25-05) contains DIA's *findings, conclusions, and recommendations*.

Improve Management of Nutrition Programs

The Nevada Department of Agriculture (NDA) can improve management of nutrition programs by:

- Assessing nutrition program operations for compliance with updated requirements and alignment with legislative intent; and
- Recalculating shipping fees and submitting for USDA approval.

Improving management of nutrition programs will preserve limited state resources, expand program capacity, and improve long-term program sustainability while ensuring only allowable costs are charged to federal grants.

NDA is responsible for administering most federal nutrition programs in Nevada, administered by NDA's Food and Nutrition Division.¹ Collectively, these programs account for hundreds of millions of dollars in federal funds and donated food. Each program targets a specific population or purpose and is federally regulated. Some programs are reimbursement-based, whereby sponsoring institutions such as schools or daycare centers are reimbursed for the cost of food served to eligible recipients. Other programs consist of food distribution, where eligible recipients receive a package of food or may obtain food from an emergency feeding organization, such as a food bank. Each program can be categorized as either a child nutrition program or a household nutrition program. See Appendix D for a detailed description of programs administered by NDA.

Assess Nutrition Program Operations for Compliance with Updated Requirements and Alignment with Legislative Intent

The Nevada Department of Agriculture (NDA) should assess nutrition program operations for compliance with updated requirements and alignment with legislative intent. Nutrition program operations and decisions must comply with the Code of Federal Regulations (CFR) and state statutes applicable to the administration and operation of federal and state-level nutrition programs. Statutes and regulations have been enacted, revised, and repealed over time, and certain federal nutrition programs require updated plans of operations after set intervals or in response to a material change in program activity.

Statutes Needing Review Since 2013

The state has been administering federal nutrition programs for decades, but NDA became responsible for the programs in 2013. Child nutrition programs were previously administered by the Nevada Department of Education (NDE) and household nutrition programs were previously administered by the Department of

¹ The Department of Human Services administers some federal nutrition programs, which fall outside the scope of this audit.

Administration, Purchasing Division (Purchasing). All programs were reassigned to NDA following the 2013 legislative session. The decision to reassign the programs was based primarily on the belief that NDA could better achieve efficiencies through its connections with both local food producers and the United States Department of Agriculture (USDA).

Statutory provisions relevant to operating the programs in Nevada were established in NRS prior to the reassignment, necessitating only a change in department authority. No redrafting was done to statutory language addressing the substance of program operations. During a May 2013 legislative committee meeting, the then-Director of NDA characterized the initial change to NRS as a “cut-and-paste move.” The approach was to evaluate the new operational structure over the following biennium, then any warranted changes to NRS would be addressed during the next legislative session.

Evaluation of State and Federal Requirements Was Not Completed

An evaluation of NDA’s operations compared to provisions in the CFR and NRS was not completed. Several statutes and regulations applicable to state and federal nutrition programs may be overlooked, disregarded, or misinterpreted, while others may be obsolete.

Each of the federal nutrition programs administered by NDA have been codified in federal statute with a substantial number of applicable provisions. Similarly, NDA must comply with several state-level nutrition program provisions codified in NRS. NDA also receives grant funds for certain temporary programs, subjecting the department to the rules and regulations applicable to those grants.

Legislative Committee Expected Statutes to Be Refined

During the 2013 legislative session, committees reviewing proposals to transfer administration of federal nutrition programs to NDA primarily focused on operational activities but also discussed unclear statutory provisions. During the May 2013 meeting, the then-Chair of the Assembly Committee on Natural Resources, Agriculture, and Mining voiced an expectation that legislation would refine the language in the next session. In response, the then-Director of NDA conceded that NRS may not be up-to-date and maintained that reviewing the statutes would be a priority once the new operational structure could be assessed.

Lack of Clarity Over Supplemental Food Program

Among the NRS provisions characterized as unclear were those related specifically to the Supplemental Food Program (SFP). The SFP is a state program established under Purchasing during the 1995 legislative session in response to rising demand for emergency food services. The legislation creating the program recognized a small but steady source of state funds would support food banks as federal funding

decreased.² The SFP was reassigned to NDA as part of the 2013 reorganization, but the context of legislative records suggest it was never identified as a state-specific program. Rather, the SFP-specific provisions called into question were inaccurately addressed as applicable to the federal nutrition programs being reassigned to NDA.

NRS 333.124 was amended in conjunction with the creation of the SFP to allow use of the Donated Commodities Account (DCA) to purchase and distribute nutritious food for the SFP, as well as the payment of any costs incurred in the administration of the SFP. The DCA was previously created by statute for use by the Purchasing Administrator to acquire commodities donated by the federal government, but it appears this account has not been established.

State accounting records show Budget Account (BA) 1362 – Commodity Food Program was established under Purchasing prior to transitioning to NDA. This appears to be the account most likely used to administer the SFP, but a number of different activities flow through this BA, including the administration of the federal household nutrition programs, shipping and handling transactions for food distribution, and food processing transactions. The account is not dedicated to acquiring donated commodities and administering the SFP.

SFP Appears to Be Dormant

There has been no SFP activity aside from a \$200,000 General Fund appropriation at the time the program was created in 1995, prior to the implementation of the electronic state accounting system in 1999. NDA leadership is unaware of any activity related to the SFP. The lack of SFP activity is not alone considered an issue, as this is a discretionary program. The issue is whether the statutory provisions reflect the operational realities of the program 30 years after inception and whether those provisions are applicable to federal nutrition programs.

NDA leadership represents that the program's presence in statute grants the authority to administer federal nutrition programs. Review of NRS and records related to the creation of the SFP indicate program provisions are unrelated to federal nutrition programs. The authority to administer the federal nutrition programs is codified in NRS 387, which encompasses provisions reassigned to NDA from NDE as part of the 2013 reorganization. These provisions authorize the NDA Director to administer any nutrition program supported by federal assistance. Exhibit I shows the specific provisions outlining federal nutrition program administration authority.

² Assembly Bill 487, 68th Session (1995).

Exhibit I

Federal Nutrition Program Administration Authority

NRS 387.070 “Program of nutrition” defined

“Program of nutrition” means a program under which food is served to, or nutritional education and assistance are provided for, children and adults by any public school, private school or public or private institution on a nonprofit basis, including any such program for which assistance may be made available out of money appropriated by the Congress of the United States. The term includes, but is not limited to, a school lunch program or the Program.^a

NRS 387.080 Administration, maintenance and operation of programs; disbursement of money by State Treasurer

The Director may enter into agreements with any agency of the Federal Government, the Department, the State Board, any board of trustees of a school district, any governing body of a charter school or any other entity or person. The Director may establish policies and prescribe regulations, authorize the employment of such personnel and take such other action as it considers necessary to provide for the establishment, maintenance, operation and expansion of any program of nutrition operated by a school district or of any other such program for which state or federal assistance is provided.

Source: Nevada State Legislature Law Library.

Note: ^a“The Program” refers to the Breakfast After the Bell program.

Home Feeds Nevada May Render SFP Obsolete

The Legislature created the Home Feeds Nevada Agriculture Food Purchase Program (HFN) in 2021 to supplement the supply of food provided to food banks, soup kitchens, food pantries, and homeless shelters, which may render the SFP obsolete. The concept of HFN mirrors that of the SFP, with the exception that food purchased for HFN is grown, produced, or processed in Nevada. Both programs target food insecurity in the state, but the HFN requirement to purchase local food provides the additional benefit of boosting economic opportunities for Nevada agricultural producers. Absent that requirement, there would be two virtually identical programs codified in statute.

NRS allows the NDA Director to solicit and accept any gift, grant, or donation to fund both the SFP and HFN.^{3,4} This means that the program selected for service is dictated by the state where food purchases originate. As such, purchasing food from an out-of-state producer would service the SFP by default, considering out-of-

³ NRS 561.495(2): “The Director may solicit and accept any gift, grant, or donation for the Program.” (SFP)

⁴ NRS 561.515(2): “The Director may solicit and accept any gift, grant, or donation for the Program.” (HFN)

state purchases do not meet the HFN statutory requirement. Ideally, all funding provided to purchase supplemental food will be kept in Nevada, making HFN the preferred program. If all available funding were consistently provided to Nevada agricultural producers, there would be no purpose for the existence of the SFP.

Unclear if Accounting Methods Meet Legislative Intent

The Nutritious Food Purchase Account (NFPA) was created by statute in conjunction with HFN for use by the Director in carrying out HFN. Review of state accounting records shows this account does not appear to have been established. It is unclear whether accounting methods in place for HFN meet legislative intent for creating a dedicated account to carry out the program.

Activity for HFN has been funded solely with federal funds, specifically the USDA Local Food Purchase Assistance Cooperative Agreement Program (LFPA) and American Rescue Plan Act (ARPA) federal awards. Receipt and expenditure transactions for these federal awards flow through BA 1362 and are assigned separate job codes, which requires proper identification to compile and evaluate HFN activity. A unique job code would be necessary for each funding source used to support HFN activity, thus requiring multiple job codes to track activity for a single program.

Dedicated Account Required by CFR Was Not Created

As the distributing agency for Nevada, NDA imposes shipping and handling fees on schools for delivering food; however, they do not use a dedicated account for these funds as required by CFR. The USDA Foods in Schools program provides food to schools that participate in the federal child nutrition programs. State distributing agencies must utilize State Administrative Expense (SAE) funds to meet the costs of storing and distributing those foods, but CFR authorizes those agencies to impose a distribution charge on schools when SAE funds are insufficient. The receipt of these fees and the expenditures charged against them, are assigned a job code and recorded in BA 1362, which is not a dedicated account. Pursuant to 7 CFR 250.17(a):

The distributing agency must maintain such funds in an operating account, separate from other funds obtained incidental to donated food distribution. The amount of funds maintained at any time in the operating account may not exceed the distributing agency's highest expenditure from that account over any three-month period in the previous school or fiscal year, unless the distributing agency receives [Food and Nutrition Service] approval to maintain a larger amount of funds in such account.

The current method of accounting for the shipping and handling fees in a shared account was established prior to NDA's administration of the program. NDA continued the process established by Purchasing without reassessing compliance

requirements.⁵ A review of state accounting records shows shipping and handling fees transacted through BA 1362 dating back to 1999, indicating NDA maintained a process already in place.

Certain Records Required by CFR Not Maintained

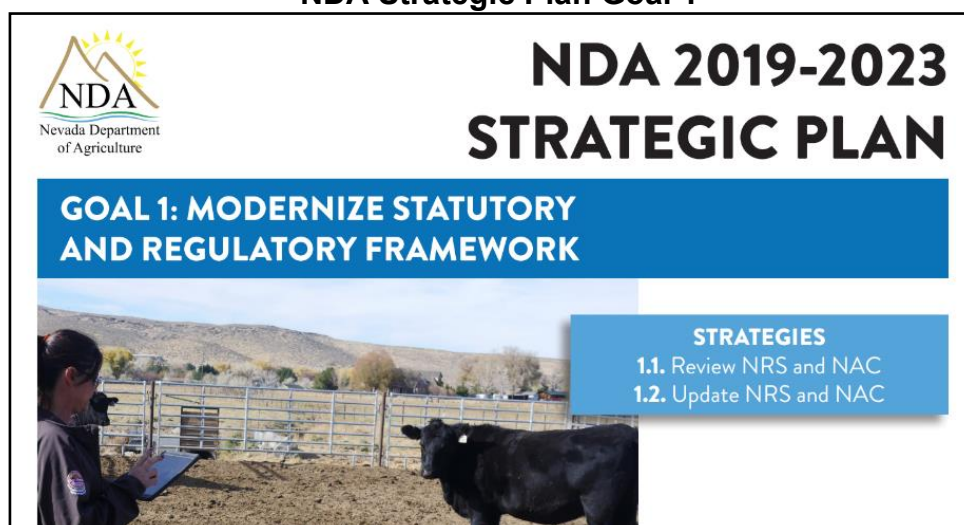
NDA did not maintain certain records required by CFR for USDA Foods In Schools. 7 CFR 250.13(b)(2) states that the state distributing agency must maintain a record of costs incurred in storing and distributing foods, the related administrative cost, and the source of funds used to pay such costs. In lieu of a cost summary, NDA codes transactions from food distribution activity to a job code. A summary of costs can be constructed from the data, but those transactions must first be properly identified as food distribution costs, then re-compiled in an accurate and relevant manner. NDA does not maintain a complete record of the costs associated with storing and distributing food, despite charging schools a shipping fee intended to recover those costs. While some cost data can be reconstructed using job code transactions, this approach relies heavily on staff accurately allocating expenses and on analysts correctly interpreting the data.

Strategic Plan Modernization Goal Has Not Been Implemented

NDA's Food and Nutrition Division has not taken action to implement its strategic plan goal of modernizing its statutory and regulatory framework for nutrition programs. This goal is part of the 2019-2023 strategic plan created to improve operations and better serve Nevadans following the appointment of the previous Director in March 2019.⁶ Exhibit II shows the first goal of the plan – Modernize Statutory and Regulatory Framework.

Exhibit II

NDA Strategic Plan Goal 1



Source: Nevada Department of Agriculture.

⁵ Purchasing administered the federal nutrition programs prior to the transfer to NDA.

⁶ There are five goals outlined in the plan, with each goal attached to a selection of strategies designed to meet the goal.

Strategies to review and update NRS and Nevada Administrative Code (NAC) were documented as part of the strategic plan goal, indicating the Food and Nutrition Division was aware of the need to assess its compliance environment. Efforts to accomplish other goals intended to improve operations will be difficult without a comprehensive understanding of the state and federal requirements applicable to those operations.

Conclusion

NDA must assess nutrition program operations to ensure alignment with legislative intent and comply with federal and state requirements. Since assuming responsibility for these programs in 2013, NDA's Food and Nutrition Division has not fully evaluated applicable statutes, regulations, or administrative processes, leading to outdated practices and potential noncompliance with both the Code of Federal Regulations and NRS. Without a comprehensive understanding of the federal and state requirements applicable to nutrition program operations, the department risks mismanaging funds, undermining program effectiveness, and jeopardizing continued federal support. Modernizing NDA's statutory and regulatory framework, as outlined in its own strategic plan, is essential for improving accountability, ensuring program integrity, and positioning the department to respond effectively to changes in state or federal policies.

Recommendation

1. Assess nutrition program operations for compliance with updated requirements and alignment with legislative intent.

Recalculate Shipping Fees and Submit for USDA Approval

The Nevada Department of Agriculture (NDA) should recalculate shipping and handling fees (shipping fees) charged to schools and school food authorities (schools) and submit the recalculated fees to the United States Department of Agriculture (USDA) for approval. Recalculating the shipping fees will ensure NDA charges an accurate amount for food storage, distribution, and associated administration costs. Charging an updated, accurate shipping fee will ensure NDA complies with federal regulations.

Shipping Fee Structure Has Not Been Updated

NDA charges schools for the costs incurred to administer and operate the USDA Foods in Schools program, but the shipping fee structure has not been updated since NDA assumed responsibility for the program in 2013. NDA charges schools a \$1.50 or \$2.50 fee per case of food delivered for the program, depending on the delivery method.⁷ NDA does not know how the shipping fees were determined, and available evidence does not support the current fee structure.

The Department of Administration, Purchasing Division (Purchasing), initiated the fees prior to NDA assuming distribution responsibilities in 2013, after which point NDA maintained the process. NDA has been unable to locate documentation supporting the calculation of these fee amounts or how they were derived. The shipping fee structure indicates total costs incurred to physically distribute food are only 40.0% of total costs incurred to administer the program. Exhibit III shows the shipping fee structure in place for food distribution to schools.

Exhibit III

Shipping Fee Structure

Cost per case when NDA delivers food	\$	2.50
Admin cost per case when NDA does not deliver food	\$	1.50
Difference = Implied cost per case of delivering food	\$	1.00
\$1.00 per case delivery cost / \$2.50 per case total cost		40.0%

Source: DIA analysis of NDA shipping fees.

The shipping fee structure implies that administrative costs incurred to facilitate food orders between the USDA and schools are more than the costs incurred to physically distribute food, which includes: driver salaries; fuel; vehicle maintenance; and a portion of warehouse costs.

⁷ Food orders of less than 500 cases (generally, schools outside of Clark County) are first delivered from food suppliers and processors to one of NDA's two warehouses. NDA then charges \$2.50 per case to deliver the food cases to schools. Orders of 500 or more food cases are delivered directly to schools from food suppliers and processors; NDA charges \$1.50 per case for orders of 500 or more cases to cover administrative costs.

Fees Must Correlate to Actual Costs

NDA is allowed to charge shipping fees to deliver food for the USDA Foods in Schools program; however, the amount charged must correlate to actual costs incurred. The Code of Federal Regulations (CFR) allows state distributing agencies to impose a distribution charge (shipping fees) on schools to cover the costs of storing and distributing food, along with the associated administrative costs, provided that state administrative expense (SAE) funds are insufficient to cover those costs. The CFR mandates that funds accumulated from the distribution charge must be maintained in a dedicated operating account and may not exceed the largest expense from the same account over any three-month period in the prior school or fiscal year.

Accumulation of Funds Indicates Reevaluation of Shipping Fees is Needed

Review of shipping fee transactions in state accounting records indicates approximately \$440,000 in funds accumulated from fiscal years 2019 through 2024, indicating the per case shipping fees should be reevaluated. The CFR allows state distributing agencies to charge shipping fees, but accumulated funds must not exceed established limits without USDA approval.

Shipping fee transactions preceding fiscal year 2019 were coded to the "STATE" job code, which is used by multiple state departments. Shared use of the job code comingles transactions, complicating the ability to accurately calculate the reserve accumulated prior to 2019. Exhibit IV shows the reserve accumulated from shipping fees in fiscal years 2019 through 2024, excluding the reserve accumulated prior to fiscal year 2019.

Exhibit IV

Accumulated Shipping Fee Reserve

Fiscal Year	Fees	Costs	Reserve Increase / (Decrease)
2019	\$ 1,054,557.21	\$ 853,730.71	\$ 200,826.50
2020	\$ 980,929.50	\$ 860,683.77	\$ 120,245.73
2021	\$ 669,593.50	\$ 745,523.22	\$ (75,929.72)
2022	\$ 1,365,132.61	\$ 904,826.92	\$ 460,305.69
2023	\$ 909,900.66	\$ 1,120,445.74	\$ (210,545.08)
2024	\$ 1,151,114.08	\$ 1,204,428.68	\$ (53,314.60)
Accumulated Reserve			\$ 441,588.52

Source: Data Warehouse of Nevada.

NDA Administrative Division costs are considered indirect costs in relation to food distribution duties for the USDA Foods in Schools program. The CFR allows for the

recovery of indirect costs when charging shipping fees but those costs must be factored into shipping fees approved by the USDA prior to charging schools.

In fiscal year 2024, \$351,995 in indirect costs were allocated to the Administrative Division, representing 41.59% of estimated direct costs of food distribution based on total charges. According to the 2024 Rate Agreement with the USDA, NDA may charge 26.61% of modified total direct costs as indirect costs across all programs.⁸ Using this indirect cost rate, the maximum total allowed indirect costs would be \$225,224. The indirect cost rate provides context for the scale of the allocations being made to the Administrative Division; however, there is no maximum indirect cost rate established in the CFR for shipping fees. The shipping fees approved by the USDA are required to be based on an estimation of anticipated, identifiable costs of shipping food and administering the program, rather than published or agreed-upon rates.

Shipping Fee Revenue Does Not Accurately Reflect Charges

Shipping fee revenue does not accurately reflect charges. Testing of state accounting records identified anomalies in shipping fee revenue totals. Shipping fee revenue properly recorded should always total an amount ending in .00 or .50 because shipping fees are \$1.50 and \$2.50 per case.

Total shipping fee revenues were:

- FY 2019: \$1,054,557.21
- FY 2020: \$ 980,929.50
- FY 2021: \$ 669,593.50
- FY 2022: \$1,365,132.61
- FY 2023: \$ 909,900.66
- FY 2024: \$1,151,114.08

Gross totals ending in .21, .61, .66, and .08 do not reflect the accumulation of \$1.50 and \$2.50 charges. NDA records shipping fee revenue quarterly; the revenue recorded in eight of the 24 (33.3%) quarters from fiscal years 2019 through 2024 did not total an amount ending in .00 or .50.

Recalculated Shipping Fees Must Account for SAE Funds

The expected use of SAE funds must be included in recalculated shipping fees. The CFR allows NDA to charge food distribution costs to schools when SAE funds are insufficient to cover those costs, which requires NDA to identify SAE funds available. Due to NDA's use of job codes in lieu of program cost summaries, it is unclear whether the department utilized any SAE funds for food distribution

⁸ The rate agreement defines modified direct costs as all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward. Excludes equipment, capital expenditures, charges for patient care, rental costs, participant support costs, and the portion of each subaward in excess of \$25,000.

activities. As with shipping fees, a dedicated job code is used to track both the receipt of SAE funds and charges against those funds, though the code changes annually to identify the federal fiscal award year. When the department codes charges against SAE funds, the program supported can only be identified if it has been assigned its own expense category. For charges falling into a general expense category, such as wages or operating supplies, the program supported is unknown. For example, wages charged to the code for SAE funds could reflect staff time spent on food distribution activities or any one of the other child nutrition programs.

To date, NDA has maximized the costs charged to the SAE job codes, leaving no other identifiable funds to help offset shipping fees charged to schools. The department must be diligent in allocating costs in the most effective manner to free up SAE funds that can be used to cover food distribution costs. This can be accomplished by exhausting dedicated, program-specific admin funds prior to accessing SAE funds.

NSIP Data Must be Separate from USDA Foods in Schools

Nutrition Services Incentive Program (NSIP) data must be separate from the USDA Foods in Schools program data. The CFR states that shipping fees may be imposed on recipient agencies of the child nutrition programs. NSIP is a nutrition program specifically for elderly Americans and is not recognized as one of the child nutrition programs. NSIP provides cash, food, or a combination thereof to elderly individuals.⁹ Meals or components of meals may be served on location such as soup kitchens, served to individuals at home, or provided to take home. Funds must be used to purchase food for a meal and may not be used for any other purpose, such as groceries for program participants or for administrative costs. As follow-up to a prior audit, NDA provided documentation to the Division of Internal Audits (DIA) in December 2017 that showed a shipping fee is being charged for NSIP deliveries.¹⁰

The federal regulation requiring a dedicated operating account to maintain shipping fees explicitly states the account is required to separate shipping fees from other funds obtained incidental to food distribution. The shipping fees charged for NSIP deliveries have been improperly comingled with the receipts from USDA Foods in Schools deliveries, distorting the reliability of food distribution data.

Established Shipping Fees Can Be Adjusted for Inflation without Obtaining Subsequent USDA Approval

Established shipping fees remain in effect once approved by the USDA, but can be adjusted for inflation without obtaining subsequent USDA approval. Federal regulation indicates further requests for approval are required only when the state distributing agency wishes to increase the fees beyond normal inflationary

⁹ The Department of Human Services administers NSIP, but NDA handles the food distribution function.

¹⁰ DIA Report No. 16-02, Department of Agriculture, Food and Nutrition Division.

adjustments or decrease the level of service provided, implying that established fees are meant to be in effect for multiple periods from the initial approval going forward.

Conclusion

NDA must recalculate its shipping fees based on actual, documented costs and submit the updated fees to the USDA for approval. NDA charges schools for the costs incurred to administer and operate the USDA Foods in Schools program, but the shipping fee structure has not been updated since NDA assumed responsibility for the program in 2013. The current fee structure is not supported by sufficient documentation of actual costs. Additionally, commingling funds has undermined transparency and compliance with federal regulations. Establishing accurate, cost-based fees and preventing shipping fees from commingling with unrelated programs will ensure compliance and facilitate proper accounting of shipping fee funds.

Recommendation

2. Recalculate shipping fees and submit for USDA approval.

Appendix A

Scope and Methodology, Background, and Acknowledgments

Scope and Methodology

We began the audit in February 2025. In the course of our work, we interviewed members of management from the Nevada Department of Agriculture (NDA) to discuss processes inherent to NDA's operations. We reviewed NDA records and researched legislative history, state budget manual procedures, applicable Nevada Revised Statutes, Nevada Administrative Code, Nevada State Administrative Manual, Code of Federal Regulations, federal program requirements, governmental generally accepted accounting principles, and other state and federal guidelines. We concluded fieldwork in June 2025.

We conducted our audit in conformance with the *International Standards for the Professional Practice of Internal Auditing*.

Background

The Nevada Department of Agriculture (NDA) was established in 1915 by NRS 561. The mission of NDA is to preserve, protect, and promote Nevada agriculture. NDA consists of five divisions: Animal Industry, Plant Health and Compliance, Measurement Standards, Food and Nutrition, and Administrative Services. NDA's strategic goals are:¹¹

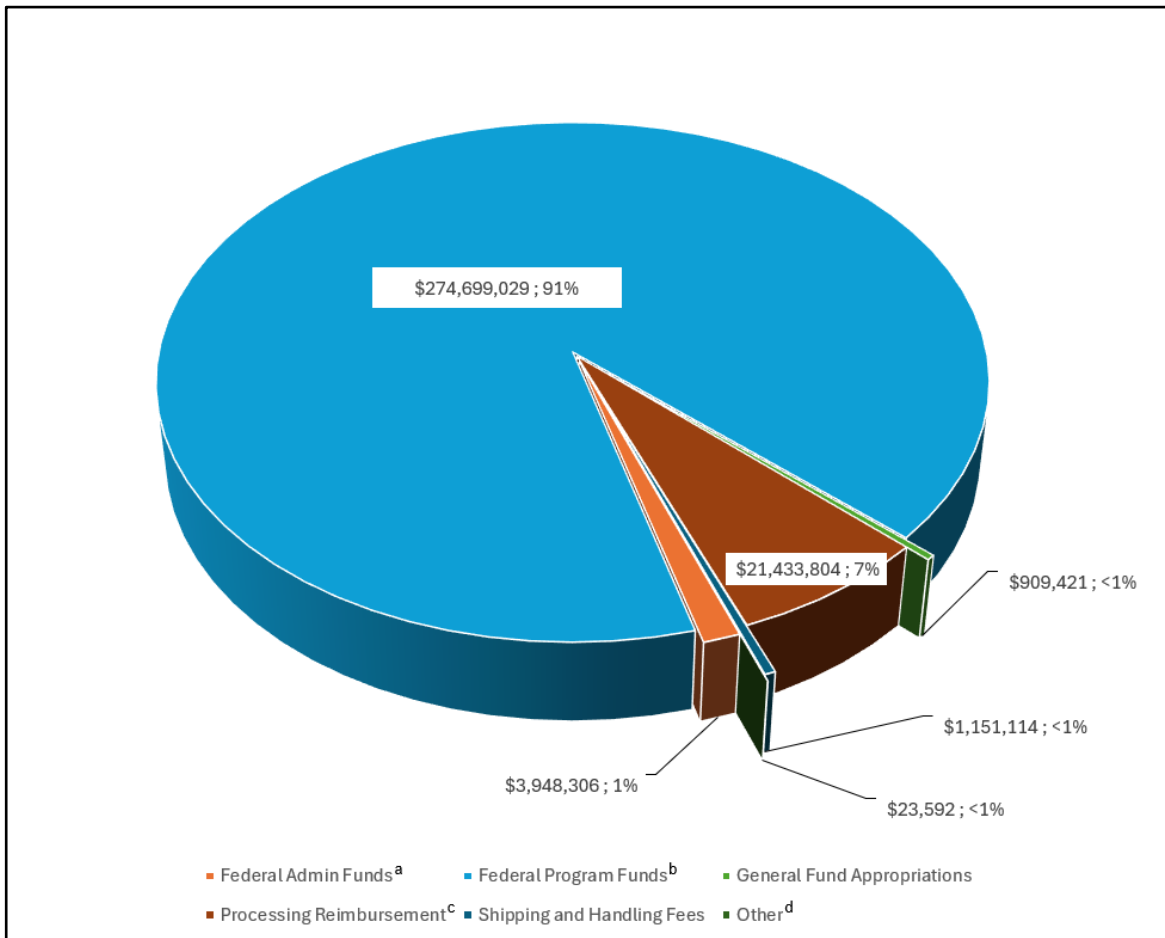
1. Modernize statutory and regulatory framework;
2. Increase financial stability;
3. Increase economic development opportunities for the agriculture sector;
4. Become a customer focused organization; and
5. Create a cohesive organization.

Exhibit V shows NDA's revenue by funding source through the primary budget accounts for nutrition programs (1362 and 2691) for fiscal year 2024.

¹¹Nevada Department of Agriculture 2019-2023 Strategic Plan.

Exhibit V

Fiscal Year 2024 Revenue Budget Accounts 1362 and 2691



Source: Data Warehouse of Nevada.

Notes: ^a Federal admin funds represent the total of both funds provided by the USDA specifically as administrative funds and the authorized portions of program funds NDA utilized to cover administrative costs.

^b Federal program funds represent all federal funding sources available to pass through to subrecipients in the form of grants, reimbursements, and administrative funds or to purchase food for distribution to subrecipients.

^c Processing reimbursement represents the funds collected from schools to reimburse food processors for the schools utilizing the "bulk for processing" option of the USDA Foods in Schools Program (see appendix D).

^d Other includes a Treasurer's interest distribution and a reimbursement of expenses from Department of Administration, Purchasing Division.

Acknowledgments

We express appreciation to the Department of Agriculture's management and staff, and the Governor's Finance Office, Budget Division for their cooperation and assistance throughout the audit.

Contributors to this report included:

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Appendix B

Nevada Department of Agriculture Response and Implementation Plan

JOE LOMBARDO
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July 16, 2025

Craig Stevenson
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Dear Administrator Stevenson:

The Nevada Department of Agriculture (NDA) has reviewed the draft Audit Report received July 1, 2025, related to the Division of Food and Nutrition's Commodity Foods program. I appreciate the opportunity to review and provide comments on the draft audit report. In accordance with Nevada Revised Statutes (NRS) 353A, this letter contains the NDA's response to the audit findings and recommendations in the report.

Recommendation #1: Assess nutrition program operations for compliance with updated requirements and alignment with statutory intent.

The agency agrees and accepts this recommendation. The NDA Food and Nutrition staff are aware some NRS and Nevada Administrative Code (NAC) provisions are outdated, and some federal regulations are vague and/or have recently changed. NDA staff have already started reviewing some of the federal regulations as part of this audit, including Fresh Fruit and Vegetable Program (FFVP), Distribution Costs of Donated Foods, and Nutrition Services Incentive Program (NSIP). The agency will begin a full and formal review of the statutory and federal regulatory framework applicable to all division programs and operations.

Lack of clarity over supplemental food program and SFP appears to be dormant

The agency's formal review will start with specific references in the report, such as the Supplemental Food Program (NRS 333.124) and NRS 387 (Financial Support of School System). The agency is committed to reviewing all applicable state statutes and regulations and proposing changes to improve clarity, revise and/or replace outdated language, and ensure alignment with legislative intent. If changes to NRS or NAC are merited, the agency will propose this through the appropriate regulatory and/or legislative processes.

NDA Implementation Plan:

- Within six months following this audit:
 - Initiate formal review process of statutory framework applicable to the administration and operation of

NDA Rev. 03-2019

JOE LOMBARDO
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- all Division nutrition programs.
 - Initiate formal review process of the Code of Federal Regulations (CFR) applicable to the Division's feeding and nutrition programs to ensure full compliance with all regulations.
- Within one year following this audit, NDA will complete the formal review of statutes and regulations and prepare to initiate the official procedure to update and/or change NRS or NAC, including meeting the prescribed state deadline in 2026 for submitting any bill draft requests to update and/or change statutes via the State Legislature.
- Within one year following this audit, NDA will identify and work with USDA-Food and Nutrition Service (FNS) staff to clarify any questions regarding potential noncompliance with CFRs.

Recommendation #2: Recalculate shipping fees and submit for USDA approval.

The agency agrees and accepts this recommendation. While current shipping fees are based off an assessment of costs completed by the agency in 2017 in response to the 2016 Internal Audit, the agency agrees the current fee structure requires review as the cost of doing business has likely increased since 2017. If the assessment indicates fees require modification outside of normal inflationary adjustments, the agency will follow federal requirements per 7 CFR Part 250 to seek approval from USDA prior to implementation. As part of this evaluation, NDA Food and Nutrition staff will work with the NDA's Division of Administrative Services to develop a cost summary that details food distribution costs and is evaluated monthly.

CFR allows for the recovery of indirect costs when charging shipping fees

While the report is correct that USDA allows for the recovery of indirect costs and the NDA has a federally approved Negotiated Indirect Cost Rate Agreement (NICRA), indirect cost rates are only applicable to USDA federal awards. Shipping and handling fees charged by the NDA are not a federal award or a source of federal funding. NDA received confirmation on July 8, 2025, from USDA-FNS Financial Management staff that the shipping and handling fees assessed on USDA Foods in Schools are considered *state* revenue and, as such, are not subject to federal indirect cost rates approved by the USDA. Thus, the current method of applying a cost allocation methodology that has been approved by the Legislative Counsel Bureau is an accepted method.

Accumulation of funds indicates reevaluation of shipping fees is needed

Regarding reserve amounts, the NDA will carefully review federal regulations and work with USDA-FNS staff to ensure any amount held over in the shipping and handling category is within limits set in 7 CFR Part 250. NDA Food and Nutrition staff will also ensure a forecasted spending plan is in place to use reserve funds timelier for allowable costs, consistent with expenditures over the last two years, such as replacement of food distribution vehicles and warehouse equipment.

Dedicated account required by CFR was not created

NDA's current practice to track specific funding sources using an individual category and job number is appropriate and compliant with the CFR requirements. Specifically, this method enables funding to be evaluated separately from other sources within the account and ensures it remains distinct and auditable, which is key to the CFR requirements. Though the NDA has continued this practice established by the state Purchasing Division under a previous administration, it does comply with federal requirements. In an effort to thoroughly conduct its due diligence, the NDA has consulted with USDA-Western Region Office regarding this requirement and is awaiting formal confirmation.

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The agency will ensure that all funding sources requiring an individual category and job number for tracking are properly assigned, including the NSIP, as cited in the report.

NDA Implementation Plan:

- Within six months following this audit, NDA will:
 - Complete an assessment of current USDA Foods in Schools distribution costs to determine the required fee amount to break even and cover allowable costs.
 - Create a cost summary for all food distribution costs that will be used for monthly monitoring and ensure revenues accurately reflect charges.
 - Assign a new category and job number to NSIP to ensure this program is tracked appropriately and individually.
- Within six months following this audit, NDA will identify the methodology in CFR used to determine reserve amounts in the shipping and handling category and ensure they are within CFR limits. Staff will then monitor the reserve amounts quarterly.
- Within one year following this audit, using the completed evaluation of fee assessment to recalculate shipping and handling fees, NDA will identify the per case costs to be charged to School Food Authorities. If fee changes are required, the agency will proceed with the applicable required approvals and develop a communication and implementation plan with the goal of enacting the new fee structure prior to the start of school year 2026-2027.

The NDA appreciates the opportunity to respond to the findings and recommendations outlined in the Audit Report. The agency is confident the implementation plan detailed in this letter will enhance its programs, reinforcing the NDA's commitment to serving all Nevadans.

Sincerely,


J.J. Goicoechea (JUL 16, 2025 17:54 PDT)

JJ Goicoechea, DVM
Director

Appendix C

Timetable for Implementing Audit Recommendations

In consultation with the Nevada Department of Agriculture (NDA), the Division of Internal Audits categorized the recommendations contained within this report into two separate implementation time frames (i.e., *Category 1* – less than six months; *Category 2* – more than six months). NDA should begin taking steps to implement all recommendations as soon as possible. The target completion dates are incorporated from Appendix B.

Category 2: Recommendations with an anticipated implementation period exceeding six months.

<u>Recommendations</u>	<u>Time Frame</u>
1. Assess nutrition program operations for compliance with updated requirements and alignment with legislative intent.	July 2026
2. Recalculate shipping fees and submit for USDA approval.	July 2026

The Division of Internal Audits shall evaluate the actions taken by NDA concerning the recommendations within six months from the issuance of this report. The Division of Internal Audits must report the results of its evaluation to the Executive Branch Audit Committee and NDA.

Appendix D

Description of Programs Administered by NDA

Child Nutrition Programs

Child nutrition programs are primarily reimbursement-based programs. In general, federal funds are provided to reimburse participating sponsors for either a portion of or all of the cost of food served to children and certain qualifying adults. The reimbursement-based child nutrition programs administered by NDA are listed in Exhibit VI, along with a brief description of each program.

Exhibit VI

Child Nutrition Programs

Program	Description
National School Lunch Program (NSLP)	Participating schools receive a full or partial reimbursement for each lunch served to qualifying children or qualifying groups of children.
School Breakfast Program (SBP)	Participating schools receive a full or partial reimbursement for each breakfast served to qualifying children or qualifying groups of children.
Special Milk Program (SMP)	Participating schools receive a full or partial reimbursement for each pint of milk served to children who do not participate in or have access to the NSLP or SBP.
Child and Adult Care Food Program (CACFP)	Participating childcare centers, day care homes, adult care centers, and similar sponsor institutions are reimbursed the cost of meals and snacks served to children and certain qualifying adults.
Summer Food Service Program (SFSP)	Participating sponsor institutions are reimbursed the cost of serving meals and snacks to eligible children when schools are generally closed for instruction.
Fresh Fruits and Vegetables Program (FFVP)	Selected elementary schools are reimbursed between \$50 - \$75 per student for serving fruits and vegetables to children during school, but outside of the breakfast and lunch periods. Schools must participate in the NSLP, and the administering state agency must select schools most in need (i.e., high percentage of low-income families).

Source: United States Department of Agriculture.

NDA functions as a pass-through entity for these programs by entering into the necessary agreements with the United States Department of Agriculture (USDA) to receive funding. Schools and other participating sponsors then submit claims for reimbursement to NDA. NDA must also perform reviews to ensure schools and other sponsors are abiding by program terms.

USDA Foods in Schools Program

In addition to providing funds for the various federal nutrition programs, the USDA purchases food from United States farmers to distribute as a supplement to other programs. The USDA Foods in Schools Program is a subset of broader USDA donated food operations in which food is provided to schools and other institutions that participate in the child nutrition programs.¹² After total available funding for food purchases is set at the federal level, the USDA allocates the value of those funds among all states based on an established formula. The value of funding allocated to each state is referred to as the “entitlement,” which represents the dollar value of foods that schools may order from the USDA. The entitlement functions as a credit to purchase food, as no actual funds are transferred to the states.

State agencies further allocate the state’s entitlement to participating schools. Schools have the following three options available to redeem their entitlement:

- Direct Delivery – The USDA purchases food from farmers that will be provided to schools.
- Bulk for Processing – Schools may elect to have certain foods, such as raw chicken, sent to food processors to be converted into end products, such as chicken nuggets, prior to receipt.
- Department of Defense (DoD) Fresh Fruits and Vegetables Program – Allows schools access to a larger variety of fruits and vegetables through vendors contracted with the DoD.

NDA functions as the distributing agency for the USDA Foods in Schools program. Food purchased by USDA is first delivered to one of NDA’s two warehouses, after which NDA assumes responsibility for delivery to the schools.¹³ Despite being available to schools participating in the child nutrition programs, USDA Foods in Schools is a distinct program that has no effect on other child nutrition programs. Specifically, the receipt of supplemental food does not decrease funding available for reimbursement as part of ordinary program operations.

Admin Funds for Child Nutrition Programs

Three distinct sources for administrative funds (admin funds) are authorized for the child nutrition programs. The largest and most complex of these is an allocation of funding referred to as State Administrative Expense (SAE) funds. Pursuant to the provisions outlined in the Code of Federal Regulations (CFR), the formula for total

¹² “USDA Foods in Schools” is the program name provided in informational USDA publications to distinguish from other food donations, which are collectively referred to as “donated foods” or “USDA Foods” in the Code of Federal Regulations. This contrasts with the other child nutrition programs, which are each referred to by name in the regulations.

¹³ Applicable to Direct Delivery and Bulk for Processing options. DoD fresh fruits and vegetables orders are placed through DoD contracted vendors that will arrange delivery straight to the school.

SAE funds provided to state agencies is comprised of six separate layers, with each layer representing a calculation of additional funds. A breakdown of the SAE formula is shown in Appendix E.

SAE funds are provided to cover costs incurred in administering child nutrition programs. To put the impact of these funds in perspective, the SAE funds NDA received in fiscal year 2024 were approximately 80% (\$2.9 million of \$3.7 million) of the total admin funds received from federal nutrition programs to cover program administration costs.

The following two additional sources of admin funds from the child nutrition programs are available to NDA:

- Summer Foods Service Program (SFSP) admin funds.¹⁴ The following percentages of total program funds paid to the state in the preceding federal fiscal year are made available as admin funds in the current federal fiscal year:
 - 20% of the first \$50,000;
 - 10% of the next \$100,000;
 - 5% of the next \$250,000; and
 - 2.5% of any remainder.
- Fresh Fruits and Vegetables Program (FFVP) admin funds.
 - The lesser of 5% of the total program funds paid to the state for sponsor reimbursement in the current federal fiscal year, or the cost of one full-time program coordinator, may be retained from current federal fiscal year program funds.

Admin funds are generally subject to adjustments by the Secretary of the USDA. NDA may be approved to receive a higher amount than dictated by the formulas. Conversely, the USDA may decrease available admin funds in response to decreases in program activity.

¹⁴ SFSP admin funds are officially referred to as State Administrative Funds (SAF) in the CFR. Despite the designation, there is no difference in the substance of these funds when compared to any other federal admin funds received to assist in covering the cost of state-level expenses. To avoid presenting misleading information, “SAF” was not used in this report.

Household Nutrition Programs

Three of the four household nutrition programs administered by NDA are food distribution programs, while the fourth is a reimbursement-based program.¹⁵ These programs are listed in Exhibit VII, along with a brief description of the program.

Exhibit VII

Household Nutrition Programs

Program	Description
Commodity Supplemental Food Program (CSFP)	Monthly food packages are provided to qualifying low-income seniors by participating food banks. The packages are meant to provide nutrients typically lacking in the diets of the target population, rather than a complete diet.
Food Distribution Program on Indian Reservations (FDPIR)	Monthly, nutritionally balanced food packages are provided to qualifying, low-income households on Indian Reservations.
The Emergency Food Assistance Program (TEFAP)	A variety of nutritious, high-quality food to be made available at emergency feeding organizations and other recipient agencies, such as food banks and soup kitchens. These foods can be prepared as hot meals and served on-site or made available to eligible recipients for household consumption.
Senior Farmer's Market Nutrition Program (SFMNP)	A reimbursement-based program in which eligible, low-income seniors are provided with coupons redeemable at approved farmers' market vendors. Those vendors then submit the coupons for reimbursement.

Source: United States Department of Agriculture.

NDA performs the food distribution function for CSFP and FDPIR. USDA arranges for delivery to one of NDA's two warehouses, after which point NDA delivers the food to the respective food banks and reservations. Food for TEFAP is delivered directly from the USDA suppliers to the various participating recipient agencies. NDA distributes admin funds to food banks and other recipient agencies participating in CSFP and TEFAP. Lastly, NDA facilitates the production of coupons for the SFMNP and processes reimbursements for redeemed coupons submitted by farmers' market vendors.

¹⁵ "Household Nutrition Programs" is the designation given to this group of programs by DIA for purposes of this report. Research performed during the audit revealed various designations given to these programs by different sources, including "emergency feeding programs," "food distribution programs," and "Federal Anti-Hunger Programs." Furthermore, some designations include different groupings of different programs. Based on the elections made in presenting the information, "household nutrition programs" best characterizes the group and distinguishes it from the group of child nutrition programs.

Admin Funds for Household Nutrition Programs

A source of admin funds is available to NDA for each of the four household nutrition programs. Based on the provisions outlined in the CFR, those funds are determined as follows:

- Commodity Supplemental Food Program admin funds – A nationwide appropriation is first determined at the federal level. That total is then allocated among the states based on the relative caseloads of food distributed to each state. These funds must be allocated among program sponsors, except that NDA may retain the following amount:
 - 15% of the first \$50,000;
 - 10% of the next \$100,000; and
 - 5% of the next \$250,000, up to a maximum of \$30,000 in admin funds.
- Food Distribution Program on Indian Reservations admin funds – NDA must submit a budget reflecting planned administrative costs. Unless the budget is approved at a rate higher than 80%, NDA must contribute 20% towards the costs. These funds will be contingent upon the nationwide appropriation at the federal level.
- The Emergency Food Assistance Program admin funds – A nationwide appropriation is first determined at the federal level. That appropriation is allocated among states based 60% on the number of persons in households with incomes below the poverty level and 40% on the number of unemployed persons. No less than 40% of a state's allocation must be passed through to emergency feeding organizations. NDA must match any amount of the funds retained to cover costs incurred to administer the program.
- Senior Farmers' Market Nutrition Program admin funds – NDA may retain up to 10% of the total program funds received for sponsor reimbursement.

As previously noted, admin funds are generally subject to adjustments by the Secretary of the USDA.

State-Level Nutrition Programs

Pursuant to statute, NDA is responsible for administering three state-level nutrition programs in addition to the federal nutrition programs discussed above: Supplemental Food Program, Home Feeds Nevada, and Breakfast After the Bell.

Supplemental Food Program

Originally established under the Department of Administration, Purchasing Division (Purchasing), the Supplemental Food Program (SFP) is codified in NRS 561 – State

Department of Agriculture. The program was established during the 1995 legislative session in response to dwindling federal funding for emergency food programs. Assembly Bill 487 established SFP and recognized that a small but steady source of state funding would ensure the continued existence of food banks and other support groups. The Director of NDA is authorized to solicit and accept any gift, grant, or donation to fund the SFP.

Home Feeds Nevada Agriculture Food Purchase Program

Also codified in NRS 561, the Home Feeds Nevada Agriculture Food Purchase Program (HFN) was established during the 2021 legislative session to supplement the supply of food provided by food banks, homeless shelters, and other such providers in the state, much like the SFP. The Director of NDA is authorized to solicit and accept any gift, grant, or donation to fund the program, but statute requires purchased food to be grown, produced, or processed in Nevada. NDA has utilized grant funds awarded as part of the federal Local Food Purchase Assistance Cooperative Agreement Program, as well as American Rescue Plan Act funds, to operate HFN.

Breakfast After the Bell

Codified in NRS 387 – Financial Support of School System – the Breakfast After the Bell (BAB) program was established to help combat child food insecurity and improve academic performance. The program mandates that schools with 70% or more pupils eligible for free or reduced lunches under the NSLP must serve breakfast after the official start of the school day. Like the SFP and HFN, the NDA Director may solicit and accept any gift, donation, bequest, or grant to fund BAB, but the program relies heavily on federal funding provided for the SBP. Statute does not require a school to participate if SBP was eliminated or notably reduced.

Appendix E

State Administrative Expense Funds Calculation

Nondiscretionary

Layer 1 – Not less than 1% and not more than 1.5% of the federal funds expended in second preceding fiscal year for:

- Special Milk Program (SMP)
- School Breakfast Program (SBP)
- National School Lunch Program (NSLP)
 - Standard apportionment (number of lunches x rate)
 - Special assistance payments (number of free lunches x factor for free lunch + number of reduced lunches x reduced factor)

Layer 2 – Funds expended for Child and Adult Care Food Program (CACFP) in second preceding fiscal year in following amounts:

- 20% of first \$50,000
- 10% of next \$100,000
- 5% of next \$250,000
- 2.5% of any remaining funds expended

Discretionary

Layer 3 – \$30,000 to each state administering CACFP.

Layer 4 – \$30,000 to each state administering the Food Distribution Program (i.e. USDA Foods in Schools) to supplement NSLP, SBP, and CACFP.

Layer 5 – Amount derived from the following four-part formula:

1. Equal share of 40% of funds designated for conducting reviews.
2. Ratio of number school food authorities participating in NSLP / all participants nationally x 20% of funds designated for conducting reviews.
3. Ratio of number of free and reduced-price meals / all such meals nationally in second preceding fiscal year x 20% of funds designated for conducting reviews.
4. Equal shares of 20% of funds designated for conducting reviews for each SFA in NSLP with 40,000 enrollment (additional language regarding state agencies with less than two such SFAs).

Layer 6 – Funds remaining after Layer 5 to be distributed to states administering the Food Distribution Program and CACFP in amounts determined by the USDA Secretary:

- The ratio of funds allocated to states for Food Distribution Program is the value of USDA foods donated to the state / the value donated to all states; and
- The ratio of funds allocated to states for CACFP is the funds received from Layer 2 / the total national funds provided for Layer 2.