

## 52.226-6 Promoting Excess Food Donation to Nonprofit Organizations.

As prescribed in 26.404 , insert the following clause:

Promoting *Excess Food* Donation to *Nonprofit Organizations* (Jun 2020)

(a) *Definitions*. As used in this clause-

*Apparently wholesome food* means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food *may* not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

*Excess food* means food that-

- (1) Is not required to meet the needs of the *executive agencies*; and
- (2) Would otherwise be discarded.

*Food-insecure* means inconsistent access to sufficient, safe, and nutritious food.

*Nonprofit organization* means any organization that is—

- (1) Described in section 501(c) of the Internal Revenue Code of 1986; and
- (2) Exempt from tax under section 501(a) of that Code.

(b) In accordance with the Federal Food Donation Act of 2008 (42 U.S.C. 1792), the Contractor is encouraged, to the maximum extent practicable and safe, to donate excess, *apparently wholesome food* to *nonprofit organizations* that provide assistance to *food-insecure* people in the *United States*.

(c) *Costs*.

(1) The Contractor, including any subcontractors, *shall* assume the responsibility for all the costs and the logistical support to collect, transport, maintain the safety of, or distribute the excess, *apparently wholesome food* to the *nonprofit organization(s)* that provides assistance to *food-insecure* people.

(2) The Contractor will not be reimbursed for any costs incurred or associated with the donation of *excess foods*. Any costs incurred for *excess food* donations are unallowable.

(d) *Liability*. The Government and the Contractor, including any subcontractors, *shall* be exempt from civil and criminal liability to the extent provided under the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791). Nothing in this clause *shall* be construed to supersede State or local health regulations (subsection (f) of 42 U.S.C. 1791).

(e) *Subcontracts*. The Contractor *shall* insert this clause in all contracts, *task orders*, *delivery orders*, *purchase orders*, and other similar instruments that exceed the threshold specified in Federal

*Acquisition* Regulation [26.404](#) on the date of subcontract award with its subcontractors or suppliers, at any tier, who will perform, under this contract, the provision, service, or sale of food in the *United States*.

(End of clause)

**Parent topic:** [52.226 \[Reserved\]](#)