

THE
EMERGENCY FOOD ASSISTANCE
PROGRAM MANUAL

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INTRODUCTION

The Temporary Emergency Food Assistance Program (TEFAP) was founded in 1981 due to the large surpluses of dairy products accumulated by the United States Department of Agriculture (USDA). By late 1981, the USDA had approximately 560 million pounds of surplus cheese on hand. On December 22, 1981, President Ronald Reagan authorized the USDA to provide 30 million pounds of cheese for distribution to needy persons. In early 1982, additional quantities of cheese were released and in June frozen butter was made available. Although the cheese and butter surpluses were depleted, the need for supplemental food assistance had been proven. The program has been providing USDA Foods to needy persons ever since as a supplement to other assistance provided at the local level.

Welfare Reform began on August 22, 1996, when President Bill Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The act amended legislation authorizing food distribution programs operated by the Food and Nutrition Service (FNS). The Act consolidated soup kitchens, food banks, and The Emergency Food Assistance Program (TEFAP) under the Emergency Food Assistance Program (EFAP). Previous legislation that authorized soup kitchens/food banks separately from TEFAP was repealed. All programs are now identified as part of The Emergency Food Assistance Program (TEFAP).

USDA Foods for TEFAP is channeled to the needy through Eligible Recipient Agencies (ERAs) including food banks, in the form of prepared meals (i.e., soup kitchens) and for home consumption (i.e., food pantries, mass distributions).

Food banks referenced in this handbook are defined as members of Feeding America and have signed a contractual agreement with the Tennessee Department of Agriculture (TDA), Division of Administration and Grants, Commodity Distribution Program and their affiliated agencies. These Emergency Feeding Organizations (EFOs) receive and distribute USDA Foods to eligible individuals. These EFOs are public or private non-profit organizations that have executed an agreement with TDA to receive USDA Foods through direct shipment or a distributor. EFOs in Tennessee (TN) include food banks, food pantries, soup kitchens, and charitable institutions.

EFOs that are affiliates of a food bank, such as food pantries, will conduct their TEFAP activities under the guidance of their food bank. Their contractual relationship with TDA exists through a signed TDA Agreement Addendum. TDA communications and program guidelines will be conducted with such EFOs primarily through their affiliated food bank.

The amount of USDA Foods and administrative funds received by TN is based on the number of food insecure individuals with incomes below the poverty level in the State.

The U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) works to increase food security and reduce hunger through the administration of sixteen federal nutrition assistance programs. Through the provision of food and administrative funding, USDA FNS food distribution programs assist the emergency feeding network. This network is made up of thousands of food banks, food pantries, tribal governments, and other community partners in feeding those in need.

The final rule, [Food Distribution Programs: Improving Access and Parity](#) went into effect December 31, 2024. This final rule made changes to program regulations allowing greater access and parity improvements within several food distribution programs, but specifically within the State of TN's TEFAP Program.

The rule:

- Removes a longstanding, burdensome requirement that requires TEFAP eligible recipient agencies (ERAs) to collect the address of all TEFAP participants. This change will streamline the TEFAP intake process and minimize lines at food banks and pantries.
- Standardizes TEFAP income eligibility standards among state agencies and establishes a maximum income eligibility threshold range for the program. This change will reduce variance in income eligibility across state agencies and protect TEFAP access for those most in need.
- Requires the State agency to post the names, addresses, and contact telephone numbers for all ERAs that have an agreement with them not less than annually.
- Encourages State agencies and their ERAs to implement or expand distributions of USDA Foods in Tribal and remote areas, in addition to the rural areas already listed.
- Requires that TEFAP participant information be kept confidential and to create limits on the disclosure of information obtained from applicants or participants and the identity of persons making a complaint or allegation against persons participating in or administering the program. This new provision ensures the protection of information collected from households and aligns recordkeeping and retention requirements with those of other food assistance programs.
- Requires that the State agency must annually submit a list of all ERAs which distribute USDA Foods to other ERAs, to eligible households for home consumption or in prepared meals and the statewide eligibility criteria.
- Requires State agencies report the number of individuals (*i.e.*, site visits) served by all TEFAP distribution sites providing USDA Foods for home consumption per month. State agencies and ERAs are required to count the total number of individuals served in a month and will not need to identify the number of unique households that are served in a month. To the extent possible, State agencies and ERAs should record the total number of persons in each household that is served for each site visit, but the Department acknowledges accuracy of these data will vary based on each agency's method of tracking participants.

TEFAP is governed by the Code of Federal Regulations, Title 7, Part 251, The Emergency Food Assistance Program (TEFAP). 7 CFR 251 establishes the regulations necessary to carry out this program. Additional information and clarification are provided through USDA's Policy Memos.

Chapter 7, Section 251.4 establishes a two-tier system for distribution of USDA Foods to ERAs. TEFAP foods must be distributed according to this established priority in the following order:

- EFOs
- Soup Kitchens
- Food Pantries and Mass Household Distribution Sites
- Other Food Banks

Applicability

The information, policies and procedures in this handbook apply to the administration, handling, storage, and distribution of all TEFAP foods allocated and/or received in the State, whether it is a part of the state's allocation, entitlement, or bonus.

TDA has been designated as the Tennessee State Agency that provides TEFAP USDA Foods to eligible recipient agencies for further distribution to needy persons, and to receive payments from USDA for the administration, storage, and distribution of TEFAP USDA Foods.

This manual incorporates the requirements for EFOs to participate in the distribution of USDA Foods. This manual provides guidance to ERAs in meeting both federal regulations and state operational procedures.

Two goals remain at the helm of all administrative and operational levels of TEFAP USDA Foods.

1. Program integrity ensuring that food assistance is provided only to those who meet the program eligibility requirements.
2. The methods used to reach those in need of food assistance are efficient and effective using the available resources to provide quality goods.

I. TDA RESPONSIBILITIES

- TDA will meet the terms of the Agreement between USDA and TDA as well as ensure that the federal regulations for TEFAP are met.
- TDA will initiate an Agreement with recipient Food Banks upon notification of what the first USDA appropriation will be as close to October 1st as possible. In addition, an Addendum Agreement will be sent as soon as TDA is notified what the final federal appropriation will be.
- TDA will provide financial reimbursement to Food Banks based on agreed upon rates, as federal funds are made available.
- TDA will assess state needs within the limits of USDA's allocations.
- TDA will disburse TEFAP state administrative funds to Food Banks that distribute USDA Foods at no charge to outlets or recipients.
- TDA will publish eligibility criteria based on individual income and residency for use by Food Banks.
- TDA will provide Food Banks with all necessary eligibility information and relevant forms.
- TDA will ensure that USDA Foods are properly stored and distributed by Food Banks/EFOs to eligible individuals through monitoring, inspection and questioning.
- TDA will conduct administrative and site reviews of Food Banks annually, and at any other point in time deemed necessary and appropriate, with or without notice.
- TDA will oversee and monitor Food Bank reviews of EFO distribution sites as required by federal regulations, the State Plan and at any other time deemed appropriate, with or without notice.
- TDA requires all new EFOs and/or storage facilities to be inspected and meet federal criteria.
- TDA will determine losses due to negligence by food loss reports and reports to SERO HQ for final determination as to whether the Food Bank is to replace USDA Foods or reimburse the government.
- TDA will ensure that all 95 counties have access to TEFAP foods.
- TDA will maintain program records, including the current State Plan, provide reports as required by federal and state regulations and as requested by USDA.
- TDA will ensure that all funds provided by USDA are used in accordance with federal regulations and the State Plan.
- TDA will publish and enforce Civil Rights compliance requirements and review complaints of discrimination or misuse of USDA Foods.
- TDA will ensure that remaining USDA Foods are inventoried at TDA fiscal year end, June 30.
- TDA will ensure receipt of a fiscal year-end confirmation of federal assistance is received.
- TDA will offer annual entitlement funds and bonus offers to be used by Food Banks to order their own USDA Foods using the Web Based Supply Chain Management (WBSCM) as made available by USDA.
- TDA will provide guidance in the event the Food Bank needs to suspend, terminate, or transfer USDA Foods between EFO's.

II. FOOD BANK RESPONSIBILITIES

- Food Banks will execute the TDA State Contract, and any Contract Amendments signed by the TN Dept of Agriculture Commissioner and Food Bank Executive Director annually.
- Provide a list of affiliated partnering agencies annually with name, address, telephone number and operating hours and days.
- Food Banks will retain copies of the signed contract with TDA and their TEFAP subrecipient agencies distribution sites annually and make accessible to TDA monitor.
- Food Banks shall notify their State Distributing Agency (SDA) in the event of a change in essential personnel.
- Food Banks must submit annually a list of warehouses and any off-site storage facilities including names and physical addresses to TDA. All off-site USDA Foods storage facilities must have received prior approval by TDA before TEFAP food being stored there.
- Food Banks shall provide annually a list of counties in their service area, including a calendar of scheduled distributions to those sites.
- Food Banks agree to service all counties within their area not less than quarterly and are encouraged to implement or expand TEFAP distributions into rural and remote areas.
- Food Banks agree to obtain their area's needs based on the most recent information from Feeding America's "Map the Meal Gap" data for the food insecure population of individuals served in TN which uses USDA data.
- Food Banks will maintain their USDA Foods inventory in such a manner as to ensure "first in first out" principles and distribute USDA Foods within six months of receipt.
- Food banks are encouraged to implement or expand TEFAP distributions in rural, remote, and Tribal areas.
- Food Banks agree to accept the state administrative funds as full payment to distribute USDA Foods in lieu of charging their EFO distribution sites. Any transportation, storage, handling, labor, or promotional costs incurred with the distribution of these USDA Foods should come out of this payment, including handling transfers of USDA Foods between member Food Banks if they elect to participate in the USDA only program.
- Food Banks agree that drivers will deliver foods into a mutually agreed upon receiving area at each agency and shall not be required to stow foods on shelves or in freezers or refrigerators.
- Food Banks agree to perform and submit a Physical Year End Inventory of USDA Foods on State Fiscal year end, June 30.
- Food Banks will submit a fiscal year end Confirmation of Federal Assistance annually in July.
- Food Banks will provide TDA with a list of counties in the Food Bank's service area and at a minimum service those counties quarterly.
- Food Banks will submit a report of distribution, report number of individuals served, adjustments to inventory, and any transfers to the SDA monthly.
- Food Banks will require their EFOs to submit inventory and food distribution reports monthly.
- Food Banks will annually review the most current audit of all subrecipient agencies.

- Food Banks will ensure all agencies distribute food only to eligible needy households using the State intake form.
- Food Banks will review their affiliated EFO sites annually. As schedule permits, these reviews will be conducted during the determination of recipient individual eligibility and distribution of USDA Foods.
- Food Banks will audit 33% of the Intake Forms from each agency to verify that the number of eligible individuals approximates the number of individuals reported as served.
- Food Banks will compare the size and number of individuals served by the EFO with the number of cases of food distributed to assure conformity with TEFAP food issuance guidelines.
- Food Banks will review the IRS Automatic Revocation of Exemption List annually to ensure no affiliated EFO's are on this list.
- Food Banks will review fiscal year-end Confirmation of Federal Assistance of EFOs annually.
- Food banks will ensure ERAs are using the income and residency eligibility and State intake forms without adding additional criteria or methods to those forms.
- Food banks will provide training and oversight necessary to ensure that adequate food safety, inventory controls and security are in place at their sites as well as at their EFOs.
- Food Banks will conduct and document an annual training on Civil Rights with their affiliated EFO sites, make sure the "Justice for All" poster is displayed in a visible spot making Civil Rights complaint form readily available to recipients of USDA Foods.
- Food Banks will notify TDA prior to suspending or terminating any EFO to discuss next steps and/or visit and inspect the EFO and ensure transfer of remaining inventory.
- Food Banks ensure all participants are given the Written Notice and Referral Requirements for Beneficiaries Receiving TEFAP Benefits & FD-155 when completing the intake form and check the box on the form as having received both forms prior to distributing the food.
- Food Banks will ensure written notice is displayed that any change to the participants initial information given on their intake form must be updated prior to receiving food.
- Food Banks shall not require a new intake form unless information from the initial intake form has changed, specifically income or city, county or state.
- Food Banks will maintain records, old Intake Forms and any proxy notes for five years plus the current year for review by TDA or USDA auditors. All records shall be made accessible for review during management evaluations, audits, or investigations upon reasonable request.
- Food Banks shall keep TEFAP participant information confidential, creating secure limits on the disclosure of information obtained from applicants or participants and the identity of persons making a complaint or allegation against persons participating in or administering the program.
- Food Banks are to notify the SDA of food loss of more than \$500 per day per facility prior to disposing of the out of condition or damaged foods for possible restitution due to negligence. Food Banks will notify EFOs of this policy and communicate that all requests to dispose of USDA Foods must be accompanied by a food loss report, pictures, quantity and reason.
- Food Banks agree to replace USDA Foods with in-kind food or reimburse the government for any loss of USDA Foods. This is done at the direction of TDA, and replacement or reimbursement will be

determined by USDA HQ.

- Food Banks will ensure that out of condition foods approved for disposal either at the Food Bank or at a EFOs are never given to farmers to feed livestock in accordance with the Code of Tennessee Code § 44-2-404 Unlawful to feed garbage to swine.
- Food Banks are required to provide the training and oversight necessary to ensure that adequate inventory controls and security are in place at the EFO site.
- Food Banks will identify, report, and release any inventories of USDA Foods for TDA reallocation in the event of natural disasters or emergencies.
- Food Banks accept final administrative and financial responsibility for all sites at which the Food Bank distributes TEFAP USDA Foods.
- Food Banks shall notify in writing the SDA thirty (30) days prior to closure. Included in the letter should be the effective date, any TEFAP equipment purchased and the amount of USDA inventory remaining and what their plans to transfer it to a TEFAP Distributor are.
- Food Banks will reimburse TDA for any shared maintenance fees that have been paid on USDA Foods that were lost, stolen, damaged, transferred, or infested by an EFO.

III. ERA AND EFO RESPONSIBILITIES

- ERAS and EFOs will sign and comply with all Food Bank subrecipient agreements, addendums annually.
- ERAS and EFOs will ensure that storage and distribution of USDA Foods follows established food safety guidelines.
- ERAS and EFOs will ensure USDA Foods are distributed to eligible individuals in accordance with eligibility criteria using the intake form and the distribution is proportional to the number of individuals.
- ERAS and EFOs will conduct a monthly inventory, reporting to the Food Banks the number of units of USDA Foods that were distributed to eligible individuals as well as the total number of individuals served that month.
- ERAS and EFOs will comply with the Civil Rights responsibilities in this manual as well as any future guidance. This includes training all staff and volunteers on Civil Rights and complaint handling procedures upon starting and annually thereafter. Such training will be documented with date, materials covered and sign-in sheets and maintained.
- ERAS and EFOs shall keep TEFAP participant information confidential, creating secure limits on the disclosure of information obtained from applicants or participants and the identity of persons making a complaint or allegation against persons participating in or administering the program.
- ERAS and EFOs shall report any damaged food or out of condition food to the Food Banks providing a food loss report, pictures, quantity and any necessary documentation. They are to wait to hear back from the Food Bank before disposing the food.
- ERAS and EFOs will report to Food Bank any intention to utilize new off-site storage site or intentions of moving their facility. These sites must be inspected and approved according to State standards prior to storing or distributing USDA Foods.
- ERAS and EFOs agree to maintain all program records for the last five years except the established

intake forms, that must be retained for as long as the EFO distributes USDA Foods.

- ERAS and EFOs that close or are closed by a Food Bank are responsible for returning any USDA Foods that have not been distributed back to the Food Bank or transfer them to an active USDA Foods Distributor. All documentation regarding this transfer and the distribution of food must be maintained by the Food Bank. All communication regarding the transfer must be approved by the Food Bank.

IV. ORDER OVERVIEW

ORDERS

Food Banks will be notified of their share of the federal entitlement given to the State of TN TEFAP. Collaboratively, they will order their share of USDA Foods per that entitlement allotment through the Web Based Supply Chain Management (WBSCM) system. Bonus foods will be ordered by the State after a survey has been sent to the Food Banks. Food Banks are expected to reply by the given deadline as to whether they will accept the food, the desired date range and the quantity allotted them based on a fair share percentage. The fair share percentage is calculated using the total number of food insecure individuals in the state divided by the total number that specific Food Bank serves. These orders are full truck loads and Food Banks should know meeting the desired dates for all Food Banks is not always feasible.

QUARTERLY ALLOCATIONS

Food Banks can print out their quarterly allocations from WBSCM, specifically from the Reports tab using the Order Status option with the instructions provided. The Order Status Report provides all shipment details.

SCHEDULING

The USDA uses a request-driven system where recipient agencies place orders through their state agency, who monitors these orders through USDA. Food Banks will receive USDA shipments directly from USDA processors' shippers. For shipments coming directly from a vendor, the vendor or carrier must arrange a delivery appointment with the consignee as far in advance as possible. Vendors must also comply with USDA procurement rules for delivery appointments. Shippers or brokers are to schedule appointments with the Food Banks directly and prior to delivery, no later than 72 hours preceding the desired delivery date. Food Banks need to work closely with the shipper and other Food Banks to set a mutually agreeable delivery time within the 15-day delivery window for split shipments.

RECEIVING

Upon receipt of the shipment the Food Banks will verify the shipment contents by comparing the delivery receipt or Bill of Lading (BOL) against your quarterly allocation sheet from WBSCM before unloading.

The BOL is required to contain these key pieces of information: material number or food description, sales order number and the line item, delivery destination, the correct seal number, and number of cases. If this information is not listed on the BOL or if the driver claims to not have a BOL, call TDA immediately for guidance before unloading.

Check that the security seal is intact, and that the quantity of food matches the WBSCM order. If the trailer isn't sealed, call TDA immediately and do NOT unload the shipment. USDA requires carriers to seal trailers, and we will not accept unsealed shipments.

Check the condition of the food that has just arrived. Visually inspect cases for damage and verify the temperature of refrigerated or frozen products.

After counting the cases, RA's receivers should sign and date the BOL and be sure to note the number of cases received as well as any shortages or damages. This must be done BEFORE the driver leaves. The copy of the BOL you give to the driver must match the copy the Food Bank keeps. The Receiver should document any issues found on the bill of lading of any shortages or damaged and initial before signing off on the receipt. Photos of product labels and date codes should be taken if issues are found along with any damaged product.

Once the shipment has been received, the receipt must be confirmed electronically. Enter the goods receipt into WBSCM system within two business days of delivery. This confirms what was received and allows vendors to be paid.

For any damaged product, Food Banks will enter a complaint into WBSCM system following the complaints process.

DELIVERIES

Food Banks will arrange for the delivery to or pickup of USDA Foods by EFOs without charge. Recipient households cannot be charged any service fees for receipt of USDA Foods.

V. HANDLING REQUIREMENTS

FOOD STORAGE FACILITIES

USDA Foods warehouse must provide storage facilities that:

- Are of adequate size, providing sufficient floor space to allow air circulation and permit ease of cleaning, inventory, inspection and handling of foods.
- Protects against the elements, infestation and theft.
- Has temperature-controlled areas for perishable foods.
- Are accessible to program participants, and
- Can be reached by carriers delivering USDA foods.
- Are structurally sound, waterproof, well-lit.
- Provides adequate security to guard against theft or vandalism.

GENERAL FOOD MANAGEMENT PRACTICES

Management must emphasize proper food handling to avoid health hazards, maximize use of space and minimize food losses. These practices include:

- Clearly identifying USDA Foods and dating as the commodity is received.
- Maintaining cleanliness in their housekeeping practices.
- Frequently checking to detect signs of food loss from age, infestation, spoilage and maintaining a robust pest control program.
- Maintaining the food at the proper storage temperature range to maximize shelf life and minimize losses. Temperature records are required to support proper storage procedure for all perishable goods.
- Never storing cleaning supplies and equipment in the same areas as food.
- Not allowing USDA Foods to be returned by recipients

INVENTORY

USDA's Emergency Food Assistance Program (TEFAP) requires inventories to not exceed a six-month supply of any USDA Food without prior approval. These regulations ensure that USDA Foods are utilized efficiently and without waste, preventing spoilage or loss of quality. These practices include:

- Managing their inventory using the First-In, First-Out (FIFO) method to prevent waste, with items closest to their "best-if-used-by" date being distributed first.
- Maintaining perpetual inventory records and regularly verify records with cycle counts or physical counts.
- Submitting a monthly inventory report that includes all receipts, transfers in/out, the number of individuals served, adjustments to inventory and ending balances.
- Report only full case quantities distributed and must include the number of individuals served that month.
- Performing an annual physical inventory every Jun 30 reconciling physical counts with book inventories. All inventory discrepancies must be recorded, reconciled, and reported.
- Maintaining records documenting receipt, disposal, and overall inventory. This documentation must be kept for five years from the end of the fiscal year it pertains to. Agencies must also report any lost or damaged food.

TRANSFER OF USDA FOODS

All transfers of USDA Foods require prior approval by TDA. Transfers are only allowed to be made to another ERA that has a signed TEFAP agreement in place. A written transfer form must be provided as a record of the transfer with a signature of acceptance and its reconciled totals.

Transfers of USDA Foods must be included as an entry on the transfer in/out line on the monthly Inventory report. USDA Foods remain the Food Bank's responsibility until utilized or transferred as directed. Transfer of liability does not occur until a completed transfer form is reconciled and signed off.

Transfers are typically made when a Food Bank has an inventory surplus that cannot be distributed in a timely manner. The transfer ensures the food will be used before expiration and in optimal condition.

REPORTING FOOD LOSS OF USDA FOODS

TEFAP requires Food Banks to report the loss or destruction of USDA Foods to TDA immediately upon discovering using the Food Loss report. This report is written documentation of what the material was, date received, quantity, reason for the loss, photos, temperature records as is applicable, and any corrective actions taken because of the loss.

Once received, loss reports are to be investigated by TDA. The final decision as to whether the Food Bank was negligent, is determined by USDA SERO HQ. If HQ finds negligence was involved, restitution is required to be paid by the Food Bank. Restitution can be in-kind purchase or actual exchange of funds reimbursing the value of the lost goods to USDA.

Inventory adjustment reports are required to be sent with the Food Bank's monthly inventory report if adjustments are found necessary. Any monthly inventory report showing a loss over \$500 at any one site in one day is required to submit a Food Loss Report to TDA. Food loss records are to be maintained for a minimum of five years.

DISPOSITION OF UNUSABLE USDA FOODS

Foods that are unfit for human consumption due to spoilage, contamination, infestation, or damage must not be distributed. This includes following all food safety rules set by federal, state, and local authorities. Food Banks shall ensure that out of condition foods approved for disposal either at the Food Bank or at a subrecipient agency are never given to farmers to feed to livestock in accordance with the Tennessee Code § 44-2-404 : Unlawful to feed garbage to swine.

"Garbage" means animal or plant waste resulting from the handling, preparation, cooking or consumption of foods, including animal and fowl carcasses or parts thereof, and all waste material and by-products of a kitchen, restaurant, hospital, hotel, motel, or slaughterhouse; except, however, bakery waste, whey, or other dairy waste from milk processing plants shall not be included in this definition; "

The method of disposal depends on the quantity. In most cases, disposing of food in a garbage disposal, in a dumpster, or for many cases in a landfill would be appropriate. Care should be taken to remove labels, separate the food from the packaging and adulterate the food so the food will not mistakenly be used. If food is taken to the landfill to be buried or burned, a person with the recipient agency shall witness the destruction of the food. A receipt is to be obtained from the landfill operator, signed and dated by them as well as the witness. Document the quantity, the description of the food, circumstances surrounding the loss, the method of disposal, date and location of disposal, and the signature of the person who witnessed the disposal.

Damaged or out-of-condition foods over \$500 are only to be disposed of after receiving TDA approval. Food Banks are required to maintain records documenting the receipt, disposal, and inventory of all USDA Foods for five years after the close of the fiscal year. Records pertaining to unresolved claims or audits must be retained until the issue is resolved.

VI. TDA REQUIRED DOCUMENTATION

RECORD RETENTION REQUIREMENTS

Electronic and scanned copies of original documents or records are acceptable to meet the requirement for maintenance of records. Any records or documents maintained solely in an electronic format must be backed up or copied to a second storage medium, such as a flash drive or CD, so that 2 separate sets of electronic records are maintained for the required amount of time, as described above. Failure to maintain electronic records due to an electronic storage medium failure, such as a computer drive crashing or a CD failing, is not an acceptable reason for not maintaining the required records. A recipient agency considering maintenance of records solely in electronic format must submit to TDA a brief record-keeping plan for approval prior to disposing of original documents or records.

Food Banks are required to retain records for the current year plus three previous years per federal requirements and five plus current year for Tennessee requirements.

Food Banks must submit and maintain all delivery documentation (email confirming SO#, type, date received, material # and description, quantity, shortage or overage and damages found) bills of lading, delivery tickets within two days of receipt of a delivery.

Monthly Inventory reports that include the number of individuals distributed to are due to TDA within 15 days after month end. EFOs should also submit supporting documentation in the form of a monthly inventory/individuals served report to the Food Banks in time to

complete this report.

Reports due in July are the Fiscal Year End Inventory Report, the Confirmation of Federal Financial Assistance, and a list of all EFOs affiliated with the Food Bank receiving USDA Foods

Changes in essential personnel are to be reported to TDA as soon as possible.

These records must be available for review by TDA or USDA:

- The current TDA Agreement and Addendums signed by the Food Bank Director. A change in the Food Bank Director requires new agreement and addendums be signed.
- The Food Bank's current affiliated EFOs' signed Agreement, Addendums and TEFAP Sub-Agency Agreement.
- Intake forms, proxy notes, distribution forms, and other documents indicating individual eligibility. Determination of approval of the individual participating. These documents are official records and should be completed in ink.
- Annual listing of Food Bank affiliated EFOs receiving USDA Foods with the monthly inventory and individual distribution.
- Annual civil rights training of EFOs and their staff/volunteers.
- In-Kind Contribution Reports on file.
- Documentation of state administrative funds received and how expended.
- Transportation bills of lading/delivery tickets
- Transfer forms
- Food loss records and documentation of how they were disposed of
- Annual and Monthly Inventory reports
- Temperature charts and sanitation records
- Pest Control records
- Pre-Award Civil Rights Questionnaires must be retained for each EFO as long as the EFO distributes USDA Foods.

VII. ELIGIBILITY REQUIREMENTS

RECIPIENT AGENCY ELIGIBILITY

TDA's pool of eligible recipient agencies consists of Food Banks affiliated with Feeding America National Organization. A recipient agency must have a service area that is sufficient for large volumes of food to be received at one time.

All Food Banks must meet all state and federal requirements for participation in TEFAP, be a 501(c)(3) organization pursuant to 7 CFR 251.5(a)(3) and IRC §170 Code 501(c)(3). Once a determination has been made that the prospective agency is tax-exempt and is not listed on the IRS Revocation of Exemption Listing, the Food Banks will maintain a record of all their ERA's tax-exemption status in each respective agency file. Additionally, the Food Bank is required to verify the tax exemption status of each of their participating ERAs on an annual basis. This procedure will ensure that no participating ERA is listed on the IRS Revocation of Exemption List. The Food Bank must maintain a spreadsheet of this annual verification report in their files for SDA's review during annual inspections.

All ERAS must utilize the eligibility criteria to participate in a TEFAP distribution as well as the methods established by TDA and cannot add additional criteria or methods to that which has

already been established.

RECIPIENT ELIGIBILITY

The agencies will distribute food only to eligible needy households. Agencies may choose to conduct eligibility determinations prior to the distribution date or may conduct determinations at the distribution site. Regardless of the methods chosen, *completion of the intake form is required prior to the applicant receiving food.*

As the final step in approving the intake form, the ERA is to ensure the check box is marked acknowledging receipt of the notice of nondiscrimination and FD-155 Attachment A: Written Notice of Beneficiary Rights for TEFAP and these two forms remain with the participant.

ERAs must ascertain that previously eligible individuals continue to be eligible prior to giving out foods. Notices informing participants is to be displayed alerting them that they must complete a new intake form should any of their information change since previously been filled out. The following criteria determines individual eligibility to receive USDA donated foods.

INCOME ELIGIBILITY

TDA does not require applicants to provide verification of income eligibility. Eligibility may be established in one of two ways:

1. The recipient may show proof of eligibility of income from one of the following means-tested programs:
 - a. SNAP,
 - b. Families First,
 - c. Supplemental Security Income,
 - d. Low Income Home Energy Assistance Program, or
 - e. Residence in Public Housing; or
2. The agency may allow applicants to verbally disclose the individual's income, by showing the applicant the current income eligibility chart. The recipient may verbally confirm total household income is below the dollar amount shown for 185% of the current federal poverty income level.

RESIDENCY ELIGIBILITY

The recipient must be a resident of the State of Tennessee, but the length of residency is not to be used to determine eligibility. TDA does not require individuals to provide an address or identification to confirm residency. TDA will allow self-declaration of residency which requires individuals to declare that they reside in TN by providing the county, state, and zip code in which they reside in. Documentation is not allowed to be requested or collected to determine residency when an applicant is applying for eligibility to receive TEFAP Foods other than completing the Intake Form.

INDIVIDUAL ELIGIBILITY

Federal regulations require that eligibility for TEFAP foods be based on the income for the individual. Individuals sharing housing and/or income and expenses will be considered one household.

- A household is defined as:
- A group of related or non-related individuals, exclusive of borders, who are not

residents of an institution but who are living as one economic unit sharing common cooking facilities, and for whom food is customarily purchased in common.

- A single individual living alone who has cooking facilities and prepares food for home consumption.
- Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.
- If individuals (related or non-related) reside together, but prepare their meals separately, the deciding factor will be whether significant household expenses are shared.
- Institutions that have congregate feeding would not qualify for USDA Foods as the individuals do not purchase their own foods for consumption.
- Boarding house is a house and/or apartment that rents out rooms.
- There is no minimum age listed in the TEFAP regulations regarding an applicant receiving USDA Foods.

TDA updates the allowable income levels per individual based on published USDA poverty guidelines and provides this information each year. The current poverty level guidelines must be used whenever individuals are being certified to receive TEFAP foods. Agencies may not establish different income levels.

Gross monthly individual income must be at or below the standards listed on the Income Eligibility Guidelines that are updated each year. Gross household income includes all wages, pensions, Social Security, Supplemental Security Income, Railroad Retirements, income from rental or leased property, interest or dividends from savings, certificates of deposit, stocks, bonds and income from all other sources. That may include, but is not limited to, strike benefits, unemployment compensation, alimony, child support, veteran's benefits and regular insurance or annuity payments.

PRE-AUTHORIZED ALTERNATES AND PROXY NOTES

A pre-authorized alternate may be named by an individual/household at the time that eligibility is certified when it is known that the individual/household depends on another individual to pick up their USDA Foods on a routine basis. The pre-authorized alternate is to be listed on the distribution form. This will avoid the necessity of an individual/household submitting a proxy note each time it receives TEFAP foods.

A proxy note may be used by an individual/household to authorize another individual to pick up USDA food on their behalf, on a one-time basis due to some unforeseen inability. Agencies are required to collect and keep all proxy notes on file whenever anyone picks up USDA food for another household.

Proxy notes cannot be used to certify household eligibility for TEFAP foods. Individual/household eligibility must be determined by a staff member interviewing an individual belonging to and applying for food assistance for a household.

Agencies are encouraged to implement procedures to verify proof of identity by persons picking up USDA Foods through use of a proxy note or as a pre-authorized alternate.

DISTRIBUTION GUIDANCE

TEFAP food distributions are not designed to meet the total food needs of a household, but to supplement the household.

- a) Household may receive any combination of available USDA Foods items consistent with the household size per individual.
- b) Food Banks should work with their TEFAP agencies to determine the amount of food to distribute based on the Food Banks available inventory.

All USDA Foods must be maintained and distributed in the original packaging. USDA Foods may not be used as payment or reward to volunteers or staff or for snacks or meals. Under no circumstances shall recipients be required to make payments in money, materials or services for the receipt of USDA Foods. Additionally, recipients shall not be solicited to volunteer their services or for voluntary contributions or donations during the distribution of USDA Foods. Activities unrelated may not be conducted at sites unless participation in such activities is identified as being separate and apart from distribution involving USDA Foods. TEFAP recipients are not required to participate to receive USDA Foods. For example, an agency may not require participants to attend religious services to receive USDA Foods.

ISSUANCE DOCUMENTATION

Agencies are to conduct a monthly inventory of remaining USDA Foods sharing this information with their Food Bank as well as the number of units issued to eligible individuals that month.

Agencies will tally the monthly total of individuals/households served and report that number on the inventory served during that month.

Agencies will generate and maintain a record of individuals/households served each day the agency is open to distribute USDA Foods. The following formats are appropriate for agencies to document their distribution(s):

- List or a pre-printed list of eligible individuals/households the volunteer(s) ensure program recipients do not see.
- The staff or volunteer date and initial the intake form each month an individual/household is served.

The EFOs' Food Bank staff and TDA will periodically review the intake forms to verify that the number of eligible individuals/households reported approximate the number of individuals/households served. The number of cases distributed will also be compared against the size and number of individuals/households reported to ensure conformity with TEFAP food issuance guidelines by the Food Bank and EFO.

VIII. CONFIDENTIALITY

TDA fully expects confidentiality from all their ERAs as well as within the staff of the State Agency. Applicant and participant information are to be kept strictly confidential. Limits are to be established on the disclosure of information obtained from applicants or participants. The identity of persons making complaint(s) or allegation(s) against persons participating in or administering TEFAP is to be kept strictly confidential. Additional information may be collected from TEAP applicants. However, the information cannot be required to receive USDA Foods. It must be made clear the additional collection of information is unrelated to TEFAP eligibility. The applicant must have the option to not provide the additional requested information. TEFAP agencies are not to keep copies of any Personal Identification Information such as drivers' licenses, or social security cards.

IX. CIVIL RIGHTS COMPLIANCE

TEFAP commodities will be made available to all eligible recipients without regard to race, color, national origin, sex, age or disability. All potentially eligible persons and households must have an equal opportunity to participate in the program.

The primary responsibility of the Food Bank and EFO is to ensure that no person is excluded from participation in, denied benefits of, or is subject to any discrimination under TEFAP

The USDA *"And Justice for All"* posters will be displayed in a prominent area at all agency locations where USDA commodities are being distributed or served to recipients. The non-discrimination statement will be included on all printed materials relating to TEFAP, such as pamphlets, intake forms or any other program materials distributed to the public. This is page 3 of the intake form.

In accordance with [7 CFR Part 16.4\(c\)\(1\)](#), all organizations that receive USDA Foods or administrative funds for TEFAP must provide FD-155 written notice to all beneficiaries and prospective beneficiaries of certain protections in a manner and form prescribed by this policy memorandum. This is page 4 of the intake form.

Organizations that receive direct USDA assistance under any USDA program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services supported with direct USDA assistance. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services supported with direct assistance from USDA, and participation must be voluntary for beneficiaries of the programs or services supported with such direct assistance.

As the final step in approving the intake form, the ERA is to ensure the check box is marked acknowledging receipt of the notice of nondiscrimination and FD-155 Attachment A: Written Notice of Beneficiary Rights for TEFAP.

Any materials such as brochures, flyers, press releases, church bulletins, etc., that mention distributions of USDA Foods must contain the non-discrimination statement at the EFO level as well.

Any informational materials released to the public about the program or availability of USDA Foods to eligible households with photographs or graphics must display participants of different races, colors, and national origins.

All distribution sites must display the USDA civil rights poster, "And Justice for All." Civil rights complaint forms must be available to clients/recipients of the USDA Foods and can be accomplished by hanging forms next to the "And Justice for All" poster.

Food Banks and EFOs must train their staff and volunteers on civil rights and procedures to handle a complaint.

Staff that interacts with the program applicants or participants, and those persons, who supervise staff, must be provided civil rights training on an annual basis. Such training should be documented with the date; materials covered, and sign-in sheets and maintained in recipient agency files.

Required training topics include:

- Knowledge of protected classes,

- Effective public notification,
- Complaint procedures and conflict resolution,
- Customer service,
- Language assistance and accommodation of persons with disabilities
- Compliance review techniques and noncompliance resolution

For Limited English Proficiency (LEP) persons, recipient agencies must take reasonable steps to assure meaningful access to the information and services they provide. What constitutes *reasonable* will be contingent on several factors. Among factors to be considered are the proportion of LEP persons eligible to be served or likely to be encountered by the program and the frequency with which LEP persons encounter the program. Steps that are reasonable for a recipient agency that serves an LEP person on a one-time basis will be very different than those expected of a recipient agency that serves LEP persons daily.

FNS-113-1 PRE-AWARD CIVIL RIGHTS QUESTIONNAIRE

Food Banks are to conduct a pre-award civil rights questionnaire on all new and returning USDA EFOs. These questionnaires must be sent to TDA for approval prior to the EFO receiving USDA Foods. This will include any EFO that drops out of the USDA Program or is suspended then comes back to the USDA Program. The FNS Region or State Civil Rights official(s) must determine that all state agency, local agency, or other sub-recipient program applicants follow Civil Rights requirements prior to approval for Federal financial assistance. Such determinations must be based on a desk or onsite review of Civil Rights information provided by the program applicant. The preapproval/pre-award review report must be maintained in the appropriate program files. This is a federal law.

HANDLING CIVIL RIGHTS COMPLAINTS

All complaints alleging discrimination on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity must be accepted by the EFO. The complaint may be mailed directly to

USDA, Director, Office of Civil Rights,
1400 Independence Avenue, SW
Washington, D.C., 20250-9410 or call (866) 632-9992

EFOs should use the Civil Rights Complaint form to record pertinent information. All civil rights complaints must be accepted either verbally or in writing. Every effort should be made to secure all elements of data on the complaint form to help explain or resolve the situation. No complaint may be refused or ignored because it is incomplete. EFO staff members should be trained to use either the complaint form to gather the necessary information from the complainant or refer the complainant to the person in charge with cooperation and courtesy. An effort should be made to ensure the complainant could read and understand the form.

X. DISASTER AND EMERGENCY EVACUEES

In areas covered by a Presidential declaration of a major disaster or emergency, individuals and families may be forced to evacuate their homes, and some of these evacuees may choose to reside with a host family until they can return to their own homes. In such instances, TDA may, for the duration of the Presidential declaration, consider evacuees residing with a host family a separate household for the purpose of determining eligibility for regular program benefits under TEFAP. In instances when evacuees are considered a separate household, the host family must separately meet the eligibility requirements for the program to receive program benefits. All other program requirements must be met, including use of the host family's place of residence, for the purpose of determining if both households meet applicable service area requirements.

In the event of an emergency or disaster declaration, the TDA Program Administrator will notify food banks to report on-hand inventories of USDA Foods. If necessary, TDA will reallocate these foods to other sites as needed. Food Banks must report the volume of product released for emergency use. USDA must grant permission to release USDA Foods for household distribution without income eligibility during declared disasters and emergencies. Any state administrative funds paid to the Food Banks may be retained unless otherwise notified by TDA.

Significant fluctuations in the number of households served by any Food Bank during an emergency or disaster declaration may be corrected by averaging the numbers submitted for the previous four quarters.

XI. RECALL POLICY AND PROCEDURES

PROCEDURES PRIOR TO RECALL

Although United States food supply is among the safest in the world, sometimes food may be unsafe or mislabeled. When there is a reason to believe food is unsafe, or mislabeled, the food is recalled or otherwise removed from circulation. The following steps must be taken to ensure the USDA Foods in the State of Tennessee are secure:

1. Ensure all Recipient Agencies are aware of and trained in recall procedures.
2. Assign a Food Bank Food Safety Coordinator and an alternate. Ensure their name, title, and contact information is accurate.
3. Contacts must be verified on an annual basis. Food Banks are responsible for updating TDA in event of unexpected staff changes.
4. If the Food Bank further distributes food maintain a contact list for serving sites and other recipients.
5. It must be possible to trace recall food to final recipient.

UPON NOTIFICATION OF A RECALL

- All members of your designated food safety team will be contacted by TDA.
- Designated Food Safety Representatives must confirm within 24 hours or less after receiving recall notification. This is to ensure the message was received and understood.
- If further distributed notify all sites about recall as soon as possible.
- Food banks should confirm receipt of the notification by sites to ensure the message was received and understood.
- Food banks will be provided product identification information needed to track the product.
- Food banks will be provided instructions on handling the affected food as directed by TDA.
- Food banks will be provided specific product disposal instructions based on state/local solid waste regulations.
- Find and isolate the affected product and label "DO NOT USE" to avoid accidental use.
- Conduct an inventory assessment, ideally in 48 hours or less, of affected product and include:
 - Amount remaining in stock and locations.
 - Amount distributed to program participants.
- Submit the inventory assessment information to TDA within the directed time frame.
- Follow applicable storage/destruction instructions per TDA.

RECALL COMMUNICATION METHODS

- Call agencies and provide information and instruction on how to handle the affected product.
- Send email to agencies and provide information and instruction on how to handle the affected product.
- Post announcements on Food Banks home page.
- May use social media, such as Twitter and Food Bank's blog.

RECALL RESPONSIBILITIES OF FOOD BANKS

- Identify USDA Foods
- Document to whom USDA Foods were distributed.
- Identify who picked up USDA Foods.
- Submit inventory information to TDA.
- Conduct an annual review of facilities and document compliance with requirements.

RECALL RECORDKEEPING

- Records of inventory
- Records of distribution
- Records of storage
- Records of disposal

CLASSIFICATION OF RECALLS

Class	Definition	Examples
Class 1	A health hazard situation where there is reasonable probability that eating the food will cause serious, adverse health consequences, or death.	E.coli 0157:H7 in ground beef; Salmonella in peanut butter; Food with an undeclared allergen(s)
Class 2	A health hazard situation where there is a remote probability of adverse health consequences from eating the food.	Product containing a foreign material
Class 3	A situation where eating the food will not cause adverse health consequences.	Minor labeling problems, such as improper format or undeclared ingredients that are not allergens

RESPONDING TO A RECALL

It is important to send complaints about USDA Foods to TDA, so that they may report them to USDA FNS. Sometimes a complaint involves a food safety concern and sometimes the complaint reflects a quality issue. It is important to have a good feedback system to respond quickly to food safety concerns and improve product quality. All complaints reported to the State Agency should include as much detail as possible. Photographs should be submitted.

Information to be provided in a complaint includes:

- Product name and number

- Description of the problem
- Date your agency received the product
- Quantity of product involved
- Quantity and physical address of product remaining
- Purchase Order Number
- Invoice/Order Number
- Advance Shipping Notification Number (if applicable)
- Any lot numbers or can codes printed on the packaging
- Establishment number of the plant processing any meat, poultry, or egg product
- Organization's name, address, and phone number
- If complaint comes from someone else, report their name and contact information
- Report of any illness or injury (Ask if there was a Health Department investigation or Doctor Visit)
- Photograph of foreign object or problem
- Measurements of the foreign object until further directed by the State Agency, the following items should be retained:
 - Original container or packaging (unopen cases)
 - Any uneaten portion of the food (confer with the State Agency to determine if food should be kept refrigerated or frozen)

XII. TAX EXEMPT

The Emergency Food Assistance Act of 1983 requires that an eligible recipient agency must be "nonprofit", per 7 U.S.C. 7501(3). TEFAP regulations at 7 CFR 251.5(a)(3) establish that if not a public entity, an eligible organization must possess tax-exempt status or be automatically exempt as "organized or operated exclusively for religious purposes", as described in the IRS, or have made an application and be working towards tax-exempt status. Any agency that has an agreement with TDA to further distribute TEFAP foods or funds must review the IRS Automatic Revocation of Exemption List, which is organized by State, and found at <https://www.irs.gov/charities-non-profits/tax-exempt-organization-search> and determine whether any of the agencies with an agreement are listed. This must be done at least annually to ensure current agencies do not appear on the list. This also should be done when adding a new EFO to your organization.

Should an EFO appear on the list, the Food Bank must notify the organization in writing that it has 30 days to provide documentation that it has applied for reinstatement of tax-exempt status, or it will be terminated from TEFAP. The EFO must forward documentation of IRS recognition of tax-exempt status to the Food Bank within 180 days of the written notification.

CHARITABLE INSTITUTIONS

Per 7 CFR 250.3, charitable institutions that are not public institutions must be private nonprofit organizations with tax-exempt status. TDA is responsible for making sure charitable institutions with an agreement with TDA does not appear on the list, if it does TDA must immediately notify and terminate from the program that institution. A charitable institution may reapply for the program once its tax-exempt status is reinstated. This must also be done prior to adding any new charitable institutions.

XIII. ADMINISTRATIVE REVIEW REQUIREMENTS

ERA AND EFO DISTRIBUTION SITE REVIEWS

The following items should be monitored during the review process:

- Appropriate storage facilities are in use for shelf stable, frozen or refrigerated items.
- Appropriate sanitation and rodent/insect extermination practices.
- Proper security measures are in place to prevent vandalism or theft.
- Appropriate application of individual/household income guidelines and eligibility status.
- Adherence to TEFAP food distribution guidelines per household (Intake Forms, monthly inventory records and individuals/households served are the minimum required documentation).
- Conspicuous display of the civil rights poster "And Justice for All" where USDA Foods are distributed, along with the written notice to all beneficiaries and prospective beneficiaries of the right to be referred to an alternative provider.
- In addition, the agency must have the civil rights complaint forms accessible and the EFO staff must comprehend and follow the civil rights complaint procedure.
- Annual documentation must be done of civil rights training to staff/volunteers. If the EFO is advertising their USDA distribution with a flyer, brochure, pamphlet, and/or any advertising material the food bank must ensure that the non-discrimination statement is placed on those items.
- EFO retains on file all Food Bank correspondence citing program operation deficiencies, along with follow-up or corrective action documentation.
- Food Bank staff will document improvements when conducting on-site reviews and consider overall program operations before renewing EFO participation in the USDA donated food program.
- In potentially unsafe conditions, the SDA will work with the food bank to devise an action plan to bring them back in compliance or take further corrective action.

FOOD BANK REVIEWS

TDA will ensure that the Food Banks are reviewed once per year. Reviews include the following:

- TDA and Food Bank Agreement, Agreement Addendums,
- EFO Agreement Addendums and TEFAP Sub-Agency Agreements
- Required financial records and receipts
- Perpetual and annual food inventory records
- Receipting Paperwork (Received Shipment Report/Requisition Status Report with Consignee Information, Notice of Arrivals, Bill of Ladings, and OS&D's if applicable)
- Monthly Inventory Reports of Distribution, Daily In-Kind Contribution, In-Kind Contribution forms and Individuals/Household Served forms
- Fiscal Year End Inventory
- Confirmation of Federal Assistance Received
- Commodities Transfer Forms to Each Agency
- Distribution records including proxy notes and legal signatures, eligible categories, and intake forms
- Records of food issuance by EFOs (monthly inventories and individuals/households served reports) compared to Reports of Distribution
- Inventory management
- Transfer documentation

- Appropriate storage areas
- Food management practices
- Food ordering procedures utilizing WBSCM
- Documentation of food loss reports
- Physical inventory vs book inventory
- Documentation of checking IRS Automatic Revocation of Exemption List
- Review of civil rights, which include posting of the “Justice for All” poster and the written notice of beneficiary rights, documentation of all trainings, complaints, investigations, and pre-award civil rights questionnaires.
- Additionally, the Civil Rights Complaint Form must be accessible.

ACRONYMS

CR	Civil Rights
EFO	Emergency Feeding Organization
ERA	Eligible Recipient Agencies
FD	Food Distribution, FNS/USDA
FNS	Food and Nutrition Service, USDA
FNSRO	Food and Nutrition Service (FNS) Regional Office
FY	Fiscal Year
HHP	Household Programs, FNS/USDA
OS&D	Over, Short and Damaged
SDA	State Distributing Agency
SDI	Self-Declaration of Income
SFSP	Summer Food Service Program
SNAP	Supplemental Nutrition Assistance Program/Food Stamp
SSI	Supplemental Security Income
TANF	Temporary Assistance for Needy Families
TDA	Tennessee Department of Agriculture
TEFAP	The Emergency Food Assistance Program, FNS/USDA
USDA	United States Department of Agriculture
WBSCM	Web-Based Supply Chain Management System