

THE EMERGENCY FOOD ASSISTANCE PROGRAM MANUAL

Tennessee Department of Agriculture
Commodity Distribution
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1. INTRODUCTION

The Emergency Food Assistance Program (TEFAP) is a Federal United States Department of Agriculture program that helps supplement the diets of low-income needy persons by providing them with emergency food and nutrition assistance. The program also helps strengthen the agricultural market for food that American farmers produce by buying food under price-support and surplus-removal legislation.

USDA buys the food, including processing and packaging, and ships it to the States. The amount received by each State depends on its low-income and unemployed population. State agencies work out details of administration and distribution. They select local organizations that either directly distribute to households or serve meals, or distribute to other local organizations that perform these functions.

The Commodity Distribution Section of the Tennessee Department of Agriculture (TDA) provides TEFAP foods to 19 community action and human resource type agencies which distribute foods directly to needy households, and 5 food banks which distribute foods to local organizations, such as soup kitchens and food pantries that directly serve the public. (In this guidance, the 24 State-contracted Recipient Agencies will be referred to as RAs.) These local organizations distribute the TEFAP foods to eligible recipients for household consumption, or use them to prepare and serve meals in a congregate setting. Recipients of food for home use must meet income eligibility criteria set by TDA.

Under TEFAP, States also receive administrative funds to support the storage and distribution of the USDA foods. TDA passes most of these funds down to RAs.

Current Federal Regulations governing TEFAP are 7 CFR, Parts 250 and 251. Links to the regulations, along with policies and additional guidance may be found at the USDA website <http://www.fns.usda.gov/fdd/programs/tefap/> and at the TDA website http://www.tn.gov/agriculture/general/com_tefap.shtml.

2. RECIPIENT AGENCY ELIGIBILITY

TDA contracts with public or non-profit private organizations (RAs) providing services for needy persons. An RA must have a service area and storage facility that are sufficient for large volumes of food to be received at one time. Community action and human resource type agencies will distribute food primarily through mass distribution sites. Each food bank may distribute food directly to eligible recipients or through member agencies, which are usually congregate feeding sites or pantries within the food bank's service area. To be eligible to receive TEFAP foods for meal preparation or distribution to households, food banks' member agencies must

- Have Federal tax-exempt 501(c)3 status. If the program requesting food is operating under an umbrella organization's tax-exempt status, the program must be related to the function identified by an umbrella organization's tax-exempt status. Many religious organizations are part of a larger national/international body that has its own 501(c)3 status.
- Not be a penal institution,
- Provide food assistance (a) exclusively to needy persons, pursuant to TDA established income guidelines, if providing food for household consumption and/or (b) predominantly to needy persons if providing food in a congregate setting.
- Enter into an agreement with a State-contracted food bank.

In Tennessee, the pool of eligible RAs (grant applicants) is comprised of the community action agencies, human resource agencies, etc. affiliated with Tennessee Association of Community Action and Tennessee regional food banks affiliated with Feeding America. All RAs in the pool will be offered grant amounts on a fair share basis according to the counties in their service regions. Each county's share will be determined using an annually adjusted formula based on poverty and unemployment data, similar to the formula used by USDA to allocate resources to the states.

3. RECIPIENT OR HOUSEHOLD ELIGIBILITY

Foods for home use may only be distributed to eligible needy households. Eligibility of recipients must be established prior to their receiving food. RAs may choose to conduct eligibility determinations prior to the date of distribution or they may conduct determinations at the distribution site. Public notification should clearly state when determinations will be conducted. Eligibility may be established in one of two ways: (1) the recipient may show proof of eligibility for one or more of the following means-tested programs: SNAP (Food Stamps), Families First, Supplemental Security Income, Low Income Home Energy Assistance Program, or documented residence in public housing, or (2) the recipient may complete a signed self-declaration of income showing that the total amount of household income is below 150% of the current federal poverty income level. (TDA will update and email Income Eligibility Guidelines to State-contracted RAs annually.) The recipient must be a resident of the state of Tennessee, but the length of residency is not used to determine eligibility. An RA may choose to allow eligibility determination to remain valid for up to one (1) year. If eligibility is not determined at the distribution site, the RA must have a procedure in place for identifying eligible recipients at the distribution site. Examples of an acceptable procedure would be providing a list to distribution site staff or issuing a card or other documentation that the eligible recipient may present at the distribution site.

Definition of a Household: Current USDA regulations (7 CFR 250.3) define "household" as a group of related or non-related individuals, exclusive of boarders, who are not residents of an institution, but who are living as one economic unit and for whom food is customarily purchased and prepared in common. This may also mean a single individual living alone. Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. Separate economic units in the same house are characterized by prorating expenses and economic independence from one another. If each household has its own source of adequate income to pay for rent, food, utilities, etc., they are considered and evaluated as separate households/economic units. The USDA regulation mentions shared food purchases and preparation as part of the definition of a household. For situations where individuals (related or non-related) reside together, but prepare their meals separately, the deciding factor will be whether significant household expenses are shared. Individuals sharing housing and/or significant income and expenses will be considered one household/economic unit.

Homeless Persons: Homeless persons are eligible to receive commodities by showing eligibility for one of the means-tested programs listed above or by self-declaring income that is below 150% of the federal poverty income level.

Congregate Feeding: Organizations preparing meals at congregate feeding sites serving predominantly needy persons are not required to have individuals complete an application form to determine eligibility. Organizations receiving food for such meal preparation are not required to employ a means test to determine that recipients are needy, or to keep records solely for the purpose of demonstrating that its recipients are needy.

Eligibility Record Keeping: All RAs and food bank member agencies must maintain a copy of eligibility determination forms and corresponding income eligibility guidelines on file for three (3) years following the close of the federal fiscal year to which they pertain.

Restriction on Additional Eligibility Requirements: RAs may not establish additional criteria or request additional information or data for determining eligibility to take TEFAP food home. Any requests for other information or data not specifically required for eligibility to receive TEFAP food must be made on a separate form and clearly identified as “NOT required to receive TEFAP food”. Social Security Numbers MAY NOT be collected as part of the TEFAP eligibility determination or during the distribution process.

Activities unrelated to the receipt of TEFAP foods may not be conducted at sites unless participation in such activities is expressly identified as being separate and apart from food service or distribution involving TEFAP foods, and TEFAP recipients are not required to participate in order to receive such TEFAP foods or meals that contain them. For example, an overnight shelter that receives TEFAP foods **may not require** otherwise eligible persons to attend religious services in order to receive meals. Examples of unrelated activities include political rallies and meetings, requiring participation in a religious practice or service, joining a religious organization or group, and solicitation of support or monetary contributions at the distribution or meal site for any particular cause or group.

Fees, Services, and Contributions: Under no circumstances shall recipients be required to make payments in money, materials or services for the receipt of TEFAP foods. Additionally, recipients **shall not** be solicited to volunteer their services or for voluntary contributions or donations during the distribution of TEFAP foods. If RAs or food bank member agencies charge fees for transportation, shelter, classes, social activities, recreational facilities, etc., those RAs or food bank member agencies must clearly state in writing, either by posted sign on the wall or by handout during distribution or meal services, that any money solicited or charged is **not** for or related to the USDA TEFAP foods received.

4. RECEIVING TEFAP FOOD SHIPMENTS

TDA will send each State-Contracted RA a quarterly spreadsheet showing the foods expected during the coming quarter. The spreadsheet includes a Material number and a Sales Order number. As of July 1, 2011, the old Delivery Order (DO) number that started with an A or a B and included "247" has been replaced with a Sales Order number. (The commodity code has been replaced by a Material number.)

The quarterly spreadsheets of foods expected should be shared with anyone who might be scheduling deliveries and/or receiving shipments. USDA is no longer issuing forwarding notices (KC-269), which were the forms RAs used to complete and mail to TDA along with bills of lading.

The procedure for scheduling and receiving TEFAP foods is:

- When TDA is contacted by a shipper, the TDA staffer will call the RA or warehouse to schedule an appointment. The RA contact person accepting the appointment should take care to note the material number and sales order number of the food being scheduled as well as the number of cases. As always, under no circumstances will an RA or TEFAP warehouse schedule its own delivery appointment with a carrier.
- When the shipment arrives, the RA's receiver should ALWAYS ensure the trailer is sealed. If the trailer isn't sealed, call TDA immediately and do NOT unload the shipment. USDA requires carriers to seal trailers and we do not accept unsealed shipments.
- If the trailer was sealed, confirm the driver has a bill of lading that shows, at a minimum, the correct location and the expected number of cases. If the information on the bill of lading is incorrect or the driver claims not to have a bill of lading, call TDA immediately. Do not accept shipments with missing or incorrect documentation.
- NOTE: Ideally, bills of lading should show all of the following: material number or food description, sales order number and line item, delivery destination, and number of cases. However, USDA is working with vendors to iron out bill of lading problems they're experiencing since the 7/1/11 change in procedures. Until further notice, TDA will accept a bill of lading as long as it has the correct location and the expected number of cases AND the food being delivered is exactly what the RA or warehouse was told to expect when the appointment was scheduled.
- RAs' receivers should sign and date the bill of lading and be sure to note the number of cases received as well as any shortage or damage.

- No later than the next business day after a shipment has been received, but preferably the same day a shipment is received, the RA or warehouse should email Schanty Russell (Schanty.Russell@tn.gov) and Debbie Combs (Debbie.Combs@tn.gov) the following receiving information: Sales Order number, Material number or food description, amount received in good condition, any exceptions (such as short or damaged), and the date received. Emailing both Schanty Russell and Debbie Combs will ensure someone will have the information needed to report the shipment as received in USDA's online system. TDA has just 3 business days to key receiving information and timely reporting by RAs or warehouses is critical.
- Since there is no longer a forwarding notice to complete, RAs or warehouses will mail TDA the bill of lading as proof of receiving.
- For RAs not receiving USDA shipments directly (food first goes to a warehouse or another agency), these procedures are for information only. This guidance has been sent to the warehouses by TDA.

5. DISTRIBUTION PROCEDURES

RAs and food bank member agencies that distribute TEFAP foods to households for home consumption may establish their own days and hours of operation. These distribution sites should have sufficient staff and facilities to adequately serve clients. To the greatest extent possible, hours of distribution should be scheduled at the same time and location. The length of time for distribution should be long enough to serve the clients (households) with a minimum of waiting time.

Days and Hours of Operation: An RA or food bank member agency should post its days and hours of operation in a clearly visible place. If application and eligibility determination for TEFAP foods is not done concurrently with the distribution of the TEFAP foods, the days and hours for applying for TEFAP must be clearly posted.

Announcements and Posters: If the RA or food bank member agency does not maintain a regular location and/or hours for distribution of TEFAP foods, it must notify the public in advance of the availability of TEFAP foods and when the next distribution will take place. Notification may be done through press releases and announcements in public places. Press releases and announcements must state the date, time, and location(s) where the distribution of TEFAP foods will take place. Any announcement must include the approved statement of non-discrimination. A sample news release is illustrated in Attachment A. Copies of press releases and announcements issued must be kept on file for three (3) years from the fiscal year to which they pertain.

RAs that provide food on a regular schedule must make a good faith effort to notify the public of the availability of donated food for distribution to the needy. Examples of public notification include: notices in news media, newsletters, church bulletins, posting

hours of operation on pantry doors, etc. Announcements may be distributed to agencies that serve possible eligible households such as child care centers, schools, Head Start centers, home nursing services, Meals on Wheels, and churches. Posters may be displayed at SNAP (Food Stamp) and welfare offices, Women Infants and Children (WIC) and public health clinics, grocery stores, churches and community centers.

Income Eligibility Scale: The TDA established income scale is issued to the State-contracted RAs annually and must be used for determination of eligibility under self-declaration. RAs are responsible for sharing current income eligibility with all appropriate personnel (those conducting eligibility determinations), including those at distribution sites or food bank member agencies. The income scale should not be included in any public announcement. Instead of including the income scale, any public announcements may include a statement stating that “eligibility will be based on total household income not in excess of the State-established maximum percentage of the poverty line for the appropriate household size.”

Issuance Rates: TDA provides RAs a distribution rate chart (Attachment B) which shows recommended amounts of food for each household. On the chart, like items are combined (such as dry beans, canned fruits, canned juices, etc.). For combined items, the distribution rate applies to each of the items in that category. For example, the canned fruit rate of “3 of each” means each household can be given 3 of each type of canned fruit on hand. If 4 different types of canned fruit are on hand, the household may receive 3 of each for a total of 12 cans. Rates may be reduced if the number of recipients increases. On the other hand, if the number of recipients declines or if there is a risk of inventory being held too long, the RA (not a distribution site or pantry) should contact TDA by phone or email to request a rate increase. A response will be sent by email and should be printed and kept on file by the RA to document the approval. This chart and procedures must be distributed to all appropriate personnel, distribution sites, and pantries.

Records: RA distribution sites and pantries that provide TEFAP foods for home consumption must keep a record of the names of all the people who received TEFAP food each day. TDA has prepared a TEFAP Daily Roster for capturing this information (Attachment C). If an RA wishes to use a different format for recording this information, the form must first be approved by TDA.

RA distribution sites and pantries are not required to include the number or specific foods distributed to each household (for instance, 2 cans of green beans or 3 containers of apple juice, etc.). However, if a site does not record the number or specific foods distributed to each household, the site must have a procedure in place to track the total food distributed each day. An easy way to accomplish this would be for the site to document the number and specific foods expected to be distributed to each household on a given day. (If the contents of the box or bag change at some point during the day because there's only enough of one food to put in X number of boxes, the site could note the number and specific foods that were in X number of boxes. Then the site could

note the number and specific foods that were packed in each of the remaining boxes.) Anyone from the RA or TDA who reviews the records for that day could multiply the number of boxes by the number of recipients/households who have signed for food that day, and knowing how much was in each box, could then determine how much of each food was distributed on that day. RA or TDA staff should be able to examine the records for a given period and determine if the amounts distributed appear reasonable when compared to the number of people who signed the roster.

RAs may continue to have distribution sites count the number and specific foods distributed to each household if they so choose.

Inventory Management: USDA Policy FD-107 (Attachment D) clarifies FNS policy regarding the storage and inventory management of USDA foods. Among the topics discussed are first-in, first-out (FIFO) inventory management, expiration, use-by, and best-if-used-by dates, proper disposition of spoiled or damaged foods, and single inventory management. The policy may be found, with other TEFAP policies, on the USDA web site http://www.fns.usda.gov/fdd/Policy/tefap_policies.htm .

FD-107 describes how a number of different dates must be taken into consideration as RAs manage TEFAP food inventory using a FIFO system. The sections in the policy addressing infant formula and single inventory don't apply to TEFAP, but the important message in the policy is that RAs shouldn't hold TEFAP foods too long. USDA usually considers any foods that won't be used within 6 months to be excessive, so 6 months should be the target for the longest period of time to hold any particular food.

An RA that has inventory building can contact TDA to request an increase in the household distribution rate. The RA is in the best position to know if distributing 4 cans of a vegetable will result in inventory being distributed in a timely manner or if the amount needs to be increased. With the flexibility an RA has to work with TDA on the distribution rates, inventory levels in excess of 6 months should be rare. Waiting until a food spoils or exceeds a best-if-used-by date may result in the RA being held responsible for paying for a food loss.

Other options for avoiding excess inventory are

- Scheduling more frequent distributions if an RA is on a quarterly schedule. (Households can receive food as often as once per month.)
- Requesting TDA approval to transfer food to another RA. It's preferable to distribute food in the RA's region to which it was originally allocated, but a transfer to another RA is acceptable if that isn't possible.

By marking pallets or cases (at a pantry or congregate feeding site) with the appropriate dates (expiration, "Best-if-used-by", use-by, pack, and/or received dates) and practicing FIFO, the risk of product going out of condition will be significantly reduced.

TEFAP food must be distributed with enough time to allow program recipients (households) the opportunity to consume the foods before their expiration, "Best-if-

used-by”, or “use-by” dates have passed. RAs must manage their inventories to ensure that the food is distributed to all entities further down the supply chain prior to reaching any of the aforementioned dates, as well as allowing ample opportunity for further distribution and storage if necessary prior to reaching program recipients.

Transfers: Any transfers of TEFAP food from one RA to another must first be approved by the Commodity Distribution office.

Inventory Records: At each level of the distribution process, it is necessary to keep adequate inventory records. At a minimum, such records should include:

- A record of the receipt date and the amount of each TEFAP food received. This includes TEFAP food transferred from other RAs.
- An on-going (or perpetual) inventory record showing the amount of food distributed and the amount on hand at any time. At the distribution site or pantry level, the signed TEFAP Daily Roster may be used to calculate distribution amounts.
- Any reduction in inventory due to loss or transfer to another RA.

Inventory records at the RA level will be used to prepare the TEFAP Monthly Inventory Report (Attachment E) which should be submitted to TDA within 10 business days following the month being reported. RAs may email TEFAP Monthly Reports as an Excel spreadsheet or as a scanned PDF file or the reports may be mailed. Emailed reports do not have to be followed up with a hard copy by mail.

Physical Inventory: Frequency of distribution should determine how often a distribution site or pantry compares its “book inventory” (the amount shown on a perpetual inventory ledger or spreadsheet) to its physical inventory. If a site, such as a pantry, is open multiple days per month, inventory should be reconciled at least once per month. RA sites where distributions occur only one day every other month or one day per quarter could reconcile inventory following the day of distribution.

Each RA should conduct a physical inventory of its own storage facility or contracted warehouse no less than once per year. The physical inventory should then be reconciled to the book inventory and adjustments should be noted on the TEFAP Monthly Report for the month during which the reconciliation occurred.

6. FOOD STORAGE AND SAFETY

The most basic rule of inventory management is first-in-first-out (FIFO): foods delivered to an RA or warehouse first (first in) should be the first items distributed (first out); however, a warehouse or RA could receive multiple dates of the same product and must manage FIFO accordingly. Refer to the previous “Inventory Management” section of this manual for additional information on this topic.

Storage Conditions: Storage conditions have a significant impact on the quality of food products. The same product will last for different periods of time depending on the temperature of the warehouse, the humidity level, and air circulation. In general, cool temperatures and low humidity provide the best storage conditions for dry goods.

- Food should be stored off the floor and away from contact with walls and ceilings.
- Temperature of storage areas, including freezers, should be monitored and recorded daily. In the event of a loss that requires further action by TDA, a temperature log may be required as part of the documentation the RA must submit. (See sample - Attachment F)
- Storage areas and shelving should be clean, well-maintained, and free of toxic items (such as cleaning supplies, paint, or hazardous chemicals) that could contaminate food.
- Storage areas should be kept free of pests such as rodents or insects. The party responsible for the storage area (RA, warehouse, pantry, etc.) must either use the services of a professional pest control company or regularly inspect storage areas themselves, taking all necessary steps to prevent and safely control any infestations that may occur.
- Food storage areas must be secure to prevent access by unauthorized persons.
- Frozen food must be stored at or below zero degrees Fahrenheit. Refrigerated food must be maintained between 35 and 41 degrees Fahrenheit. Food requiring dry storage must be kept between 40 and 70 degrees Fahrenheit. If a storage site gets warmer than 70 degrees, the site may need to increase ventilation, install air conditioning, or add fans.

At sites without separate storerooms, the same general guidelines still apply. Even pantries or congregate feeding sites with home style pantries and kitchen cabinets must:

- Keep food safe from theft (a locked cabinet),
- Store food separately (label cabinet or shelf),
- Monitor temperature (use thermometer and temperature chart),
- Practice FIFO.

Out of Condition Foods: TEFAP foods that show signs of spoilage, infestation, or other visible defects should not be used or distributed, regardless of product dates or when the foods were received, as such food is generally considered not fit for human consumption. If there are no visible defects but there is a question as to the wholesomeness or safety of TEFAP foods, the distribution site or RA must have the foods inspected by State or local health authorities as soon as possible, and must contact TDA before taking further action.

7. LOSSES

Food losses may be due to spoilage, damage, theft, fraud, incorrect distribution, or

excessive inventory or the reason for the loss may be unknown (physical inventory simply doesn't match book inventory). RAs, distribution sites, and pantries have a responsibility to minimize food losses through proper storage, safety practices and careful management of inventory levels.

It is important to report food losses in an accurate and timely manner.

An RA has responsibility for tracking and reporting to TDA losses at the RA's distribution sites, pantries, congregate feeding sites, as well as any storage facilities with which the RA has an agreement/contract to store TEFAP foods. These sites will not report losses directly to TDA. When the RA learns that one of these sites has a loss, the RA is responsible for providing proper guidance to the site, gathering the necessary information from the site, and reporting to TDA as instructed in this manual. If necessary, the RA will execute any claim action against the responsible party.

All losses should be recorded on the Report of Adjustment to Inventory (Attachment G) and noted as an adjustment on the TEFAP Monthly Inventory Report. At TDA discretion (based on the reason for the loss or the value of the loss), the RA may have to complete a Food Loss Report (Attachment H).

TDA must investigate any loss of TEFAP foods in order to determine if a claim must be pursued. Such claim determination must be completed within 30 days from the date of discovery of the loss or from the date that information was first received indicating that the loss occurred, whichever is later. (An RA's timely submission of the Monthly Inventory Report and Report of Inventory Report will satisfy this requirement.) As part of the claim determination, TDA must establish:

1. The types and quantities of foods lost;
2. The value of the foods lost (using the TDA issued "price list");
3. The date and location of the loss, to the extent they can be determined;
4. The cause, including if theft, embezzlement, or fraud was involved; and
5. The party responsible for the loss, if any.

Upon receiving notice of a loss, TDA will determine if additional information is needed, which may include completion of a Food Loss Report. Such determination and email notice to the RA will be completed within 30 days of the date TDA receives the information.

If TDA determines the value of the loss does not exceed \$500, TDA is not required to pursue a claim. However, if the loss occurred as a result of theft, embezzlement, willful misapplication, or fraud, TDA must pursue further claim actions or forward the claim determination to the USDA Southeast Regional Office (USDA-SERO) for further action, regardless of the value of the loss.

If TDA determines the loss didn't result from action or negligence by a specific party (for example, if the loss occurred as a result of a natural event, such as a hurricane or flood,

or as a result of a general power outage), it is not required to pursue a claim or to forward a claim to USDA-SERO for further action. However, TDA must notify USDA-SERO if the value of such a loss exceeds \$500.

If a party is responsible for the loss, TDA must pursue further claim actions if the loss exceeds \$500 and notify USDA-SERO.

IMPORTANT: Before disposing of or requesting a health official to condemn mass quantities of food, which may be indicative of a larger problem, RAs must report the detection of a loss immediately to TDA.

Disposal of Damaged or Out-of-Condition Foods: Damaged or out-of-condition foods must be disposed of by appropriate RA, distribution site, pantry, or congregate feeding site personnel.

Do not dispose of TEFAP foods valued at over \$500 without prior TDA approval by phone or by email. An RA should request this approval as soon as the need is discovered.

The method of disposal will usually depend on the quantity. In most cases, disposing of food in a garbage disposal, in a dumpster, or (for a large number of cases) in a landfill would all be appropriate. If the quantity permits, care should be taken to remove labels or separate the food from the packaging and adulterate the food (especially if cases are to be placed in a dumpster) so the food could not mistakenly be used. Food can be adulterated by pouring bleach on it. If food is to be taken to the landfill to be buried or burned, a person with the RA, distribution site, pantry, or congregate feeding site should witness the destruction of the food and obtain a receipt from the landfill operator.

Include in disposal documentation the quantity and description of the food, circumstances surrounding the loss, the method of disposal, date and location of disposal, and the signature of the person who witnesses the disposal.

Replacement: If a claim is assessed, TDA will provide the RA with specific guidance regarding USDA instructions for replacement of food losses.

Preventing Future Losses: Where applicable, TDA will ensure corrective actions are taken by the RA to prevent future losses. TDA will include a review of corrective actions taken in the next required on-site review of an RA that has been the subject of a claim.

8. REIMBURSEMENT

TDA will send RAs current guidance regarding grant contract budgets and allowable expenses on an annual basis at the same time grant contracts are transmitted for completion and signature.

TDA will provide RAs current guidance for completing invoices for reimbursement and an invoice template, when the fully executed grant contracts are transmitted.

9. MONITORING REQUIREMENTS

On an annual basis, TDA will monitor/review at least 25% of the RAs, with each RA reviewed at least once every four years. At least twenty of the distribution sites will be reviewed every year. When possible, site reviews will be conducted during actual distribution. Review areas will include policies and procedures for eligibility determinations, inventory controls, approval of distribution sites, reporting, record-keeping, civil rights, food ordering, and storage and warehousing.

If deficiencies are identified, TDA will submit a report of the review findings to the RA within 30 days of the review and the RA will respond in writing within 60 days describing the corrective action(s) taken to correct the deficiencies. After TDA reviews the RA's response, TDA will respond to the RA with approval or recommendations for further action.

10. CIVIL RIGHTS NOTIFICATION AND TRAINING

TEFAP is open to all eligible persons, regardless of race, color, national origin, sex, age, or disability.

TDA and RAs will conduct civil rights training to ensure fairness and equality of treatment and benefit delivery. All program applicants and participants should be treated with dignity and respect. Outreach should ensure persons who are potentially eligible are aware of the program and have information on how to apply. Confidentiality must be maintained. People who allege discrimination should be advised about how to file a complaint.

Guidance: The USDA Food and Nutrition Service civil rights instruction FNS 113-1 (Attachment I) for nutrition programs, including TEFAP, may be found at: <http://www.fns.usda.gov/cr/Documents/113-1.pdf> . Note that Appendix C to this instruction exempts state and local level TEFAP agencies from the requirement to collect and maintain racial and ethnic data.

A link to FNS-113-1 and other civil rights materials may also be found at the TDA website: http://www.tn.gov/agriculture/general/com_civilrights.shtml

Public Notification: RAs, pantries, and congregate feeding sites must inform the public about the program and civil rights requirements. Such efforts should target as many of the following as possible: the general public, potentially eligible populations, community leaders, grassroots organizations, and referral sources. This information can be communicated by methods such as newspaper articles, radio and television

announcements, letters, leaflets, brochures, internet, etc.

“And Justice for All” posters, Form AD-475C, must be prominently displayed at all sites during eligibility determination and food distribution. This poster/form may be found using the link to the TDA website provided above.

The nondiscrimination statement below should be included, in full wherever possible, on all materials that are produced about the program for public information, public education, or public distribution. This includes agency websites pertaining to TEFAP.

“In accordance with Federal law and U.S. Department of Agriculture (USDA) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or who have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.”

If the material is too small to permit the full statement to be included, the material will, at a minimum, include this statement in print size no smaller than the size of the text: “This institution is an equal opportunity provider.”

Limited English Proficiency (LEP): For LEP persons, RAs, pantries, and congregate feeding sites must take reasonable steps to assure meaningful access to the information and services they provide. What constitutes reasonable will be contingent on a number of factors. Among factors to be considered are the number or proportion of LEP persons eligible to be served or likely to be encountered by the program and the frequency with which LEP persons come in contact with the program. Steps that are reasonable for an RA that serves an LEP person on a one-time basis will be very different than those expected of an RA that serves LEP persons daily. If an RA identifies a need for LEP services at the RA level or below, and the RA doesn't have the resources to meet the need, the RA should contact TDA for assistance.

Training for Staff and Volunteers: RAs are responsible for training their “frontline staff” as well as staff at mass distribution sites, pantries, and congregate feeding sites. “Frontline staff” who interact with program applicants or participants, and those persons who supervise “frontline staff,” must be provided civil rights training on an annual basis. Such training should be documented with the date, materials covered, and either sign-in sheets for training conducted in person or a list of participants for other methods of training, such as webinars or conference calls. 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

Complaints: A person has the right to file a complaint within 180 days of the alleged discriminatory action. This person may contact USDA directly, as indicated in the nondiscrimination statement or the complaint may be filed with TDA, an RA, or a distribution or congregate feeding site. Front line staff at all levels should be trained to handle a complaint appropriately. This training should include a discussion of what constitutes a civil rights complaint, when the complaint can be resolved on-site by the supervisor (to the satisfaction of the complainant), and how to document and report a complaint. TDA has developed a form for capturing complaint information (Attachment J). An RA that has received a civil rights complaint must report the complaint to TDA within 5 business days. Upon receipt of a complaint, TDA will immediately notify USDA and the TDA Title VI coordinator. A decision letter will be sent to the complainant (if contact information was provided) upon the determination of a final disposition.

Anonymous complaints will be handled the same as any other complaints, to the extent feasible, based on available information. When a complainant makes the allegations verbally or in person and doesn't want to place such allegations in writing, the person to whom the allegations are made must make every effort to capture as much information as possible on the TDA Civil Rights Complaint Form.

Compliance Reviews and Resolution of Noncompliance: With each monitoring review, TDA will conduct a Civil Right Compliance Review (Attachment K) at the RA central office and at the site level reviews. A Civil Rights Compliance Review may also be conducted outside the normal review schedule if a report of noncompliance needs to be resolved.

If noncompliance is determined, TDA will provide immediate written notice to the RA indicating the areas of noncompliance and the action required to correct the situation. In cases where corrective action is not completed within 60 days of the finding, TDA must report to USDA. Full details of the reporting process may be found in USDA Food and Nutrition Service civil rights instruction FNS 113-1.

11. RECORDS RETENTION

Required Records: Each RA or other entity which has an agreement with the RA is required to keep accurate and complete records associated with the receipt, storage, distribution, disposal, and inventory of TEFAP foods as well as any funding received under the TDA grant contract.

Maintenance of Records: Such records must be maintained by the appropriate responsible entity for three (3) full years following the close of the federal fiscal year to which they pertain or for three (3) full years following the date of that year's final grant contract payment, whichever is later. Records must be maintained longer than the

required 3 years if related to an audit or if an investigation is in progress.

Electronic Maintenance of Records: 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. An RA 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.

12. DEFINITIONS

Commodities. USDA foods donated by the United States Department of Agriculture. Also referred to as commodity foods or TEFAP foods.

The Emergency Food Assistance Program (TEFAP). A program that makes USDA donated foods available for distribution to needy households.

Distribution Site. A location where TEFAP food is actually distributed to needy persons for home consumption or where the food is used to prepare meals for needy persons.

Food Bank Member Agency. Usually a congregate feeding site or pantry within a food bank's service area. Food bank member agency requirements are outlined in the Recipient Agency Eligibility section of this manual.

Household. A group of related or non-related individuals, exclusive of boarders, who are not residents of an institution, but who are living as one economic unit. It also means a single individual living alone. Additional details are in the Recipient or Household Eligibility section of this manual.

Recipient Agency. For the purposes of this TEFAP manual, "Recipient Agency" or RA refers to one of 24 agencies that have entered into a grant contract with the State to distribute TEFAP foods in a designated service area. The 24 agencies include 19 community action and human resource type agencies and 5 food banks. These public or private non-profit organizations provide services for needy persons and must have a service area sufficient to receive large volumes of food at one time.

Recipient. A needy person or household eligible to receive TEFAP foods.

Tennessee Department of Agriculture (TDA). The state distributing agency which has entered into an agreement with USDA to administer TEFAP.