

SUBJECT: Reviews and Audits; Training - TEFAP State-Contracted Recipient Agencies

A. Purpose. To establish a review system to assess the operational capability of state-contracted recipient agencies receiving USDA commodities and their sub-distributors, and ensure compliance with State and Federal Regulations.

B. Scope. This policy applies to all state-contracted recipient agencies (RAs), sub-distributors and warehouses.

C. Authority.

1. 7 CFR 251.10 directs that the State establish review procedures encompassing eligibility, food ordering procedures, storage practices, inventory controls, reporting and record keeping requirements and compliance with Civil Rights and nondiscrimination provisions.
2. USDA National Policy Memorandum FD-104, Value of USDA Donated Foods for Audits

D. Review Schedules; Monitoring; Training - Responsibilities of State-contracted

Recipient Agency. State-contracted recipient agency will conduct regular on-site reviews, monitoring visits, and trainings of all its sites, sub-distributor sites and their own, leased and donated warehouses as follows.

1. Reviews. Reviews are comprehensive, detailed inspections that are conducted to evaluate every aspect of the TEFAP program to ensure continued compliance with all USDA regulations, policies and this Manual. The following reviews will be conducted by the state-contracted recipient agency:
 - (a) Annual on-site reviews of its own, leased, and donated warehouse and/or storage facility, including sub-distributor sites that further sub-distribute;
 - (b) A comprehensive on-site review of all the state-contracted recipient agency sub-distributors at least once every four years, with a minimum of 25% percent of sub-distributors reviewed each year for compliance with 7 CFR 251, policies, and procedures. Reviews will include an examination of all the records related to TEFAP including, as applicable, eligibility determination, food ordering, inventory controls, distribution and storage of commodities, reporting and recordkeeping requirements, etc.
 - (c) The Bureau provides a sample review form in *Exhibit K – Part 1 Sample Sub-distributor Annual Review Site Visit.*

2. Monitoring Visits. Monitoring visits are on-site inspections that are conducted to evaluate critical component areas of the TEFAP program, and are more general in scope, less in-depth, and less comprehensive than reviews. The state-contracted recipient agency will monitor and inspect each of its distributing sites and sub-distributors at least once every twelve months to ensure continued compliance with all USDA regulations, policies and this Manual. The Bureau provides a sample monitoring form in *Exhibit K – Part 2 Sample Sub-distributor Annual Monitoring Site Visit.*
3. Monitoring visits and reviews must be conducted, to the maximum extent feasible, during the actual distribution of donated foods and/or meal service, and processing of applications to receive donated food.
4. A copy of the on-site review and/or monitoring visit documentation, including any findings and corrective actions, will be kept on file at the state-contracted RA's primary place of business and available for review by the Bureau.
5. The state-contracted RA is responsible for providing training annually to its administrative personnel as well as pertinent staff at the distribution sites, sub-distributors, etc. to ensure compliance with 7 CFR 251 and pertinent sections of 7CFR 250. For each training session, the RA must maintain a list of attendees and a copy of the agenda of subjects covered.
6. The state-contracted RA must conduct annual training for all its staff, sub-distributors, etc. regarding Civil Rights.
7. The state-contracted RA shall provide technical assistance to appropriate staff at all its distribution and sub-distribution sites on a regular basis and no less than once every two years. Maintain proof of technical assistance provided including date, topics covered, etc.
8. The RA must maintain a record of the activities listed here for three years after the closing of the fiscal year to which they pertain.

E. Review Schedules; Responsibilities – State.

1. The Bureau will annually conduct a comprehensive on-site review of each state-contracted recipient agency. Review will include an examination of all the records pertaining to TEFAP including eligibility determination, food ordering, inventory controls, distribution and storage of TEFAP commodities, warehouse practices, reporting and recordkeeping requirements, and civil rights.

2. The Bureau will conduct bi-annual comprehensive audits of the documentation of TEFAP-related expenditures claimed to validate the reimbursements paid to each state-contracted recipient agency.
3. Every year the Bureau will conduct an on-site review of all state-contracted recipient agencies and 25% or 50, whichever is fewer, of all the sub-distributors which receive TEFAP commodities and/or funds pursuant to an agreement with a state-contracted recipient agency.
4. The Bureau may at any time inspect the state-contracted RA's TEFAP records, facilities, distribution sites, and sub-distributors for compliance with all applicable regulations, rules and this manual.
5. The Bureau may conduct inspections of the state-contracted RA's warehouse and storage facilities at any reasonable time.

F. Report of Review Findings, Recommended Actions and Sanctions.

1. Report of Review Findings. The Bureau will submit a report of review findings to each entity reviewed or visited. The report will include:
 - (a) A description of each deficiency found.
 - (b) The particulars contributing to each deficiency.
 - (c) Recommendations for required corrective action, including timetables for completions and/or claims action to be pursued, if any.
 - (d) Means for evaluating the effectiveness of corrective actions.
2. Recommended Corrective Action Plan. Recommended corrective action plans will be prepared whenever an entity is found by the Bureau to be significantly out of compliance with a performance standard, any provision of this manual, or the contract/agreement. The recommended corrective action plan will delineate the corrective actions needed and the time frames allowed for correcting the deficiencies. The plan will be written, signed by the proper entity official and submitted to the Bureau within 30 days after the reviewed entity receives notification of a deficiency from the Bureau. Extensions beyond 30 days may be made, for cause, with written justification and approved by the Bureau.
3. Monitoring. The Bureau will monitor progress toward completion and the effectiveness of actions taken in eliminating program deficiencies. This may include periodic visits to the site, review of pertinent records, etc.

4 Sanctions.

- (a) Failure of an entity to respond to the Bureau's Report of Review Findings may result in the suspension of the allocation of commodities on order for the reviewed entity. Such withholdings would be cancelled if the Bureau receives a corrective action plan within 30 days of the notice of suspension to the reviewed entity.

- (b) Any entity that has failed to comply with the provisions of the federal regulations and/or policies, their contract with the Department, this manual or any instructions issued in connection with it or any agreements entered pursuant to it, may, at the discretion of the Bureau and approved by USDA, have its contract terminated and be disqualified from further participation in any USDA food distribution program. Reinstatement may be made at the discretion of the Bureau.

G. Forms Used in Conducting Reviews. The following forms are used by the Bureau in conducting performance reviews:

1. Review of state-contracted recipient agency.
2. Review of state-contracted RA's individual site and/or sub-distributor.
3. State-contracted RA's own, leased or donated warehouse facilities.

H. Audits.

1. Required Audits. State-contracted recipient agencies and sub-distributors that receive \$500,000 or more in Federal Financial Assistance (FFA) (includes value of USDA commodities and/or funds), within a fiscal year, either directly from federal agencies or indirectly through other units of state or local government, another eligible recipient agency, or a combination thereof, must have a single audit, or a program-specific audit, made in accordance with the applicable Office of Management Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The \$500,000 threshold specified above includes all federal sources and not just the amounts provided under TEFAP. Organizations expending less than \$500,000 in FFA in a fiscal year are exempt from Federal audit requirements for that year.

2. Category of Federal Domestic Assistance (CFDA). TEFAP food and TEFAP administrative funds awards are separate CFDA numbers and must be identified as such in the required audits. The CFDA title for TEFAP administrative funds is "Emergency Food Assistance Program (Administrative Costs)" and has a CFDA number of 10.568. The CFDA title for TEFAP foods is "Emergency Food Assistance Program (Food Commodities)" and has a CFDA number of 10.569.

3. Valuation of USDA foods for Audits. In determining whether \$500,000 or more in Federal grants were expended, the recipient agency must consider the value of USDA donated food foods as a part of such grants. The two-steps for determining the value of USDA donated foods are as follows:
 - (a) Determine the quantity of each USDA donated food “expended”. USDA donated food expended refers to the USDA foods the RA distributed to sub-distributors and/or the public during the RA’s fiscal year.
 - (b) Determine the value of the USDA foods “expended”. For audit purposes, an RA may use either fair market value (FMV) of the donated USDA foods at the time of receipt, or one of the following donated food valuation methods included in 7 CFR 250.58(e):
 - (i) The USDA purchase price (cost-per-pound);
 - (ii) The estimated cost per pound data provided by the USDA upon requisitioning of commodity products;
 - (iii) The USDA commodity file cost on the November 15th commodity file report.

For consistency sake, the Bureau prefers and strongly recommends that RAs use the USDA’s actual purchase price as indicated in (b)(i). This price is reflected on the appropriate report in the USDA’s electronic requisitioning program once the product has been received.

4. Frequency. Audits must be conducted annually by a certified public accountant according to the standards established by OMB Circular A-133. The state-contracted RA receiving TEFAP funds will allow DACS and any federal agency to audit their books for compliance with OMB Circular A-133.
5. Reporting to the Bureau. The state-contracted recipient agency must submit a copy of their audit report to the Bureau within 9 months after the close of their fiscal year.

Sub-distributing agencies must submit a copy of their audit report to the recipient agency with which they have an agreement. The state-contracted recipient agency is responsible for monitoring and receiving their sub-distributors’ audit reports in compliance with OMB A-133.

6. Sanctions. **Failure to timely provide an audit made in accordance with OMB A-133 may result in sanctions against the organization.** These sanctions may

include (1) withholding a percentage of Federal awards until the audit is completed satisfactorily; (2) withholding or disallowing overhead costs; (3) suspending Federal awards until the audit is conducted; or (4) terminating the Federal award.