

**SUBJECT:** Eligibility Determinations

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**A. Criteria for Determining Eligibility of Organization.**

1. Eligible Recipient Agency. An organization applying for participation in the TEFAP program must qualify as an eligible recipient agency (ERA) as defined in Policy 251.3, Definitions.
2. Household Eligibility. Organizations distributing TEFAP commodities to households for home consumption must limit the distribution of commodities to those households that meet the eligibility requirements as established in paragraph B below.
3. Tax Exempt Status. A private organization must:
  - (a) Be currently operating another Federal program requiring tax-exempt status under the Internal Revenue Code, or
  - (b) Possess documentation from the Internal Revenue Service recognizing tax-exempt status under the IRC.
  - (c) If not in possession of such documentation, be automatically tax exempt as “organized or operated exclusively for religious purposes” under the IRC, or
  - (d) If required to file an application under the IRC to obtain tax-exempt status, have submitted an application for recognition of such status. If the IRS denies a participating EFO’s application, the EFO must notify the Bureau immediately. The Bureau will terminate the EFO’s agreement and participation immediately upon receipt of such notification. The EFO will provide the Bureau with an inventory of USDA commodities still on hand and they will be transferred to another EFO.

If documentation recognizing tax-exempt status has not been received by the EFO and provided to the RA within 180 days from the effective date of the agreement for participation in the TEFAP program, the RA will cancel the agreement until such time as tax-exempt status is obtained. The RA may grant a 90 day extension if the EFO can show that its inability to obtain tax-exempt status within the 180 day period is due to circumstances beyond its control. It is the responsibility of the EFO to document that it has complied with all IRS requirements and has provided all information requested by the IRS in a timely manner.

- (e) EFOs must have a written agreement with the state-contracted Recipient

Agency to receive TEFAP commodities. All private EFOs must submit a copy of their Internal Revenue Service tax-exemption letter upon initial application to participate in TEFAP. If the organization is not in possession of a tax exempt letter, it must be automatically exempt as a religious organization. If a locality requires health department approval, a copy of this document is required also. EFOs do not have to sign a new agreement each fiscal year of operation; however, the information contained in the agreement/application form must be updated at least annually.

**B. Client Eligibility – To Take TEFAP Food Home for Home Consumption.** (Note: EFOs that provide food to needy persons in the form of a prepared meal, i.e., soup kitchens, do not have to determine the eligibility of the clients seeking a meal.)

1. Self-declaration of Need

(a) Households Not on a Fixed Income. A household that is not on a fixed income may be eligible for TEFAP commodities by self-declaration if a statement is signed avowing that the total household income is at or below 130% of the current poverty level for the number of persons in the household. The eligibility certification is valid for one (1) year and may be renewed as needed unless the household's circumstances change so as to make it ineligible. In determining income eligibility, gross (before deductions) household income must be used. The following sources of income *are not* to be included in determining eligibility:

- (1) Any income or benefit received under any Federal program that is excluded from consideration as income by legislative prohibition. Examples are Foster Grandparents Program, Volunteer Management Support Program, Senior Companions Program, Food Stamp Program, National School Lunch Program and the Child Nutrition Act.
- (2) Loans from financial institutions such as banks. These funds are only temporarily available and must be repaid.
- (3) The value of in-kind compensation allowances such as military base housing allowance or subsidized medical and dental services.
- (3) Educational assistance such as grants and scholarships. These funds are provided to meet educational expenses and are not available for food.
- (4) Payments for support services or expense reimbursement made under any program under the auspices of the Domestic Volunteer Service Act of 1973.

- (b) Households on a Fixed Income. A household on a fixed income may be eligible for TEFAP commodities by self-declaration if a statement is signed avowing that the total household income is at or below 130% the poverty level. The eligibility certification is valid for one (1) year and may be renewed as needed unless the household's circumstances change so as to make it ineligible. Earned income credit from the Internal Review Service is not fixed income. Households with earned income credit can receive commodities for up to one year.
  - (c) Self-declaration. To determine if total household income is at or below 130% of poverty level for the number of persons in the household, the emergency feeding organization **must** use the current income eligibility chart issued by the Bureau before July 1 of each year.
2. Means Tested Eligibility Criteria. A household is eligible for USDA TEFAP commodities if they are receiving assistance under one of the following programs (household is **not** required to show documentation or proof of participation):
- (a) Food Stamps.
  - (b) Temporary Assistance to Needy Families (TANF).
  - (c) Supplemental Security Income (SSI) or Medicaid.
  - (d) Residence in Public Housing Funded by Municipal, County, State, or Federal Government.
  - (e) A household's certification of eligibility is valid for one (1) year and may be renewed as needed unless circumstances change so as to make the household ineligible.
3. Approved Applications Form. Emergency feeding organizations issuing TEFAP commodities for home consumption may use a form similar to the "Certificate of Eligibility to Take Food Home" form (Exhibit F) to establish the household's eligibility to receive TEFAP commodities. If the RA or EFO develops its own application form, it must contain the same information and disclosures. Requests for any other information not required for TEFAP food eligibility, must be made separate and clearly marked "NOT required to receive TEFAP food". The EFO must maintain a copy of the eligibility certification form and corresponding income scale chart on file.

### **C. Restriction on Additional Eligibility Requirements.**

1. Activities Unrelated to Food Distribution. Organizations receiving USDA TEFAP commodities may not impose any eligibility requirements beyond those established herein for applicants and/or recipients. Therefore, activities unrelated to the receipt of TEFAP commodities 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 commodities, and not required in order to receive such TEFAP commodities or meals that contain them. For example, an overnight shelter that receives TEFAP commodities **may not require** otherwise eligible persons to attend religious services in order to receive meals. Other 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 monetary contributions at the distribution or meal site for use by religious and other groups.
2. Fees, Services and Contributions. Under **no** circumstance shall recipients be required to make payments in money, materials or services for the receipt of TEFAP commodities. Additionally, recipients **shall not** be solicited for voluntary contributions or donations during the distribution of TEFAP foods. The only program that may solicit voluntary donations from recipients are meal providers in the Nutrition Services Incentive Program (fka Nutrition Programs for the Elderly).
3. EFO Operational and Other Expenses. If EFOs charge fees for transportation, shelter, classes, social activities, recreational facilities, etc., those EFOs 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 commodities received.

**D. Authorized Representative.** If a household has so specified in writing, a third person may stand in for the household completing an application or other eligibility documentation. The signed written authorization must be attached to the application. The third person can pick up TEFAP commodities for the household if the household listed the third person on the application.

**E. Food Banks.** An Eligible Recipient Agency (ERA), including the state-contracted RA, that distributes TEFAP commodities to other ERAs, i.e., food pantries, soup kitchens, other food banks, etc., meets the definition of a “food bank” and must comply with all the requirements for food banks. Food Banks must keep documentation showing that any allocation of USDA TEFAP commodities was made only to eligible feeding organizations in their contracted service area in compliance with the tier system established by FDACS (see Policy 251.2-4, Availability of Commodities). The Food Bank **must have a written agreement** with any EFO (i.e., soup kitchens, food pantries, etc.) in their designated service area to which they, in turn, plan to sub-distribute commodities. The agreement must provide:

1. Name and address of ERA receiving TEFAP commodities.

2. Statement that the ERA will agree to operate the program in accordance with USDA regulations and policies.
3. If the Recipient Agency will allow the sub-distributing ERA to further sub-distribute TEFAP commodities to other EFOs, the specific terms and conditions for doing so, including a list of specific organizations or types of organizations eligible to receive commodities.
4. That the ERA agrees to distribute TEFAP commodities only to benefit eligible people in its designated service area.
5. Additionally, Food Banks are encouraged to obtain and keep on file, a copy of the Internal Revenue Service tax-exempt determination letter for each ERA with which they enter into an agreement.
6. The Food Bank must keep on file, signed receipt from these organizations listing the commodities and quantities provided to that organization.

**F. Food Pantries.** Whenever an ERA provides TEFAP commodities to households for home consumption, regardless of how or where the distribution is made, it is operating as a “food pantry” and must comply with all the requirements for food pantries.

1. Food Pantries must keep a record of household name, address and criteria for recipient eligibility. Exhibit F, “Certification of Eligibility to Take Food Home”, or similar form should be used for recording this information. A copy of the completed form must be maintained on file for three (3) years following the fiscal year to which they pertain. Recipients are not required to verify income or produce any other documentation to support eligibility under any other criteria.
2. Food Pantries must maintain a daily record or log, by name, of the households receiving commodities; however, does not have to include the number or type of commodities distributed to each household. While not required, it is strongly recommended that Food Pantries obtain a signature from each household each time a distribution is made.
3. Reporting number of Households. Food pantries are required to report to the state-contracted Recipient Agency the number of households served. A suggested method for determining the number of households served each month is to count all the TEFAP eligible households who received a bag of food during the month, regardless of whether there was any TEFAP food in the bag. It is presumed that they would have received TEFAP commodities had there been any available.

**G. Dual Activities - Food Bank/Food Pantry and/or Soup Kitchen.** An ERA operating as

both a “Food Bank” and a “Food Pantry” must comply with all applicable requirements contingent on which activities it is performing at any one time. Whenever an ERA distributes TEFAP commodities to another eligible recipient agency, it meets the definition of a “Food Bank” and must comply with all the requirements for food banks (E. above). If in addition, the ERA also distributes TEFAP commodities directly to households, it is operating a “Food Pantry” and must comply with all the requirements for food pantries when performing that function (F. above). If an ERA also provides prepared meals to needy persons, it must comply with the “Soup Kitchen” requirements (H. below) when doing so.

**H. Soup Kitchens.** There are no eligibility requirements in determining if a recipient is eligible to receive a meal. Anyone can receive a meal without application or signature. Soup Kitchens need not keep an inventory of commodities received or a record of how they were used. A soup kitchen that operates a “food pantry” in addition to its soup kitchen operations, must comply with the “food pantry” requirements when distributing TEFAP commodities to take home.

Soup kitchens must report the total number of meals served during the month to the state-contracted Recipient Agency. Since all who receive a meal are considered eligible, the number reported by soup kitchens is the total number of meals served during the month.

**I. Receipt for TEFAP Commodities.** ERAs, including sub-distributors (i.e., soup kitchens, food pantries, etc.) **must** sign a receipt for any USDA TEFAP commodity received. The receipt must include the type and number of cases of each TEFAP commodity, the name of the sub-distributing agency receiving the commodities, date and recipient’s signature. A copy of the signed receipt **must** be maintained by the distributing ERA. Sub-distributors should keep a copy for their files. Records must be maintained for three (3) years following the fiscal year to which they pertain.

**J. Confidentiality of TEFAP Records.** In compliance with the Freedom of Information Act, section 5 U.S.C.552.(b)(4) and (6), all information obtained from clients for participation in The Emergency Food Assistance Program (TEFAP) is confidential and privileged. Unauthorized disclosure constitutes an invasion of privacy and is a violation of the contract or agreement.