
SUBJECT: Distribution of TEFAP Commodities; Responsibilities; Civil Rights

- A. Scope.** This policy applies to the State-Contracted Recipient Agency, their sites and sub-distributors.
- B. Administration.** The state-contracted Recipient Agency is responsible for ensuring that all its sites and sub-distributors distributing TEFAP commodities do so according to the terms of the written agreement and in compliance with all TEFAP regulations, policies and procedures.
- C. Distribution of TEFAP Commodities for Home Consumption (i.e., food pantries, mass household distributions).** Whenever an ERA provides TEFAP commodities to households for home consumption, regardless of how, where or how often the distribution is made, it is operating as a “food pantry” and must comply with all the requirements for food pantries. The state-contracted RA is responsible for ensuring that sub-distributors provide TEFAP commodities only to needy households.

D. Scheduling and Announcing Distributions of TEFAP Commodities for Home Consumption.

1. General. Emergency feeding organizations (EFOs) that distribute TEFAP commodities to households for home consumption may establish their own days and hours of operation. EFO should have sufficient staff and facilities to adequately serve its clients. To the greatest extent possible, EFOs should schedule its hours of distribution 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.
2. Days and Hours of Operation. The EFO should post its days and hours of operation in a clearly visible place. If application and eligibility determination for TEFAP commodities is not done concurrently with the distribution of the TEFAP commodities, the days and hours for applying for TEFAP must be clearly posted. Notice should be in English and other appropriate languages.
3. Announcements and Posters. If the EFO does not maintain regular location and/or hours for the distribution of TEFAP commodities, it must notify the public in advance of the availability of TEFAP commodities and when the next distribution will take place. Notification may be done through press releases and announcements in public places and should be in English and other appropriate languages. Press releases and announcements must state the date, time, and location(s) where the distribution of TEFAP commodities will take place. Any announcement must include a statement of non-discrimination. A sample news release is illustrated in Exhibit G. Copies of press releases and announcements issued must be kept on file for three (3) years from the fiscal year to which they pertain.

EFO's 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 and information thru local Assistance Directories such as 211. 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 Food Stamp and welfare offices, Women Infant and Children (WIC) and public health clinics, grocery stores, churches and community centers.

4. Income Eligibility Scale. The State established income scale is issued to the state-contracted RAs prior to July 1 of each year and must be used for determination of eligibility under self-declaration. The income scale should not be included in any public announcement. This will preclude potential recipients from formulating income limits in advance and declaring themselves eligible by declaring income that is below the income limits for their household size. 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."

E. State contracted RA's responsibilities and their Sub-distributors.

1. Selection of Sub-distributors. The state-contracted RA is responsible for ensuring that TEFAP foods are equitably distributed throughout the county. Since there may not be enough TEFAP food for every EFO wishing to participate in the program, RAs may, at their discretion, establish criteria to help them effectively allocate the county's share to ensure it is accessible to the maximum number of needy people. Among the criteria that may be considered in considering a sub-distributor are:
 - (a) Is there an adequate number of existing distribution sites in the area.
 - (b) Proximity to other existing sites.
 - (c) Does it serve a previously un-served or under-served population.
 - (d) Amount of food allocated to the county.
 - (e) Amount of food available on inventory.
 - (f) Number of eligible households served by the EFO.
 - (g) Adequacy of facility, including storage space, etc.

2. Storage of TEFAP Commodities. The state-contracted RA must ensure that sub-distributors follow sound handling and storage practices for all TEFAP commodities to safeguard the food against theft, spoilage or other loss. Sub-distributors (EFOs) do not have to maintain a monthly inventory of TEFAP commodities although it is a good business practice to do so.

3. Records.

(a) EFOs that provide TEFAP commodities for home consumption must keep a record of the names of all the people who received TEFAP food on each day. While participants are not required to actually sign for the food, **it is strongly recommended that sites obtain recipient signatures** on a receipt or list each time a household picks up TEFAP food. (Exhibit H)

(b) EFO does not have to record specifically which TEFAP commodities, or how many, were given to each household.

(c) All sub-distributors (soup kitchens, food pantries, etc.) must sign a receipt for the TEFAP commodities received. A copy of the receipt must be maintained by the agency issuing them the TEFAP commodities, i.e., the state-contracted RA or food bank. The sub-distributor should also keep a copy for their records.

F. Pre-Award Compliance Review. As required by USDA and FNS 113-1, TEFAP State-contracted recipient agencies must conduct a Pre-Award Compliance Review **prior** to signing up any new sub-distributors. (Exhibit Z)

G. Distribution Rates. There is no state-mandated distribution rate of TEFAP commodities per household. Each EFO is responsible for determining the quantity and types of TEFAP commodities and other donated foods issued to a household. Among the factors that may be considered are (1) the amount of food available on inventory, (2) number of persons in the household, (3) number of clients served by the EFO, (4) frequency of distribution, etc.

H. Household Information. Each site distributing TEFAP commodities for home consumption must collect and maintain on record the name of the household member receiving TEFAP commodities, the address of the household (to the extent practicable), the number of persons in the household and the basis for determining that the household is eligible to receive commodities for home consumption. The sample forms, Exhibit F, Application for Certification of Eligibility to take Food Home, and Exhibit H, TEFAP Commodity Distribution Log, provide the required information.

I. Sites that Offer Prepared Meals. EFOs that provide TEFAP commodities in the form of prepared meals do not have to determine eligibility of the clients who come for the meal.

J. Civil Rights Compliance. The state-contracted RA, sites and sub-distributors must comply

with the following requirements.

1. The Nondiscrimination Statement. USDA authorized nondiscrimination statement: ***“In accordance with Federal Law and U.S. Department of Agriculture 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, D.C. 20250-9410 or call toll free 866-632-9992 (voice). Individuals who are hearing impaired or 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.”***

The USDA non-discrimination statement cited above must be included on all documents related to TEFAP or where there is any mention, no matter how casual, of TEFAP or USDA food program. These documents include but are not limited to:

- (a) The household eligibility application.
- (b) Commodity Distribution Log, if one is used.
- (c) Public releases concerning the program.
- (d) Announcement of scheduled distributions.
- (e) Flyers, brochures, pamphlets, posters and other publications.

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

2. “Justice for All” Poster. The most current “Justice for All” poster, as illustrated in Exhibit I, must be prominently displayed at all TEFAP commodity distribution sites.
3. Limited English Proficiency. Recipient Agencies and their sub-distributors must take reasonable steps to provide access to the information and services they provide. Recipient agencies, sites and sub-distributors that fail to provide services to participants or potentially eligible persons with Limited English Proficiency (LEP) or deny them access to federally assisted programs and activities may be discriminating on the basis of national origin.

Factors to consider when determining the extent of an agency’s obligation to provide LEP services include:

- (a) The number or proportion of LEP persons served or found in the eligible population. The greater the number/proportion of LEP persons, the more

likely language services are needed.

- (b) The frequency with which LEP individuals come in contact with the program. The more frequent the contact with a particular language group, the more likely that enhanced language services in that language are needed.
- (c) The nature and importance of the program, activity or service provided by the programs. Providing nutrition/food assistance to individuals or groups would be considered important.
- (d) The resources available to the Recipient Agency, sites and sub-distributor and costs. An agency's level of resources and the costs that would be imposed on it may have an impact on the nature of the steps it should take. Smaller agencies with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets.

Any EFO distributing TEFAP commodities in areas where English is not the primary language, should have the capability to provide information in the language(s) appropriate for the clientele.

K. Faith-Based Organizations. USDA-funded programs are available to all regardless of religion. Recipient Agencies, sites and sub-distributors may not discriminate for or against an organization or an individual based on religion, religious belief, or religious character in the administration or distribution of federal funds or TEFAP food.

1. Religious organizations that participate in the USDA programs are allowed to retain their independence and continue to carry out its mission provided that direct USDA funds do not support any inherently religious activities such as worship, religious instruction or proselytization.
2. Faith-based organizations can use space in their facilities to provide USDA-funded services without removing religious art, icons, scriptures, or other religious symbols.
3. Organizations 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. These 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.
4. RAs, sites and sub-distributors may not require TEFAP participants to join a religious organization or group, or to attend or participate in a religious practice, service, etc, as a condition for receiving USDA commodities.

L. Discrimination Complaints. All RAs and EFOs must develop and implement procedures for handling Civil Rights complaints and ensure that all staff members are trained and

aware of the procedures.

- 1 Any person, agency, etc. who believes they have been the victim of discrimination has the right to make a verbal or written complaint. Complaints alleging discrimination based on a prohibited basis must be filed within 180 days of the alleged action. The complaint may be filed directly with the USDA's Office of Adjudications as instructed on the non-discrimination statement.
- 2 Should the complaint be filed with the RA or EFO, the Bureau must be notified as soon as the complaint is received. Program personnel should be assigned to handle specific phases of the discrimination complaint. The phases are: (1) who will receive the complaint, (2) who maintains contact with the complainant and follows up on the complaint, (3) who will investigate the complaint, and (4) who decides on a possible solution. A form for filing a complaint may be used and, at a minimum, request the following information from the complainant: (1) name of complainant, (2) date complaint is filed, (3) name of agency or department that discriminated, (4) basis of complaint, (5) nature of complaint, (6) date of occurrence, and (7) names of persons present during occurrence. See Exhibit U for a sample Civil Rights complaint form.
- 3 Within **three (3) working days of receipt of a complaint by the RA or EFO**, the complaint must be forwarded to the USDA Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, DC, 20250-9410 with a copy to the Bureau of Food Distribution, 407 S. Calhoun St (M 39), Tallahassee, FL 32399-0800. When the Bureau receives a complaint of discrimination, the complaint shall be handled in a similar manner.

M. Monitoring Commodity Distribution Sites. In addition to the requirements in P & P 251.10, the state-contracted RA is responsible for monitoring its sites and sub-distributors on a regular basis to ensure that the TEFAP commodity program is being conducted according to regulatory requirements. To be certain that all sites and sub-distributors are being consistently and regularly checked for compliance with all the requirements, it is recommended that RAs use a checklist. Continued noncompliance may result in termination of the site from participation in the program. In addition, the state-contracted RA should also regularly conduct self-assessments of overall program administration.

N. TEFAP Commodity Losses by Sub-distributors. Whether a loss occurs at the state-contracted RA's, one of its sites, or sub-distributor's site, the state-contracted RA must file a Commodity Loss Report with the Bureau as prescribed in P & P 251.2-2. **Any claim for the loss of TEFAP commodities will be assessed against the state-contracted RA.** The state-contracted RA may, in turn, seek restitution from its sub-distributor if the sub-distributor was at fault.