



Food and
Nutrition
Service

DATE: November 14, 2019

POLICY NO: FD-146: The Emergency Food Assistance Program (TEFAP)

Park Office
Center

SUBJECT: Questions and Answers about Distribution Procedures in TEFAP

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The Trade Mitigation Food Purchase Distribution Program, now referred to as the Food Purchase Distribution Program (FPDP), has provided a substantial increase in the total amount of food delivered to TEFAP State agencies and their eligible recipient agencies (ERAs) in Fiscal Year 2019; this increase will continue in Fiscal Year 2020. The following questions and answers provide information on current flexibilities available for State agencies that administer TEFAP. These flexibilities may be used by State agencies to increase the total amount of TEFAP foods distributed within their State and are allowable under current program regulations at 7 CFR 250 and 251. State agencies are encouraged to review this memo and incorporate these flexibilities as appropriate. Please note some of the flexibilities listed may conflict with State laws, policies, or procedures. Accordingly, not all options may be available for all States. State agencies will need to review and update their State Plans if changing distribution procedures.

1. Is there a limit on how often TEFAP foods can be distributed or a required frequency of distribution for TEFAP foods? Can an ERA distribute TEFAP foods more than once a month?

There is no Federally required frequency of distribution of TEFAP foods, including a minimum or maximum number of times per month an ERA can distribute food. This applies to both distributions to households for home consumption and distributions of prepared meals in a congregate setting. TEFAP regulations at 7 CFR 251 allow a State to tailor TEFAP distribution frequency to the needs of their State emergency feeding system. States can also allow each ERA to tailor distribution procedures to the needs of its specific clientele provided that the households meet the uniform Statewide eligibility criteria. For example, a State may allow an ERA running a backpack program to distribute TEFAP foods to children on a weekly basis while also allowing the same or other ERAs to distribute TEFAP foods at other sites on a bi-weekly basis. There is also no Federal limitation on how many times an individual can receive TEFAP foods in a month.

2. Can TEFAP foods be distributed to households using mobile distribution sites, such as vans or buses?

Yes, TEFAP foods can be distributed to households using mobile distribution sites. If mobile distribution sites are used, State agencies must ensure that the mobile distribution sites follow the uniform Statewide eligibility guidelines and that proper recordkeeping procedures are followed.

3. May State agencies use categorical eligibility to determine eligibility for TEFAP?

Yes, States can have a policy that makes all applicants automatically eligible for TEFAP if they participate in one or more local, State, or federal *means-tested* programs provided all other State-imposed eligibility standards are met (e.g., residency). Note, the State, not the individual ERAs must decide which other programs yield automatic income eligibility for TEFAP. If a State uses categorical eligibility, it must be available to determine eligibility to all TEFAP applicants Statewide. Households that qualify for TEFAP via the State's categorical eligibility policy are still required to complete the TEFAP application process, including providing the information required by 7 CFR 251.10(a)(3). The use of categorical eligibility must be included on the State's Plan. This applies only to distributions to households for home consumption as distributions of prepared meals in a congregate setting are prohibited from requiring a means test to establish eligibility.

4. May State agencies use electronic signatures in TEFAP?

Yes, the use of electronic record keeping, including the collection of signatures, in TEFAP is permitted, provided the same degree of confidence regarding the accuracy of eligibility determinations from the electronic system results in the same eligibility determination from a traditional, paper-based system. States and ERAs must meet program requirements under 7 CFR part 251, such as record keeping, maintaining participants' privacy, etc., regardless of the type of system used. Additionally, records must be available to Federal and State agencies conducting reviews required by Federal regulations. States will need to confirm that the proposed system is permissible under State information technology and records management policies.

5. May State agencies allow self-declaration of income eligibility?

Yes, State agencies may allow self-declaration of income eligibility. Under 7 CFR 251.5(b)(2), States are required to establish the methods by which households may demonstrate eligibility. TEFAP regulations do not require that applicant households provide independent verification of eligibility information.

6. Can TEFAP ERAs set their own eligibility criteria in addition to the State's uniform Statewide eligibility criteria, such as additional income requirements, veteran status, or proof of identification?

No, ERAs must use the uniform eligibility criteria established by the State agency as per 7 CFR 251.5(b) and may not establish any additional eligibility criteria.

7. May TEFAP foods be distributed to children?

Yes, ERAs can provide TEFAP foods to a child provided the child's household is certified as eligible for TEFAP and proper distribution records are maintained by the ERA.

8. What are the minimum Federal requirements to be an ERA?

The minimum Federal requirements to be an ERA are found at 7 CFR 251.5(a). Organizations must meet the definition of "eligible recipient agency" (found at 7 CFR 251.3(d)). Organizations that distribute TEFAP foods to households for home consumption must ensure that foods are distributed only to households that meet the State's uniform Statewide eligibility criteria. Organizations that provide prepared meals must demonstrate that they serve predominantly needy persons.

9. What recordkeeping requirements are there for ERAs that distribute TEFAP foods to households?

ERAs must maintain an accurate record of households served at TEFAP distributions, in accordance with 7 CFR 251.10(a)(3). ERA staff can meet this requirement by maintaining a list of households served at each distribution or by having the recipient sign a receipt or list at each distribution. We recommend that ERAs obtain signatures from the person receiving TEFAP food for the eligible household.

10. May State agencies or ERAs sign agreements with new ERAs in order to distribute TEFAP FPDP foods? Does a new ERA have to receive regular TEFAP entitlement food as well as FPDP food?

State agencies or ERAs may sign agreements with new ERAs at any time. State agencies are responsible for establishing eligibility criteria for organizations to become ERAs consistent with regulatory requirements at 7 CFR 251.5(a), and that responsibility may not be delegated. However, State agencies may delegate the authority for selecting ERAs to an ERA, such as a regional food bank, provided the ERAs meet the eligibility criteria established by the State agency.

ERAs do not need to receive regular TEFAP entitlement foods in order to receive and distribute FPDP food.

11. Does a State agency have to limit the service area of an ERA such that only one ERA is servicing a particular geographic area?

No, ERAs may serve overlapping geographical areas. State agencies may establish unique service areas for ERAs but there is no regulatory requirement to do so.

12. Can a State split trucks of TEFAP foods, including TEFAP FPDP foods, with other States/ERAs?

Yes, State agencies must ensure that the distribution of USDA Foods is conducted in the most efficient and cost-effective manner in accordance with 7 CFR 250.13. This includes the use of split shipments for TEFAP State agencies with other TEFAP State agencies or ERAs that cannot accept a full truckload.

13. May TEFAP foods, including TEFAP FPDP foods, be used in other Federal nutrition programs, such as the Child and Adult Care Feeding Program (CACFP) or the Summer Food Service Program (SFSP)?

No, TEFAP foods, including TEFAP FPDP foods, must be distributed through TEFAP. An organization that also runs a CACFP or SFSP site can continue to receive assistance through these programs. The site would need to meet the program requirements and regulations of the programs, and must abide by all applicable financial management rules.

14. May a State agency transfer TEFAP FPDP foods to another State agency or program?

State agencies must ensure that donated foods are ordered and distributed only in amounts that can be utilized efficiently and without waste. However, if a State agency has TEFAP foods that cannot be distributed in a timely fashion, the State agency may transfer those foods from its inventories to another State agency, or to another program, in order to ensure that such foods may be utilized in a timely manner and in optimal condition. Per 7 CFR 250.12(e), the State agency must request FNS approval in order to transfer USDA Foods to another State agency or program.

15. May State agencies convert their allocations of food and administrative funding?

Yes, Congress has authorized States to convert a percentage of their food funding to administrative funding. We encourage State agencies to use all current program flexibilities to cover any unmet needs, including converting the maximum amount of food funds allowable to support additional administrative costs if needed.

For further information on the questions and answers found in this memorandum, State agencies may refer to the following resources:

- Policy Memo FD-036, Local-Level Recordkeeping Requirements,
- Policy Memo FD-041, Distribution of TEFAP Foods to Children,
- Program regulations at 7 CFR 250 and 7 CFR 251.

/s/ Original Signature on File

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