



THE EMERGENCY FOOD ASSISTANCE PROGRAM HANDBOOK

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And Consumer Services**

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Food Distribution Program
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Introduction

The Temporary Emergency Food Assistance Program (TEFAP), was founded in 1981 due to large surpluses of dairy products accumulated by the United States Department of Agriculture (USDA). By late 1981, the USDA had approximately 560 million pounds of surplus cheese on hand. On December 22, 1981 President Ronald Reagan authorized the USDA to provide 30 million pounds of cheese for distribution to needy persons. In early 1982, additional quantities of cheese were released, and in June frozen butter was made available. Although the cheese and butter surpluses were depleted, the need for supplemental food assistance had been proven. The program has been providing USDA Foods to needy persons ever since as a supplement to other assistance provided at the local level.

Welfare Reform began on August 22, 1996 when President Bill Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The act amended legislation authorizing food distribution programs operated by the Food and Nutrition Service (FNS). The Act consolidated Soup Kitchens, Food Banks and The Emergency Food Assistance Program (TEFAP), under the Emergency Food Assistance Program (EFAP). Previous legislation that authorized Soup Kitchens/Food Banks separately from TEFAP was repealed. All programs are now identified as part of The Emergency Food Assistance Program (TEFAP).

USDA Foods for TEFAP are channeled to the needy through Eligible Recipient Agencies (ERAs) including Food Banks, Soup Kitchens (in the form of prepared meals), and Food Pantries for home consumption.

Food Banks referenced in this handbook are defined as members of Feeding America that have signed a contractual agreement with the Virginia Department of Agriculture & Consumer Services Division of Marketing, Food Distribution Program (VDACS) to receive and distribute USDA Foods to eligible households and to other Emergency Feeding Organizations (EFOs), primarily their affiliated agencies, for distribution to eligible households.

EFOs are public or private non-profit organizations that have executed an Agreement with VDACS to receive USDA Foods through direct shipment or through a distributor. EFOs in Virginia can include Food Banks, Food Pantries, Soup Kitchens and Charitable Institutions.

EFOs that are affiliates of a Food Bank such as Food Pantries, will conduct their TEFAP activities under the guidance of the Food Bank. Their contractual relationship with VDACS exists through a signed VDACS Agreement Addendum. VDACS communications and program guidelines will be conducted with such EFOs primarily through their affiliated Food Bank.

The amount of USDA Food and administrative funds received by the state is based on the number of unemployed persons and the number of people with incomes below the poverty level in the state.

TEFAP is governed by the Code of Federal Regulations, Title 7, Part 251, The Emergency Food Assistance Program (TEFAP). 7 CFR 251 establishes the regulation necessary to carry out this program. Additional information and clarification is provided through USDA's Policy Memos.

Chapter 7, Section 251.4 establishes a two-tier system for distribution of USDA Foods to ERAs. TEFAP foods must be distributed according to the established priorities.

Priority given in the following order:

- EFOs
- Soup Kitchens
- Food Pantries and Mass Household Distribution Sites
- Other Food Banks
- Temporary/Overnight (Homeless) Shelters

Second priority given in the following order:

- Longer Term/Residential Shelters
- Transitional Living Centers
- Substance Abuse Rehabilitation Centers
- Charitable Institutions
- Child Nutrition Programs

Applicability

The information, policies and procedures in this Handbook apply to the administration, handling, storage and distribution of all TEFAP foods allocated and/or received in the State, either as part of the state's allocation, entitlement or bonus.

VDACS has been designated as the Virginia state agency that provides USDA TEFAP Foods to eligible recipient agencies for further distribution to needy persons, and to receive payments from USDA for the administration, storage and distribution of USDA TEFAP foods.

The TEFAP Handbook incorporates the requirements for EFOs to participate in the distribution of USDA Foods. The Handbook provides guidance to ERAs in meeting both federal regulations and state operational procedures.

Two goals should remain in focus at all administrative and operational levels of TEFAP:

- Program integrity: Ensuring that food assistance is provided only to those who meet the program eligibility requirements.
- Helping feed needy people: Reaching out to those in need of food assistance to the extent that resources are available.

I. VDACS RESPONSIBILITIES

- VDACS will meet the terms of the Agreement between USDA and VDACS and will ensure that the federal regulations for TEFAP are met.
- VDACS will sign Agreements and Agreement Addendums with recipient Food Banks before each state fiscal year begins on July 1.
- VDACS will sign an Agreement Addendum with Food Bank affiliated EFOs annually.
- VDACS will publish eligibility criteria based on household income for use by Food Banks.
- VDACS will assess state needs within the limits of USDA's allocations.
- VDACS will disburse TEFAP state administrative funds to Food Banks to distribute USDA Foods at no charge to outlets or recipients.
- VDACS will provide financial reimbursement to Food Banks based on published rates, as federal funds are available.
- VDACS will provide Food Banks with all necessary information, forms and household eligibility criteria.
- VDACS will ensure that USDA Foods are properly stored and used by Food Banks and EFOs; and safely and efficiently distributed to eligible households through monitoring, inspection and questioning.
- VDACS will conduct administrative and site reviews of Food Banks annually, and at any other point in time deemed necessary and appropriate, with or without notice.
- VDACS will oversee and monitor Food Bank reviews of EFO distribution sites as required by federal regulations and the state plan, and at any other time deemed necessary or appropriate, with or without notice.
- VDACS will inspect new EFOs and/or storage facilities at the discretion of the RCM.
- VDACS will determine losses due to negligence upon report and direct Food Banks to replace USDA Foods or reimburse the government.
- VDACS will ensure that all counties/cities will have access to TEFAP foods.
- VDACS will maintain program records and provide reports as required by federal regulations and the current state plan, or as requested by USDA.
- VDACS will ensure that all funds provided by USDA are used in accordance with federal regulations and the state plan.
- VDACS will publish and enforce Civil Rights compliance requirements and review complaints of discrimination or misuse of USDA Foods.
- VDACS will ensure that remaining USDA Foods are inventoried at VDACS fiscal year end.
- VDACS will ensure receipt of a fiscal year-end confirmation of federal assistance received.
- VDACS will offer entitlement and bonus USDA Foods via USDA Ordering System (WBSCM), as made available by USDA.
- VDACS will provide guidance in the event the Food Bank needs to suspend terminate, or transfer USDA Foods between EFO's.

II. FOOD BANK RESPONSIBILITIES

- Food Banks will sign and execute the VDACS Agency Agreement and any Agreement Addendums each year.
- Food Banks will retain a signed VDACS Agreement Addendum and the TEFAP Sub-Agency Agreement from their affiliated EFO distribution sites annually.
- Food Banks must notify their Regional Commodity Manager (RCM) in the event of a change in essential personnel.
- Food Banks must have approval by VDACS prior to any off-site storage of TEFAP foods.
- Food Banks will determine the needs of their coverage area based on periodic averages of households served. Such needs should include only amounts of USDA donated foods that can be safely stored and distributed within three to six months.
- Food banks are encouraged to implement or expand TEFAP distributions in rural, remote, and Tribal areas.
- Food Banks will distribute USDA Foods at no charge to their EFOs.
- Food Banks will provide free transportation of USDA Foods to EFO sites or allow pickup.
- Drivers will deliver foods into a mutually agreed upon receiving area at each agency. Drivers or helpers shall not be required to stow foods on shelves or in freezers or refrigerators.
- Food Banks will not charge EFOs a yearly usage fee if they elect to participate in the USDA only program.
- Food Banks must submit Year End Fiscal Inventory of USDA Foods that are on hand as of June 30 each year.
- Food Banks will submit a fiscal year-end Confirmation of Federal Assistance annually in July.
- Food Banks will provide VDACS with a list of counties/cities in the Food Bank's service area.
- Food Banks will submit a Report of Distribution, Report of Households and Individuals Served and the In-Kind Contribution Forms to VDACS quarterly.
- Food Banks must collect Self-Declaration of Income forms once every three years and EFO inventory and food issuance reports monthly.
- Food Bank staff will review 33% of the SDI forms from each agency to verify that the number of eligible households approximates the number of households reported as served. They will also compare the size and number of households reported as served with the number of cases of food distributed to assure conformity with TEFAP food issuance guidelines by the EFO.
- Food Banks will conduct a pre-award Civil Rights Questionnaire on all new and returning USDA EFO's. These questionnaires must be sent to the RCM for approval prior to the EFO receiving USDA Foods for distribution and must be retained by the Food Bank as long as the EFO distributes USDA Foods.
- Food Banks will provide reports and other information as requested by VDACS, upon request.
- Food Banks will notify their VDACS RCM prior to the disposition of any out of condition or damaged foods. Food Banks will notify Distributing Agencies of this as well and

communicate that all requests to dispose of any USDA Foods must be accompanied by pictures, the quantity and reason.

- Food Banks will ensure that out of condition foods approved for disposal either at the Food Bank or at a Distributing Agency (EFOs) are never given to farmers to feed livestock in accordance with the Code of Virginia § 3.2-6032: Unlawful to feed garbage to swine.
 - ❖ *No person shall feed or knowingly allow any other person to feed any garbage to swine on his premises or any premises over which he has any control.*
- Food Banks will conduct and document an annual training on Civil Rights with their affiliated EFO sites.
- Food Banks will ensure the "And Justice for All" poster is displayed where recipients of the program can see it. Civil Rights Complaint Forms will be made available to recipients of USDA Foods. This can be done by hanging forms with the "And Justice for All" poster.
- Food Banks will ensure that **all** EFO's will display the Written Notice and Referral Requirements for Beneficiaries where recipients of the USDA Foods can see it.
- Food Banks will review the IRS Automatic Revocation of Exemption List annually (system dated) to ensure no affiliated EFO's are on this list.
- Food Banks will maintain records, all the above forms, Self-Declaration of Income (SDI) forms and any proxy notes for the current year plus the previous three years for review by VDACS or USDA representatives.
- Food Banks will review their affiliated EFO sites annually. As schedule permits, these reviews will be conducted during determination of recipient household eligibility and distribution of USDA Foods.
- Food Banks will notify their VDACS RCM prior to suspending or terminating any EFO to discuss next steps and/or visit and inspect the EFO, transfer remaining inventory, etc.
- In the event of an EFO closure, Food Banks must maintain control of the transfer of any remaining USDA Foods inventoried with VDACS guidance.
- Food Banks are required to provide the training and oversight necessary to ensure that adequate inventory controls and security are in place at the EFO site.
- Food Banks will identify, report, and release any inventories of USDA Foods for VDACS reallocation in the event of natural disasters or emergencies.
- Food Banks will immediately report all losses of USDA food to their RCM.
- Food Banks accept final administrative and financial responsibility for all sites at which the Food Bank operates or delegates program activities.
- Food Banks will replace USDA Foods or reimburse the government, for any loss of USDA Foods. This is to be done at the direction of VDACS and replacement or reimbursement will be determined by VDACS.
- Food Banks that elect to drop out of TEFAP will notify their RCM and the VDACS Program Administrator 30 days in advance in writing. Included in the letter should be the effective date, any TEFAP purchased equipment and the amount of USDA inventory.

- Food Banks agree to accept the state administrative funds as full payment to distribute USDA Foods in lieu of charging their EFO outlets. Any transportation, storage, handling, labor or promotional costs incurred for the distribution of these USDA Foods comes out of this payment, including handling transfers of USDA Foods between member Food Banks.
- Food Banks will reimburse VDACS for any shared maintenance fees that have been paid on USDA Foods that were lost, stolen, damaged, transferred or infested.

III. EFO RESPONSIBILITIES

- EFOs will sign and comply with all VDACS Agreements, Addendums, and Sub-Agency Agreements annually.
- EFOs will ensure that storage and distribution of USDA Foods are following established food safety guidelines.
- EFOs will ensure USDA Foods are distributed to eligible households in accordance with eligibility criteria and the distribution is proportional to the household size.
- EFOs will conduct a monthly inventory to report to the Food Banks the number of units of USDA Foods that were distributed to eligible households. Also, a monthly total of households that were served must be tallied and reported to the Food Banks
- EFOs will comply with the Civil Rights responsibilities in this handbook as well as any future guidance. This includes training all staff and volunteers on civil rights and complaint handling procedures upon starting and annually thereafter. Such training will be documented with date, materials covered and sign-in sheets and maintained.
- USDA Foods are not in tamper resistant packaging. Once distributed to household recipients, USDA Foods should not be returned for re-issuance. This would violate the agreement with VDACS as well as the recipient's agreement and could cause personal injury and/or liability claims.
- Report Food Damage or Out of Condition Foods to Food Bank (to include pictures) prior to disposition and await next steps
- Report to Food Bank any intention to utilize new off-site storage or intention to move, so the new space can be inspected and approved by VDACS prior to storage or distribution of USDA Foods.
- EFOs will maintain all program records for the current year and three years prior, with the exception of the pre-award civil rights questionnaire, which must be retained as long as the EFO distributes USDA Foods.
- EFOs that become closed on their own or by the food bank are responsible for returning any USDA Foods that have not been distributed either back to the Food Bank and/or transfer the remaining USDA Foods to an active USDA EFO. All documentation regarding the transfer and/or distribution of food must be recorded and maintained in the corresponding agency files. All communication regarding the transfer must be initiated and approved by the Food Bank and VDACS.

IV. REQUESTING, RECEIPTING AND DELIVERY OF USDA FOODS

REQUESTING

VDACS will solicit USDA food requests via WBSCM from Food Banks. VDACS will notify Food Banks of their food allocations based on the entitlement available for food purchases and their percentage of households served. Failure to request USDA Foods could result in USDA Foods being limited during specified delivery periods.

RECEIPT

Most Food Banks will receive USDA shipments directly from USDA vendors. VDACS retains the final determination of whether they will receive USDA Foods through direct shipment or through its contracted distributors. The Order Status Report from WBSCM can be obtained indicating the shipment specifics. Do not accept any shipments of USDA Foods without the report from WBSCM or approval from VDACS.

Vendors will schedule an appointment with the Food Bank prior to delivery. Shipments are usually palletized but sometimes high bulk, low weight USDA Foods like dehydrated potatoes and cereals may be shipped floor loaded. Food Banks must ensure sufficient labor and material-handling equipment is available to avoid detention charges by carriers. Refer to the Consignee Handbook for detailed procedures.

Upon receipt Food Banks must verify the case counts with the Order Status Report in WBSCM and Bill of Lading. If the documents agree with the physical count, electronically receipt for the load as well as sign the bill of lading and return all documentation to VDACS. If the quantity of food differs from the Order Status Report in WBSCM; or is out of condition for use; call VDACS while the truck driver is still on site; receipt for the order on WBSCM showing the overage, shortage, and/or damage and complete the VDACS OS&D Form. Submit immediately the VDACS OS&D Form along with the annotated bill of lading and any documentation that supports the problem. The discrepancy should also be noted on the truckers manifest, and a copy of their manifest attached to the OS&D report. Failure to receipt for a USDA shipment in WBSCM within **2 business days** of receiving may result in the Food Bank accepting financial responsibility for shortages and damages not reported.

DELIVERY

Food Banks will arrange for the delivery to or pickup of USDA Foods by EFOs without charge. Recipient households cannot be charged any service fees for receipt of USDA Foods.

V. HANDLING REQUIREMENTS

FOOD STORAGE FACILITIES

- Refrigerated or frozen USDA Foods require that temperature charts be maintained that indicate the dates and readings such recordings were made. The temperature readings must be recorded at least three times per week from an independent internal thermometer. Temperature charts must be maintained for each storage unit. Refrigeration unit temperatures should be maintained between 32 and 40 degrees Fahrenheit. Freezer temperatures must be maintained at or below 0 degrees Fahrenheit (per USDA Food Safety and Inspection Service). Digital temperature monitoring systems must be able to show electronic temperature logs for the required record keeping timeframe and provide push notifications when temperatures rise above or fall below published ranges.
- Shelf stable USDA Foods require dry, cool storage. Dry storage temperatures should be maintained between 50 and 70 degrees Fahrenheit, and thermometers should be installed in those storage areas to ensure proper temperatures are maintained. Temperature charts must be maintained indicating the dates and readings such recordings were made at least three times per week.
- If temperature ranges are consistently at the high end of the regulation, corrective measures include lowering the appliance temperature manually or by calling in a service tech; or in the case of dry storage, installing fans or devising other means of mediating the room temperature. Food Banks should follow-up by requiring temperature logs to ensure successful corrective measures.
- USDA Foods should be stored away from steam pipes, chemicals and equipment generating heat.
- Adequate racks or shelving must be provided for storage in freezers, refrigerators, and dry storage. Foods should be stacked away from walls and off the floor to allow air circulation around the cases of food. 4" away from walls, 6" from floors, 2' from ceilings. Chest freezers and Reach-In refrigerators need to have a rack on the bottom (minimum of 1"). Clearances in these units should also allow for a minimum of 1" from the sides and top to maintain air circulation.
- Adequate lighting is required to aid in rotation and inventory checks of foods.
- Adequate security by means of locks, bars, alarms, etc. is required to guard against theft or vandalism.
- Storage areas must be protected against rodents and insect infestation.
- Distributing agencies, sub-distributing agencies and recipient agencies shall ensure that storage facilities have obtained all required Federal, State and/or local health inspection and/or approvals and that such inspection/approvals are current.

GENERAL FOOD MANAGEMENT PRACTICES

Management must emphasize proper food handling to avoid health hazards, maximize use of space and minimize food losses. These practices include:

- Check each food delivery carefully for possible shortage, overages, or damage. Inspect the condition of packaging before placing foods in storage and check frequently to detect signs of food loss from age, infestation, spoilage, etc.
- Maintain the food at the proper storage temperature range to maximize shelf life and minimize losses. Temperature records are required to support proper storage procedure.
- Maintain perpetual inventory records and regularly verify records with a physical count.
- Practice FIFO "First In, First Out" to assure the oldest foods are utilized first and to prevent spoilage. USDA considers any foods that won't be used within 6 months to be excessive. USDA Foods must be distributed with enough time to allow households the opportunity to consume the foods before their expiration, "best- if-used-by", or "use-by" dates have passed.
- USDA Foods shall be clearly identified and dated as received.
- An inventory system shall be maintained, and an annual physical inventory will be conducted; and reconciled with the inventory records.
- Never store cleaning supplies and equipment in the same areas as food.

Failure to provide appropriate storage, to keep proper records, and/or to take reasonable security precautions could result in claims for restitution assessed against the Food Bank in the event of USDA food loss, spoilage, or destruction.

USDA Foods are not in tamper-resistant packaging. Once distributed to household recipients, USDA Foods should not be returned for reissuance. This would violate the agreement with VDACS as well as the recipient's agreement and could cause personal injury and/or liability claims.

TRANSFER OF USDA FOODS

All transfers of USDA Foods require approval by VDACS. A written Transfer Order form will provide a record of the transfer and signatures of release and acceptance. Any transfers of USDA Foods must also be included as a separate line entry on the Transfer Out line on the Report of Distribution. Transferred quantities are not included on Line 2 of the quarterly Report of Distribution.

When USDA Food inventories exceed potential usage within six months, contact VDACS to arrange a transfer. The RCM will find another eligible agency to receive the foods. Transfer or use of USDA Foods without VDACS approval could result in a claim against the recipient agency.

USDA Foods remain the Food Bank's responsibility until utilized or transferred as directed. Transfer of liability does not occur until a completed Transfer Order is signed and received by VDACS. If the USDA Foods are to be transferred to another eligible agency, the RCM will provide a copy of the transfer order in advance. The transferring agency will check the amount to be transferred, sign the transfer form, secure the signature of the receiving agency to verify the quantities received, and forward copies according to instructions on the form.

DISPOSITION OF UNUSABLE USDA INVENTORIES

Damaged or out-of-condition foods can only be disposed of with VDACS approval. 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 be appropriate. Care should be taken to remove labels, separate the food from the packaging and adulterate the food so the food could not mistakenly be used. If food is to be taken to the landfill to be buried or burned, a person with the recipient agency 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.

REPORTING LOSS OF USDA FOODS

Whenever a loss of USDA Foods is discovered, Food Banks must notify VDACS immediately for instructions. A letter with documentation must explain the loss and identify insurance coverage. A USDA Food Loss Report must also be completed. In the event of loss of USDA Foods due to fire or theft, the police must be contacted, and a copy of the police report included with the letter of explanation to VDACS. The Food Bank must file an insurance claim with any proceeds being given to the appropriate governmental agency. VDACS must investigate any loss of USDA Foods to determine if a claim must be pursued. The recipient agency ensures that they have purchased insurance coverage to protect the value of food items which are being stored.

DEMONSTRATIONS WITH USDA FOODS

Educational cooking demonstrations for household recipients can be authorized by the RCM. A demonstration to individual households is not an effective use of these foods. Records should be maintained, and the next Report of Distribution should include these as distributed foods. Any release of USDA Foods for unauthorized use will require restitution.

CHILD PROGRAMS

In accordance with Section 251.6© of the regulations, prior to permitting Food Banks to distribute TEFAP foods to children, VDACS must review the Food Bank's Distribution Plan, and if necessary, submit an amendment to the Plan to the appropriate FNSRO for approval. Food Banks are authorized to issue USDA Foods to sponsored Kid's Cafes, Backpack or similar programs on a very limited basis. Such issuance should be limited to bridging commercial donations or purchases. Records of issuance should be retained.

VI. REQUIRED DOCUMENT SUBMISSION TO VDACS

- Food Banks will submit all delivery documentation (transportation bills of lading, delivery tickets/transfer orders) along with the WBSCM Received Shipment Report with consignee information to VDACS on a minimum of a weekly basis. Disbursement of state administrative funds will be subject to sufficient federal funding being available.
- The Report of Distribution is due to the RCM within 30 days after the calendar quarter. Only full case quantities distributed should be reported. It must also include the number of households served that quarter. EFOs will submit supporting documentation in the form of a monthly inventory/households served report to the Food Banks in time to complete this report.
- The Quarterly Report of In-Kind Contributions should be submitted to the RCM with the Report of Distribution within 30 days after the calendar quarter. The Quarterly Report form must be signed by an authorized food bank staff member certifying that no federal funds were expended in providing the administrative oversight reported.
- Food Bank staff will document time and mileage incurred in training, monitoring, and reviewing EFO operations during the quarter by completing and signing the Daily Record of In-Kind Contributions form. Approved in-kinds should be submitted for conducting on-site reviews of EFOs, assisting VDACS staff in assembling quarterly USDA commodity orders, and providing formal TEFAP program training to EFO staff. Mileage must be calculated from the office to the EFO site. Volunteer time and mileage performing monitors are allowable. The volunteer(s) must be trained and qualified to perform the monitoring. Each volunteer must document their time and mileage. They also should complete a review form to document the review and applicable findings.
- The Annual Fiscal Year End Inventory Report, the Confirmation of Federal Financial Assistance, and a list of all EFOs receiving USDA Foods with the quarterly households served are all due in July.
- Failure to meet these report deadlines may result in withholding of state administrative funds given by VDACS.

RECORD RETENTION REQUIREMENTS

Food Banks are required to retain and have available the following records for the current year plus three previous years. Records must be available for review by VDACS and/or representatives from USDA:

- The current VDACS Agreement and Agreement Addendums signed by the Food Bank Director. Any time there are essential personnel changes notify VDACS immediately. A change in Food Bank Director will require that a new VDACS Agreement and Agreement Addendums be signed.
- A current signed VDACS Agreement Addendum and TEFAP Sub-Agency Agreement for each EFO affiliate.
- Self-Declaration of Income forms, signature sheets, proxy notes, distribution forms, and other documents indicating household certification. Whether the household or individual was declined or approved for participation. These documents are official records and should be completed in ink.
- An annual listing of all Food Bank affiliate EFOs receiving USDA Foods with the quarterly household distribution.
- All annual civil rights training of EFOs and their staff/volunteers.
- Quarterly Reports of Distribution, Report of Household/Individuals Served, and In-Kind Contribution Reports on file.
- Documentation of state administrative funds received and how those funds were disbursed.
- Copies of signed USDA WBSCM Reports and VDACS OS&D form.
- Transportation bills of lading/delivery tickets; all transfer documents, records indicating the disposal of damaged/spoiled foods, and annual inventories.
- Temperature charts and extermination records.
- **Exception:** Pre-Award Civil Rights Questionnaires must be retained for each EFO as long as the EFO distributes USDA Foods.

Electronic/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. A recipient agency considering maintenance of records solely in electronic format must submit to VDACS a brief record-keeping plan for approval prior to disposing of original documents or records.

VII. ELIGIBILITY REQUIREMENTS

The following criteria determine household eligibility to receive USDA donated foods. EFO outlets are required to use either categorical eligibility or Self-Declaration of Income to certify household eligibility for TEFAP.

The SDI form will be used to document the applicant's name, state of residency, number of household members, total household income or categorical eligibility and date of application/distribution. Food Banks may also develop their own form as long as it includes the same information.

State of residency will be determined by self-declaration from the participant. No proof of residency is required.

Certification of households should be conducted once every three years. If there is a good reason as to why the applicant cannot do a face to face at the recertification, phone verification with that applicant can suffice. This should be noted on the SDI form. Applicants should be questioned about any changes each month they receive TEFAP food.

The self-certification statement that is located on the SDI form should be the same on all SDI forms. Also, the full non-discrimination statement must be on all SDI forms as seen in VIII.A. Civil Rights Responsibilities.

EFOs cannot ask for any further documentation from applicants when completing the SDI forms. TEFAP participant information must be kept confidential, and limits are established on the disclosure of information obtained from applicants or participants and the identity of persons making a complaint or allegation against persons participating in or administering the program.

HOUSEHOLD ELIGIBILITY

Federal regulations require that eligibility for TEFAP foods be based on the income for the total household, not the individual. Individuals sharing housing and/or income and expenses will be considered one household/economic unit.

A household is defined as:

- A group of related or non-related individuals, exclusive of borders, who are not residents of an institution but who are living as one economic unit sharing common cooking facilities, and for whom food is customarily purchased in common.
- A single individual living alone who has cooking facilities and prepares food for home consumption.
- Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.
- If individuals (related or non-related) reside together, but prepare their meals separately, the deciding factor will be whether significant household expenses are shared.
- Homeless applicant should list their address as "Homeless" and list a location where the individual may typically be.
- Institutions that have congregate feeding would not qualify for USDA Foods as the

individuals do not purchase their own foods for consumption.

- Boarding house is a house and/or apartment that rents out rooms.
- There is no-minimum age listed in the TEFAP regulation in regards to an applicant to receive USDA Foods.
- All TEFAP recipients must be a resident of Virginia, but the length of residency is not used to determine eligibility.

CATEGORICAL ELIGIBILITY

Participation in a public assistance income-based program listed below may be used to certify eligibility for TEFAP foods.

The following public assistance programs are based on income levels that automatically qualify the entire household for TEFAP assistance.

- Temporary Assistance for Needy Families (TANF)
- Supplemental Security Income (SSI)
- Medicaid
- Free/Reduced Lunch
- Qualifies the entire household; no income needed.
- Supplemental Nutrition Assistance Program (SNAP)
- An individual receiving SNAP qualifies; no income needed.
- Multiple SNAP recipients within the same household qualify separately for TEFAP; no income needed.

Categorical eligibility will be valid as long as the household continues to be eligible under the public assistance program in effect at the time of certification.

INCOME ELIGIBILITY

- If applicant qualifies categorically, no income information is required.
- If the self-declared household income is at or below 250% of the federal poverty level, the SDI form will be accepted as proof of eligibility to receive food.
- If the self-declared household income is over 250% of the poverty income level, the applicant will not qualify to receive USDA Foods. Retain all records of disapproval for review by VDACS.

VDACS updates the allowable income levels per size of household based on published USDA poverty guidelines and provides this information each year. The current poverty level guidelines must be used whenever households are being certified to receive TEFAP foods. EFOs may not establish a different income level.

Gross monthly household income must be at or below the standards listed on the Income Eligibility Guidelines that are issued each year. Gross household income includes all wages, pensions, Social Security, Supplemental Security Income, Railroad Retirements, income from rental or leased property, interest or dividends from savings, certificates of deposit, stocks, bonds and income from all other sources. That may

include, but is not limited to, strike benefits, unemployment compensation, alimony, child support, veteran's benefits and regular insurance or annuity payments.

PRE-AUTHORIZED ALTERNATES AND PROXY NOTES

A pre-authorized alternate may be named by a household at the time that eligibility is certified when it is known that the household must depend on another individual to pick up its USDA Foods on a routine basis. The pre-authorized alternate is listed on the distribution form. This will avoid the necessity of a household submitting a proxy note each time it receives TEFAP foods.

A proxy note may be used by a household to authorize another individual to pick up USDA food on its behalf, on a one-time basis due to some unforeseen inability. EFOs are required to collect and keep all proxy notes on file whenever anyone picks up USDA food for another household.

Proxy notes cannot be used to certify household eligibility for TEFAP foods. Household eligibility must be determined by an EFO staff member interviewing an adult, belonging to, and applying for food assistance for a household.

EFOs are encouraged to implement procedures to verify proof of identity by persons picking up USDA Foods through use of a proxy note or as a pre-authorized alternate.

If there is a good reason that the recipient could not be present, the Power of Attorney (POA) could certify or declare eligibility for the recipient. The POA must be attached to the recipient's SDI form. The POA would also need identification for the recipient with their address as well as their own identification. Recertification should be conducted every three years.

LEGAL SIGNATURES

TEFAP regulations do not require a signature either when applying for TEFAP or when picking up TEFAP food.

DISTRIBUTION GUIDANCE

TEFAP food distributions are not designed to meet the total food needs of a household; TEFAP distributions are meant to supplement the household.

- Household may receive any combination of available USDA food items consistent with the household size.
- Food Banks should work with their TEFAP agencies to determine the amount of food to distribute based on the Food Banks available inventory.
- Food Banks should also work with their TEFAP agencies to determine how often to distribute food. TEFAP foods can be distributed to a household no more than once each week.

*****Households are counted as one HH served, no matter how many times a month the HH returns for service.***

All USDA Foods must be maintained and distributed in the original packaging. USDA Foods may not be used as payment or reward to volunteers or staff or for snacks or meals. Under no circumstances shall recipients be required to make payments in money, materials or services for the receipt of USDA Foods. Additionally, recipients

shall not be solicited to volunteer their services or for voluntary contributions or donations during the distribution of USDA Foods. Activities unrelated may not be conducted at sites unless participation in such activities is identified as being separate and apart from distribution involving USDA Foods. TEFAP recipients are not required to participate in order to receive USDA Foods. For example, an EFO may not require participants to attend religious services to receive USDA Foods.

ISSUANCE DOCUMENTATION

- The EFOs will conduct a monthly inventory to report to the Food Banks indicating the number of units of USDA Foods that were issued to eligible households.
- The EFOs must tally the monthly total of households served. The inventory report also indicates the total number of households that were served during that month.
- The EFOs must generate and maintain a record of the households served each day the EFO is open to distribute USDA Foods. Any of the following formats are appropriate for EFOs to document their distribution:
 - ❖ A list or pre-printed list of eligible households.
 - ❖ Date and staff/volunteer initial on the SDI form each month a household is served.
- Food Bank staff and VDACS will review the SDI forms to verify that the number of eligible households approximate the number of households reported as served. They will also compare the size and number of households reported as served with the number of cases of food distributed to assure conformity with TEFAP food issuance guidelines by the EFO.

DISASTER & EMERGENCY EVACUEES

In areas covered by a Presidential declaration of a major disaster or emergency, individuals and families may be forced to evacuate their homes, and some of these evacuees may choose to reside with a host family until they can return to their own homes. In such instances, VDACS may, for the duration of the Presidential declaration, consider evacuees residing with a host family a separate household for the purpose of determining eligibility for regular program benefits under TEFAP. In instances when evacuees are considered a separate household, the host family must separately meet the eligibility requirements for the program in order to receive program benefits. All other program requirements must be met, including use of the host family's place of residence, for the purpose of determining if both households meet applicable service area requirements.

In the event of an emergency or disaster declaration, the VDACS Program Administrator will notify food banks to report on-hand inventories of USDA Foods. If necessary, VDACS will reallocate these foods to other sites as needed. Food Banks must report the volume of product released for emergency use. USDA must grant permission to release USDA Foods for household distribution without income eligibility during declared disasters and emergencies. Any state administrative funds paid to the Food Banks may be retained unless otherwise notified by VDACS.

Significant fluctuations in the number of households served by any Food Bank during an emergency or disaster declaration may be corrected by averaging the numbers submitted for the previous four quarters.

VIII. Recall Policy and Procedures

Prior to Recall

Although United States food supply is among the safest in the world, sometimes food may be unsafe or mislabeled. When there is a reason to believe food is unsafe, or mislabeled, the food is recalled, or otherwise removed from circulation. The following steps must be taken to ensure the USDA Foods in the State of Virginia is secure:

- Ensure all Recipient Agencies are aware of and trained in recall procedures.
- Assign a Food Bank Food Safety Coordinator and an alternate. Ensure their name, title, and contact information is accurate.
- Contacts must be verified on an annual basis. Food Banks are responsible for updating VDACS in event of unexpected staff changes.
- If the Food Bank further distributes food maintain a contact list for serving sites and other recipients.
- **It must be possible to trace recall food to final recipient.**

Upon notification of recall:

- All members of your designated food safety team will be contacted by VDACS.
- Designated Food Safety Representatives must confirm within 24 hours or less after receiving recall notification. This is to ensure the message was received and understood.
- If further distributed notify all sites about recall as soon as possible.
- Food banks should confirm receipt of the notification by sites to ensure the message was received and understood.
- Food banks will be provided product identification information needed to track the product.
- Food banks will be provided instructions on handling the affected food as directed by VDACS.
- Food banks will be provided specific product disposal instructions based on state/local solid waste regulations.
- Find and isolate the affected product and label "DO NOT USE" to avoid accidental use.
- Conduct an inventory assessment, ideally in 48 hours or less, of affected product and include:
 - ❖ Amount remaining in stock and locations.
 - ❖ Amount distributed to program participants.
- Submit the inventory assessment information to VDACS within the directed timeframe.
- Follow applicable storage/destruction instructions by VDACS.

Recall Communication Methods

- Call agencies and provide information and instruction on how to handle the affected product.
- Send email to agencies and provide information and instruction on how to handle the affected product.
- Post announcements on Food Banks home page.
- May use social media, such as Twitter and Food Bank's blog.

Recall Responsibilities of Food Banks

- Identify USDA Foods
- Document to whom USDA Foods were distributed.
- Identify who picked up USDA Foods.
- Submit inventory information to VDACS.
- Conduct an annual review of facilities and document compliance with requirements.

Recall Recordkeeping

- Records of inventory
- Records of distribution
- Records of storage
- Records of disposal

Classifications of Recalls

Class	Definition	Examples
Class 1	A health hazard situation where there is reasonable probability that eating the food will cause serious, adverse health consequences, or death.	E.coli 0157:H7 in ground beef; Salmonella in peanut butter; Food with an undeclared allergen(s)
Class 2	A health hazard situation where there is a remote probability of adverse health consequences from eating the food.	Product containing a foreign material
Class 3	A situation where eating the food will not cause adverse health consequences.	Minor labeling problems, such as improper format or undeclared ingredients that are not allergens

Responding to a recall

It is important to send complaints about USDA Foods to your State Agency, so that the State Agency may report them to USDA FNS. Sometimes a complaint involves a food safety concern and sometimes the complaint reflects a quality issue. It is important to have a good feedback system to respond quickly to food safety concerns and improve product quality. All complaints reported to the State Agency should include as much detail as possible. Photographs should be submitted. Information to be provided in a complaint includes:

- Product name and number
- Description of the problem

- Date your agency received the product
- Quantity of product involved
- Quantity and physical address of product remaining
- Purchase Order Number
- Invoice/Order Number
- Advance Shipping Notification Number (if applicable)
- Any lot numbers or can codes printed on the packaging
- Establishment number of the plant processing any meat, poultry, or egg product
- Organization's name, address, and phone number
- If complaint comes from someone else, report their name and contact information
- Report of any illness or injury (Ask if there was a Health Department investigation or Doctor Visit)
- Photograph of foreign object or problem
- Measurements of the foreign object until further directed by the State Agency, the following items should be retained:
- Original container or packaging (unopen cases)
- Any uneaten portion of the food (confer with the State Agency to determine if food should be kept refrigerated or frozen)

IX. CIVIL RIGHTS RESPONSIBILITIES

The primary responsibility of the EFO is to ensure that no person is excluded from participation in, denied benefits of, or is subject to any discrimination under TEFAP.

PUBLIC NOTIFICATION REQUIREMENTS

USDA Non-Discrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for

Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. **fax:**
(833) 256-1665 or (202) 690-7442; or
3. **email:**
Program.Intake@usda.gov

This institution is an equal opportunity provider.

The SDI forms must include the above full statement.

If advertising material is too small to permit including the full statement, it will at a minimum include "This institution is an equal opportunity provider" in print size no smaller than the text. **This is an exception only allowable in certain circumstances. VDACS RCM approval is required.**

Any materials such as brochures, flyers, press releases, church bulletins, etc., that mentions distribution of USDA Foods must contain the non-discrimination statement at the EFO level as well.

Any informational materials released to the public about the program or availability of USDA Foods to eligible households with photographs or graphics must display participants of different races, colors, and national origins.

All distribution sites must display the USDA civil rights poster "And Justice for All". Civil rights complaint forms must be available to clients/recipients of the USDA Foods; this can be done by hanging forms with the "And Justice for All" poster.

EFO's must train their staff and volunteers on civil rights and procedures to handle a complaint. Staff that interacts with the program applicants or participants, and those persons, who supervise staff, must be provided civil rights training on an annual basis. Such training should be documented with the date; materials covered, and sign-in sheets and maintained in recipient agency files.

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

For Limited English Proficiency (LEP) persons, recipient agencies 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 numbers of 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 a recipient agency that serves an LEP person on a one-time basis will be very different than those expected of a recipient agency that serves LEP persons daily.

FNS-113-1 PRE-AWARD CIVIL RIGHTS QUESTIONNAIRE

Food Banks will conduct a pre-award civil rights questionnaire on all new and returning USDA EFO's. These questionnaires must be sent to the RCM for approval prior to the EFO receiving USDA Foods. This will include any EFO that drops out of the USDA Program or is suspended then comes back to the USDA Program. The FNS Region or State Civil Rights official(s) must determine that all state agency, local agency, or other sub-recipient program applicants are in compliance with Civil Rights requirements prior to approval for Federal financial assistance. Such determinations must be based on a desk or onsite review of Civil Rights information provided by the program applicant. The preapproval/pre-award review report must be maintained in the appropriate program files. This is a federal law.

7 CFR PART 16

Organizations that receive direct USDA assistance under any USDA program 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. If an organization conducts such activities, the 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 for beneficiaries of the programs or services supported with such. direct assistance.

WRITTEN NOTICE AND REFERRAL REQUIREMENTS

The final rule entitled Federal Agency Final Regulations Implementing Executive Order 13559: Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations amended 7 CFR Part 16 and directed agencies to provide policy guidance or reference materials on a number of program-specific topics. Religious organizations participating in TEFAP must comply with these final regulations.

In accordance with 7 CFR Part 16.4(f), **all** organizations that receive USDA Foods or administrative funds for TEFAP must give written notice in the manner prescribed by this policy memorandum to all beneficiaries and prospective beneficiaries of the right to be referred to an alternate provider when available. This can be done by hanging the written notice with the "And Justice for All" poster.

In accordance with 7 CFR Part 16.4(g), if a beneficiary or prospective beneficiary of TEFAP objects to the religious character of an organization that provides services under the program, that organization must promptly undertake reasonable efforts to identify and refer the beneficiary to an alternate provider, if available, to which the prospective beneficiary has no objection.

HANDLING CIVIL RIGHTS COMPLAINTS

All complaints alleging discrimination on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity must be accepted by the EFO. The complaint may be mailed to the Food Distribution Program Administrator, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, or mailed directly to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, D.C., 20250-9410, or call (866) 632-9992.

EFOs should use the Civil Rights Complaint form to record pertinent information. All civil rights complaints must be accepted either verbally or in writing. Every effort should be made to secure all elements of data on the complaint form to help explain or resolve the situation. No complaint may be refused or ignored because it is incomplete. EFO staff members should be trained to use either the complaint form to gather the necessary information from the complainant or refer the complainant to the person in charge with cooperation and courtesy. An effort should be made to ensure the complainant could read and understand the form.

X. TAX EXEMPT STATUS

TEFAP

The Emergency Food Assistance Act of 1983 requires that an eligible recipient agency must be "nonprofit", per 7 U.S.C. 7501(3). TEFAP regulations at 7 CFR 251.5(a)(3) establish that if not a public entity, an eligible organization must possess tax-exempt status, or be automatically exempt as "organized or operated exclusively for religious purposes", as described in the IRS, or have made an application and be working towards tax-exempt status. Any agency that has an agreement with VDACS to further distribute TEFAP foods or funds must review the IRS Automatic Revocation of Exemption List, which is organized by State, and found at <https://www.irs.gov/charities-non-profits/tax-exempt-organization-search> and determine whether any of the agencies with an agreement are listed. This must be done at least annually to ensure current agencies do not appear on the list. This also should be done when adding a new EFO to your organization.

Should an EFO appear on the list, the Food Bank must notify the organization in writing that it has 30 days to provide documentation that it has applied for reinstatement of tax-exempt status, or it will be terminated from TEFAP. The EFO must forward documentation of IRS recognition of tax-exempt status to the Food Bank within 180 days of the written notification.

CHARITABLE INSTITUTIONS

Per 7 CFR 250.3, charitable institutions that are not public institutions must be private nonprofit organizations with tax-exempt status. VDACS is responsible for making sure charitable institutions with an agreement with VDACS does not appear on the list, if it does VDACS must immediately notify and terminate from the program that institution. A charitable institution may reapply for the program once its tax-exempt status is reinstated. This must also be done prior to adding any new charitable institutions.

XI. ADMINISTRATIVE REVIEW REQUIREMENTS

EFO DISTRIBUTION SITE REVIEWS

The following items should be monitored during the review process:

- Appropriate storage facilities are in use for shelf stable, frozen or refrigerated items.
- Appropriate sanitation and rodent/insect extermination practices.
- Proper security measures are in place to prevent vandalism or theft.
- Appropriate application of household income guidelines and the categorical eligibility status.
- Adherence to TEFAP food distribution guidelines per household (SDI Forms, monthly inventory records and households served are the minimum required documentation).
- Conspicuous display of the civil rights poster "And Justice for All" where USDA Foods are distributed, along with the written notice to all beneficiaries and prospective beneficiaries of the right to be referred to an alternative provider. In addition, the agency must have the civil rights complaint forms accessible and the EFO staff must comprehend and follow the civil rights complaint procedure. Annual documentation must be done of civil rights training to staff/volunteers. If the EFO is advertising their USDA distribution with a flyer, brochure, pamphlet, and/or any advertising material the food bank must ensure that the non-discrimination statement is placed on those items.
- EFO retains on file all Food Bank correspondence citing program operation deficiencies, along with follow-up documentation.
- Food Bank staff will document improvements when conducting on-site reviews and consider overall program operations before renewing EFO participation in the USDA donated food program.
- In potentially unsafe conditions, the RCM will work with the food bank to devise an action plan to bring them back in compliance or take further corrective action.

FOOD BANK REVIEWS

VDACS will ensure that the Food Banks are reviewed once each year. Reviews include the following:

- VDACS and Food Bank Agreement, Agreement Addendums, EFO Agreement Addendums and TEFAP Sub-Agency Agreements
- Required financial records and receipts
- Perpetual and annual food inventory records
- Receipting Paperwork (Received Shipment Report/Requisition Status Report with Consignee Information, Notice of Arrivals, Bill of Ladings, and OS&D's if applicable)

- Quarterly Reports of Distribution, Daily In-Kind Contribution, In-Kind Contribution forms and Household/Individuals Served forms
- Fiscal Year End Inventory, Confirmation of Federal Assistance Received and Commodities Transferred by Each Agency forms
- Distribution records including proxy notes and legal signatures, eligible categories, and SDI forms
- Records of food issuance by EFOs (monthly inventories and household served reports) compared to Reports of Distribution
- Inventory management, transfer documentation
- Appropriate storage areas and food management practices
- Food ordering procedures utilizing WBSCM
- Documentation of loss
- Physical inventory/Book inventory
- Review USDA Foods distributed to Child Programs
- Documentation of checking IRS Automatic Revocation of Exemption List
- Review of civil rights, which include posting of the “Justice for All” poster and the written notice of beneficiary rights; documentation of all trainings, complaints, investigations, and pre-award civil rights questionnaires. Additionally, the Civil Rights Complaint Form must be accessible.

ACRONYMS

CR	Civil Rights
EFO	Emergency Feeding Organization
ERA	Eligible Recipient Agencies
FD	Food Distribution, FNS/USDA
FNS	Food and Nutrition Service, USDA
FNSRO	Food and Nutrition Service (FNS) Regional Office
FY	Fiscal Year
HHP	Household Programs, FNS/USDA
OS&D	Over, Short and Damaged
RCM	Regional Commodity Manager
SDA	State Distributing Agency
SDI	Self-Declaration of Income
SFSP	Summer Food Service Program
SNAP	Supplemental Nutrition Assistance Program/Food Stamp
SSI	Supplemental Security Income
TANF	Temporary Assistance for Needy Families
TEFAP	The Emergency Food Assistance Program, FNS/USDA
USDA	United States Department of Agriculture
USDA	United States Department of Agriculture
VDACS	Virginia Department of Agriculture and Consumer Services
WBSCM	Web-Based Supply Chain Management System