

Section 4000

Managing the Program

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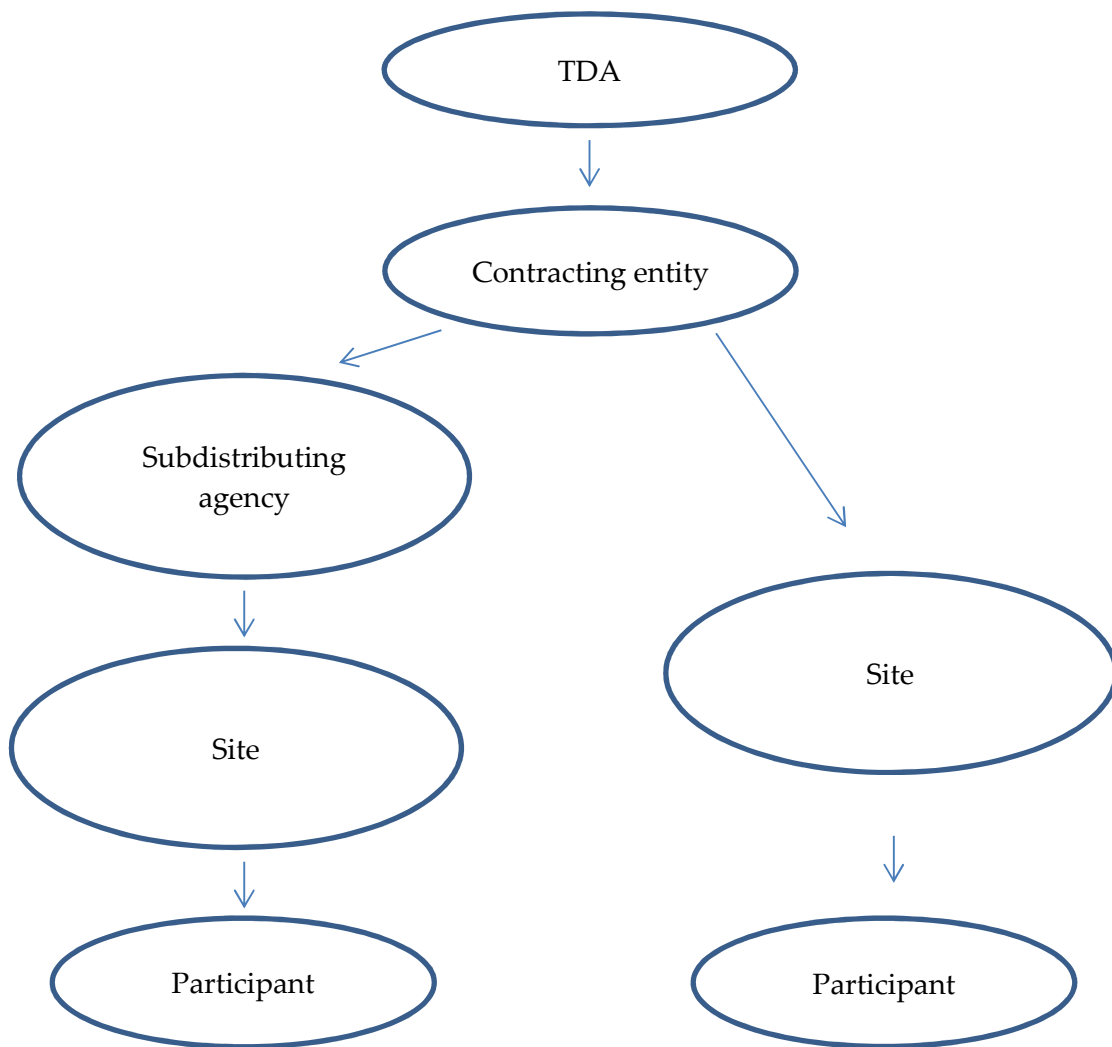
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Section 4000 Managing the Program

TEFAP Structure

The graphic below defines and illustrates the existing structure between some entities involved in TEFAP. The terms are defined throughout this section as necessary. The terms can also be found in *TEFAP Handbook, Section 9000, Terms, Definitions, and Acronyms*.



Guidance Documents

While operating The Emergency Food Assistance Program (TEFAP), contracting entities¹ (CEs) must comply with program requirements found in the following:

- *The Emergency Food Assistance Program Agreement Between Contracting Entity and Texas Department of Agriculture (TEFAP Agreement)*
- *Application for Participation/Plan of Operation*
- Supporting documents
- Federal and state rules and regulations
- United States Department of Agriculture (USDA) policies, as issued by that agency
- Texas Department of Agriculture (TDA) policies including those set forth in this Handbook

Terms and Conditions

CEs must comply with the terms and conditions of the *TEFAP Agreement, Application for Participation/Plan of Operation*, federal regulations, state rules, and the policies in this handbook, including the following:

- Controlling inventory
- Completing and submitting an annual inventory report
- Completing and maintaining a record of storage facility reviews (completed in conjunction with the annual inventory)
- Reporting changes that may affect the terms and conditions
- Agreeing to be monitored by USDA and TDA
- Reviewing and monitoring subagencies to ensure TEFAP compliance

Fraud, Negligence, and Misuse of USDA Foods

CEs, subdistributing agencies, sites, and participants must report fraud, misuse, or negligence. Definitions follow.

fraud – *The intentional concealment or willful misrepresentation of information to receive USDA Foods.*

negligence – *Improper distribution or use of USDA Foods; or failure to properly store, handle, or*

¹ A contracting entity is an entity that holds a *TEFAP Agreement* with TDA to receive, store, handle, and deliver USDA Foods.

care for the food.

misuse of USDA Foods – Includes (but is not limited to) selling, trading, or giving them to ineligible persons.

Procedure for Reporting

CEs must create and follow written procedures for reporting fraud, negligence, and misuse of foods, whether the offense occurs on the part of CEs, subdistributing agencies, sites, or participants. The procedure must include information such as the amount of USDA Foods involved, location of the incident, suspected parties, and other details and facts.² CEs assume financial liability for negligent or fraudulent administration of TEFAP if CEs are aware of such activity but choose not to report to TDA.

As always, record maintenance is required. CEs, subdistributing agencies, and sites must keep and maintain records for three years after the end of the program year to which they pertain.

Subagencies

The following terms appear in the discussions below.

subagency – The collective term for subdistributing agencies and sites.

subdistributing agency – An entity (usually a food bank) that holds a TEFAP agreement with a CE. Not all CEs have subdistributing agencies.

site – A place at which an emergency feeding organization certifies applicant eligibility and/or distributes USDA Foods packages or meals to needy persons. A site may work directly with a CE or a subdistributing agency. A site can include but is not limited to, a food pantry or soup kitchen.

² To read more about fraud, see *TEFAP Handbook*, Section 8000, *Denials and Terminations*.

Sites

Prior to operating TEFAP at a site where USDA Foods are distributed or stored, the CE or subdistributing agency must conduct a site visit to verify the site's ability to operate in full compliance with the requirements of the agreement it holds.

CEs and subdistributing agencies must train sites to properly handle and store USDA Foods. If USDA Foods remain after a household distribution or a prepared meal, the foods must be

- returned to the CE's or subdistributing agency's storage site **or**
- stored properly at the site according to the terms and conditions of the agreement it holds.

At the request of TDA or the subdistributing agency, sites that distribute prepared meals must provide certain documentation including, but not limited to, a health inspection certificate and current pest control records.

Eligible Recipient Agency (ERA) – A public or private entity that has entered into an agreement with TDA or a CE to receive USDA Foods. Each site must be an ERA. An ERA cannot be a penal institution.

Additionally, an ERA provides food assistance either:

- exclusively to eligible persons for household consumption (according to a means test) or
- predominantly to eligible persons in the form of prepared meals.

Further, an ERA must fall into one of the following categories:

- Emergency feeding organizations (including food banks, food pantries, and soup kitchens)
- Charitable institutions (including hospitals and retirement homes)
- Summer camps for children
- Child nutrition programs that provide food service
- Disaster relief programs

Emergency Feeding Organization (EFO) – An eligible recipient agency (ERA) that provides nutrition assistance to relieve situations of emergency and distress by providing food to eligible persons. Examples of EFOs include, but are not limited to, food banks, food pantries, and soup kitchens. In TEFAP's priority system, EFOs have priority over other ERAs.

For more information, see "Distribution Priorities" in this handbook section.

Sites Located at Religious Organizations

TEFAP distribution can involve a number of different organizations. For instance, some religious organizations administer a site, while other religious sites provide space for TEFAP without administering the program itself. Federal civil rights laws address explicitly religious activities at such sites:

1. Organizations must not engage in explicitly religious activities as part of TEFAP, including overt religious content such as worship, religious instruction, or proselytization.
2. An explicitly religious activity at a site must be separated in time or location from TEFAP services.
3. Organizations must not require participants or applicants to participate in explicitly religious activities to receive TEFAP.

TEFAP and Explicitly Religious Activities. The following table provides examples to guide explicitly religious activities at TEFAP sites. TDA encourages CEs to contact the Program Specialist³ with questions about specific circumstances.

<i>It is acceptable to . . .</i>	<i>It is unacceptable to . . .</i>
Hang a cross on a wall at the TEFAP site.	Require participants to stand by a cross and recite a prayer prior to TEFAP distribution.
Place a menorah on a table at the site during the holiday season.	Refuse USDA Foods to participants who do not practice the Jewish faith.
Display faith-based pamphlets at the front or back of the site for interested people.	Insert faith-based pamphlets into TEFAP bags or boxes that will be distributed to participants.
Have a religious official, such as a pastor, assist with TEFAP distribution.	Require or encourage participants to have a religious conversation prior to TEFAP distribution.
Hold a prayer service on the second level of a church building while TEFAP distribution occurs on the lower level.	Hold a prayer service in the same room and at the same time as TEFAP distribution.
Invite participants or applicants to participate in a voluntary — and clearly separate — prayer before TEFAP distribution.	Lead participants in prayer at the beginning of TEFAP distribution.

³ Email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325).

Written Notice of Beneficiary Rights. Sites located at faith-based or religious organizations must protect applicants' and participants' rights regarding participation in religious activities. (Applicants and participants are referred to here as "participants.")

Sites must display *The Emergency Food Assistance Program Written Notice of Beneficiary Rights* near the "And Justice for All" poster to inform participants of the following information:

- The site must not discriminate against participants on the basis of religion or religious belief; a refusal to hold a religious belief; or a refusal to attend or participate in a religious practice.
- The site must not require participants to attend or participate in any explicitly religious activities. Participants' participation in these activities must be purely voluntary.
- The site must separate, in time or in location, any privately funded, explicitly religious activities from activities supported with USDA direct assistance.
- If the participant objects to the religious character of the site, then the site⁴ must make reasonable efforts to make a referral to an alternative provider to which the participant has no objection, with the understanding that the site cannot guarantee that an alternate provider will be available in every instance.
- Applicants and participants may report violations of these protections (including denials of services or benefits) by either a site, a subdistributing agency, or a CE. Go to www.Squaremeals.org.

Upon the request of a participant, CEs and subagencies must provide a copy of the written notice. CEs and subagencies may obtain the *The Emergency Food Assistance Program Written Notice of Beneficiary Rights* at www.Squaremeals.org. Choose Programs, The Emergency Food Assistance Program, TEFAP Administration and Forms then input the form name into the appropriate search field.

The CE and site must maintain written procedures for the application process. The written procedure must include providing the *Written Notice of Beneficiary Rights* to applicants. The procedures must be available for compliance reviews at all levels of distribution — the CE level, the subdistributing agency level, and the site level. The CE and subdistributing agency are responsible to train sites.

Beneficiary Referral Request. When an applicant or participant objects to the religious character of a site, the site⁵ must make reasonable efforts to refer them to an alternative site. "Reasonable efforts" depend on the situation. At a minimum, the CE or subagency must 1) attempt to identify an alternative provider and 2) determine the service that the provider offers. A referral may be made to non-USDA funded providers if necessary and if the provider has the

⁴ The site may seek help from the CE.

⁵ The site may seek help from the CE or subdistributing agency.

capacity to accept the beneficiary.

The Emergency Food Assistance Program and the Commodity Supplemental Food Program Beneficiary Referral Request form documents the referral efforts. Copies of the form must be easily available at each site. The form is available at www.Squaremeals.org. Choose Programs, The Emergency Food Assistance Program, TEFAP Administration and Forms, then input the form name into the appropriate search field.

All entities — CEs, subdistributing agencies, and sites — must maintain TEFAP records. Regardless of the type of entity, records, including referral records, must be kept for three years from the close of the fiscal year to which they pertain. Upon request, referral records must be made available to TDA, CEs, and subdistributing agencies (as applicable).

Subdistributing Agencies

Some CEs hold agreements with subdistributing agencies. When selecting a subdistributing agency, the CE must evaluate the subdistributing agency's ability to comply with the *TEFAP Agreement* the CE has with TDA.

Public Notice

CEs must give notice to the public of distributions of USDA Foods.

Public notices must meet the following requirements:

- Target eligible⁶ households whose members are unemployed or have low incomes and households that include elderly or disabled people
- Include the locations of sites
- Provide the days and hours of distributions

If applicable, CEs or subagencies should post a public notice to explain why a distribution is canceled.

TDA encourages CEs to inform the public of all USDA Foods distributions through their own established and customary communication methods. Suggested methods to advertise the availability of USDA Foods include, but are not limited to, the following:

- The media (TV, radio, and newspaper)
- Civic and religious organizations
- City and county governments
- Social service organizations, upon request

⁶ An eligible person is one who, because of economic status, is eligible to receive food assistance from a public or private, nonprofit institution.

Language of Program Materials

When a significant proportion of the population that a CE serves is composed of non-English or limited English-speaking persons who speak the same language, the CE must provide program materials to such persons in a language they understand. The translation of TEFAP materials is an allowable administrative expense.⁷

Training

CEs and subdistributing agencies must train staff and volunteers before they assume any TEFAP duty and each program year thereafter. CEs should notify all personnel of the date, time, location, and importance of attending a training session. Training must be documented, and the records retained for three years after the close of the fiscal year.

The staff and volunteers of CEs and subagencies must be trained in the following tasks:

- Properly transporting, storing, handling, and using USDA Foods
- Applying eligibility criteria for households
- Following written application procedures
- Ensuring client rights (including civil rights requirements)
- Following complaint procedures
- Processing household applications or requests for meals in the contracted service area
- Assisting applicant households to complete their applications
- Referring residents from other contracted service areas to locations where they may apply for USDA Foods

General Guidance for Household Application

Request but don't require. Sites may request but must not require proof of application information, including, but not limited to, the following:

- Identification
- Address
- Income

Participants and applicants have the right to refuse to provide proof of application information. Nevertheless, sites must provide USDA Foods to eligible participants who refuse to provide

⁷ For more about allowable expenses, see *TEFAP Handbook*, Section 3000, *Allowable Administrative Costs*.

proof — in other words, refusal to provide proof of ID or address must not be perceived as a barrier to participation.

Written application procedures. CEs must maintain written procedures for the application process. The procedures must be available for compliance reviews at all levels of distribution — the CE level, the subdistributing agency level, and the site level. The CE is responsible to train subagencies on the application procedures.

Electronic information. A CE and subagency may record participant and applicant information, including signatures, electronically. CEs and subagencies must protect electronic information to ensure confidentiality.

Who can apply? Any person or household has the right to apply for, and, if eligible, to receive USDA Foods for home consumption without regard to race, color, national origin, sex, age, or disability.

Establishment of eligibility criteria. Only TDA may establish eligibility criteria for TEFAP foods. CEs and subagencies must not impose their own eligibility criteria.

Household responsibilities. Households bear the following responsibilities:

- Cooperate (to the extent the household is capable) to clarify or provide the information needed to establish eligibility
- Repay, on-demand, to the CE the value of USDA Foods received if an error in eligibility is found because of erroneous information provided by the household. If the household received multiple food packages, the CE may deny to the household distributions of USDA Foods for the same number of months as the extra issuances.
- Not sell or exchange USDA Foods
- Report changes in circumstances, such as income or household size

NOTE: During a certification period, CEs must act on reported changes affecting eligibility or amount of benefits and document changes that include pertinent information (such as a change of address). CEs must act on other changes only when/if the household requests recertification.

For other applicant and participant responsibilities, see TEFAP Participant Rights and Responsibilities.

Application of staff or volunteers. When staff or volunteers of subagencies apply for USDA Foods, the same eligibility criteria apply as for any other applicant.

Confidentiality. CEs and subagencies must protect the confidentiality of any information that has been provided on an application for eligibility, whether the application is paper or electronic. The information may be used only to determine eligibility for TEFAP benefits and to verify income. Do not release any information that contains a TEFAP participant's name or other individual information.

Household Application for USDA Foods (Form H1555)

TDA prefers that CEs use the *Household Application for USDA Foods* (Form H1555) to certify participants because the form contains federally allowed information. CEs can obtain the *Household Application for USDA Foods* (Form H1555) at www.Squaremeals.org; choose Programs, The Emergency Food Assistance Program, TEFAP Administration and Forms, and enter the form number in the appropriate search field.

Application Forms Created by Contracting Entities. CEs may create their own forms to collect not only federally allowed information but also additional data for other services — for example, clothing aid or assistance with bills. However, the federally allowed information to determine TEFAP eligibility must be collected *before* the CE requests additional data. Further, the collection of additional data must not be a real or perceived barrier to participation in TEFAP. If a CE creates its own form, therefore, the form must specify that a participant (or eligible applicant) will receive USDA Foods through TEFAP even if a participant refuses to provide the additional data. **Only the information collected on the *Household Application for USDA Foods* (Form H1555) can be requested for a participant to obtain USDA Foods.**

NOTE: The certification statement and Nondiscrimination Statement (NDS) must be included on the CE-created form.

Adding Pages to Form H1555. If a CE uses the *Household Application for USDA Foods* (Form H1555) then adds extra pages to collect additional data, the extra pages must specify that a participant will receive USDA Foods through TEFAP even if a participant refuses to provide the additional data. Further, the information to determine TEFAP eligibility must be collected *before* the CE requests additional data.

When adding pages to the H1555, the CE must include the current nondiscrimination statement at Squaremeals.org, Programs, The Emergency Food Assistance Program, TEFAP Policy and Handbook, then choose Section 6000: *Civil Rights*.

Eligibility and Application

The subjects of eligibility and application are closely related, so they are discussed together below.

Congregate Meals

Participants seeking congregate meals are assumed eligible simply because they are seeking a meal. In other words, there are no eligibility requirements for congregate meals. This includes, but is not limited to,

- residency,
- identity,
- income, and
- citizenship.

USDA Foods must be provided without regard to race, color, national origin, age, sex, or disability. Congregate meals must be served equitably. TDA recommends first come, first serve.

NOTE: A disaster organization may provide USDA Foods to emergency relief workers at congregate meal sites who are engaged in providing relief assistance.

Residency

CEs and subagencies may ask but **must not require** any applicant or participant to provide proof of residency. CEs and subagencies must provide USDA Foods to all participants even if they cannot or will not provide proof of residency. Further, CEs and subagencies must clarify the following points to applicants and participants:

1. The inability or unwillingness to provide proof of residency is not a barrier to participation.
2. Participants will receive USDA Foods without proof of residency.

Examples of documents that prove residency include, but are not limited to, bills that show the proper address; state-issued ID cards; and driver license.

At the time of application, households must reside within the service area, but not for any specific length of time. With TDA approval, a CE may make exceptions to the service area.⁸

For example: A CE may allow an exception for an applicant household that resides in a location

⁸ Contact TDA at commodityoperations@texasagriculture.gov or call 877-TEX-MEAL (877-839-6235).

that is closer to another service area in Texas. Exceptions require agreement and coordination between both affected CEs.

Referral to Other Sites. Each CE must maintain a network of sites within its service area⁹. To be fully capable of distribution to all eligible people, the CE's network will ideally provide a combination of sites — such as those that are able to distribute to all participants, as well as those that are able to distribute to participants only from the area they serve. The CE must ensure that all participants can receive TEFAP USDA Foods in the CE's service area.

When a site cannot serve an eligible person, the site must refer that person to a different site. The CE or subdistributing agency must maintain written procedures for the referral of an applicant or participant to a different site. The written procedures must be available for compliance reviews at all levels of distribution — the CE level, the subdistributing agency level, and the site level. The CE or subdistributing agency is responsible to train sites. If necessary, the site may contact the CE or subdistributing agency for assistance with a referral.

At a minimum, the CE or subdistributing agency must document the following information:

- Name of organization that makes the referral
- Contact information for TEFAP staff
- Participant's name
- Participant's contact information
- Date of referral
- The way the referral was completed.

Occasionally, a participant will continue to seek distribution at the site that referred the participant to a different site. In this case, the CE must contact TDA¹⁰ on a case-by-case basis.

All entities — CEs, subdistributing agencies, and sites — must maintain TEFAP records. Regardless of the type of entity, records, including referral records, must be kept for three years from the close of the fiscal year to which they pertain. Upon request, referral records must be made available to TDA, CEs, and subdistributing agencies (as applicable).

Identity

CEs and subagencies may request but **must not require** any applicant or participant to provide proof of identification (ID). CEs and subagencies must provide USDA Foods to all participants even if they cannot or will not provide ID. Examples of ID include, but are not limited to, birth certificates, driver's license, military ID, and state-issued ID.

⁹ For more information, see "Distribution to Contracted Service Area" in this handbook section.

¹⁰ Email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325).

CEs and subagencies must clarify the following points to applicants and participants:

1. The inability or unwillingness to provide proof of ID is not a barrier to participation.
2. Participants will receive USDA Foods without proof of ID.

Citizenship

There are no citizenship requirements. CEs and subagencies must not request or require any applicant or participant to prove citizenship through any means whatsoever.

The Proxy

A proxy is a person designated by a participant to act for the participant as necessary throughout every process of TEFAP. For example, proxies can provide a signature on forms. Proxies may also act for the participant at application, certification, food package distribution, and recertification. A proxy must provide proof of identification prior to picking up a food package.

Requirements. CEs must collect at least the following information:

1. Participant's name
2. Name of site
3. Authorization including proxy name
4. Participant's signature
5. Duration of proxy

The CE must maintain each written proxy designation on file. Proxy identification must be reviewed at each application, certification, food package distribution, and recertification.

Proxy Change. There are two ways to change a proxy:

- In a written, signed statement
- In-person at the CE or site, where proxy changes are noted and maintained in the participant file

Income Eligibility

Initially, and at least annually thereafter, CEs must means test households to determine their eligibility for USDA Foods distributed by TEFAP. The income eligibility process is as follows.

1. Obtain a verbal report from the household of total weekly, monthly, or yearly gross¹¹ earned and unearned income. Proof of income is not allowed unless the information provided is questionable. If income is from farming or self-employment, eligibility is based on net income. Determine the net earned income

¹¹ Gross earned income is the amount before deductions.

of farmers and self-employed persons by subtracting the cost of doing business from gross earnings.

2. Determine the household's total **countable** income (see "Countable Income and Income Exclusions") by adding together the gross earned and unearned incomes of all household members.

Exception: Add the net earned income of any household members who are farmers or self-employed. Compare countable income to the maximum allowable income for the household, which varies according to household size.

3. Determine the household to be either
 - o eligible for USDA Foods if countable income is equal to or less than the maximum allowable income amount, or
 - o ineligible for USDA Foods if countable income exceeds the maximum allowable income amount.

USDA annually publishes the *TEFAP Income Eligibility Guidelines* (Form H1640), which contains household qualifying income cut-offs for annual, monthly, and weekly income levels per number of household members. The eligibility guidelines cover the period from July 1 of one year through June 30 of the following year. TDA releases this information to each CE's executive director via email. The income guideline tables are also published on the TDA website at www.Squaremeals.org. Choose Programs, The Emergency Food Assistance Program, TEFAP Income Eligibility Guidelines.

Categorical Eligibility. A household is automatically (or categorically) eligible for USDA Foods if it currently receives assistance from one of the following programs:

- Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamps
- Temporary Assistance for Needy Families (TANF)
- Supplemental Security Income (SSI)
- National School Lunch Program (NSLP) free or reduced-price meals
- Non-institutional Medicaid

Countable Income and Income Exclusions. Most household income is countable, which means that it is used to determine the household's eligibility for TEFAP. Countable income includes

- wages,
- Social Security benefits,
- most veteran's benefits, and
- other types of benefits.

However, some household income and assistance must be excluded as income, which means

that it is not used to determine the household's eligibility for TEFAP. Excluded income and assistance include the following:

- SNAP
- Vendor payments
- Loans
- In-kind benefits
- Rebate checks resulting from the Economic Stimulus Act
- Filipino Veterans Equity Compensation Fund payments authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) for certain veterans or surviving spouses of veterans who served in the military of the Government of the Commonwealth of the Philippines during World War II
- A lump sum or periodic payments from the *Cobell* settlement
- Family Subsistence Supplemental Allowance
- National Flood Insurance Program (NFIP) payments
- Medicare Prescription Drug Card Subsidy
- Certain other types of benefits

Contact the Program Specialist¹² with questions.

Maximum Allowable Income. The *TEFAP Income Eligibility Guidelines* (Form H1640) contains information about yearly, monthly, and weekly maximum allowable income limits of households (at 185% of the federal poverty level). To download the form, go to www.Squaremeals.org/, choose Programs, The Emergency Food Assistance Program, TEFAP Administration and Forms, and enter the form number in the appropriate search field.

¹² CommodityOperations@TexasAgriculture.gov or call 1-877-TEX-MEAL (1-877-839-6325).

Household Crisis Eligibility

Some households' income exceeds the means test. However, certain circumstances allow some households to receive USDA Foods. The household must currently be paying or, during the month of application, must have paid an expense (of any amount) that was a direct result of a household crisis. The crisis must have occurred during the month the household applied for TEFAP or during the five consecutive months immediately prior to the application month.

<i>Characteristics of a Household Crisis</i>	<i>Unexpected Costs of a Household Crisis (The CE or site may define and document other circumstances.)</i>
1. Unexpected 2. Temporary 3. Beyond the household's control	1. Necessary medical treatment of a household member 2. Burial expenses of a household member 3. Uncontrolled loss of employment 4. The repair or replacement, because of a household crisis ¹³ , of the household's <ul style="list-style-type: none"> • home, • home contents, or • vehicle

The CE or subagency will document the reason that a household is eligible for crisis food assistance and will estimate the number of months (up to a maximum of six) the household will need such food assistance. Some household circumstances require a seven to twelve-month certification period. TDA must approve, in writing, certification periods of seven to twelve months.

Certification Periods

Households. The certification period is a period of consecutive months during which a household is eligible to receive a distribution of USDA Foods.

A certification period

- begins the first month the household receives the USDA Foods, and
- may not exceed 12 months.

To continue receiving USDA Foods after a certification period has ended, the household must be recertified by reapplying and meeting eligibility requirements again.

¹³ A household disaster may include fire, flood, hurricane, tornado, car repairs, and other circumstances or incidents as defined and documented by the CE or subagency.

Ineligible Applicants. Occasionally applicants are ineligible. Nevertheless, a *Household Application for USDA Foods* (H1555) must be completed (if possible) and retained as a record of the application. See “Record Retention” in this handbook section for more information.

Participant Rights and Responsibilities

TEFAP Participant Rights and Responsibilities Form

TEFAP applicants and participants have rights and responsibilities that are listed in the *TEFAP Participant Rights and Responsibilities* form. CEs are not required to give applicants or participants a copy of the form. However, CEs must make the form available at household application and at recertification. CEs may read the form to applicants, if necessary, or applicants may read it themselves.

For example: Some sites present a laminated copy of the *TEFAP Participant Rights and Responsibilities* form to each applicant as part of the application process. Applicants read the form themselves or the site staff reads the form to the applicants.

The form is available at www.Squaremeals.org. Choose Programs, The Emergency Food Assistance Program, TEFAP Administration and Forms, then input the form’s name into the appropriate search field.

Refusal of USDA Foods

Recipients may refuse any USDA Foods they cannot use or do not want. Refusal will not affect eligibility.

Orderly Distribution

Participants have the responsibility to contribute to an orderly distribution. For more information, see “Ensure Orderly Distribution” in this handbook section.

Monitoring by CEs

CEs must monitor their administrative and site personnel and subagencies to make certain the following steps are taken:

- Ensure program compliance
- Investigate reported problems
- Determine whether to operate a site during the following program year
- Verify and ensure proper use of USDA Foods

CEs record and track compliance or operational issues¹⁴ on their compliance monitoring forms.

NOTE: TDA recommends that CEs select sites for monitoring where site supervisors have had a poor performance record during previous program years or where supervisors were unable to implement or complete corrective action. Depending on the nature of the previous performance problems, TDA may not approve such sites at the time of renewal.

Independently or in coordination with TDA, as appropriate, CEs will review subdistributing agencies and the sites served by those agencies to take the following steps:

- Evaluate their operations and activities (including evaluating the extent to which the agencies inform eligible populations of the availability of USDA Foods)
- Ensure TEFAP compliance, according to the terms and conditions of their agreements, including (but not limited to) the following:
 - Receiving, handling, distributing, and using USDA Foods, according to the *TEFAP Agreement and Application for Participation/Plan of Operation*
 - Adhering to nondiscrimination requirements
 - Providing eligible persons and households equal access to USDA Foods (including the elderly, persons with disabilities, and homebound persons)
 - Means-testing households
 - Evaluating the frequency of meal service or USDA Foods distribution, the quantity of USDA Foods included in meals or food packages, and other factors, as may be necessary

Allocation

Bonus Foods. TDA allocates bonus USDA Foods by actual food truckloads or by dollar value increments. When allocating bonus foods, TDA uses each service area's 60/40 formula¹⁵. In addition, TDA may use alternate allocation methods

Entitlement Funds. TDA allocates funds for entitlement of USDA Foods according to the service area's 60/40 formula. Then each CE, using its share of entitlement, requests from TDA the USDA Foods it wants to receive and distribute.

Alternate Methods of Allocation. As determined necessary, TDA may adopt a new method of allocating USDA Foods and/or modify the terms of any or all *TEFAP Agreements* or contracts to ensure that USDA Foods are

¹⁴ For a definition of this term, see *TEFAP Handbook*, Section 9000, *Terms, Definitions, and Acronyms*.

¹⁵ For a definition of this term, see *TEFAP Handbook*, Section 9000, *Terms, Definitions, and Acronyms*.

- available in areas where poor economic conditions are known to exist,
- offered to all recipient groups, and
- distributed in an equitable manner.

Sites

CEs and subdistributing agencies receive, handle, store, and distribute USDA Foods to sites that distribute, or agree to distribute, USDA Foods exclusively to eligible persons and eligible households.

Unless otherwise specified by TDA, CEs and subdistributing agencies allocate to sites a share of USDA Foods based on historical or projected usage rates (such as the number of meals and/or households served).

The distribution of USDA Foods must be according to TDA priorities. See “Distribution Priorities” in this handbook section.

CEs' and subdistributing agencies' methods of allocating USDA Foods to sites are subject to TDA's review and approval.

Sites as Emergency Food Organizations

When necessary, a CE and subdistributing agency identifies an organization as an *emergency food organization* (EFO). See the USDA Foods Program Disaster Manual at <https://www.fns.usda.gov/disaster/disaster-assistance>.

Alternate CEs

Alternate CEs are organizations other than food banks that contract with TDA to distribute USDA Foods to the eligible residents of a county or counties. Alternate CEs receive Priority 1 TEFAP distributions. For more information, see “Distribution Priorities” in this handbook section.

Unless otherwise specified by TDA, CEs will receive, handle, store, and distribute fair shares of USDA Foods to alternate CEs. Fair-share allocations must be based on the number of residents in the counties served by the alternate CEs who live at or below the federal poverty level and the number of unemployed residents.

Additional CEs

Additional CEs are organizations other than food banks that contract with TDA to distribute USDA Foods to

- eligible persons who reside in an identifiable portion of a county or counties, or
- specific groups of eligible persons, such as the elderly, who reside in a county or counties.

Additional CEs have service areas that overlap other contracted service areas. Unless otherwise specified by TDA, CEs will receive, handle, store, and distribute to additional CEs a fair share of USDA Foods, based on historical or projected USDA Foods usage rates (such as the number of meals and/or households served), or by another method, as specified by TDA. Additional CEs receive Priority 1 TEFAP distributions (see “Distribution Priorities”).

Distribution

Miscellaneous Delivery Details

Delivery window. USDA makes every reasonable effort to deliver according to each scheduled delivery window. However, deliveries are subject to vendor performance as well as storage facility contracts. Contact the Program Specialist¹⁶ with concerns, questions, or comments.

Payment of Costs. USDA Foods from vendors and federal storage facilities incur a delivery or handling cost. USDA is responsible to pay such costs. On the other hand, CEs and subdistributing agencies are responsible to pay delivery charges incurred because of their failure to unload USDA Foods within the designated time frame.

Transfer of title. The title to USDA Foods transfers to the CE or subagency upon acceptance of the foods at the time and place of delivery or pick up.

Distribution Method. The method of distributing USDA Foods directly to recipients is subject to the review and approval of TDA and/or CEs. At a minimum, USDA Foods must be distributed

- in an equitable manner,
- on a first-come, first-serve basis, and
- at intervals that are at least monthly.

¹⁶ Email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6235).

Cost-effective and efficient. TDA must distribute USDA Foods to CEs as efficiently and as cost-effectively as possible. TDA will strive to make distribution as responsive as possible to the needs of each CE. Contact the Program Specialist¹⁷ with concerns, comments, or questions.

Distribution Priorities

CEs must allocate and distribute USDA Foods by the following priorities:

Priority 1 – To recipient agencies (RAs) that provide emergency food assistance (i.e., hunger relief agencies, soup kitchens, and like agencies; food pantries; alternate and additional CEs; and shelters for children or battered women)

Priority 2 – To RAs that provide non-emergency, prepared meals to eligible persons (i.e., group treatment centers and other group living arrangements). Priority 2 is for USDA Foods that remain only after Priority 1 needs are met.

Priority 3 – To RAs that provide non-emergency, prepared meals to groups that include both eligible and non-eligible persons. However, the groups must be predominantly eligible¹⁸. Priority 3 is for USDA Foods that remain after Priority 2 needs are met.

For RAs to receive USDA Foods under Priority 3, they must demonstrate to the CE that they serve predominantly eligible persons. RAs may demonstrate they serve predominantly eligible persons by providing documentation that verifies the socioeconomic conditions of the area in which the RA is located or from which it draws its clientele. Such documentation includes (but is not limited to) poverty, unemployment, vagrancy, or welfare program usage rates.

Priority 3 gives CEs flexibility in their efforts to reach a greater number of eligible persons. However, CEs must continue to periodically assess the food assistance needs of the residents of their service areas and, as feasible and necessary, to develop partnerships with recipient agencies that serve only eligible persons. Additionally, CEs must continue to assess the needs of specific groups or categories of eligible persons, such as the elderly and/or people living in rural or difficult-to-serve areas.

The requirement for CEs to develop outlets for USDA Foods conforms to the program's primary goal of distributing to eligible people and, over time, may reduce the amount of USDA Foods distributed to Priorities 2 and 3. TDA will continue to monitor the distribution of USDA Foods

¹⁷ Email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325).

¹⁸ *Predominantly eligible* means that 1) more than 50% of the persons served by the RA are eligible, or 2) more than 50% of the persons in the area where the RA is located (or from which it draws its clientele) are eligible.

to ensure that CEs adhere to priorities. If supported by review findings or other information, TDA will request corrective action as appropriate.

Meeting the priority system. TDA recognizes that some CEs' inventory tracking system causes difficulty in meeting the priority system. CEs have a number of options. For instance, they may choose to manually adjust the tracking system to meet the priority system. As an alternative, CEs may choose to serve TEFAP USDA Foods to only Priority 1 agencies. In all cases, each CE must comply with TDA and USDA regulations for the priority system.

TDA wants to remain informed as CEs become aware of alternative methods to meet the priority system because shared information can benefit participants, sites, and CEs. To provide information, email CommodityOperations@TexasAgriculture.gov or call 1-877-TEX-MEAL (1-877-839-6235).

Ninety Days to Meet Priority 1 Needs. Except as provided below, during the 90 days following the receipt of a shipment of USDA Foods, a CE must distribute the USDA Foods to Priority 1 RAs only. Following the 90-day period, a CE may distribute remaining USDA Foods to Priority 2 RAs; and, if USDA Foods remain after Priority 2 RAs' needs have been met, the CE may then distribute USDA Foods to Priority 3 RAs.

Exception: A CE that documents that all Priority 1 RAs' needs have been met (as requested or as actually needed based on available data) may distribute USDA Foods to Priority 2 RAs prior to the expiration of the 90-day period described above. If the CE then documents that all Priority 2 RAs' needs have been met, the CE may distribute remaining USDA Foods to Priority 3 RAs prior to expiration of the 90-day period described above.

Distribution Quantities

TDA recommends distribution on a first-come, first-serve basis. CEs should distribute to households for home consumption in an equitable way according to the following considerations:

- Household size

NOTE: TEFAP provides USDA Foods to households that meet family size and income requirements.

- Available resources
- Days and hours of operation
- The expected demand for USDA Foods
- Other factors and circumstances that the CE determines are necessary

USDA Foods recipients may refuse any food item they cannot use or do not want.

Distribution to Contracted Service Area

CEs assume final administrative and financial responsibility for distributions of USDA Foods within the contracted service area. A CE's efforts to meet the needs of eligible participants in the CE's service area include the following:

- Improving the accessibility of USDA Foods for eligible individuals
- Referring eligible people (both applicants and participants) to a different site as necessary
- Cooperating with TDA to identify areas within a contracted service area where redistributing agencies, alternate CEs, or additional CEs may be needed

NOTE: TDA may require corrective action by a CE to expand services to areas where TDA is unable (or chooses not) to contract with alternate or additional CEs. A corrective action plan must include time frames and action steps for locating or developing subagencies to expand services.

Direct Shipments

CEs receive direct shipments of USDA Foods. Unless otherwise specified by TDA, additional CEs and alternate CEs receive distributions of USDA Foods from CEs.

Ensure Orderly Distribution

An orderly distribution allows participants to be served in a safe and nonthreatening atmosphere. Occasionally, however, a site might face recurring issues with a disruptive participant. In such a case, the site can coordinate with local law enforcement officials to ensure the safety of volunteers and participants. Contact the Program Specialist¹⁹ with questions, comments, or concerns.

When the participant is no longer disruptive, he or she can receive a food package at that distribution. However, the distribution might end before the disorderly participant is calm enough to receive a distribution. In this case, the CE or subagency must serve the participant at his or her next regularly scheduled distribution.

¹⁹ Email CommodityOperations@TexasAgriculture.gov or call 1-877-TEX-MEAL (1-877-839-6325).

Meals for Volunteers and Staff

Site volunteers and staff (referred to here as *volunteers*) may eat at the site if doing so still allows distribution to all participants. For example, closing a site for volunteers to eat a meal limits distribution to participants. Volunteers may eat under both of the following conditions:

Volunteers' meals may be claimed as an allowable cost as long as the costs meet the following criteria:

- *Reasonable*: Reflecting the cost of an average lunch
- *Adequately documented*: The site must maintain records with the following information:
 1. Each volunteer's name
 2. Hours each volunteer worked
 3. Receipts, invoices, or other documents showing the cost of feeding volunteers
 4. Each volunteer's signature for each meal

Receipt and Inspection of USDA Foods

The CE must sign to validate receipt when USDA Foods are delivered to them. Likewise, each subagency must sign for receipt of USDA Foods when the CE delivers them, or when the subagency picks up the food.

CEs, subdistributing agencies, sites, and others authorized to possess USDA Foods must ensure that the USDA Foods are safeguarded. Any entity that stores USDA Foods for any period of time must become familiar with and adhere to state and local health codes that apply to stored food products.

Electronic Receipting for USDA Foods. CEs must receipt electronically²⁰ into Texas Unified Nutrition Programs System (TX-UNPS) at <https://txunps1.texasagriculture.gov/txunps> within 24 hours for USDA Foods shipments received. TDA must then receipt electronically into the USDA's Web-based Supply Chain Management (WBSCM)²¹ system within 24 hours. The entire receipting process, including CE and TDA responsibilities, must be completed within 48 hours.

This requirement applies to all shipments of USDA Foods. USDA requires shipment receipts to

²⁰ See *The Emergency Food Assistance Program Handbook*, Section 9000, *Terms, Definitions, and Acronyms*, for a definition of this term.

²¹ See *The Emergency Food Assistance Program Handbook*, Section 9000, *Terms, Definitions, and Acronyms*, for a definition of this term.

be entered within 48 hours in order to meet contractual requirements and to provide prompt payment to vendors.

Inspection of USDA Foods

CEs must inspect USDA shipments to ensure the product and quantity is as identified on the delivery or pick-up document (that is, bill of lading or invoice) and that the product is in good condition. If the product is in questionable condition (that is, damaged or spoiled) or the quantity is not correct, then the CE must take the following steps:

1. Note an exception on the delivery or pick-up document when signing
2. Obtain the signature of delivery/warehouse personnel on the delivery or pick-up document
3. Notify TDA immediately

Insurance Requirements

CEs and subdistributing agencies must obtain insurance to protect the value of USDA Foods inventories. Reasonable insurance premiums are allowable costs.

The insurance amount must be at least equal to the entity's average monthly value of month-end USDA foods inventories in the previous fiscal year (as determined by one of USDA's foods valuation methods in 7 CFR Part 250).

Entities that are not required to obtain insurance include, but are not limited to, the following:

- Sites
- Food pantries
- Soup kitchens
- Community action agencies

USDA has reserved the right to grant an exemption to entities that maintain a small amount of USDA Foods inventory²².

Storage

USDA requires CEs and subagencies that store USDA Foods to use storage practices that prevent premature deterioration of food. Additionally, the areas in which USDA Foods are stored must be maintained in good condition. Storage of USDA Foods must permit them to be

²² To request an exemption, email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325)

distinguishable from other foods.

Temperature. CEs must follow instructions for storage temperatures. The temperature requirements are provided in *TEFAP Handbook*, Section 11000, *Resources*, “Temperature Requirements.” USDA Foods Fact Sheets²³ may provide shelf life information for a product at various temperatures (i.e., flour or cornmeal at 40, 70, and 90 degrees Fahrenheit). Products should not spoil during the shelf life; however, storage at higher temperatures increases the likelihood of insect infestation and may shorten shelf life. Therefore, when possible, products must be stored at temperatures recommended by the USDA.

CEs should verify food temperatures on delivery and annotate the receiving document when proper temperatures are exceeded.

Cooler and freezer temperatures must be checked and recorded during regular business hours, and during shut down or vacation periods

- a minimum of every other day,
- immediately after a power loss is known or suspected, and
- late each Friday afternoon and early each Monday morning (if operations are suspended during weekends).

Use *Temperature Record* (Form H1639) to record temperatures.

Air Circulation. Frozen, chilled, and dry storage areas must have air circulation. USDA Foods must be stored on pallets or shelves with four inches of clearance from the floor and walls and two feet of clearance from the ceiling.

First In, First Out. USDA Foods with the oldest pack date or contract number, which USDA places on product cases, should be stored in front and used before other USDA Foods. The practice of first in, first-out (FIFO) ensures that USDA Foods are distributed timely and in optimal condition.

Stacking. Stacks of USDA Foods should be

- sufficiently low so that the product at the bottom will not burst or be crushed by the weight of the product above,
- cross-stacked,
- away from steam, heat, or moisture, and
- shrink-wrapped if stored at the top of a storage rack.

²³ Go to <https://www.choosemyplate.gov/resources/food-safety>.

Protection of Stored Food

CEs must ensure that USDA Foods are in good condition by taking the following steps:

- Checking all products frequently for deterioration
- Inspecting for tears in sacks and for broken cartons
 - CEs must recover foods from torn sacks or broken cartons and repackage any foods that remain in good condition. CEs must dispose of spoiled foods as instructed in “Food Losses” in this handbook section.
- Maintaining all storage areas in a clean and orderly condition
- Storing foods away from pesticides, cleaning supplies, and paper products
- Using security measures to prevent theft
- Inspecting storage areas monthly and exterminating as necessary

Some foods, such as grains, dried fruit, and string cheese are more sensitive to storage conditions. The table below illustrates storage for grains.

Storage of Grains during Summer Months	
<i>TDA recommends . . .</i>	Grain products to be stored in cool storage.
<i>TDA requires . . .</i>	Grain products in cool storage remain there until distribution. <i>NOTE: Grain products moved from cool storage to dry storage are at risk of spoilage. CEs are liable for such spoilage.</i>

Optimal Condition

CEs and subagencies should ensure the distribution of USDA Foods in optimal condition. Participants should have the opportunity to consume USDA Foods before the product end dates, discussed below, have passed.

best-if-used-by or *best-if-used-before* – Date that a product will be of best flavor or quality.

use-by – Last date that the manufacturer recommends using the product at peak quality.

sell-by –Date by which the manufacturer recommends that a store sell the food product for inventory management purposes.

If handled properly, food could still be wholesome and safe to consume beyond its product end date. However, if handled improperly, food can lose quality prior to the product end date. Therefore, USDA Foods with expired product end dates should not be distributed to program recipients, so considerations must be made for inventory management. Generally, CEs and subagencies should use first-in-first-out (FIFO) inventory management by marking food cases or other containers with the date of receipt. However, CEs and subagencies should also note food product dates provided by the manufacturer. Products marked with the earliest end date (that is, best-if-used-by and best-if-used-before) should be distributed first, even if those items were received at a later date.

Other dates that affect the distribution of USDA Foods are discussed below.

pack code or date of pack – Foods packed shortly after harvest, including, but not limited to, canned or frozen peaches; pears; green beans; and corn. These foods may be delivered throughout the following year or until the next harvest season.

For example: USDA Foods packed in September 2018 may be distributed in July 2019.

manufacture date – Date the product was manufactured.

Pack and manufacture dates affect inventory management differently than product end dates: Pack and manufacture dates do not necessarily provide useful information about product wholesomeness or nutritional value. As always, CEs and subagencies must practice proper storage and inventory management system to ensure that USDA Foods are distributed in optimal condition.

Storage at Subdistributing Agencies. TDA must give prior approval for USDA Foods to be stored at a subdistributing agency. Refer to “Storage” in this handbook section for additional information related to storing USDA Foods.

Inventory Requirements

CEs must maintain complete and accurate records of USDA Foods that the CE has received and distributed. CEs must differentiate between USDA Foods and other purchased or donated foods, and separate inventory records are required for USDA Foods. Inventory records include physical inventory and perpetual inventory (also called book inventory). All CEs, subdistributing agencies, and sites are responsible for good inventory management so that USDA foods are distributed to recipients timely and in optimal condition.

Good practices include

- requesting only an amount of food that can be used without waste,
- preventing excess inventory levels, and
- detecting damage or spoilage.

Date of Possession. CEs must record the date of possession of USDA Foods on the perpetual inventory²⁴. The date of possession of USDA Foods by a CE is the date the CE accepts delivery directly from USDA. Subdistributing agencies, additional CEs, alternate CEs, and sites take possession and are responsible for USDA Foods on the date the foods are picked up or delivered from the CE. If applicable, the possession date may be the pickup delivery day from a commercial distributor or a food processing company.

CEs' agreements with subdistributing agencies and sites must include the chain of custody responsibilities for USDA Foods at any time prior to distribution to participants. For example, CEs must ensure the ongoing responsibility of subdistributing agencies that indirectly distribute USDA Foods to recipients through other agencies, organizations, and sites.

Physical Inventory

A semi-annual process to account for all USDA Foods received since the last physical inventory and to report those on hand at the time of the report. TDA will provide a *Physical Inventory Report* spreadsheet semi-annually for CEs to complete and submit.

Site, Additional CE, and Alternate CE Inventory Requirements

As necessary, CEs may establish and apply their own inventory controls to sites, additional CEs, and alternate CEs and to all agents. CEs must establish inventory controls that are sufficient to ensure that the USDA Foods are safeguarded and used and distributed as intended. If indicated by review findings or other information received, TDA may impose corrective action to require CEs to implement any inventory controls deemed necessary for any sites, additional CEs, and alternate CEs or agents who receive USDA Foods.

Determining Inventory Levels of USDA Foods

A CE's USDA Foods inventory may not exceed six month's supply without approval from USDA. Inventory levels are calculated based on historical food usage in typical months. To determine the months on-hand of a USDA Food: take the accumulated inventory balance at the end of the month to be reported and divide that number by the average monthly quantity of the food item distributed to recipient agencies.

²⁴ *Perpetual inventory* – An ongoing accounting system that requires daily entries to document the amounts of food added to or removed from storage.

For example: 1,000 units of canned peaches on hand ÷ 250 units of canned peaches distributed in a typical month = 4 months of canned peaches in inventory

For foods that have no historical data, base estimates on typical usage of similar foods. For instance, if using whole-grain rotini for the first time, develop inventory estimates by averaging the usage of other pasta products in a typical month, e.g., whole-grain macaroni.

Keep in mind that certain USDA Foods, such as shelled eggs or fresh produce, have shorter shelf lives than the six-month limit. Those foods must be managed in a way that allows them to be consumed while in optimal condition.

CEs that have an excess of six months' supply of any USDA Food may be required to submit a justification for the excess inventory.

Reporting Inventory Levels of USDA Foods to TDA

Quarterly, each CE will submit the *TEFAP Physical Inventory and Months on Hand Supply* report on a TDA-provided spreadsheet. This report will gather quarterly physical counts, book counts, and usage rates of USDA Foods within the fiscal year of TEFAP participation.

For the June and December reporting periods, CEs must conduct and report both physical and book counts. For the March and September reporting periods, CEs must conduct and report only book counts. TDA reports excess inventory to USDA for each June and December reporting periods.

Refer to the table below for required reporting periods and deadlines.

CE Inventory Reporting Timeframe

TDA Provides Spreadsheet On or Around	CE Inventory Reporting Period	CE Report Due 5th Business Day of these Months**
February 28	March 1-31	April
May 31	June 1-30	July
August 31	September 1-30	October
November 30	December 1-31	January

***The CE must submit a completed report to TDA five business days following the CE inventory reporting period.*

If a CE has more than six months' inventory, the CE must also include a corrective action plan (CAP) for reducing inventory. The CE places the CAP in the "comments" column of the report.

Examples of acceptable CAPs include

- reduce the shared maintenance fee,
- eliminate the shared maintenance fee, and
- transfer the excess inventory to a different CE.

An unacceptable CAP lacks specificity to the point that it will not result in inventory reduction.

TDA will provide the *TEFAP Physical Inventory and Months on Hand Supply* spreadsheet on or around November 30 and May 31 of each year. The reporting periods then continue through December 31 and June 30. The CE must submit a completed report to TDA five business days after the end of each reporting period.

After receipt of the CE's *TEFAP Physical Inventory and Months on Hand Supply* report, TDA may conduct an on-site monitoring visit to verify inventory.

USDA Foods Transfer. Sometimes, USDA Foods at CEs or subagencies are not timely used and in optimal condition. TDA may transfer USDA Foods from one Program to another after requesting USDA approval. However, TDA does not need USDA approval to transfer USDA Foods in the same Program.

For example: Food Bank C is unable to utilize, timely and in optimal condition, TEFAP green beans. TDA chooses to transfer the TEFAP green beans to Subdistributing Agency J, which also operates TEFAP. The transfer does not require USDA approval.

For example: Site E wants to transfer TEFAP green peas to Site L, which also operates TEFAP. TDA can approve the transfer without USDA approval.

For example: Food Bank A notifies TDA of an excess of TEFAP corn and requests to transfer the corn to Food Bank L, which operates the Commodity Supplemental Food Program (CSFP) but not TEFAP. TDA must request approval from USDA because the transfer occurs across two programs — CSFP and TEFAP.

In all cases, CEs, subdistributing agencies, and sites must contact the entity that provides TEFAP Foods to them.

For example: A site contacts either the subdistributing agency or the CE, as applicable. The subdistributing agency contacts the CE. The CE contacts TDA.

Before transferring USDA Foods, TDA must obtain an inspection of USDA Foods by state or local health authorities as necessary to ensure that the foods are still safe and in condition. For

more information about out-of-condition foods, see “Out-of-Condition USDA Foods” in this handbook section

TDA, CEs, and subagencies must maintain records of a transfer. For more about record retention, see “Record Retention” in this handbook section.

Food Losses

The CE must report²⁵ all losses regardless of the cause. TDA will make a determination to pursue a claim depending on the circumstances. CEs and subdistributing agencies (as applicable) are responsible to ensure that sites take appropriate steps to reduce losses. Further, USDA may pursue a claim against CEs and subdistributing agencies for loss of USDA Foods, as well as for the loss or improper use of funds provided or obtained as a result of food distribution. USDA may choose to compromise, forgive, or waive a claim (waiver is not guaranteed).

There are several reasons for loss.

Fraud. Intentional concealment or willful misrepresentation of information. In this discussion, the term fraud includes theft, embezzlement, and willful misapplication.

If a loss of any amount occurs as a result of fraud then TDA must pursue a claim against the responsible party. Additionally, federal regulations require TDA to forward the claim to USDA.

Negligence. Improper distribution or use of USDA Foods; or failure to properly store, handle, or care for the food.

TDA will not pursue a claim if the loss is less than \$500. For more on negligence, see “Fraud, Negligence, and Misuse of USDA Foods” in this handbook section.

Uncontrollable event. Hidden damage, hurricane, flood, or general power outage.

TDA will not pursue a claim if a loss is the result of an uncontrollable event. If the loss exceeds \$500, TDA informs USDA.

²⁵ Report of loss is discussed below.

Report of Loss of USDA Foods. To report a loss, CEs must complete and submit to the Program Specialist²⁶ *Report of Loss of USDA Foods* (Form H1638) and any other supporting documentation²⁷, including documents provided by subagencies. CEs are encouraged to report losses as soon as discovered; however, all losses must be reported to TDA no later than 24 hours of the loss. All reports of loss must explain how and why the loss occurred. For a copy of the *Report of Loss of USDA Foods*, go to www.Squaremeals.org. Choose “Programs” then “The Emergency Food Assistance Program;” click on “TEFAP Administration and Forms,” then input the proper form number into the appropriate search field.

The following table provides examples of supporting documentation for the *Report of Loss of USDA Foods* (Form H1638).

Type of Documentation	Details about Documentation
<i>Condemnation certificate</i>	From health official
<i>Destruction certificate</i>	Must include when, where, and how the USDA Foods were destroyed; and by whom
<i>Temperature logs</i>	If USDA Foods were stored in the freezer or cooler
<i>Police report</i>	If theft or vandalism was involved <i>Also, include precautions taken to prevent future theft or vandalism.</i>
<i>Fire department report</i>	If the loss was due to fire
<i>Extermination records</i>	If the loss was due to infestation
<i>Refrigeration repair information</i>	If the loss was due to refrigeration failure

²⁶ Email CommodityOperations@TexasAgriculture.gov.

²⁷ Examples of supporting documentation include photographs; the confirmation document of the local health official who inspects the food loss; or a receipt or invoice from a landfill that verifies destruction of the food loss.

Holdings and Recalls

USDA notifies TDA of a hold or recalls to provide 1) instructions, 2) replacement of recalled foods and 3) reimbursement of specific costs related to the recall. TDA emails pertinent information to CEs. In some cases, the email also directs CEs to TX-UNPS, where CEs respond to a survey. Via the survey, CEs report the amount of affected product in their possession, as well as whether the product was delivered to subagencies.

If USDA Foods are on hold, the CE and subagencies, if applicable, segregates the product until USDA either releases the hold or provides further information.

If the USDA Foods are recalled, TDA instructs CEs of the ways to dispose of the product.

For more information, see the USDA Food Safety website at <http://www.fns.usda.gov/food-safety/hold-and-recall-procedures>.

Public Notification of a Recall. TDA recommends that the CE and subagency broadcast recall information in ways that a participant can be reached. The CE and subagency may take further action as they deem necessary.

Out-of-Condition USDA Foods

Out of condition USDA Foods are no longer fit for human consumption because of damage, spoilage, or infestation. Occasionally, some USDA Foods can be salvaged; if so, CEs must contact TDA.

When there is a question about the wholesomeness of USDA Foods, CEs and subdistributing agencies must have the foods inspected by a state or local health authority to ensure the foods are still safe. When USDA Foods are determined to be out of condition, CE must take the following steps:

1. Obtain from a federal, state or local health official a written statement that the USDA Foods are unfit for human consumption

NOTE: If a federal, state or local health official is not available to inspect foods to determine if they are out-of-condition, then CEs and subagencies may, with TDA approval, use other community resources, e.g., individuals who provide inspection services, nurses, or others whose training, experience or background in medical, health, or related fields qualify them to determine if food is fit for human consumption.

2. Obliterate carton labels
3. Destroy food and ensure that it is inedible
4. Transport unsalvageable, out-of-condition USDA Foods to a landfill for proper disposal

Claim Reimbursement

Filing and Submitting Monthly Claims

A CE's claim is the actual participation report submitted for the purpose of receiving financial assistance with administrative costs associated with TEFAP operations. TDA reimburses claims depending on the availability of funds.

Only a person authorized on *Certificate of Authority for External Users* (Form FND-101) may enter the claim in TX-UNPS.

Reported Costs. All costs reported by a CE must appear in the budget approved by TDA. Further, all costs must be correctly reported on the claim for reimbursement.

Identifying Costs Separately. Monthly claims must separately identify the direct and indirect costs of distributing USDA Foods. As authorized by contracts and as funds are available, CEs must include special transportation costs on monthly claims, as instructed by TDA. In addition, CEs may include on claims the reimbursable costs of distributing non-USDA Foods.

End-of-the-Year Due Date. All claims must be submitted no later than November 29, which is 60 days after the close of the federal fiscal year. TDA will not accept claims for reimbursement of costs of distributing USDA Foods after this date.

Reallocation of Administrative Funds. After the end-of-the-year due date, and after TDA has reimbursed all CEs as it determines to be appropriate, TDA will take the following steps:

- Use the appropriate allocation method to reallocate funds and reimburse any remaining allowable costs of distributing USDA Foods to CEs who exceed their Letter of Credit amounts
- With any remaining funds, reimburse CEs their allowable costs of distributing non-USDA Foods

Adjusted Claims. Adjusted claims that result from a TDA review of a CE must be submitted to the Program Specialist²⁸.

If TDA processes an adjusted claim for a month in the current program year, TDA will reconcile any overpayment or underpayment against any outstanding claims for the current program year. If the outstanding claims are not sufficient to reconcile the adjusted claim, TDA will process payment to the CE for any underpayment and will require the CE to submit any

²⁸ Email CommodityOperations@TexasAgriculture.gov.

remaining overpayment.

Program Documentation

TDA is able to observe a CE's daily operation of the program when conducting compliance reviews and audits. Therefore, TDA must rely on the records that a CE retains to determine compliance with TEFAP requirements and to verify the reimbursement to which the CE is entitled. If a CE's records do not support eligibility or claims for reimbursement, the CE will be required to repay the unsupported amount.

Record Retention. CEs must retain all documents relating to participation in the TEFAP, such as claims and supporting documents that are specific to a particular program year, for three years from the end of that program year. These documents include but are not limited to, eligibility determinations, financial documents, supporting documents, distribution receipt, and statistical records.

For example: All documents specific to TEFAP program year 2018 must be retained until September 30, 2021.

Every application creates a record — even an application denied because of ineligibility. Therefore, denied applications are subject to record retention requirements. For more information, see “Ineligible Applicants” in this handbook section.

However, if audit findings, claims, litigation, or investigation findings have not been resolved, all forms and records must be retained beyond the required time period until all issues are resolved. These issues are considered resolved when a final order is issued in litigation, or when the CE and TDA sign a written agreement indicating that the audit findings, claims, or investigation findings have been resolved.

Availability of Records. Each CE, as well as each of its subagencies, must allow TDA, USDA, U.S. Government Accountability Office (GAO), and representatives of other appropriate agencies to inspect facilities and records and to audit, examine, and copy records during normal working hours.

CEs must maintain separate records for each subagency, and TEFAP records must be maintained separately from records of other programs. CEs must make records available to TDA upon request. Such records include, but are not limited to, the following:

- CE findings of subdistributing agencies
- Number of participants served
- Salvage license

Record maintenance requirements apply even if the *TEFAP Agreement and Application for Participation/Plan of Operation* are terminated or not renewed.

Statistics by County. CEs are required to provide annual statistics by county in the areas served. This information is based on data from the previous program year and is due by November 30 of each year. This information should be submitted to the Program Specialist²⁹ electronically on a spreadsheet, with the fields listed in the order below:

- Name of CE
- Name of county
- Number of subagencies in the county
- The quantity of USDA Foods received by the CE for the program year (total pounds)
- The total value of USDA Foods received by the CE for the program year
- Quantity of USDA Foods distributed by the CE for the program year (total pounds)
- Quantity of USDA Foods distributed by county for the program year
- Percentage of total USDA Foods distributed by county
- The total amount of TEFAP administrative funds that have been reimbursed to the CE during the program year
- Total administrative CE expense for the program year
- TEFAP administrative expense for the county for the program year

TEFAP Foods for Children

Some CEs or subagencies provide TEFAP foods to children. For instance, schools³⁰ may provide children with TEFAP foods for home consumption. CEs such as food banks may provide prepared meals to children. This discussion provides details about TEFAP USDA Foods and children.

Eligibility

Congregate Meals. There are no eligibility criteria for congregate meals; individuals are presumed eligible because they seek meals at a TEFAP site. Any child at any congregate meal site must receive a meal.

- **Household Distributions.** Children are categorically eligible for TEFAP USDA Foods if they are eligible for free or reduced-price meals under the National School Lunch Program (NSLP) or
- School Breakfast Program (SBP), or eligible for free milk under the

²⁹ Email CommodityOperations@TexasAgriculture.gov.

³⁰ The language in this discussion refers to schools, but sites may be located in other facilities.

- Special Milk Program (SMP).

Site Responsibilities

Permission to Participate. Parents or caregivers must accept household distributions for children in writing — for instance, by signing a permission slip. A household member under age 18 can sign the permission slip only if there are no household members 18 or older.

Permission slips must include at least the following information:

- A brief description of the way that the program works
- Clauses that allow parents or guardians to opt-in or out of the program
- The nondiscrimination statement found in *TEFAP Handbook*, Section 6000, *Civil Rights*, “Public Notification”

Schools will keep on file the returned permission slips.

Records of Participants Served. On each distribution day, schools must record the names of participants. TDA recommends that schools report this information to CEs monthly.

Other information that schools might want to collect includes:

- School name
- Month and year
- Program coordinator at the school
- Week number of distribution (week 1, week 2, week 3, etc.)
- Date of distribution
- Stories of ways the food helped participants
- Comments
- Concerns

Signature for Receipt. A school representative (or the agency that receives the USDA Foods for the school) must sign a receipt to indicate that the food was received. For more information on record retention, see “Record Retention” in this handbook section.

Storage and Use.

Schools must meet federal storage requirements for USDA Foods. Foods must be stored

1. at least four inches off the floor,
2. in a pest-free area, and
3. in a temperature-controlled environment.

Schools must use earlier distributions first.

For example: Food delivered on October 1 must be distributed before food distributed on October 20.

Contracting Entity Responsibilities

Agreement. TDA recommends an agreement between the CE and the school agency. The agreement should specify the information below:

- Distribution plan (see “Distribution Plan,” below)
- Contact information for school personnel responsible for the program
- Schools’ reporting requirements (at a minimum: names of participants on each distribution date)
- A statement certifying that school personnel understand and agree to the proper use of USDA Foods
- USDA’s civil rights assurance language³¹

Distribution Plan. The CE emails to CommodityOperations@TexasAgriculture.gov a distribution plan, which must include the following information:

1. How will the food packages be distributed?
For example: A school site might distribute weekly, near dismissal, in the office, etc.
2. What is the certification period?
For example: 3 distributions, 6 distributions, the entire school year, etc.
3. The specification that the school must record the names of participants that receive USDA Foods for each distribution.
TDA recommends that schools report this information monthly.

After TDA approves the distribution plan, the CE may use the plan for all children’s household sites for TEFAP.

Information for the *Application for Participation/Plan of Operation*. The CE must include schools or other sites that participate in the household distributions to children on the CE’s list of subagencies by county that is submitted annually with the *Application for Participation/Plan of Operation*.

Site Visits. At least once each program year, CEs must visit each participating school during distribution times to ensure that the school meets the terms of its agreement.

³¹ For more information, contact the Program Specialist at CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325).

Complaints

CEs should keep in mind that factors affecting USDA purchases of USDA Foods include market conditions; the amounts, types, and costs of foods available; and price support requirements. In addition, when purchasing USDA Foods, USDA considers the recommendations of CEs and subagencies.

USDA and TDA appreciate the input of CEs and subagencies regarding food quality or specifications. Two complaint forms and their locations are described below.

USDA Foods Complaint Form

CEs may use the *USDA Foods Complaint* form to report specific issues involving USDA Foods. Such issues include (but are not limited to) quality, acceptability, and packaging. The form is available on the TDA website at www.Squaremeals.org; select The Emergency Food Assistance Program, click on TEFAP Administration & Forms, then enter the form name in the appropriate search field.

TDA must seek guidance and authorization from USDA before disposing of USDA Foods that have been the subject of a complaint, due to food safety regulations and to contractual obligations with USDA's vendors. The complaint will be resolved as expeditiously as possible.

F&N Complaint Form

CEs may use the *F&N Complaint Form* to give TDA feedback concerning program problems or general suggestions. This complaint form is available on the TDA website at www.Squaremeals.org; select The Emergency Food Assistance Program, click on TEFAP Administration & Forms, then enter the form name in the appropriate search field.

Presidentially Declared Disasters and Situations of Distress

Resources

In addition to the discussion below, the following resources provide information about disasters and situations of distress.

- USDA maintains the *UDAS Foods Program Disaster Manual* at <https://www.fns.usda.gov/disaster/disaster-assistance>.
- [Www.Squaremeals.org](http://www.squaremeals.org) contains frequently updated information for CEs and subagencies. From the home page, choose Food Assistance for Disaster Relief
- *TEFAP Handbook*, Section 12000, *Questions and Answers about Disaster Policies and Procedures*, contains information in a question/answer format.

These definitions are pertinent to the discussion below.

disaster – A presidentially declared disaster or emergency that results in USDA Foods assistance (and other federal assistance) for eligible people because of the disaster or emergency. Throughout this discussion, disaster is used for emergency and distress.

situation of distress – A natural catastrophe or another event that does not meet the definition of disaster as defined above, but that TDA or USDA determines warrants the distribution of USDA Foods to assist survivors. Examples include, but are not limited to, a hurricane, flood, snowstorm, or explosion. Throughout this discussion, disaster is used for situation of distress.

TDA distributes TEFAP foods during a presidentially declared disaster, emergency, or situation of distress. CEs must obtain approval from TDA (via USDA regional and national offices) prior to diverting USDA Foods from intended purposes to assist victims of disasters.

Approval of disaster organizations

An organization that wishes to become a disaster organization with TDA must submit an application to TDA electronically or in written form. TDA must review and approve an application from each disaster organization before the distribution of USDA Foods to that organization. The table below, Application for Disaster Organization, details the information for each particular type of distribution.

Application for Disaster Organization		
1. Type of benefit	2. To the extent possible, necessary information	3. Additional, required information
Congregate meals	<ul style="list-style-type: none"> • A description of the disaster situation • The number of people requiring assistance • The time period for which USDA Foods are requested • The quantity and types of necessary foods • The number and location of sites where USDA Foods are to be used 	None
Household distribution	<ul style="list-style-type: none"> • A description of the disaster situation • The number of people requiring assistance • The time period for which USDA Foods are requested • The quantity and types of necessary foods • The number and location of sites where USDA Foods are to be used 	<ul style="list-style-type: none"> • An explanation of why the distribution is necessary • The available method(s) of distribution • A statement assuring that D-SNAP benefits will not be provided simultaneously with USDA Foods assistance in the form of household distribution • A description of the system that will prevent dual participation in D-SNAP and household distribution

Disaster Household Distribution (DHD) Program

USDA's Disaster Household Distribution (DHD) Program is designed to provide food assistance in disasters through USDA Foods that are typically distributed through TEFAP. CEs and subagencies must not initiate DHD — TDA will contact CEs when DHD is to be implemented. For more information, see the USDA Foods Program Disaster Manual at <https://www.fns.usda.gov/disaster/disaster-assistance>.

Congregate meals. TDA may provide, to a disaster organization, USDA Foods from any RA's current inventories to provide congregate meals during a disaster. A disaster organization may provide USDA Foods to emergency relief workers at congregate meal sites who are engaged in providing relief assistance.

Households. TDA may provide, to a disaster organization, USDA Foods from any RA's current inventories to provide foods to households during a disaster. Occasionally, a household has been approved for Disaster SNAP (D-SNAP) benefits but has not yet received the benefits. In this case, the disaster organization must obtain the following information from the household and report the information to TDA:

1. Name and address of household members applying
2. Total number of household members
3. A statement from the head of the household certifying the following:
 - The household needs food assistance.
 - The household is not receiving D-SNAP benefits.
 - An indication of understanding that selling or exchanging USDA Foods is prohibited.

Further, the disaster organization must maintain a system to prevent dual participation in TEFAP and D-SNAP.

Prohibited Actions

Payment for USDA Foods. CEs must not require, solicit, or accept payment from TEFAP applicants or participants in money, materials, or services for, or in connection with, receiving USDA Foods. Additionally, USDA Foods must not be sold or disposed of through commercial methods.

NOTE: This policy does not restrict any person or persons from volunteering services in their communities, as they choose when such volunteer services are not conditions for receiving USDA Foods.

Join an Organization. CEs must not require an agency, organization, individual or a household to join, attend meetings of or pay dues to a specific organization as a condition for receiving, distributing or using USDA Foods.

SNAP Recruitment and Promotion. TEFAP administrative funds may be used only to pay the direct expenses associated with the distribution of USDA Foods as well as foods secured from other sources. CEs and subagencies must not use TEFAP administrative funds to compensate outreach workers based on the number of individuals who apply for SNAP as a result of that worker's efforts.

Additionally, TEFAP funds must not be used for the following activities:

- Recruitment activities designed to persuade an individual to apply for SNAP
- TV, radio, or billboard advertisements designed to promote SNAP benefits and enrollment
- Agreements with foreign governments to promote SNAP benefits and enrollment

Restricted Practices

USDA Foods to Child and Adult Care Food Program Organizations. CEs may distribute USDA Foods to Child and Adult Care Food Program organizations that are also participating in TEFAP. However, distribution to such eligible organizations should be made only if the needs of all emergency-feeding organizations, such as hunger relief agencies, soup kitchens, and food pantries, have been met. Refer to "Distribution Priorities" in this handbook section for additional information.

Activities Unrelated to USDA Foods.

CEs and subagencies must ensure that unrelated activities are conducted in a way that does not disrupt TEFAP distribution or congregate meals.

A person may conduct activities unrelated to TEFAP distribution or meal service as long as the person clarifies that

- the activity is not part of TEFAP,
- such activity is not endorsed by USDA, and
- cooperation with the activity is not a condition to receive TEFAP foods, including
 - contributing money,
 - signing petitions,
 - or conversing with the person.

Information pertaining to explicitly religious activity must never be placed in TEFAP

containers. On the other hand, information unrelated 1) to TEFAP and 2) to explicitly religious matters, is permissible if it is printed with a statement that the information is not endorsed by USDA.

Some information can be included in TEFAP containers without specifying that USDA does not endorse it, including, but not limited to

- recipes,
- information about USDA Foods,
- dates of future distributions,
hours of operations, or
- other federal, state, or local government programs or services for eligible people.

Corrective action will be required of any CE or subagency that distributes or permits distribution of, materials as explained above. Failure to maintain corrective action may result in the termination of the TEFAP agreement.