

Section 5000

Visits, Reviews, and Audits

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Section 5000

Visits, Reviews, and Audits

5100 Visit Prior to Approval

The Texas Department of Agriculture (TDA) visits, prior to approval, an applicant's administrative offices and storage facilities to assess the potential for successful operations of The Emergency Food Assistance Program (TEFAP). See TEFAP Handbook, Section 2000, Eligibility and Application Requirements, "Visit Prior to Approval of Initial Applications and Renewals."

5200 Reviews

Compliance reviews are conducted for all contracting entities (CEs), subdistributing agencies, and sites to ensure program compliance according to the terms and conditions of *The Emergency Food Assistance Program Agreement Between Contracting Entity and Texas Department of Agriculture (TEFAP Agreement)* and *Application for Participation/Plan of Operation* including, but not limited to the following:

- Evaluation of overall TEFAP operations and activities
- Storage and warehousing practices
- Inventory controls and accountability
- Civil rights compliance
- Financial management systems
- Approval and monitoring of subdistributing agencies and sites to ensure program compliance
- Reporting and recordkeeping
- Other aspects of their programs, as determined by TDA

Each entity participating in TEFAP is reviewed by the entity that provides its USDA Foods.

- The site is reviewed **by** the subdistributing agency (if applicable) or the CE.
- The subdistributing agency is reviewed by the CE.
- The CE is reviewed by TDA.

NOTE: TDA may review subagencies without coordinating with the CE. In addition, CEs, subdistributing agencies and sites are subject to review by USDA.

TDA may request, at any time, findings information from the CE's reviews of subagencies.

5210 Risk Assessment Tool

TDA uses the risk assessment tool to determine which CEs and subagencies to review. The tool determines reviews first, by risk-based assessment, then by random sample.

1. *Risk-based assessment.* The risk factors include the following:

- Value of USDA Foods
- Amount of administrative funds received (if applicable)
- History of complaints
- History of TEFAP violations
- Length of time operating TEFAP
- Length of time since the last review
- Known turnover of the director or key staff
- Other applicable factors

2. *Random sample.* CEs and subagencies not selected for a risk-based review are subject to selection by random sample.

5220 Review Frequency

TDA. Annually TDA reviews at the following frequency:

- CEs: At least 25%, and no less than once every three years
 - When TDA reviews a CE, TDA also reviews the CE's subdistributing agencies (if any exist).
- Sites: At least one-tenth or 20, whichever is fewer

The CE and subdistributing agency. Annually the CE or subdistributing agency (as applicable) reviews at least one-tenth or 20 (whichever is fewer) of its sites, and each site no less than once every two years. To the extent feasible, reviews must be scheduled to coincide with meal service, distributions to households, and/or when household eligibility is being determined.

5230 Storage Facility Review

CEs must annually review facilities where USDA Foods are stored to reconcile physical and book inventories of USDA Foods. CEs must document the results of each storage facility review and, as with all TEFAP records, retain the documentation for three years following the end of the federal fiscal year in which the review was done. Additionally, CEs must require subagencies that store USDA Foods to review their storage facilities annually.

CEs should schedule the storage facility review to coincide with the semi-annual inventory of USDA Foods¹ reported to TDA on June 30 of each year. CEs will report a loss of USDA Foods discovered as a result of either the semi-annual inventory of USDA Foods or the storage facility review on *Report of Loss of USDA Foods* (Form H1638)². CEs must correct deficiencies discovered during a storage facility review and report the results to TDA.

A CE's storage facility review must ensure that the facility, at a minimum, meets these requirements:

- Sanitary
- Free from animal and insect infestation
- Secure from theft, spoilage, and other loss
- Maintained at proper temperatures
- Used appropriately to store food (e.g., the product is stored off the floor, boxes are safely stacked with USDA labels visible, and containers are spaced for proper ventilation)
- In compliance with other standards, as appropriate

5300 Program Documentation

5310 Record retention

CEs and subagencies must retain all documents relating to the TEFAP for at least three years from the end of that program year. However, all records must be retained until the resolution of issues pertaining to reviews, audits, or investigations. Such documents include, but are not limited to, financial and supporting documents as well as statistical records.

For example: All documents specific to the program year 2018 (October 1, 2017 through September 30, 2018) must be retained until September 30, 2021.

¹ For more information, see TEFAP Handbook Section 4000, *Physical Inventory*.

² For more information, see TEFAP Handbook Section 4000, "Report of Loss of USDA Foods."

5320 Availability of records

Upon request, CEs and subagencies must allow TDA, USDA, the Government Accountability Office, and representatives of other appropriate agencies to audit, examine, and copy records. Records must also be available during normal working hours.

When preparing for a compliance review, a CE or subdistributing agency must make all TEFAP records available to the reviewers.

During a review, TDA may review the following TEFAP-related documents, including but not limited to:

- Documents concerning the application for participation
- Storage and warehousing practices
- Inventory controls
- CE approval and monitor review of subdistributing agencies and sites to ensure TEFAP compliance
- All required TEFAP forms
- Budget records (applicable only to CEs)
- Records of training
- Cost allocation records
- Records of subcontracting
- Procurement records
- Single audit records
- Civil rights compliance
- Other documents, as determined by TDA

5400 Findings and Corrective Action Plans

The following definitions pertain to the discussion below.

finding – The determination, usually during a review, of TEFAP noncompliance.

NOTE: A finding at a site is a finding for the CE.

corrective action plan (CAP) – Developed by a CE, subdistributing agency, or site to correct noncompliance relating to TEFAP operations.

5410 Findings Letter

When a reviewer (TDA, CE, or subdistributing agency) finds TEFAP noncompliance, the reviewer will issue a findings letter that includes the following:

- Each finding
- The criteria³ for each finding (if necessary)
- Recommendations for achieving corrective action
- Claims action to be pursued (if any)
- Due date of the Corrective Action Plan (CAP)

5420 Corrective Action Plan

To address noncompliance, CEs and subagencies must submit a CAP. Each TEFAP entity submits its CAP to the entity that provides its USDA Foods.

- The site submits the CAP to the subdistributing agency (if applicable) or to the CE.
- The subdistributing agency submits the CAP to the CE.
- The CE submits a CAP to TDA.

For example: A subdistributing agency cannot locate site records during a compliance review by the CE. The subdistributing agency's CAP must include a plan to develop a system for maintaining site records of USDA Foods distributions.

For example: In a CE's service area, eligible persons have no access to USDA Foods. As a CAP, the CE provides a plan to develop food providers in that area.

A CAP must state how the organization will correct program violations and 2) include the following details:

- An outline of actions to be taken
- The expected outcome of each action
- The target date for completion of each action
- The date by which each violation will be eliminated

For example: A CAP is required if the CE receives a finding for failing to maintain administrative records. In such a case, the CE's written CAP to TDA will provide the following:

- The steps to rectify the lack of record maintenance
- What the result of those steps would be
- The target date for each step, including the end date for the corrective action

³ In this case, *criteria* means the regulations or guidance.

If a CAP is incomplete or inadequately addresses TEFAP noncompliance, the CAP may be returned, for clarification, to the entity that submitted it. Additionally, the reviewing entity may amend or modify the CAP based on new information, changes in circumstances, and/or progress to date.

The reviewing entity may perform a follow-up review to ensure the implementation of the CAP and correction of the TEFAP noncompliance. After the follow-up review, the reviewing entity may take the following action, as warranted by the circumstances:

- Determine that the corrective action is complete
- Extend the corrective action time frame
- Take steps to terminate the entity's participation in TEFAP

TDA has the option to withhold administrative funding from the CE until noncompliance is corrected.

5500 Audits

This section provides an overview of the Federal Audit requirements as found in 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. It is not meant to be a comprehensive treatment of the Federal Audit requirements. For more specific guidance in this area, please see 2 CFR Part 200 and the latest *Compliance Supplement*. The *Compliance Supplement* may be found at <https://www.whitehouse.gov/wp-content/uploads/2018/05/2018-Compliance-Supplement.pdf>.

The CE's audit covers the entire scope of its operations and is conducted to determine whether:

- Financial operations are conducted properly;
- Expenditures of program funds comply with applicable laws and regulations;
- Internal procedures meet the objectives of federally assisted programs;
- Financial statements are correct; and
- Financial reports contain accurate information.

As a condition of eligibility for participation in TEFAP, TDA requires the CE to submit the *Annual Audit* form or complete the Annual Audit screen in TX-UNPS during the initial application and each year thereafter. This provides assurance to TDA that the CE will obtain an audit that meets the single audit requirements. Based on the information provided by the CE, TDA will notify the CE of the audit's due date six (6) months and again at eight (8) months after the end of the fiscal year for which the audit is due. However, failure to receive such notifications does not relieve a CE of the responsibility to submit an audit if required.

TDA will notify a CE that:

- The audit must be submitted, by the due date, to the Federal Audit Clearinghouse at <https://harvester.census.gov/facweb/> and a copy (paper or electronic format) must be submitted to TDA. Notification will include submittal information for TDA.
- If a CE's audit is not submitted by the specified due date, the *TEFAP Agreement* will be terminated effective the first day of the month following the month in which the audit was due.

5510 General Audit Policy

The frequency and scope of audits are determined by the amount and source of federal financial assistance expended in any year. Non-Federal CEs that expend \$750,000 or more during their fiscal year in Federal awards⁴ must have a single or program-specific audit conducted for that year (2 CFR § 200.501(a)). CEs subject to audit requirements in 2 CFR Part 200, subpart F must be audited on a single (organization-wide) audit basis by independent auditors. If a CE expends Federal awards under only one Federal program (such as TEFAP), it may elect to have a program-specific audit if certain requirements are met (2 CFR §200.501(c)). If the federal financial assistance expended in one year is less than \$750,000, then the CE is not subject to the single audit requirement. All audits must be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS).

In procuring audit services, the CE must follow the procurement standards in 2 CFR Part 200 (2 CFR §§200.509 and 200.317 through 200.326). The objective is to obtain high-quality audits. In requesting proposals for audit services, the audit's objectives and scope must be made clear and the CE must request a copy of the audit organization's peer review report which the auditor is required to provide under GAGAS.

Factors CEs should consider in evaluating each proposal for audit services include:

- Responsiveness to the request for proposal;
- Relevant experience;
- Availability of staff with professional qualifications and technical abilities;
- Results of peer and external quality control reviews; and
- Price.

Whenever possible, the CE must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises.

⁴ As used in this section, *Federal Award* means federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities (CEs) receive directly from Federal agencies or indirectly from pass-through entities. TDA is a pass-through entity for the TEFAP (2 CFR §200.38).

5510.1 Value of USDA Foods for Audit

On December 2, 2016, USDA issued Memorandum [FD-104, Value of USDA Donated Foods for Audits \(Revised\)](#)⁵ to clarify the options in assigning value to USDA donated food for audit purposes. In determining whether \$750,000 in Federal awards was expended, the value of USDA donated foods must be considered. The following two steps should be used:

Step 1: Determining the quantity of each USDA donated food “expended”

- The CE must consider as expended all USDA foods donated in accordance with 7 CFR § 250.67 as received in a fiscal year.

Step 2: Assigning a value to the quantity of each USDA food “expended”

- USDA donated foods must be valued at either fair market value at the time of receipt or at the value determined by the USDA (2 CFR § 200.502(g)). Accordingly, for audit purposes, the TEFAP CE receiving USDA donated food may use one of the following options:
 - The fair market value of USDA donated foods at the time of their receipt. The fair market value must exclude non-food items.
 - One of the following donated food valuation methods included in 7 CFR § 250.58(e):
 - The cost-per-pound of USDA donated food prices posted annually by USDA on its Food Distribution web page at <http://www.fns.usda.gov/fdd/fns-wbscm-information>;
 - The most recently published cost-per-pound price in the USDA donated foods catalog, found in the USDA donated foods ordering system, Web-Based Supply Chain Management (WBSCM) at <https://www.usda.gov/topics/food-and-nutrition/web-based-supply-chain-management>; or
 - The rolling average of the USDA prices based on each State distributing agency’s⁶ USDA donated food sales orders in WBSCM. To calculate the rolling average, all prices that a particular material has been sold for the current fiscal year are averaged together to get an average cost per pound price for the material.

NOTE: The value applied to USDA Foods for audit purposes does not apply for other purposes. For example, FNS Instruction 410-1 (Rev) is used when determining and pursuing claims for USDA Foods losses.

⁵ <https://www.fns.usda.gov/value-usda-donated-foods-audits>

⁶ TDA is the State distributing agency.

For additional assistance, contact TDA at CommodityOperations@TexasAgriculture.gov or 1-877-TEX-MEAL (1-877-839-6325).

5520 Scope of Audit

CE Responsibilities

The CE must provide auditors with access to:

- Personnel
- Accounts
- Books
- Records
- Supporting documentation
- Other information as needed to perform the audit

(2 CFR § 200.508(d))

The CE must prepare:

- Financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited (2 CFR § 200.510(a)).
- Schedule of Expenditures of Federal Awards (SEFA) for the period covered by the CE's financial statements which must include the total Federal awards expended (2 CFR § 200.510(b)). At a minimum, the schedule must:
 - List individual Federal programs by Federal agency;
 - Name of the pass-through entity (TDA) and identifying number assigned by TDA;
 - Total Federal awards expended for each individual Federal program and the Catalog of Federal Domestic Assistance (CFDA) number or other identifying number when the CFDA information is not available;
 - Total amount provided to subrecipients from each Federal program; and
 - Notes that describe the significant accounting policies used in preparing the schedule and whether the CE elected to use the 10% de minimis indirect cost rate.
- Summary schedule of prior audit findings must report the state of all audit findings included in the prior audit's schedule of findings and questioned costs (2 CFR § 200.511(a) and (b)).

- A corrective action plan⁷ to address each audit finding included in the current year auditor’s report (2 CFR § 200.511(c)). The corrective action plan must provide:
 - Name(s) of the contact person(s) responsible for corrective action;
 - Corrective action planned; and
 - Anticipated completion date.

NOTE: If the CE does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons. (2 CFR § 200.511(c)).

Overview of CE’s Responsibilities (2 CFR § 200.508)
<ul style="list-style-type: none"> • Arrange for Audit (2 CFR § 200.509) • Prepare Financial Statements • Prepare SEFA • Provide Auditor with Access • Take Corrective Actions on Findings • Prepare Summary of the Prior Audit Findings • Prepare Corrective Action Plan

The CE must establish and maintain effective internal controls over the Federal award. Internal Controls provides reasonable assurance that the CE is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award (2 CFR §200.303).

Auditor Responsibilities

The auditor must report the following as audit findings (2 CFR § 200.516):

- Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs.
- Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program.
- Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program.
- Known questioned costs that are greater than \$25,000 for a Federal program that is not audited as a major program.
- The circumstances concerning why the auditor’s report on compliance for each major program is other than an unmodified opinion unless such circumstances are otherwise

⁷ The corrective action plan, as described in 2 CFR Part 200, subpart F, is used to address each audit finding. This corrective action plan should not be confused with a corrective action required by TDA as a result of a compliance review.

reported as audit findings in the schedule of findings and questioned costs for Federal awards.

- Known or likely fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards.
- Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding.

The auditor’s report must include (2 CFR § 200.515):

- An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditure of Federal awards is fairly stated in all material respects in relation to the financial statements as a whole.
- A report on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements.
- A report on compliance for each major program and a report on internal control over compliance.
- A schedule of findings and questioned costs.

Overview of Auditor’s Responsibilities (2 CFR § 200.514)
<ul style="list-style-type: none">• Determine if financial statements are fairly presented• Report on SEFA• Understand and test internal control over compliance• Determine whether CE complied• Follow up on prior audit findings• Report findings• Complete and sign Data Collection Form

5530 Procedures for Compliance with Audit Requirements

As a condition of eligibility for participation in TEFAP, TDA requires CEs to submit documentation of compliance with single audit requirements. The audit must be completed and submitted by the CE to the Federal Audit Clearinghouse (FAC) either 30 days after receiving the auditor's report, or nine months after the end of the CE's fiscal year, whichever comes earlier.

The CE must submit to the FAC the data collection form (Form SF-SAC) which is found on the FAC website and a reporting package. The reporting package must include the following:

- Financial statements and schedule of expenditures of Federal awards;
- Summary of a schedule of prior audit findings;
- Auditor's report(s); and
- Corrective action plan.

(2 CFR § 200.11(b) and (c)). The CE must retain one copy of each of the data collection forms and reporting packages on file for three years from the date of submission to the FAC (2 CFR § 200.511(f)).

The FAC website provides detailed information on how to upload a single audit at <https://harvester.census.gov/facweb/>. The audit also must be submitted to TDA and copies of the audit report must be made available to the public. CEs and auditors must ensure that protected personally identifiable information is not made public (2 CFR § 200.512).

Audits must be submitted to the FAC at <https://harvester.census.gov/facweb/> and a copy must be submitted to TDA and CEs should review and accept the completed audit before submitting the audit to the FAC and TDA. If corrective action is necessary, the CE should work with the auditing firm to develop a CAP to address each audit finding (2 CFR § 200.511(c)).

If the audit is organization-wide but the TEFAP is not specifically audited, the CE must submit a letter to TDA from the auditor stating that the program was included in the random sampling process but was not selected for audit.

The proportional share of costs of required audits in accordance with 2 CFR Part 200, subpart F are allowable (2 CFR § 200.425). Projected costs of required audits must be included in the approved TEFAP budget to be allowable.

5540 Sanctions for Noncompliance

TDA must receive an acceptable audit either 30 days after receiving the auditor's report or within nine months of the last day of CE's

- Current fiscal year if submitting an annual audit, or
- The second fiscal year included in the biennial audit period if submitting a biennial audit.

TDA may terminate a *TEFAP Agreement*, effective the first day of the month following the month in which the audit was due if:

- FAC and TDA does not receive the audit by the specified due date;
- The CE submits an audit that does not meet the regulatory requirements. TDA will notify the CE in writing that the audit is unacceptable. The CE must submit an acceptable audit within 30 calendar days of the date of the notice;
- A CE requests, but is not granted, an extension of the audit due date and the CE does not submit an acceptable audit as required; and
- The CE requests and is granted an extension of the due date but fails to submit an acceptable audit by the extended due date.

If TDA determines that extenuating circumstances resulted in a CE's inability to submit an acceptable audit, TDA may conduct an audit, either directly or through a contract with a third party. The CE must pay all costs associated with such an audit.

Once the *TEFAP Agreement* has been terminated for failure to comply with the single audit requirement, a CE must provide an acceptable audit for any outstanding audit year(s) and comply with the Federal audit requirements in order to be eligible to reapply to participate in TDA's nutrition programs.

5550 Other Audits

TDA retains, both for the agency and the federal government, the right to conduct additional audits as necessary.

If violations such as fraud or misuse of funds occur and corrective action would not be practical, TDA will immediately terminate the *TEFAP Agreement*.