



COLORADO
Office of Economic Security
Department of Human Services

Colorado Department of Human Services
Office of Economic Security
Division of Food and Energy Assistance
Food Distribution and Nutrition Education Programs



The Emergency Food Assistance Program Policy and Procedure Manual

Effective November 1, 2015

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The Emergency Food Assistance Program Policy and Procedures Manual

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I. Introduction

A. Purpose of Manual

1. The Emergency Food Assistance Program (TEFAP) Policy and Procedures Manual is provided by the Colorado Department of Human Services (CDHS), Food Distribution and Nutrition Education Programs (FDNEP) to clarify program procedures for Regional Food Banks and Eligible Recipient Agencies (ERA) participating in TEFAP.
2. The intent of this manual is to establish and maintain a consistent statewide minimum level of service for the emergency food provider network distributing USDA food.
3. The manual provides the framework for acceptable compliance to program guidelines established by FDP and the United States Department of Agriculture (USDA) federal program regulations found in Title 7 Code of Federal Regulations (CFR) Part 251 and, as applicable, Title 7 CFR 250.

B. Contents of Manual

1. The manual contains information about the rules, regulations, reports, and forms for TEFAP incorporated into agreements with program providers.

C. Availability of Manual

1. The TEFAP Policy and Procedure Manual is available on the FDP [website](#).
2. All agencies participating in TEFAP must maintain this manual on site.
3. The TEFAP Policy and Procedure Manual may be updated from time to time. All updated changes will be available on the FDP site at www.colorado.gov/fdp

II. Definitions

To assist in understanding of the TEFAP process, the following definitions are provided.

1. **Code of Federal Regulations (CFR):** Contains the regulations governing all federal programs. Regulations for TEFAP at 7 CFR 251 and 7 CFR 250.
2. **Colorado Department of Human Services (CDHS):** The state department that develops and oversees high quality health and human services that improve the safety, independence, and well-being of the people of Colorado. The programs and services are delivered at the local level in a manner that recognizes and preserves individual rights, responsibilities, and dignity.
3. **Commodity (Commodities):** *aka USDA food*; Food made available for TEFAP distribution by the United States Department of Agriculture (USDA) through legislation.
4. **Corrective Action:** A plan created to address a non-conformance. Corrective actions lead to performance improvement.
5. **Eligible Recipient Agency (ERA):** A private or public nonprofit organization that has entered into a contract/agreement to receive and distribute USDA food to eligible persons, such as a food bank/pantry, soup kitchen, or shelter.
6. **Federal Fiscal Year (FFY):** A twelve-month period used for accounting and reporting purposes, October 1 through September 30.
7. **Food Distribution and Nutrition Education Programs (FDNEP):** The work unit within CDHS that administers federal USDA food programs in the State of Colorado.
8. **Food and Nutrition Service (FNS):** An agency of USDA responsible for the nationwide administration of several federal nutrition programs including TEFAP.
9. **Food Pantry:** A public or private nonprofit organization that is a part of a food bank network that distributes food and grocery products to low-income households, including food from sources other than USDA, to relieve situations of emergency and distress. It is housed in a standing facility that distributes USDA food, among other food and grocery products, on a regular basis.
10. **Homeless Shelter:** A facility where the primary purpose is to provide temporary or transitional shelter for homeless individuals and families in

general or for specific group populations (i.e. battered women, run-away youth) of homeless individuals and families.

11. **Household:** A group of related or non-related individuals living as one economic unit who buy and cook food together. It can also mean a single individual living alone.
12. **Mountain Plains Regional Office (MPRO):** USDA/FNS Regional Office, headquartered in Denver, Colorado, responsible for USDA programs in Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.
13. **Network:** Food bank member agencies responsible for the provision of emergency and supplemental food services.
14. **Out of condition Product:** Out-of-condition products are those food products which appear to be contaminated, deteriorated, spoiled or infested, or have latent defects. Bulging cans or cans with sharp dents and rust on the seams are examples of out-of-condition products.
15. **Poverty Guidelines:** Established by the United States Department of Health and Human Services as an indicator of poverty based on income and utilized in establishing income-based eligibility standards for program participants. The guidelines are updated annually.
16. **Proxy:** Any person designated by a participant, or by the participant's adult parent or caretaker, to obtain supplemental food on behalf of the participant.
17. **Recipient:** A person or persons living together in one household who have been determined eligible to receive USDA food for consumption or for household use.
18. **Regional Food Bank:** Designated "Contractor" that is a nonprofit, charitable organization qualified under provisions of Section 501(c) 3 of the Internal Revenue Code of 1986 which maintains an established operation involving the provision of food and grocery products to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis. Regional Food Banks contract with FDNEP to order, receive, store, and deliver USDA food to eligible recipient agencies in their assigned region.
19. **Service Region:** An area of the state, determined by FDNEP, served by a Regional Food Bank under contract with FDNEP.
20. **Soup Kitchen:** A facility that is a clean, secure environment that offers prepared meals free of charge to predominately needy people. A Soup

Kitchen serves nutritious meals in a congregate setting or take-home meals without charge, for homeless persons, transient persons, and or others in need.

21. **State Fiscal Year (SFY):** A twelve-month period used for accounting and reporting purposes, July 1 through June 30.
22. **Storage:** The holding of USDA food for a period of time longer than twelve hours.
23. **The Emergency Food Assistance Program (TEFAP):** A federal nutrition assistance program which provides government purchased and donated USDA food to income eligible households or served prepared meals to needy persons.
24. **United States Department of Agriculture (USDA):** Cabinet level agency responsible for federal programs related to agriculture.
25. **Web Based Supply Chain Management (WBSCM):** A web-based program managed by USDA to order USDA food.

III. Administration

A. State Administration

1. The FDNEP has been designated as the state agency responsible for the administration of TEFAP. This program is housed within the Division of Food and Energy Assistance in the Office of Economic Security in the Colorado Department of Human Services.
2. Direct daily operation is the responsibility of the FDNEP.
3. FDNEP enters into a contract with Regional Food Banks for local level administration of the program.

B. State Distribution Plan

1. The FDNEP must submit for approval by the appropriate FNS Regional Office a plan which contains:
 - a) A designation of the State agency responsible for distributing USDA food and administrative funds and the address of such agency.
 - b) A plan of operation and administration to expeditiously distribute USDA food received.
 - c) A description of the standards of eligibility for recipient agencies, including any sub priorities within the two-tier priority system.
 - d) A description of the criteria established which must be used by eligible recipient agencies in determining the eligibility of households to receive USDA food for home consumption.
2. The plan will be updated through the Mountain Plains Regional Office (MPRO) as necessary.

C. Federal Allocation to States

1. TEFAP Entitlement

- a) USDA has developed a formula based on 60% poverty and 40% unemployment population to allocate product and funding to the states. Each state's share of USDA food and funds will be based 60% on poverty and 40% on the number of unemployed persons in the state. This is known as the state's fair share. Each state is offered its fair share of entitlement food and administrative funds according to the formula.

- b) USDA notifies the FDNEP when orders are to be placed, the product that is available for ordering, and the value of each product. Orders may be placed by the states for monthly delivery.
- c) FDNEP may order products based on the entitlement allocation of dollars set by USDA. USDA makes every effort to fill orders as requested. Occasionally, due to unforeseen circumstances, USDA will eliminate or substitute products and/or change delivery times.

2. TEFAP Bonus

- a) Bonus products are offered to each state based on the fair share of the federal allocation or on an open order basis. Bonus products are not purchased with entitlement funding. FDNEP may choose to accept all, part, or none of the bonus offering.

D. Local Administration

- 1. For program purposes, Colorado's sixty-four counties are divided into three regions of varying sizes. A food bank within each region is designated as the Regional Food Bank for local administration.
 - a) The Regional Food Bank incorporates USDA food into their food banking operations providing an enhanced variety of products available for distribution.
 - b) The following criteria are assessed when determining local level administration of the program.
 - (1) Ability to meet USDA Warehousing Standards for storage of USDA and non-USDA food items and non-food items.
 - (2) Ability to provide transportation to agencies in the service area for USDA food and non-USDA products.
 - (3) Ability to obtain non-USDA items and food resources to supplement USDA food products.
 - (4) Ability to monitor local network and enforce state and federal guidelines within the required timeframe.
 - (5) Ability to maintain an established operation involving the distribution of donated food on a regular basis as an integral part of its normal activities.
- 2. Regional Food Banks enter into written agreements with ERAs who either:

- a) Distribute USDA food to supplement eligible household food sources, or
- b) Use USDA food to provide meals to predominately needy persons.

E. FDNEP Allocation to Regional Food Banks

- 1. FDNEP determines an allocation of TEFAP food dollars to each Regional Food Bank based on the percentage of participation in the Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps, in the geographic service area.
- 2. This allocation formula is applied to entitlement and bonus food dollars and administrative funds.

F. Regional Food Bank Allocation to ERAs

- 1. FDNEP will provide county level SNAP data for each Regional Food Bank in July of each year. This data will be used for Regional Food Bank entitlement and funding determination. Additionally, this information may be used by Regional Food Banks for further allocation to its ERAs.
- 2. Regional Food Banks are responsible for determining the quantity and types of USDA food and other donated food issued to an ERA.
- 3. Regional Food Banks are encouraged to distribute the value of food by county when possible, but may modify as needed to meet participant needs.
 - a) All allocations should be made equitably based on need for household distribution and congregate meals.
 - b) There is no state-mandated distribution rate of USDA food to eligible households.
 - c) Regional Food Banks are encouraged to evaluate participation and need in allocating USDA food. Factors that may be considered are:
 - (1) The amount of food available in inventory,
 - (2) The number of persons in the household (agencies are encouraged to enhance food packages provided to households with more than four members),
 - (3) Number of clients served monthly and number of persons served in congregate feeding sites.
 - (4) Frequency of distribution.

G. Requesting USDA food

1. FDNEP receives allocation notices from USDA, establishes ordering deadlines, and forwards the information to the Regional Food Bank.
2. The Regional Food Bank places orders against their TEFAP entitlement dollar fair-share.
 - a) FDNEP provides guidance and materials to assist the Regional Food Bank with the ordering of USDA food in WBSCM or other approved software.
 - b) The Regional Food Bank will order USDA food to provide a nutritionally balanced monthly distribution in each county in the designated region.
 - c) In the event of system issues the FDNEP may place orders on behalf of the Regional Food Bank.
 - d) The Regional Food Bank has the right to accept or decline all or part of the bonus product allocated. Bonus product declined by a Regional Food Bank will be offered to other Regional Food Banks.
 - e) At no time may the Regional Food Bank's inventory be in excess of a six-month food supply without written approval of the FDNEP.
 - f) Excess inventories may be transferred between Regional Food Banks with prior notice and consent of the FDNEP. Records documenting the transfer must be maintained by all pertinent Regional Food Banks.

H. Shipment of Product from USDA to a Regional Food Bank

1. USDA provides for the transportation of USDA food to the Regional Food Bank and/or their designated shipping destinations.
2. Federal program shipping policy allows for two stops and a final drop on loads, unless otherwise stated. This means that a truck will make a maximum of three stops per delivery.
3. The Regional Food Bank and FDNEP shall receive notifications from WBSCM when items are shipped.
4. Shippers may occasionally contact the state or warehouse requesting an early delivery prior to the contracted ship period. It is within the discretion of the warehouse to accept product early.

5. USDA reserves the right to change the shipping period due to unforeseen circumstances, exchange ordered product with like product, or cancel orders.
6. When a shipment is delivered, the receiving facility must count the product and note any damage, overage, and/or shortage of product on the Bill of Lading with a signature and date.
7. Once a Bill of Lading is signed, title is transferred to the Regional Food Bank.
 - a) By signature of the Regional Food Bank, the Regional Food Bank assumes liability and will be held financially responsible for product shown on the Bill of Lading.
 - b) All items must be receipted in WBSCM within two (2) calendar days.
 - c) NOTE: Shipments will NOT be received in WBSCM until the Bill of Lading is signed.
 - d) If there is a problem, FDNEP must be notified immediately.
 - (1) FDNEP will contact USDA and work with all parties to resolve the problem.
 - (2) All goods must be receipted in WBSCM. This notifies USDA of overages/shortages/etc. However, if problems are determined at the time of USDA food receipt, they must be entered into WBSCM immediately.
 - (3) Information must include the sales number, number of cases, time truck arrived, time truck left, type and amount of damaged product, and overage and/or shortage of product.

I. Hold and Recall Procedures

1. The USDA food hold and recall process is used when a food safety issue is raised regarding a purchased USDA food. If a USDA food is placed on hold or is recalled, USDA, FNS, FDNEP, Regional Food Bank(s), and (when necessary) ERAs will work together to expeditiously resolve the problem.
2. Regional Food Banks are required to assign one staff member to be their Food Safety Coordinator and one staff member to serve as Alternate Food Safety Coordinator. The Regional Food Bank will provide to FDNEP the staff member names, titles, e-mail addresses, and phone and fax numbers.

The Food Safety Coordinator or alternate will act as a liaison between the Regional Food Bank and FDNEP.

- a) The above data must be kept current on a perpetual basis.
- b) The FDNEP must be promptly notified of any changes.

J. Complaints About USDA Food

1. USDA makes every effort to ensure that USDA food provided through TEFAP are nutritious and of the highest quality. However, if there are concerns with the quality or safety of any USDA food, a client may file a complaint. Complaint Form FDP-CO-400 will be used by a Regional Food Bank and/or ERA when filing a complaint or receiving a USDA food complaint by a program recipient.
2. Regional Food Banks are responsible for collecting the appropriate information regarding the product and nature of the complaint so that an investigation can be pursued by FDNEP or USDA. A completed form is to be submitted to FDNEP within five business days of receipt of the complaint.
3. Complaints are provided to FDNEP. FDNEP will enter complaints into WBSCM. If replacement of USDA food is being sought, the recipient must keep the defective product until FDNEP provides instructions on what to do with it.
4. The information needed to complete the form is the:
 - a) Complainant name, phone, and email,
 - b) Date of incident,
 - c) Date complaint received,
 - d) Description of complaint and resolution sought by complainant,
 - e) Contact information for receiver of the complaint, and
 - f) USDA food information.
5. The product material number and sales order number will be on the paperwork that is received with the USDA food, or FDNEP may be contacted to obtain it. USDA needs the numbers to determine which vendor produced the product and to resolve the complaint.

K. Use of USDA food for Demonstrations or Workshops

1. A quantity of any USDA food donated for use in TEFAP may be made available to professionally trained home economists for demonstrations or workshops relating to the more effective utilization of USDA food. The amounts of USDA food released for this purpose will be limited to the amounts needed for “tasters”. These may be prepared from one or more USDA food and will be served in small amounts rather than as a full meal.

L. Claim Actions

1. FDNEP will begin claim action immediately upon receipt of information concerning the improper distribution, loss of, or damage to USDA food and will make a claim determination within thirty days of the receipt of information, as described in further detail in [FNS Instruction 410-1, Non-Audit Claims – Food Distribution](#).
2. After a claim determination is completed, FDNEP will provide a written notification and demand for payment to the party responsible. This notice will include, at a minimum:
 - a) A description of the loss, including the types and quantities of the USDA food lost, and the value of the loss,
 - b) The date, location, and cause of the loss, if determined,
 - c) Evidence and documentation relating to the loss, including a certificate of inspection by health officials, as applicable, and
 - d) A formal demand that the responsible party make a payment to FDNEP for the full value of the loss of USDA food, or improper use or loss of funds, by a date not to exceed 30 days from the date of the notification and demand for payment.
3. The first priority for the use of collected funds is to replace the loss of USDA food for TEFAP. In the event it is not feasible to purchase replacement food, collected funds will be used to pay for the costs of storing and distributing USDA food.
4. The FDNEP will maintain records and substantiating documents on all claim actions and adjustments including documentation of those cases in which no claim was asserted.

M. Program Monitoring

1. USDA and/or FDNEP may visit any Regional Food Bank or ERA at its discretion for review purposes.
2. FDNEP is responsible for on-site monitoring of Regional Food Banks and ERAs.

- a) The purpose of the monitoring process is to evaluate program operations. The process includes, but is not limited to the review of:
 - (1) Outreach and referral procedures,
 - (2) Eligibility procedures: including ERA eligibility and TEFAP recipient eligibility,
 - (3) Civil rights compliance,
 - (4) Food ordering, receipt, distribution, storage, and inventory, and
 - (5) Financial and record keeping processes.
 - b) The review will be used to provide technical assistance for program improvement. The monitoring visit also provides an opportunity for the ERA to ask questions, discuss concerns, and make suggestions about the program.
 - c) FDNEP will comply with federal program regulations set forth in Title 7 CFR 251.10(e) when determining the number of reviews conducted annually at participating agencies.
 - d) FDNEP will issue a report of review findings detailing recommended and/or required corrective action to the appropriate Regional Food Bank. The Regional Food Bank will share findings with the ERA and develop systems to document corrective actions taken.
 - e) The Regional Food Bank will have forty-five days to:
 - (1) Develop resolution with the ERA, when applicable,
 - (2) Respond to the findings, and
 - (3) Document compliance with corrective action.
3. Regional Food Banks are responsible to conduct on-site monitoring of ERAs. These reviews are in addition to reviews conducted by FDNEP.
- a) The purpose of the monitoring process is to evaluate program operations. The process includes, but is not limited to:
 - (1) Outreach and referral procedures,
 - (2) Eligibility procedures: including ERA eligibility and TEFAP recipient eligibility,

- (3) Civil rights compliance,
 - (4) Food ordering, receipt, distribution, storage, and inventory, and
 - (5) Financial and record keeping processes.
- b) The review will be used to provide technical assistance for program improvement. The monitoring visit also provides an opportunity for the participating agency to ask questions, discuss concerns, and make suggestions about the program.
- c) FDNEP requires that:
 - (1) At least annually, the Regional Food Banks must review the IRS Automatic Revocation of Exemption List (<https://www.irs.gov/Charities-&-Non-Profits/Automatic-Revocation-of-Exemption-List>) to determine whether any of the ERA with which the Regional Food Bank has a TEFAP agreement are listed.
 - (a) Should any ERA appear on the List, the Regional Food Bank must notify the organization in writing that it has 30 days to provide documentation that it has applied for reinstatement of tax-exempt status or it will be terminated from TEFAP.
 - (b) Per 7 CFR 251.5(a)(3)(in), the organization then must forward documentation of IRS recognition of tax-exempt status to the Regional Food Bank within 180 days of the above-mentioned notification.
 - (c) A Regional Food Bank may grant one 90-day extension if the organization can demonstrate that its inability to obtain appropriate status during the initial period was due to circumstances beyond the organization's control.
 - (d) In addition to regular checks of established ERAs, the Regional Food Bank must verify that an organization does not appear on the List prior to entering into a TEFAP agreement.
 - (2) Regional Food Banks review 25% of their ERAs each year, resulting in a review of every ERA once every four years,
 - (3) Regional Food Banks will issue a report of review findings detailing recommended and/or required corrective action to the ERA, and

- (4) The ERA will have forty-five days to respond to the findings and document compliance with corrective action.
- (5) The Regional Food Bank will maintain review records for three years from the close of the federal fiscal year to which they pertain.

N. Training and Technical Assistance

1. FDNEP staff is available to provide training and technical assistance to a Regional Food Bank or ERA throughout the year upon request. Examples may be to address new policy or compliance deficiencies.
2. FDNEP provides annual civil rights training for Regional Food Banks, ERAs, front-line staff, and trainers.
3. Training should be ongoing between Regional Food Banks and ERAs.
4. Regional Food Banks are responsible for the distribution of policy changes, updated eligibility guidelines, federal and/or state regulation amendments, or any other pertinent information to each of the ERAs within a Regional Food Bank's service region.

O. Requesting Administrative Funds Reimbursement

1. Requests for reimbursement of a Regional Food Bank's operating expenses related to TEFAP are considered quarterly based on the region's fair share percentage, the availability of Federal funds, and compliance with Federal regulations and State fiscal rules.
2. Requests must be submitted on form FDNEP-CO-25, TEFAP Reimbursement Request and received in FDNEP by the 15th of the month following the close of the quarter.
3. The following are examples of expenses eligible for reimbursement:
 - a) Costs of transporting, storing, handling, repackaging, processing, and distributing USDA food.
 - b) Costs associated with determination of eligibility, verification, and documentation.
 - c) Costs of providing information to persons receiving USDA food concerning the appropriate storage and preparation of such food.
 - d) Costs involved in publishing announcements of times and locations of distribution.

- e) Costs of record-keeping, auditing, and other administrative procedures required for program participation.
- 4. Funds will be allocated to provide priority to reimbursement of TEFAP related expenses.
- 5. Regional Food Banks may claim expenses for distributing non-USDA food to ERAs who have entered into TEFAP agreements.
 - a) Expenses must be claimed in the quarter in which they occurred.
 - b) Expenses must be submitted on a separate form FDP-CO-25, TEFAP Reimbursement Request.
 - c) Expenses will only be reimbursed at the close of the FFY based on the availability of funds.
- 6. Quarterly Statements of Expenditures shall be kept current and available for audit and review purposes.
- 7. An agency receiving administrative funds is responsible for any misuse of program funds received.

IV. Regional Food Bank

A. Regional Food Bank Requirements

- 1. Food banks that are designated as a Regional Food Bank enter into a contract with the FDNEP requiring the Regional Food Bank to meet obligations based on federal program regulations. Obligations include the establishment and maintenance of an ERA network, product ordering system, monitoring procedure, reporting and record keeping systems, and training.
- 2. Criteria for a Regional Food Bank includes the following:
 - a) Have 501(C)(3) status
 - b) Abide by applicable federal and state program regulations
 - c) Properly store and distribute USDA food
 - d) Have adequate refrigeration and freezer capacities
 - e) Maintain the required records and submit records to FDNEP on a timely basis
 - f) Maintain an emergency food provider network

- g) Comply with the terms of the contract

B. Regional Plan

1. A Regional Food Bank must develop a regional plan for the assigned service region which must include, but not be limited to:
 - a) Criteria for soliciting and maintaining pantries/agencies for network
 - b) Procedure for the distribution of product throughout the region
 - c) Procedure for inventory control
 - d) Procedure for ERA pick-up and/or delivery
 - e) Procedure for informing ERAs of Regional Food Bank, FDNEP, or USDA policy changes
 - f) Procedure for funding an ERA, if applicable
2. The Regional Food Bank will submit the regional plan for its service region to FDNEP at the beginning of the federal fiscal year following a contract award and will update as necessary, if changes occur.

C. Network Requirements

1. Regional Food Banks will maintain a sufficient number of sites to ensure that emergency and supplemental food is available to all low-income eligible households and individuals within the area to be served.
2. Regional Food Banks will enter into agreements with sites (Form FDP-CO-175) that maintain regular and consistent hours of operations. If a site is open less than one day per week, the Regional Food Bank is encouraged to continually seek to increase the number of days of operation and/or recruit another distribution site to assure optimal accessibility to clients.
3. Regional Food Banks will consider the following when selecting distribution sites and/or congregate meal feeding sites:
 - a) It must meet criteria for an emergency feeding organization as defined in 7 CFR 251.3.
 - b) It must not be listed on the IRS Automatic Revocation of Exemption List found at <https://www.irs.gov/Charities-&-Non-Profits/Automatic-Revocation-of-Exemption-List>.
 - c) It is located within the contracted region.

- d) Proximity of other distribution sites offering similar services to prohibit dual participation.
 - e) If the agency is a prior FDNEP primary or sub recipient agency, the Regional Food Bank must confirm that the agency was in good standing prior to entering into an agreement.
 - f) Adequacy of the site's storage facility.
 - g) Days and hours of operation.
 - h) The organization's ability to comply with federal and state operating/participation standards.
 - i) Ability of the distribution site to provide food from non-USDA sources.
 - j) Ability to ensure USDA food is made available to all eligible households.
 - k) Ability to maintain accurate records for the amount of USDA food received.
 - l) Ability to maintain required records for the number of households served with USDA food.
 - m) Acceptable finding from the Civil Rights Pre-Award Compliance review, form FDP-CO-300.
- 4. Regional Food Banks will ensure that all food pantries integrate both USDA food and non-USDA food into the food package provided to households to the maximum extent possible.
 - 5. Regional Food Banks will, through careful selection of site locations, minimize the potential for duplication of program services.
 - a) Regional Food Banks will collaborate with its ERAs to implement measures and strategies to minimize duplication of services.
 - b) These strategies may include the establishment of exclusive, non-overlapping service areas, site consolidations, limiting the number of TEFAP sites or coordination of services within geographical service areas.

D. Distribution to ERAs

- 1. Regional Food Banks will have a distribution system that assures monthly access to TEFAP food for each county in its service area.

2. Regional Food Banks will distribute USDA food in whole case amounts.
3. Regional Food Banks will provide sufficient notice to ERAs to accept or decline food items for each delivery.
4. If possible during month of distribution, reallocate/offer refusals as follows:
 - a) First, to other agencies within the same county.
 - b) Second, to needy agencies in other counties as the Regional Food Bank deems appropriate/necessary to alleviate situations of emergency or distress, recent economic downturn, etc.
 - c) If 1) and 2) above are not achieved during the month of distribution, USDA food will remain in inventory for the next month's allocations.
5. If the Regional Food Bank prefers an alternate to the above, the Regional Food Bank's allocation proposal (including the specific method and data sources to be used) will be submitted to the FDNEP.

E. Storage and Handling

1. Every effort must be made to reduce loss due to spoilage, pest infestation, and theft by following accepted warehousing methods.
2. Acceptable warehouse and storage practices include, but are not limited to:
 - a) Keeping all food 6" off floor, stored on pallets, platforms, or shelves.
 - b) Keeping all food 4" away from walls. This promotes air circulation and accommodates pest control.
 - c) Keeping all non-food items separate from food. Toxic items (soap, bleach, cleaning supplies, etc.) must be kept away from food items.
 - d) Keeping floors, pallets and shelving clean.
 - e) Keeping doors, windows and roofs well sealed to prevent pest entry and water damage.
 - f) Maintaining proper temperatures.
 - g) Maintaining a good pest control system.

- h) Having a qualified person on staff or a contract with a licensed firm to handle pest control management.
- i) Maintaining equipment including: regularly checking for leaky compressors in freezer and refrigeration units, hydraulic forklift leaks, etc.
- j) Maintaining thermometers in all freezer and refrigeration units and dry storage areas.
- k) Maintaining temperature logs for each area.
- l) Assuring that all ERAs have thermometers in place and that freezer and refrigeration units are adequate, operative, and temperature logs are utilized.
- m) Assuring first in first out inventory practices are followed.

F. Dry food storage

- 1. Dry food products should be stored:
 - a) At 50 - 70 F
 - b) Away from direct sunlight
 - c) In a clean and secure storage area that is inspected regularly.
- 2. Rules for stacking food products are:
 - a) Limit the height of the stack so cases of food on the bottom layers will not be crushed
 - b) Cross-stack cases on pallets to ensure the stack will be sturdy and solid and will not tip when being moved
 - c) Shrink wrapping pallets to provide added stability
 - d) Stack cases away from potential damage by heat, steam, or water

G. Refrigerated and frozen food storage:

- 1. Food products requiring refrigeration must be:
 - a) Refrigerated at temperatures of 35 - 40 F,
 - b) Stored to allow for proper air circulation, and

- c) In a refrigerator that is clean, secure, and inspected on a regular basis.
- 2. Frozen food products must be stored:
 - a) Frozen at temperature at 0 F or below,
 - b) To allow for proper air circulation, and
 - c) In a freezer unit that is clean, secure, and inspected on a regular basis.

H. Maintenance of Storage Area

- 1. An ongoing system of pest control is required. Pest controls such as traps and glue boards are recommended. Place traps along walls and near doorways, moving the traps monthly.
- 2. Poisons may only be used by a licensed professional.
- 3. Ensure there is a cleaning schedule established listing the necessary frequency of cleaning for each location.
 - a) Floors, including under pallets, should be swept and cleaned at least monthly.
 - b) Floors in high traffic areas require regular cleaning.
 - c) Area soiled by spillage or breakage must be cleaned immediately.
 - d) Broken pallets should be discarded and dirty pallets cleaned.
- 4. Empty pallets should be stored apart from food products.
- 5. Maintenance of the exterior of the warehouse.
 - a) The building grounds should be inspected regularly for signs of fire hazard, pest infestation, security problems, and needed repairs.
 - b) An eighteen inch exterior barrier of weed and grass control must be maintained to facilitate inspections.
 - c) Garbage, waste, or rubbish must be disposed of frequently and not allowed to become nesting areas for pests.

I. Damage and/or Out-of-condition Product

- 1. All food products must be inspected upon receipt. Hidden damage may be found after the product has been accepted into the warehouse.

2. All incidents of damage and/or out-of-condition product must be reported to the FDNEP. The information required is:
 - a) Regional Food Bank name, address, and phone number
 - b) USDA product information (commodity code, amount, date received),
 - c) Type of damage or loss,
 - d) Contact Person,
 - e) Date damage/loss discovered, and
 - f) Sales Order Number.
3. Before disposing of a USDA food item that is infested or spoiled, a Regional Food Bank must have the product inspected by a local health official who certifies that the product is unfit for human consumption. Prior to disposal, FDNEP must inform the MPRO. Therefore, all such occurrences must be reported to FDNEP.
4. Product must be disposed of through a contracted service which provides a disposal or dump certificate.
5. All information must be forwarded to FDNEP for determination of claim resolution.
6. A Regional Food Bank is required to establish a procedure to record instances of damage and/or loss of USDA food by an ERA. The procedure will include the collection of the following information.
 - a) ERA name and address,
 - b) USDA product information (commodity code, amount, date received),
 - c) Type of damage or loss,
 - d) Contact Person,
 - e) Date damage/loss discovered, and
 - f) Sales Order Number.

J. Prohibited Activity

1. A Regional Food Bank and their network understand that USDA food are not to be sold, exchanged, or used for personal gain.

2. All Regional Food Banks and ERAs are prohibited from repackaging USDA food unless exceptions are granted with prior USDA approval. All requests for repackaging must be submitted to FDNEP.
3. No USDA food are to be opened, altered, or removed from unit containers except for meal preparation at ERA meal sites.

V. Eligible Recipient Agency**A. General Responsibility**

1. May be a food pantry, soup kitchen, shelter, or government agency.
2. An ERA becomes responsible for USDA product when physical delivery of USDA food items is taken.
 - a) An ERA of federal program food must follow the same storage and warehousing requirements as a Regional Food Bank.
 - b) Liability for loss, theft, or damage due to negligence is the sole responsibility of the ERA.
 - c) All USDA food carry an assigned value based on USDA's cost of purchasing, processing, and distribution of the food products to states. In order to guarantee food quality and safety, each ERA is responsible for the proper storage and handling of USDA food products.
 - d) Premature deterioration of food products is often the result of improper storage conditions and practices. Every effort must be made to reduce loss due to spoilage, pest infestation, and theft by following accepted warehousing methods. This not only ensures quality products being distributed but also protects the ERA from claim action by FDNEP to recover the value of the spoiled or lost product.
 - e) See [Section IV.E - J](#) for specific storage guidelines.

B. Food Pantry

1. A food pantry must be a public or private non-profit organization that distributes USDA food exclusively to needy persons for household consumption pursuant to an established means test.
2. A food pantry is an integral component to the success of the federal food program. Distribution of USDA food may vary from site to site. USDA food are to be incorporated into the food pantry inventory and provided to all eligible clients as part of a food package.
3. USDA food are not to be a singular source of food supply at a food pantry.
4. Other sources of food may include food banks, donated food, food drives, or food purchase plans.

5. All food pantries are encouraged to establish a client choice model of distribution, permitting the client to have input into the food package they receive.
6. A food pantry receiving USDA food should allow clients to access food, at a minimum, on a monthly basis.
7. A food pantry must establish and post regular hours of operation and may establish a procedure for on-call access.

C. Soup Kitchen and Shelter

1. A soup kitchen or shelter must be a public or private non-profit organization that provides prepared meals for predominantly need persons.
2. USDA food must not be the singular source of food supply at a meal site. Other sources may include food banks, donated food, food drives, or food purchase plans.
3. A soup kitchen may be open to the general public or be located in a shelter that provides meals to only sheltered individuals or families.
4. A soup kitchen may provide up to three regularly scheduled meals and a snack each day.
5. Eligibility determination is not required at meal sites.

D. Prohibited Activity

1. USDA food are not to be sold, exchanged or used for personal gain.
2. An ERA is prohibited from repackaging USDA food.
3. No USDA food are to be opened, altered or removed from the unit containers except for meal preparation at an ERA meal site.

VI. Recipient Eligibility

A. Household Eligibility Criteria

1. To be determined eligible for food assistance a household must:
 - a) Be in need of food assistance because of inadequate household income;
 - b) Not have previously received USDA food in the same distribution period;
 - c) File an application;
 - d) Be a Colorado resident;
 - e) Meet the definition of a "household";
 - f) Meet the TEFAP income-based standards in either of two ways in the following order:
 - (1) The household is a recipient of a human service program as described in Item [VI.E.](#); or
 - (2) The combined gross household income does not exceed the maximum income limit applicable to its household size as described in Item [VI.F.](#)
 - (3) Households determined eligible under (1) will not be required to demonstrate eligibility under Item (2).

B. Application

1. ERAs will use the most current version of Form FDP-CO-100, "TEFAP Eligibility Application" to document household signatures and eligibility criteria. The TEFAP Eligibility Application form may be found on the FDP website at <http://www.colorado.gov/cs/Satellite/CDHS-FDP/FDP/1251567863680>.
2. No household may be denied the opportunity to file an application.
3. Households are not required to obtain a "referral" to apply for or obtain USDA food.
4. After the application is filed and eligibility determined, distribution of USDA food will be made to eligible households. In most cases, the claimant's statement regarding a household's circumstances will be acceptable verification. Should an apparent question exist, verification

may be requested; however, this should not delay the distribution of USDA food.

C. Residence

1. A client is required to show proof of residency and a form of identification if available.
2. An individual cannot participate as a member of more than one household or in more than one service area during the same month.
3. The residency requirement does not impose any durational requirement; nor does it imply "intent" to reside permanently in the state or county.

D. Household Defined

1. For USDA food distribution purposes, household means:
 - a) A group of related or non-related individuals, exclusive of boarders, who are not residents of an institution, but who are living as one economic unit, and for whom food is customarily purchased and prepared in common, or
 - b) An individual living alone.

E. Eligibility through Participation in a Human Service Program

1. Eligibility for receipt of a food package at a food pantry is established if the household participates in a human service program listed below. Note: Social Security, Medicare, and Unemployment Compensation are not forms of public assistance.
 - a) Aid to the Blind (AB)
 - b) Aid to the Needy Disabled (AND)
 - c) Commodity Supplemental Food Program (CSFP)
 - d) Low-income Energy Assistance (LEAP)
 - e) Old Age Pension (OAP)
 - f) Supplemental Nutrition Assistance Program (SNAP) (previously known as Food Stamps)
 - g) Supplemental Security Income (SSI)
 - h) Temporary Assistance for Needy Families (TANF)

- i) Medicaid eligible foster children (NOTE: A Medicaid-eligible foster child is considered a household of one if the child is the only household member meeting eligibility criteria.)

F. Eligibility through Combined Household Income

1. If a household is not eligible as a participant of a Human Service Program, it may be eligible if the combined household income does not exceed 185% of the current federal poverty level as established by the United States Department of Health and Human Services. Qualifying income includes:
 - a) Public assistant cash grants
 - b) Gross wages
 - c) Earning from self-employment (excluding overhead expenses)
 - d) Retirement or disability benefits
 - e) Veteran's, worker's, or unemployment compensation
 - f) Social Security
 - g) Alimony or child support
 - h) Scholarships, educational grants, fellowships, or Veteran's educational benefits not used to pay tuition and mandatory fees
 - i) Dividends, interest, and other payments which benefit the household
 - j) Income from roomers or boarders
 - k) Adoption subsidies
2. The following are examples of exempted income:
 - a) SNAP (previously known as food stamps) benefits
 - b) Special Supplemental Nutrition Program for Women Infants and Children (WIC) benefits
 - c) One-time lump sum payments such as insurance settlements
 - d) Foster subsidies
 - e) In-kind Income

f) Vendor Payments

G. Completing TEFAP Eligibility Application

1. Using the TEFAP Eligibility Application (FDP-CO-100) and the information thereon, the following steps, in order, should lead to determining eligibility of an applicant household by a Recipient Agency.
 - a) Obtain the number of persons in the household and name of the applicant.
 - b) Determine the household's address.
 - c) Ascertain that the household members have not previously received USDA food in the current calendar month.
 - d) Determine if the household participates in an eligible human service program.
 - e) If not eligible under Item d) above, determine if the household meets the financial eligibility criteria requirement by comparing the household's size and income to the household income criteria ([185% of the poverty guidelines](#)).
 - f) Mark the Certification section for appropriate eligibility or denial.
2. Since eligibility is based on a current need for food assistance and the TEFAP Eligibility Application (FDP-CO-100), a certification period is not applicable. Eligibility must be re-established each time food assistance is requested.
3. The ERA will accept self-declaration as the primary means of documenting eligibility.
 - a) Needy persons receiving USDA food from an ERA will sign the TEFAP Eligibility Application (FDP-CO-100) each time USDA food are received to attest that they meet the income-based standards for the program.
 - b) The applicant's signature places the responsibility for documenting eligibility directly on the recipient and relieves Recipient Agency's volunteers/staff of both legal and programmatic liability.
4. Agency volunteers and staff are entitled to USDA food only if they meet the eligibility requirements.
 - a) Eligible volunteers and staff may not be given extra food to encourage their assistance.

- b) Eligible volunteers and staff must complete the TEFAP Eligibility Application (FDP-CO-100) each time USDA food are received.
- c) Eligible volunteers and staff may not be given preferential treatment.

H. Homebound Participants

- 1. A program participant who is unable to visit a TEFAP food pantry may designate a relative, friend, or care-giver as their proxy for receipt of the food package.
- 2. Documentation of a proxy should be provided in writing on form FDP-CO-1640 and maintained by the ERA.
- 3. The proxy must provide appropriate identification to receive the client's benefit and must provide a signature on the client's behalf.

I. Homeless Applicants

- 1. Applicants who do not have a residence or do not have the capacity to utilize USDA food available are to be referred to a congregate meal site and may only be provided food items that the applicant can safely store and consume.

J. Individual Eligibility (Congregate Meal Sites)

- 1. Recipients of meals served at soup kitchens and other congregate meal sites are not required to complete an application form to determine eligibility. Such persons are "deemed" eligible and not subject to a means test.
- 2. The FDNEP does not require congregate meal organizations to employ a means test to determine that recipients are needy, or to keep records solely for the purpose of demonstrating that its recipients are needy.

VII. Civil Rights

A. Civil Rights Requirements

1. All agencies will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part 50.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.
2. All agencies must have posted at their facility, in plain sight, the “And Justice For All” poster.
3. All agencies will include the following official non-discrimination statement in all written materials (including websites) naming TEFAP or the USDA food program:

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.

4. If the material is too small to permit the full statement to be included, the material will, at a minimum, include the statement, in print size no smaller than the text, that: *USDA is an equal opportunity provider and employer.*
5. As required by USDA FNS-113-1, a Civil Rights Pre-Award Compliance review must be conducted for all agencies prior to entering into a TEFAP agreement.
6. All agencies must promptly investigate discrimination complaints received in connection with the distribution of USDA food.
7. All agencies will maintain a record of complaints, investigations, and resolutions.
8. All agencies will ensure that employees and volunteers that have direct interaction with TEFAP applicants and participants receive civil rights training annually.
9. USDA reserves the right to conduct investigations and make the final determination on the proper handling of all complaints.
10. To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

B. TEFAP Activities

1. As a condition of receipt of USDA food, Regional Food Banks and ERAs cannot require or coerce clients to:
 - a) Attend a religious service,
 - b) Participate in prayer,
 - c) Join a counseling group,

- d) Attend budgeting, parenting or job training classes, and or
- e) Do odd jobs.

C. Non TEFAP Activities

1. Activities unrelated to the distribution of TEFAP food or meal service may be conducted at sites as long as:
 - a) The person(s) conducting the activity makes it clear that the activity is not part of TEFAP and is not endorsed by USDA and/or FDNEP.
 - b) Cooperation in the activity is not a condition of the receipt of USDA food.
 - c) Information about the activity is not placed in or printed on bags or boxes in which USDA food are distributed.
 - d) Program participants cannot be solicited to contribute money, sign petitions, or converse with the persons conducting the activity.
 - e) The activity is not conducted in a manner that disrupts the distribution or meal service.

VIII. Records and Reports

A. Record Retention Requirements

1. All program records are to be maintained for a period of three years from the close of the federal fiscal year to which they pertain, or longer if related to an audit or investigation in progress.
2. The records must be reasonably accessible at all times for use during management evaluations, site reviews, audits, or investigations.

B. Regional Food Bank Records

1. Records include, but are not limited to:
 - a) Records documenting the receipt, disposal, and inventory of USDA food, including records documenting distribution to ERAs.
 - b) Records documenting any funds that arise from the operation of the distribution program.
 - c) The Regional Food Bank's contract with FDNEP.
 - d) The Regional Food Bank's agreement with ERAs.
 - e) The Regional Food Bank's record of ERA compliance.
 - f) Records related to loss of or damaged TEFAP food.
 - g) Records related to TEFAP complaints, investigations, and resolutions.
 - h) Records of civil rights training conducted including records of attendance.

C. ERA Records

1. Records include but are not limited to:
 - a) Records documenting the receipt and disposal of USDA food.
 - b) For home consumption only, records documenting distribution of USDA food including the name of the person receiving USDA food, the address of the household (to the extent practicable), the number of persons residing in the household, the basis for determining that the household is eligible to receive USDA food, and distribution rates.

- c) Records documenting any funds that arise from the operation of the TEFAP distribution.
- d) The agency's agreement/contract to administer TEFAP.
- e) Records related to loss of or damaged TEFAP food.
- f) Records related to TEFAP complaints, investigations, and resolutions.
- g) Records of civil rights training conducted including records of attendance.

D. Reporting Requirements

1. A Regional Food Bank is required to submit to FDNEP on a(n):
 - a) Monthly basis:
 - (1) Physical Inventory (form FDP-CO-152)
 - (2) System Generated Inventory Expiration Date Report
 - b) Quarterly Basis
 - (1) Updated ERA Roster
 - (2) Training Logs
 - (3) TEFAP Reimbursement Request (form FDP-CO-25)
 - c) Annual basis:
 - (1) Physical Inventory Verification
 - (2) Value of USDA food distributed by agency and county
2. Additional reports may be requested by FDNEP or the Regional Food Bank as needed.