

**FDPIR BRIEFING PAPER: PROGRAM BACKGROUND**

The Food Distribution Program on Indian Reservations (FDPIR) provides nutritious USDA Foods to income-eligible households living on Indian reservations and to income-eligible Native American households residing in approved areas near reservations or service areas in Oklahoma. Participation data is currently available through the month of October 2022 and is estimated to be 49,470. In fiscal year (FY) 2022, the average monthly participation for the year was 45,193. As reported in the December 2022 consultation briefing, FDPIR participation numbers began to rise in the second half of FY 2022.

Each month, participating households receive a food package to help them maintain a nutritionally balanced diet. Participants may select from over 100 products, including a selection of fresh produce and six traditional foods as available: bison, blue cornmeal, wild salmon, traditionally harvested wild rice, catfish, and walleye. The program is authorized through 2023 under the Agriculture Improvement Act of 2018 (the 2018 Farm Bill).

**FDPIR Annual Participation Levels – Monthly Average/Person**

FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
87,216	83,811	74,878	47,983	45,193

**FDPIR 2022 Participation Levels by Month**

June 2022	July 2022	August 2022	September 2022	October 2022*
47,891	48,950	49,822	49,429	49,470

\*Preliminary data as of October 2022

**FDPIR Funding**

Appropriated/PB	FY 2021	FY 2022	FY 2023
Administrative Expenses	\$57.174M	\$62.669M*	\$63.0M*
USDA Foods	\$104.97M	\$63.331M	\$99.005M
Total	\$162.15M	\$126.0M	\$145.005M
Additional Funding			
Nutrition Education - FDPNE	\$998K	\$998K	\$998K
638 Demonstration Project	\$3.0M	\$3.0M	\$3.0M

\*Includes \$4.0M for nutrition education

Agenda Topics are in **bold underline**.

**VI. 638 Self-determination Contracting**

- a. **Update on new round of applications**
- b. **Update on current contracts**

**Update on Round 2 Opportunity to Participate**

- On October 18, 2022, FNS published a Federal Register notice at 87 FR 63023, titled *Food Distribution Program on Indian Reservations Self-Determination Demonstration Project: Solicitation of Proposals for Additional Tribal Organizations to Participate*. Through this notice, FNS solicited additional Tribal Organization participation in the FDPIR Self-Determination Demonstration Project. Round 2 proposals were due to FNS by 11:59 PM EST on January 31, 2023.
- FNS is happy to report that we received a number of strong proposals from Tribal Organizations interested in

participating in the project. At this time, we estimate that proposals received, and subsequent self-determination contracts awarded, will exhaust or nearly exhaust all currently available funding for the demonstration project (\$6.0 million).

- FNS is now reviewing the proposals for completeness and reaching out to Tribal Organizations to give them an opportunity to submit any identified missing items, as per the process outlined in the Federal Register notice.
- Following this, all complete proposals will be reviewed and scored by an objective review panel under the selection and evaluation process that is also outlined in the Federal Register notice. The objective review panel process will inform final funding decisions.
- FNS plans to work with self-determination contracting officers at the Department of the Interior, Bureau of Indian Affairs to award self-determination contracts to Tribal Organizations selected to participate.

#### **Update on Current FDPIR Self-Determination Demonstration Projects– Round 1**

- The eight currently participating Round 1 Tribal Organizations continue to carry out their planned food distributions, with all Tribal Organizations distributing some or all of their planned foods at this time. FNS continues to provide technical assistance to the contract holders as needed.
- On February 16, 2023, FNS will hold another quarterly meeting with Round 1 Tribal Organizations to provide updates on project implementation and to facilitate collaboration and discussion about lessons learned.
- Round 1 projects are ongoing, with some projects expected to last through the end of FY 2024.

#### **Background on FDPIR Self-Determination Demonstration Project**

- The Agriculture Improvement Act of 2018 (P.L. 115-334, the 2018 Farm Bill) authorized USDA to establish a demonstration project for one or more FDPIR Tribal Organizations to enter into self-determination contracts, as defined in section 4 of the Indian Self-Determination and Education Assistance Act, to purchase USDA Foods for the FDPIR food package for their Tribe. Under normal program operations, all USDA Foods provided in the FDPIR food package are purchased and provided by USDA.
- After finalizing the criteria for participation in the demonstration project in consultation meetings with Tribal leaders held in FY 2019 – FY 2021, FNS published a first solicitation of proposals for participation in the demonstration project in the Federal Register, in January 2021. That notice, referred to as the “Round 1” opportunity, was open for a period of 60 days.
- In response to that first solicitation for proposals, FNS received seven proposals from eight Tribal Organizations interested in participating in the demonstration project, with one proposal submitted as a joint proposal.
- In October 2021, with available FY 2020 and FY 2021 funds, FNS awarded \$3.5 million in self-determination contracts to all eight Tribal Organizations that submitted a proposal in response to the Round 1 opportunity.
- In FY 2022, FNS gave Round 1 Tribal Organizations an opportunity to extend or modify their projects through the purchase of additional foods or the purchase of currently offered foods for additional months. In June 2022, FNS awarded \$2.2 million in extension and modification funding to six Round 1 Tribal Organizations that requested additional funds.
- In FY 2022, FNS received \$3.0 million in funding for the demonstration project and committed (in Tribal consultation meetings held in FY 2022) to use the funding to expand participation in the demonstration project to additional Tribal Organizations. FNS also consulted with Tribal leaders on minor changes to the criteria for participation in the demonstration project in anticipation of a “Round 2” opportunity to participate.
- Recently, in FY 2023, FNS received an additional \$3.0 million in funding for the demonstration project from the Consolidated Appropriations Act, 2023 (P.L. 117-328), bringing the total funding currently available for additional self-determination contracts to \$6.0 million.

## **VII. Proposed rulemaking on FDPIR**

- FNS is proposing regulatory changes to increase access, modernize operations, and incorporate lessons learned from the COVID-19 pandemic in several USDA Foods programs, including the Commodity Supplemental Food Program (CSFP), The Emergency Food Assistance Program (TEFAP), USDA Foods in Disasters, and FDPIR. The proposed rulemaking is entitled [\*Food Distribution Programs: Improving Parity and Access\*](#) and is currently scheduled for publication in 2023.
- Revisions to FDPIR (7 CFR Part 253 and 7 CFR Part 254) will focus on aligning eligibility requirements and improving parity with the Supplemental Nutrition Assistance Program (SNAP). Many households participate in FDPIR as an alternative to SNAP, and the proposed changes are intended to better align the programs regarding eligibility and benefits provided.
- Although we cannot discuss the details of pending regulations, we welcome input from Tribal leaders on the above referenced areas, or other parity-related topics that could be addressed with updates to FDPIR program regulations.
- On November 08, 2022, and December 13, 2022, FNS held rulemaking-focused Tribal consultations to receive information and provide feedback on the *Food Distribution Programs: Improving Parity and Access* proposed rule, in addition to four other rules that touch multiple FNS programs including the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the Child Nutrition Programs, and SNAP. FNS appreciates the feedback from Tribal leaders received during the consultations and welcomes additional discussion in future consultations about these rulemaking actions as well.

## **VIII. Indigenous Representation in FNS Positions**

### **Hiring efforts**

- FNS shares the values that Tribes have expressed pertaining to having staff with cultural competency and robust experience working with Tribes in its Tribal-facing positions. FNS position descriptions for Tribal-facing positions require expertise in Federal and State policies, regulations, treaties, and laws regarding American Indians/Alaska Natives and Native Hawaiians, as well as experience in establishing and maintaining working relationships with Tribes, key national and regional organizations representing the nutrition and health interests of American Indian/Alaska Native and Native Hawaiian people.
- In addition, the job announcements for recent Tribal-facing positions at FNS, such as the Tribal Affairs Specialist positions, have included a selective placement factor which requires “Experience working in, with and/or for Tribal governments, Tribal entities, and/or Tribal Organizations.” To meet this requirement, the resume submitted must clearly demonstrate the following experiences: Communicated effectively to demonstrate knowledge of Native American Indian cultures, treaties, and agreements with respect to critical issues facing Native American Indian Tribes; Partnered with Native American Indian Tribal governments who have diverse interests, concerns, issues, and values that are often specific to individual Tribes; and Evaluated the content of new or modified legislation (federal/Tribal/state) for projected impact upon organizational programs and resources.
- In addition to incorporating a selective placement factor in Tribal-facing position announcements as stated above, FNS also instituted a remote work option to encourage people who live in Tribal communities and don’t want to relocate, to apply.
- FNS also uses robust outreach efforts in hiring. For example, the recent Tribal Affairs Specialist announcement was shared with various Native entities as well as Tribal leaders and FNS Tribal program directors, among others, to ensure potential applicants with experience in Indian Country.
- This approach for the Tribal Affairs Specialist recruitment announcement resulted in a strong pool of applicants with demonstrated experience in working in Tribal communities. By the end of 2022, all Tribal Affairs Specialist positions across Regional Offices and the Tribal Affairs Technical Advisor in the FNS Administrator’s Office have

been filled. FNS is committed to using this same approach with future Tribal-facing positions.

#### **Training for FNS staff**

- FNS understands the importance of cultural training for Tribal facing positions and, in fact for all FNS staff, as reflected by the incorporation of activities in our FY23 Agency Priority Plan to conduct leadership and all employee trainings to increase understanding and implementation of Tribal cultural competency and federal-Tribal trust responsibilities.
- All FNS Tribal Affairs Specialists and the Tribal Affairs Technical Advisor will be convening immediately following the February consultation meeting to further plan and coordinate Agency staff and leadership training. Additional trainings will also be conducted for the Tribal Affairs Specialists. We appreciate suggestions from our Tribal partners on helpful cultural training.

### **IX. Food Package Updates**

- Food package review updates: progress in improving dialogue, traditional foods additions**
- Fresh produce: food quality and complaint mechanism problems – joint discussion with FNS and Defense Logistics Agency representatives**

#### **Food package review updates: progress in improving dialogue, traditional foods additions**

- USDA is committed to working with the FDPIR Food Package Review Workgroup to identify and implement changes to the FDPIR food package that enhance nutrition security in Tribal communities.
- During the November 2022 Workgroup meeting, FNS presented opportunities to enhance the FDPIR food package to better align it with the latest Thrifty Food Plan, including FDPIR Guide Rate changes to add additional units of vegetables, protein (meat, poultry, and fish), and eggs. Workgroup members voted in favor of the opportunities discussed with the understanding that all the opportunities identified may not be feasible and/or may not be able to occur at the same time.
- The November 2022 Workgroup discussion was facilitated by a third-party facilitator recommended by the Workgroup, Mountain + Associated, LLC. At the request of Workgroup leadership, Mountain + Associated, LLC will facilitate future Workgroup meetings in FY 2023 to assist in improving dialogue, ensuring Workgroup needs are addressed, and food package enhancements are communicated effectively.
- AMS has made significant progress on conducting market research on the five new foods the Workgroup voted to consider adding to the food package. FNS will provide a detailed overview of the status of the new foods during the February 2023 Workgroup meeting.
- As AMS finalizes market research, FNS is assessing:
  - Projected short- and long-term increases in food costs based on anticipated program participation
  - Required lead time for inventory system updates based on IFMS/AIS software scheduled releases
  - Capacity of National Warehouses and FDPIR programs (i.e., available storage and staff)
- Based on this assessment, FNS will establish, and present to the Workgroup, an implementation plan and timeline.
- The next Workgroup meeting will be an in-person strategic planning meeting in Phoenix, Arizona March 21-22, 2023. The Workgroup, including FNS staff, will visit Gila River Food Distribution for a site visit.

#### **Fresh produce: food quality issues and complaint mechanism problems – joint discussion with FNS and Defense Logistics Agency (DLA) representatives**

- FNS is committed to ensuring the integrity of the USDA DoD Fresh Program and has met with DLA Leadership to take immediate action to ensure vendor quality issues and customer complaints are timely addressed.
- USDA DoD Fresh vendors are required to source, purchase, store, and deliver a variety of fresh fruits and vegetables items to DLA Troop Support customers (military, schools, and ITOs) on an ongoing basis, while at

the same time maintaining acceptable contract fill rates, levels of customer service, and product quality. Contract requirements include maintaining a 98% contract fill rate while providing customer service by way of a customer service representative to maintain contact with ordering customers.

- Quality audits are also conducted in accordance with contract terms whereby the DLA Troop Support Produce Quality Audit Team verifies compliance to the DLA contracts.
- Vendors found not in compliance of contract terms results in a thorough review by the DLA team and potential inclusion in the Contractor Performance Assessment Reporting System (CPARS), which may negatively impact the vendor when being considered and evaluated for Government contracts. FNS will provide three technical assistance webinars to FDPIR administering agencies in FY 2023 covering topics about receiving, storing, distributing, and reporting issue with USDA DoD Fresh produce. Webinar topics to be covered include:
  - Ordering, Receiving, and Reporting Issues with USDA DoD Fresh Produce
  - Best Practices for Handling, Storing, and Distributing USDA DoD Fresh Produce
  - Seasonal Produce Availability.
- FNS is convening stakeholders meeting to address program issues and determine next steps to resolve. Representatives from FDPIR, FNS and DLA will attend with the first meeting held on February 21, 2023.
- As one of several options to improve USDA DoD Fresh, FNS is proposing a pilot with AMS' Specialty Crops Inspection (SCI) to inspect fresh produce in the USDA DOD Fresh program at select produce vendors across the nation that are delivering to ITOs and schools.

#### **IX. Indian Tribal Organization (ITO) coordination with State agencies on SNAP**

##### **a. Implementation of SNAP call centers; education on FDPIR for States where FDPIR is offered**

- FNS appreciates Tribal Leaders' interest in this topic and will be prepared to discuss and provide an update on the topic at the February 22 consultation.

#### **X. SNAP-Ed Consultation**

##### **a. Update on Webinar training**

##### **1. feedback from Tribal leaders**

##### **Update on SNAP-Ed Consultation Training and Guidance**

- On September 13, 2022, FNS issued two new policy memoranda to strengthen State agency Tribal Consultation: the Memorandum on Tribal Consultation Requirements and the Memorandum on SNAP – Tribal Consultation Guiding Principles. The development of the memo on Tribal Consultation Requirements was based upon an identified need to strengthen consultation on SNAP issues, and to provide a reminder and clarity to SNAP State agencies on consultation requirements. The SNAP – Tribal Consultation Guiding Principles document was developed to help States and Tribes conduct effective and meaningful consultations.
- In developing the memoranda, FNS worked with USDA's Office of Tribal Relations, USDA's Office of General Counsel, and Tribal leaders including the FDPIR TLCWG.
- The issuance of the memoranda was done in conjunction with the publication of several associated webinars as described in the framing paper for the December 2022 TLCWG meeting.
- Tribal consultation is an area where FNS strives for continuous improvement. FNS' Regional SNAP staff and Regional Tribal Affairs Specialists are now focused on providing technical assistance to State agencies and receiving feedback from Tribes on how Tribal consultations are going, with a goal of helping States and Tribes conduct timely, meaningful, and substantive dialogue through consultation.
- FNS plans to host two Communities of Practice (CoP) to support the central role of State agencies in statewide needs assessment. One CoP will be for State agency staff and focus on strategies to assess opportunities and need for SNAP-Ed programming, which will include a strong emphasis on Tribal consultation requirements and gathering input directly from Tribal leadership. It will also highlight how the needs assessment findings should

inform program goals and activities. FNS SNAP has started recruitment for State participation in the needs assessment Community of Practice (CoP)

- Another CoP will be for FNS regional coordinators to increase their understanding of comprehensive needs assessments, as they are responsible for reviewing the assessments submitted as part of a State's plans. This CoP will include a focus on reviewing the State's Tribal consultation processes to ensure it was conducted appropriately, such as with sufficient time for input and consideration of Tribal priorities in the State plan.
- Both CoPs will be an opportunity to reiterate Tribal consultation requirements and expectations and identify the support needed for State agencies to conduct consultations effectively.

## **XI. Nutrition Education Funding for FDPIR**

### **Update on deployment of funding**

- USDA is committed to ensuring Tribes have access to funds to establish nutrition education programs that support the needs of their community.
- To date in FY 2023, \$2.47M in nutrition education funds has been requested by and allocated to 75 Tribes. Tribes will use these funds to conduct a variety of activities such as cooking classes, grocery store tours, and hiring nutrition educators.
- FNS will continue to allocate funds to Tribes as requested and FNS Regional Offices will continue to provide technical assistance to ensure all Tribes understand how to request these funds and encourage them to do so.
  - Each Tribe has a uniform base allocation of \$17,500 available for them to develop and deliver nutrition education. Tribes can accept or decline the funds, transfer funds to another Tribe to conduct nutrition education activities on their behalf, or take a portion of the allocation.
  - Tribes that have more robust plans for nutrition education activities can request additional funds non-competitively by working with their FNS Regional Office to submit a nutrition education plan.
  - FNS provided examples of nutrition education activities that may be funded by FDPIR administrative funds to help Tribes determine how to utilize nutrition education funds.
  - Tribes were informed that they are not limited by the examples provided and are welcomed to submit nutrition education activities that support the needs of their communities.
- Tribes will make requests for the next round of annual funding (\$4M) in May 2023 as part of the annual FDPIR budget process. These funds will be available to allocate to Tribes in October 2023 for use through FY 2025.
- Historically, FNS has administered the [FDPIR Nutrition Education \(FDPNE\)](#) grant program, in the amount of \$998K annually, to provide nutrition information and service to program participants. The new, annual appropriation of \$4 million for FDPIR nutrition education in FDPIR has supplanted the need for these competitive grants. Effective FY 2023, FNS proposes to sunset the FDPNE grant program.
- The \$998K will remain available for FDPIR nutrition education activities. These funds may be disseminated directly to FDPIR Tribes, in addition to the \$4 million, or used for Federal costs to support FDPIR Tribes and participants.
- In FY 2023, FNS proposes using these funds for Federal costs to support nutrition education efforts.

### **Technical Assistance and Future Funding**

- FNS is committed to providing technical assistance to FDPIR programs to support efficient and effective implementation of nutrition education activities. FNS will maintain an open line of communication with Tribes to address challenges and necessary changes to improve the process for future rounds of funding.
- FNS Regional Offices are still accepting plans from Tribes that need more time to develop and approve nutrition education plans.
- FNS Regional Offices have been working closely with Tribes to address challenges and identify opportunities to streamline the allocation process in the future. FNS Regional Offices host quarterly nutrition education calls as

an opportunity for Tribes to communicate their needs and answer any questions they may have.

- FNS will continue to update the allocation and monitoring process as additional feedback is received from Tribes and FNS Regional Offices.
- FNS is identifying additional projects, activities, and partnerships that Tribes can access to ensure funds are effectively utilized.
- FNS is also proactively engaging with leadership from the Department of Health and Human Services' Indian Health Service (IHS) and other Federal agencies to share updates on nutrition education funding and best practices and to discuss opportunities for cross-collaboration.

## **XII. IFMS and Alternative Computer Systems**

### **National Association of FDPIR (NAFDPIR) Question on Sole Source Procurement**

- In a follow-up letter sent to FNS after the December 2022 consultation, NAFDPIR inquired about options for purchasing Sygnal licenses noncompetitively such as a sole-source procurement.
- Regulations at 7 CFR 277.14(4)(g)(iii) allow for procurements using a noncompetitive method. For specifically, per 7 CFR 277.14(4)(g)(iii), FNS may authorize Indian Tribal Organizations (ITOs) to use a noncompetitive procurement method in some instances provided there is a strong justification and rationale for doing so.
- FNS will send a letter to all FDPIR ITOs with information regarding the allowability of noncompetitive procurement to purchase Sygnal licenses

### **Transition to IFMS and Alternative Systems, and Other Updates**

- FNS plans to retire the Automated Inventory System (AIS) within the next year. FDPIR ITOs should plan to transition to an alternative system, options include:
  - the Integrated Food Management System (IFMS), or
  - an alternative system, such as Sygnal.
- FNS released the certification module in IFMS on February 3, 2023 to all ITOs.