

**USDA Food Distribution Program on Indian Reservations (FDPIR)**  
**Warehouse Issues Tribal Consultation**  
**Tribal Leaders Consultation Work Group and National Association of FDPIR**  
**Date: Wednesday, October 9, 2024**  
**Time: 4:00 p.m. Eastern Time – 8:00 p.m. Eastern Time**  
**Location: Medicine Creek, Green River and White River Room Muckleshoot Casino**  
**In-Person and Virtual Meeting**

**I. Opening Prayer – Tribal leader designate officiant**

**II. Welcome and Introductions**

- **Governor James Mountain:** Acting Chair, Tribal Leader Consultation Work Group (TLCWG)
- **Cindy Long:** Deputy Undersecretary, Food, Nutrition, and Consumer Services (FNCS)
- **Betsy Rakola:** Acting Director, Office of Tribal Relations (OTR)

**III. USDA FDPIR Food Shortage Issue Status and Update**

- FNS thanked Tribal leaders for the invitation to consult on the supply chain issues and the FDPIR staff for their commitment during the ongoing crisis. FNS recognized that work needs to be done to rebuild trust with Tribes. Secretary Vilsack sent an apology letter for the challenges caused by the disruptions and committed to working with Tribes to create a clear path forward.
- FNS acknowledged the receipt of the October 3, 2024, NAFDPIR follow-up letter and stated that they are committed to the follow-up measures that are outlined in that letter. FNS committed to consulting with Tribes again once the supply chain disruptions have ended.
- Tribal leaders emphasized the importance of focusing on the supply chain issue during the consultation. They stated that the challenges are ongoing and that some Tribes are still facing acute food shortages.
  - FNS shared the assessment that the situation is not resolved and that there is a significant amount of work to do. FNS stated that there have been actions that have been taken to address the short-term crisis as well as conversations about what needs to be done in the longer run, which may require Congressional action.
- FNS provided an update on the current inventory data, a data update on the number of trucks that are leaving Paris Brothers, and data on the use of the emergency relief measures that FNS has instituted. FNS shared the data sources that are being used to track the crisis:
  - Data tool (questions from Case Managers)
  - Sygnal inventory data (from those who share it with FNS)
  - IFMS inventory data
  - WBSCM ordering data

- Paris Brothers orders and shipping data
- (Coming: Americold orders and shipping data)
- FNS is looking to use data to answer key questions about the trajectory of the crisis.
  - **Are operators still experiencing challenges?**
    - Yes, but trends are moving in a positive direction. The Case Managers data tool has seen the rate of ITOs able to issue a full food package increase from 74% to 93%.
      - Fourteen percent are able to issue a full food package but still need mitigation funds in order to do so.
      - About half of Tribes are responding to Case Manager questions.
  - **Are FDPIR operators' inventories improving?**
    - Yes. The Case Manager data tool and inventory data indicate that inventories are improving.
      - Are Tribes fully depleted in any category?
        - There has been a steady decline of reports of fully depleted inventories (in any category) from 18 ITOs on September 3 to 8 ITOs during the week before the consultation.
      - Are Tribes reporting less than two weeks of inventory in any category?
        - Yes, but that too has declined from 46 ITOs in early September to 32 ITOs during the week before the consultation.
      - Are Tribes experiencing complete but limited inventory, (i.e. they have enough to supply items from each category but limited variety within each category)?
        - Yes, but that has declined from 39 ITOs in early September to 26 ITOs during the week before the consultation.
  - **Are contractors making progress?**
    - Yes, as measured by the number of prioritized orders shipped on time and the number of trucks going out.
      - The number of trucks going out every week exceeds the contract requirements and the rate of weekly prioritized orders going out is nearly 100%.
        - To ensure that programs with gaps are receiving deliveries first, FNS is sending a list of prioritized orders to Paris Brothers.
          - Order data in WBSCM, inventory data, and calls with Case Managers are used to establish the prioritized orders.
        - Paris Brothers is sending out 160 trucks per week (above the contract minimum of 141.)

- In the past four weeks, 92%, 98%, 99%, and 98% of prioritized orders have gone out.
- FNS provided an update on the use of FNS's short-term response options.
  - The Emergency Food Assistance Program (TEFAP) Situations of Distress
    - The use of TEFAP Situations of Distress has not changed.
      - Twenty states have approved situations of distress to serve FDPIR and CSFP agencies.
      - Ten ITOs are being supported by these situations of distress, many with multiple locations.
      - Thirteen States are also supporting CSFP locations.
  - DoD Fresh Expansion
    - Through a partnership with the DoD Defense Logistics Agency (DLA), USDA is expanding DoD Fresh to include meats, grains, and dairy to a limited number of FDPIR sites experiencing severe inventory shortages.
    - Currently, DLA has been able to identify vendor capacity in:
      - OK
      - NM
      - AZ
      - NV
      - CA
      - NY
    - To date, 8 tribes have received deliveries through DoD Fresh expansion. FNS is actively working with DLA to meet additional capacity for 18 Tribes.
  - CCC Funds
    - CCC Funds that are available for ITOs to directly purchase commodities. The funds are made available once Tribes return a signed agreement to use them.
    - Currently, there are 74 signed agreements, 73 have received funds.
    - Majority of ITOs have been able to accept CCC funds, and FNS has done direct outreach to remaining Tribes who have not yet used the CCC funds. 14 of remaining Tribes have chosen to not receive the funds for the following reasons:
      - They have sufficient inventory.
      - They lack storage space.
      - They are not interested in short-term options.
      - They are facing procurement challenges.
        - Agriculture Marketing Service (AMS) partners have provided technical assistance on procurement.
    - FNS will continue to release CCC funds when funds are received
    - Tribal leaders asked for another CCC webinar, like the webinar that AMS conducted on September 20<sup>th</sup>, for Tribes receiving CCC funds recently.

- AMS shared that the previous CCC webinar was recorded and is on the OTR Tribal consultation website: <https://www.usda.gov/tribalrelations/tribal-consultations>.
  - FNS has also published a Q&A document on the use of CCC funds: <https://www.fns.usda.gov/fdpir/supply-chain-disruptions-qas>.
  - AMS stated that the point of contact for technical assistance for the CCC funds continues to be David Tuckwiller: [David.Tuckwiller@usda.gov](mailto:David.Tuckwiller@usda.gov).
- Tribal leaders mentioned that despite mitigation efforts, the quality and quantity of food have been insufficient. For example, trucks have been shipped with only four or five pallets on them. Tribal leaders asked if the truck numbers are FDPIR trucks or FDPIR and CSFP trucks.
  - FNS stated that when referring to quality, it includes both the conditions of the food and the status of the deliveries. They stated that they are assessing the broad need across both programs.
- Tribal leaders raised concerns about altercations related to deliveries and warehouses. In one incident, a client initiated an altercation with a certifier. In another, there was an altercation between an FDPIR staff member and a truck driver. Tribal leaders asked if action had been taken regarding that altercation between the truck driver and the FDPIR staff.
  - AMS shared that they are aware of the specific incident with a particular truck driver. The driver is no longer making deliveries associated with FDPIR, nor is the entire company that employed that driver.
  - FNS stated that the experience of receiving a delivery should be professional. FNS urged ITOs to file a complaint if there is a delivery that has a problem because it is damaged, spoiled, or poor quality. FNS stated that the data is needed to hold contractors accountable.
    - Tribal leaders stated that spoiled roast beef was recently delivered because a truck had broken down during the delivery.
  - In response to concerns raised by ITO staff that authorities should not be contacted because FDPIR is a federal program, FNS stated that if anyone is in a situation in which they feel their safety is threatened, they should call appropriate authorities immediately, and that there should be no fear or hesitation because this is a government program.
    - Tribal leaders shared that call time for response from emergency services in Indian Country can be very long. They also shared a brief overview of criminal jurisdictional challenges in Indian Country, including the need for cross-deputization of law enforcement officials.
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- Tribal leaders emphasized that communication is still a challenge. Operators do not know who to call when there is a delivery problem. They asked if Case Managers are responsible for helping with shipments or if they are limited to

monitoring inventory levels. Communication between the truck driver, to Paris Brothers, to the ITO has also broken down.

- FNS stated that the root cause of the ongoing challenges is a mismatch between the capacity of the contractor and the demands of the programs. This manifests as lower quality deliveries. FNS committed to having an FNS staff member at the Paris Brothers facility to ensure higher quality deliveries.
- FNS provided an update on the emergency warehousing contract. The week of consultation, deliveries will start coming out of the first Americold warehouse in Syracuse, NY. Initial orders are for CSFP state agencies because of the geography, with hopes that it will relieve one third of the demand from Paris Brothers and alleviate their challenges. FNS is pushing Paris Brothers to use their freed-up capacity to improve quality issues.
  - Tribal leaders expressed concern about the Americold warehouses not meeting contract specifications during the original procurement, and that leading to subpar quality inventory. They asked if warehouses are facing site inspections from USDA.
    - FNS shared that there have been staff at the warehouses multiple times before giving approval to start deliveries.
    - AMS stated that they have full confidence in Americold's ability to deliver on the emergency contract. They shared that there is a group of warehouse examiners that do warehouse-based work for USDA. Those members inspected the Americold Syracuse warehouse and the Paris Brothers warehouse.
    - AMS shared that food that came into Paris Brothers at the point of consolidation was not inspected, but the Americold warehouses are being stocked directly from vendors.
- Tribal leaders asked about the long-term plan, given that the emergency contract is six months long. Tribal leaders asked about the length of the time the Tribes can expect to be receiving food from Americold.
  - AMS shared that the six-month contract has a six-month extension available to it. AMS stated that it began at the end of August and that it can be extended for six months, but not beyond that.
- Tribal leaders asked that regional offices be more involved and be better staffed to be able to respond to challenges into the future. Tribal leaders suggested that regional staff, who have familiarity with ITOs, should be the ones from whom the data is collected. Several mentioned a preference for phone calls over emails.
  - FNS stated that Case Managers should be calling ITOs.
- Tribal leaders asked if there would be additional LFPA funding.
  - AMS confirmed that there would be additional LFPA funding and that they will have more information to share on that soon.

#### IV. Follow up from September 12 Consultation

##### **Communication and Case Management and USDA Staff Responsibilities**

- FNS shared background on the case management approach and invited feedback on the process.
  - The Case Management team was established primarily to improve communication between USDA and Tribes, by providing ITOs with a primary point of contact so that they could learn the status of their pending orders and to answer any questions that they may have.
  - Case Managers have a secondary goal of supporting the overall management of the response and immediately ensure food resources are available where they are most needed.
    - To support this goal, the Case Management team has been checking in on the status of inventory on a week-to-week basis.
  - USDA has also gathered additional information from Paris Brothers about the status of pending orders. USDA is making it available to Tribes in the form of two written communications.
    - One notification is shared when an order is placed on a priority list for delivery in the following week. Paris Brothers should be communicating the details of the actual delivery in the following week.
    - A second notification is provided if an order is pending, but not yet on the priority list.
  - Case Managers have worked to get answers to any questions that Tribes may have, but Case Managers are not FDPIR experts. FNS received feedback stating that ITOs would like to build off existing trust and relationships with regional offices.
    - FNS is working to integrate that feedback into the Case Management process.

##### **Procurement and Contracting - Third Party Logistics Contract (3PL) Recompete**

- AMS provided an overview of the Federal procurement process, focusing on the Request for Information and Request for Proposal stages.

##### **Request for Information (RFI)**

- AMS shared information on the recently released Request for Information (RFI) for the warehouse contract: [Special Notice for Third Party Logistic \(3PL\) Firms for Transportation, Storage, and Distribution of Food for the Agricultural Marketing Service \(AMS\) – Request for Information | Agricultural Marketing Service \(usda.gov\)](#)
  - Typically, AMS drafts requirements, then sends a request for information to gather information about the market and receives information from vendors on potential pricing. They receive information and then put together a request for proposals.
  - For this recompete of 3PL, they will start with a request for information to shape the requirements for the next contract.

- The RFI was released publicly on October 4, 2024, and AMS encouraged Tribal leaders and NAFDPIR to share the RFI.
- Through the RFI, USDA is seeking information about what the model should look like. For example:
  - Requirements for multiple warehouses and regional distribution solutions for the full FDPIR and CSFP food catalogs.
  - How the model could support quality, on-time deliveries and exceptional customer service for FDPIR and CSFP programs together or separately, including multi-compartment shipments and less-than-truckload quantities to remote areas.
  - How the model addresses documented program challenges.
  - Contract incentives for future solicitations in accordance with the Federal Acquisition Regulations.
  - Recommended data needed in future solicitations, including pallet positions, square footage, shipment periodicity, delivery locations.
  - Quality assurance/quality control, customer service/communication/data requirements and performance for AMS to consider in future solicitations.
  - System integration requirements for AMS to consider that would provide USDA with visibility into all supply chain activities.
  - Contingency planning requirements (including overflow contract agreements, performance bonds, product quality, transportation/delivery services) that would ensure supply chain resilience and co.
- Key dates:
  - RFI has already been [distributed](#) and is posted on SAM.gov.
  - **October 15:** Deadline to send questions about the RFI to AMS, in advance of their October 21 Q&A. Send questions to: [Nicholas.skarzynski@usda.gov](mailto:Nicholas.skarzynski@usda.gov)
  - **October 21:** AMS will lead a Q&A webinar about the RFI questions.
    - Q&A Registration: <https://www.zoomgov.com/meeting/register/vJItduygrj0qG2J1miXfiIft7wKj4nAYEog#/registration>
  - **November 4:** Formal responses to RFI due.
    - Responses should be limited to 5-7 pages
    - They should include “Special Notice for Third Party Logistic (3PL) Firms – Request for Information” in the subject line.
- AMS may or may not contact respondents for clarification.
- Responses will not be shared with any other respondent and there will be no public notification of the market research results.
- AMS stated that the RFI is open to the public and encouraged sharing of the request.

## **Request for Proposals (RFP) and Technical Advisor Opportunity**

- AMS is requesting participation for technical advisors for the upcoming RFP.
  - They are seeking two (2) FDPIR advisors and two (2) CSFP advisors.
  - **Tribal technical advisors need to be identified by October 23.**
  
- Federal regulations prohibit technical advisors from participating in the actual scoring of proposals, but it does not prohibit technical advisors from participating in the review and discussion of proposals. Advisors will serve as critical team members. They will participate in weekly meetings to help guide the development of the solicitation. Advisors are not required to be program operators. Participation will not be compensated.
  - Tribal leaders asked whether the prohibition from scoring is statutory or regulatory.
    - AMS shared that it is within the Federal Acquisition Regulation (FAR).
  
- Tribal leaders urged other Tribal leaders to participate as technical advisors, understanding that there is a time commitment involved.
  - AMS shared that the review of proposals is several hours per proposal and the discussion also requires a significant time commitment.
  - AMS shared that all members of the team (including technical advisors) must also sign a non-disclosure agreement.
    - Tribal leaders shared concern that technical experts' comments will not be recorded because they are not participating in the scoring of the proposals. They also expressed concern about technical advisors signing the non-disclosure agreement, preventing them from reporting back to their Tribes.
      - AMS stated that the non-disclosure agreement will not prevent the sharing of status updates in consultation. They will not be able to share the details of specific proposals. AMS shared that everything recorded in the selection is confidential and may not be released publicly.
      - AMS stated that technical advisors will be a part of the consensus discussion.
  
- Tribal leaders asked what qualifications technical advisors should have, to which FNS deferred to the Tribal leaders.
  - Tribal leaders shared that they should have an understanding of the program, expertise in contracting, and the expectation to participate with their historical knowledge of the programs.
  
- OTR stated that [tribal.relations@usda.gov](mailto:tribal.relations@usda.gov) should be the point of contact for questions regarding the selection of technical experts.

## **Management Evaluations**



- FNS stated that management evaluations may create additional burden on FDPIR staff as they work on prioritizing food delivery. As a result, FNS has paused conducting management evaluations and will revisit restarting them early in the the 2025 calendar year. Management evaluations will not resume until the supply chain challenges have been alleviated.

#### **V. Follow-Up Items and Closing Comments**

- Tribal leaders requested a second webinar covering CCC funds.
- Tribal leaders reiterated that they continue to face delivery challenges. They asked that USDA investigate the number of ITOs that are receiving on-time deliveries, as well start tracking data on the weight of trucks. Tribal leaders emphasized that outdated food is often being packaged in the middle of a package so that it isn't detected upon delivery and that trucks have arrived with rodents.
- Tribal leaders urged improved communication with Case Managers, stating that not all ITOs have been contacted by their Case Manager. They reiterated the need to clearly establish points of contact to reach out to when there is a delivery problem and requested a 1-pager documenting this information. Tribal leaders also requested a document listing the responsibilities of a case manager.
- Tribal leaders committed to identifying two (2) Tribal representatives to serve on the RFP recompile evaluation with names due to USDA by October 23, 2024.
- Tribal leaders requested that technical advisors for the RFP have a designated alternate.
- FNS committed to having an FNS staff member at the Paris Brothers facility to ensure higher quality deliveries.
- FNS and OTR reiterated their commitment to rebuild trust with the Tribes.

#### **VI. Next Consultation**

- Proposed Date to be Confirmed: December 9, 2024, during the Intertribal Agriculture Council Annual Conference in Las Vegas, Nevada.

#### **VII. Closing Prayer**