USDA
United States Department of Agriculture

Food and Nutrition Service

1320 Braddock Place
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DATE: May 10, 2024

POLICY NO: FD-149: The Emergency Food Assistance Program (TEFAP)

SUBJECT: Questions and Answers about Flexibilities in TEFAP to Streamline Distribution of Foods and Reduce Barriers to Participation (Revised)

TO: Regional Directors
Supplemental Nutrition Programs
MARO, MPRO, MWRO,
NERO, SERO, SWRO, and
WRO

State Directors
All TEFAP State Agencies

This memorandum includes questions and answers on flexibilities available to State agencies that operate TEFAP. These flexibilities may assist TEFAP State agencies in streamlining distribution of TEFAP foods and reducing barriers to participation. Many of these flexibilities were utilized during the COVID-19 pandemic. These flexibilities are allowable under current program regulations at 7 CFR Parts 250 and 251.

State agencies are encouraged to review this memorandum and incorporate these flexibilities as appropriate. Please note some of the flexibilities listed may conflict with State laws, policies, or procedures. Accordingly, not all options may be available for all States. State agencies will need to review and update their State Plans in accordance with Policy Memorandum FD-153: Guidance for Submitting Amendments to TEFAP State Plans per 7 CFR 251.6 if changing distribution procedures. State agencies are also encouraged to consult Policy Memorandum FD-146: Questions and Answers about Distribution Procedures in TEFAP and Policy Memorandum FD-041: Distribution of TEFAP Foods to Children for additional flexibilities available for TEFAP State agencies.

1. **How can TEFAP eligible recipient agencies (ERAs) distribute TEFAP foods for household distribution to participants who cannot visit a distribution site?**

   There are several ways that ERAs can promote access and support participants who have difficulty accessing distributions for reasons such as health conditions or transportation barriers. For example, ERAs can utilize a drive-through model in which recipients receive a box of TEFAP foods that is placed directly in their vehicle by staff or volunteers. ERAs may also consider delivering TEFAP foods to central pick-up locations or to participants' homes (see related Question #7, below). We encourage States and ERAs to utilize creative solutions for TEFAP household distribution that promote access to TEFAP distributions. Should State agencies have any questions about the allowability of a given procedure, they should contact

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their FNS Regional Office.

2. **Can ERAs distribute TEFAP prepared meals in take-out containers?**

   Those organizations approved to serve TEFAP foods to predominantly needy persons in the form of prepared meals (as per 7 CFR 251.5(a)(2)) may provide meals in take-out containers.

3. **Are State agencies able to waive signature requirements for TEFAP eligibility determinations and household distributions?**

   Yes. TEFAP regulations do not require a signature either when applying for TEFAP or when picking up TEFAP food. Removing signature requirements could expedite distribution processes and reduce barriers to participation. If a State agency currently has a signature policy in place, it can amend its State plan to permit self-attestation in lieu of signatures. State agencies must submit amendments to their State Plan to their FNS Regional Office for approval and should follow the procedures outlined in Policy Memorandum FD-153: Guidance for Submitting Amendments to TEFAP State Plans per 7 CFR 251.6. Any changes to signature requirements must be applied statewide.

4. **Are State agencies able to skip the collection of household addresses during TEFAP household distributions?**

   For eligibility purposes, TEFAP regulations in part require that households reside in the geographic location served by the State agency. Per 7 CFR 251.10(a)(3), ERAs such as food banks and food pantries must collect the address of each household at the time of that household's application to receive TEFAP foods for home consumption. However, ERAs do not have to re-collect addresses at each distribution. States can institute a process whereby participants are asked to attest that their household is still eligible to receive TEFAP when they pick up food at future distributions. States can also have a policy whereby a household is assumed eligible at future distributions but is required to immediately notify the ERA of any changes in eligibility. Additionally, States have flexibility to collect addresses in a variety of formats such as over the phone, via text or e-mail, by photographing a written address, etc. Any changes to address collection procedures must be applied statewide and must be submitted to the FNS Regional Office following the procedures in Policy Memorandum FD- 153: Guidance for Submitting Amendments to TEFAP State Plans per 7 CFR 251.6.

5. **Are State agencies able to adjust income eligibility requirements in order to expand participant eligibility?**

   TEFAP State agencies may adjust TEFAP income eligibility guidelines to expand participant eligibility for household distributions at any time, consistent with 7 CFR 251.6(b) and (c). State agencies can also establish categorical income eligibility procedures (e.g., establishing a policy that makes all SNAP or WIC participants eligible for TEFAP) to expedite household eligibility

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processes. However, per 7 CFR 251.5(b)(1), State TEFAP income guidelines must only allow those households in need of food assistance because of inadequate household income receive TEFAP foods.

Note that for those seeking prepared meals at a TEFAP meal site, no income verification is required. As per 7 CFR 251.5(a)(2), a State may only approve meal sites that are providing prepared meals to serve to predominately needy persons; thus, those accessing the meals are presumed to be needy.

Any changes to eligibility procedures must be applied statewide and must be submitted to the FNS Regional Office following the procedures in Policy Memorandum FD- 153: Guidance for Submitting Amendments to TEFAP State Plans per 7 CFR 251.6.

6. Can a proxy system be utilized for household distribution of TEFAP foods?

Yes. There are no specific Federal requirements on proxies in TEFAP. Accordingly, the State may add a proxy provision (or alter an existing one) in their State plan to allow for proxies or to increase the number of households one proxy may serve.

Any changes to proxy procedures must be applied statewide and must be submitted to the FNS Regional Office following the procedures in Policy Memorandum FD- 153: Guidance for Submitting Amendments to TEFAP State Plans per 7 CFR 251.6.

7. Can a State agency contract with a private, for-profit company to deliver TEFAP foods?

Yes. TEFAP State agencies have the discretion to procure, or allow ERAs to procure, delivery services from a for-profit company to provide home delivery of TEFAP foods for household consumption. First, consistent with 7 CFR 250.4(c) and (d), an agreement or contract must be in place between the company and the State or local agency which ensures that the delivery service adheres to all TEFAP program regulations. At a minimum, a contract or service agreement for these delivery services must require that the company provide:

1. Safe storage and transportation of the foods (to include refrigerated and frozen foods) in compliance with program regulations at 7 CFR Part 250;
2. All applicable records required by the State or ERA, including at minimum a list of households distributed to; and
3. An assurance that the privacy of participants will be maintained.

Additionally, applicable contracts or service agreements should include terms which ensure program integrity is maintained and participants ultimately receive program benefits.

If the State agency or ERA plans to use TEFAP administrative funds to procure this service, they must follow procedures outlined in 2 CFR 200, subpart E, and all applicable State and local procurement regulations. If the for-profit company is donating their services, the State or ERA

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does not need to follow procurement regulations but must have a contract or service agreement in place, preferably a no-cost contract or agreement.

Note these service agreements would not be considered ERA agreements as described at 7 CFR 251.2(c)(2). For-profit companies do not meet the definition of ERA at 7 CFR 251.3(d) and so may not enter into ERA agreements to operate TEFAP. Employees of the for-profit delivery services may not collect participant information or make eligibility determinations for new participants. Additionally, such employees may not be considered proxies for participants.

Any changes to delivery procedures must be applied statewide and must be submitted to the FNS Regional Office following the procedures in Policy Memorandum FD- 153: Guidance for Submitting Amendments to TEFAP State Plans per 7 CFR 251.6.

Applicable contracts or agreements should include terms which ensure program integrity is maintained and participants ultimately receive program benefits.

State agencies should contact their respective FNS Regional Offices with any further questions.

/s/ Original Signature on File
Sara Olson
Director
Policy Division
Supplemental Nutrition and Safety Programs
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