



Food and
Nutrition
Service

DATE: March 5, 2019

Park Office
Center

SUBJECT: Terms and Conditions for Funds Available for Storage and
Distribution of Trade Mitigation Program Foods

3101 Park
Center Drive
Alexandria
VA 22302

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

State Directors
All TEFAP State agencies

Under the statutory authority of the Commodity Credit Corporation (CCC), the U.S. Department of Agriculture (USDA) is administering a Trade Mitigation Food Purchase and Distribution Program (Trade Mitigation Program) to purchase up to \$1.2 billion in USDA Foods. The bulk of this food is being distributed through The Emergency Food Assistance Program (TEFAP), which is USDA's primary outlet for foods purchased through market support mechanisms. These foods are being provided to State agencies in addition to TEFAP entitlement and bonus foods. Additionally, USDA is making CCC funds available to assist with the operational costs of the receipt, storage, and distribution of these foods. As described in the November 13, 2018 memorandum to TEFAP State agencies, *Allocation of Funds to Support Costs Associated with the Storage and Distribution of Trade Mitigation Program Foods*, up to \$50 million will be available nationally to support TEFAP eligible recipient agency (ERA) operational expenses associated with Trade Mitigation Program foods.

Attached to this memorandum is a summary chart (Attachment B) showing the initial offer of Trade Mitigation Program ERA operational funds available to each State agency for phase two Trade Mitigation orders. At this time, a total of \$18.7 million is available to State agencies that have ordered Trade Mitigation Program foods. State agencies must review this chart and return the attached agreement (Attachment A) to their respective Food and Nutrition Service (FNS) Regional Office with the total amount they choose to accept for disbursement to their ERAs no later than March 13, 2019. A State agency's acceptance of all or a part of these funds accompanied by the signed attachment will serve as acknowledgment of, and agreement with, the terms and conditions set forth in this memorandum. Additional Trade Mitigation Program funds will be offered throughout fiscal year (FY) 2019.

USDA is an Equal Opportunity Provider, Employer and Lender

Disbursal of Trade Mitigation Program ERA Operational Funds

Under the statutory authority of Section 4(l) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b), these funds will be made available to State agencies on an advance basis. As outlined in the November 13, 2018 memorandum, *Allocation of Funds to Support Costs Associated with the Storage and Distribution of Trade Mitigation Program Foods*, funds will be allocated to State agencies based on a per-truck grant amount for each truck of Trade Mitigation Program foods ordered. State agencies are required to pass through 100 percent of these funds to ERAs within their State, and cannot retain any funds for use at the State level. State agencies have the discretion to give these funds to ERAs either through cash advances or through reimbursement payments. Funding provided via cash advances must, however, be adjusted based on actual costs incurred.

These funds will not flow directly through FNS. The Agricultural Marketing Service (AMS) will issue funds via electronic benefit transfer to State agencies that submit the enclosed agreement to FNS, as outlined above. The funds will be made available using the Web-Based Supply Chain Management system.

Allowable Uses of Trade Mitigation Program ERA Operational Funds

Trade Mitigation Program ERA operational funds must be used for TEFAP ERA operational costs associated with the receipt, storage, and distribution of Trade Mitigation Program foods.

These funds are separate and distinct from TEFAP administrative funds. These funds may be used for the same types of expenses as regular TEFAP administrative funding, but are limited to those expenses associated with Trade Mitigation Program foods. Additionally, unlike TEFAP administrative funds, these funds may not be spent by the State agency on behalf of the ERA. The funds must be spent directly by the ERA. State agencies and ERAs may refer to TEFAP regulations at 7 CFR 251.8(e) and section IX of Instruction 716-3 Rev. 1, TEFAP Administrative Costs, to determine what types of costs are allowable. The following list provides examples of allowable costs; however, this list is not meant to be exhaustive. Other costs may be deemed allowable as long as they are directly associated with the receipt, storage, and distribution of Trade Mitigation Program foods. State agencies are encouraged to make the most efficient and effective use of these funds possible. To that end, State agencies may restrict the use of these funds by disallowing one or more types of allowable expenses as stated in §251.8(e)(2).

Examples of Allowable Uses of Trade Mitigation Program ERA Operational Funds

- Fees charged by commercial warehouse operators and common carriers for storage and transportation of Trade Mitigation Program foods.
- Acquisition cost of equipment used in the physical handling, storage, and transportation of the Trade Mitigation Program foods.
- Maintenance and repair of equipment described above.

- Salaries of temporary workers hired to assist with the handling, storage, transportation, or distribution of Trade Mitigation Program foods.

Period of Availability of Trade Mitigation Program ERA Operational Funds

FNS expects to provide these funds to State agencies in three installments prior to September 30, 2019. All of these funds must be liquidated no later than December 31, 2019.

State-level Reporting, Recordkeeping, and Oversight of Trade Mitigation Program ERA Operational Funds

TEFAP State agencies are responsible for ensuring that these funds are used for allowable expenses associated with Trade Mitigation Program foods. Since these funds can only be used for Trade Mitigation Program foods, State agencies must ensure that all ERAs can differentiate between Trade Mitigation Program foods and other TEFAP entitlement or bonus foods.

State agencies will need to ensure that these funds only go to those ERAs that are receiving Trade Mitigation Program foods and that those ERAs only use the funds for allowable expenses associated with Trade Mitigation Program foods. State agencies can use a variety of methods to ensure the correct usage of these funds. Some examples include:

1. Providing the funds to ERAs as a per-pound amount based on the amount of Trade Mitigation Program foods received.
2. Reimbursing ERAs based on invoices for allowable direct expenditures, such as a contract for additional storage space for Trade Mitigation Program foods.
3. Providing funds to ERAs based on anticipated costs, requiring ERAs to maintain records of all allowable administrative costs incurred, and ensuring that those costs equal or exceed the funds advanced to the ERA.

Alternate methods may also be allowable, but State agencies will ultimately be responsible for ensuring that these funds are used for the allowable purposes and that adequate documentation is available to support subsequent audit activity. All documentation must be kept for a period of 3 years after the end of FY 2019. State agencies should also include a review of Trade Mitigation Program ERA operational funds as a part of any required ERA review within the next 3 years. This review may be conducted using the principles set forth in Policy Memorandum FD-126, *Review of Administrative Funds Provided to ERAs in TEFAP*.

State agencies will be required to report the total funds used to USDA at the end of Calendar Year (CY) 2019. This reporting requirement is separate from TEFAP administrative fund reporting and will not use the FNS-667 form.

These funds should not be reported under the TEFAP administrative funds CFDA number (10.569). The funds will be reported under the unique CFDA number 10.178.

Federal Oversight of Trade Mitigation Program ERA Operational Funds

USDA will provide oversight to ensure that these funds are used appropriately. State agencies may be subject to a USDA review of the State’s documentation, including a review of invoices. Additionally, all TEFAP Management Evaluations and Financial Management Reviews for FY 2020-2022 will include a review of Trade Mitigation Program ERA operational funds.

Recovery of Unused Trade Mitigation Program ERA Operational Funds

State agencies will be responsible for returning any unspent funds to USDA. At the end of CY 2019, State agencies must submit a summary report of the total funds used. State agencies must recover any unused funds that remain at the ERA level and return them to USDA via check or an electronic transfer. Further guidance on the process for returning funds will be forthcoming.

/Original Signature on File/

Diane Kriviski
Deputy Administrator,
Supplemental Nutrition and Safety
Programs, Food and Nutrition Service

/Original Signature on File/

David Tuckwiller
Deputy Administrator,
Commodity Procurement, Agricultural
Marketing Service

Attachments

Attachment A: USDA - State Agency Agreement

I, _____, agree to accept and use \$_____ of the funds offered to me under the terms and conditions of this memorandum.

Signed,

TEFAP State Agency Director

USDA is an Equal Opportunity Provider, Employer and Lender

Attachment B**Trade Mitigation Program ERA Operational Funds
Phase 2 Offer
FY2019 Emergency Food Assistance Program**

REGION/STATE	NUMBER OF PHASE 2 TRUCKS ORDERED BY 2/7/2019	TOTAL FUNDS OFFERED FOR PHASE 2
NORTHEAST		
Connecticut	87.00	\$174,000
Maine	34.00	\$68,000
Massachusetts	116.00	\$232,000
New Hampshire	16.50	\$33,000
New York	528.00	\$1,056,000
Rhode Island	19.50	\$39,000
Vermont	9.00	\$18,000
TOTAL-NERO	810.00	\$1,620,000
MID-ATLANTIC		
Delaware	54.63	\$109,253
District of Columbia	16.25	\$32,494
Maryland	39.50	\$79,006
New Jersey	350.50	\$701,000
Pennsylvania	305.50	\$611,000
Puerto Rico	16.00	\$32,000
Virginia	163.71	\$327,413
Virgin Islands	2.00	\$4,000
West Virginia	93.92	\$187,834
TOTAL-MARO	1,042.00	\$2,084,000
SOUTHEAST		
Alabama	174.00	\$348,000
Florida	674.00	\$1,348,000
Georgia	299.00	\$598,000
Kentucky	182.00	\$364,000
Mississippi	103.00	\$206,000
North Carolina	347.00	\$694,000
South Carolina	102.00	\$204,000
Tennessee	173.00	\$346,000
TOTAL-SERO	2,054.00	\$4,108,000
MIDWEST		
Illinois	392.00	\$784,000
Indiana	181.00	\$362,000
Michigan	318.00	\$636,000
Minnesota	114.00	\$228,000
Ohio	356.00	\$712,000
Wisconsin	144.00	\$288,000
TOTAL-MWRO	1,505.00	\$3,010,000

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

**Trade Mitigation Program ERA Operational Funds
Phase 2 Offer
FY2019 Emergency Food Assistance Program**

REGION/STATE	NUMBER OF PHASE 2 TRUCKS ORDERED BY 2/7/2019	TOTAL FUNDS OFFERED FOR PHASE 2
SOUTHWEST		
Arkansas	112.00	\$224,000
Louisiana	185.00	\$370,000
New Mexico	91.00	\$182,000
Oklahoma	132.00	\$264,000
Texas	944.00	\$1,888,000
TOTAL-SWRO	1,464.00	\$2,928,000
MOUNTAIN PLAINS		
Colorado	121.50	\$243,000
Iowa	90.00	\$180,000
Kansas	64.00	\$128,000
Missouri	177.00	\$354,000
Montana	28.50	\$57,000
Nebraska	32.00	\$64,000
North Dakota	17.00	\$34,000
South Dakota	26.00	\$52,000
Utah	65.00	\$130,000
Wyoming	17.00	\$34,000
TOTAL-MPRO	638.00	\$1,276,000
WESTERN		
Alaska	14.00	\$28,000
Arizona	275.00	\$550,000
California	1,025.00	\$2,050,000
Guam	-	-
Hawaii	10.00	\$20,000
Idaho	24.00	\$48,000
Nevada	159.00	\$318,000
N Mariana Isl.	-	-
Oregon	160.00	\$320,000
Washington	184.00	\$368,000
TOTAL-WRO	1,851.00	\$3,702,000
NATIONAL TOTAL	9,364.00	\$18,728,000

3.4.19