



THE EMERGENCY FOOD ASSISTANCE PROGRAM HANDBOOK

Issued by the



*VIRGINIA DEPARTMENT
OF AGRICULTURE AND
CONSUMER SERVICES*

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TEFAP HANDBOOK

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Introduction

The Temporary Emergency Food Assistance Program was founded in 1981 due to the large surpluses of dairy products accumulated by the United States Department of Agriculture (USDA). By late 1981, the USDA had approximately 560 million pounds of surplus cheese on hand. On December 22, 1981, President Ronald Reagan authorized USDA to provide 30 million pounds of cheese for distribution to needy persons. In early 1982, additional quantities of cheese were released and in June frozen butter was made available. Although the cheese and butter surpluses were depleted, the need for supplemental food assistance had been proven. The program has been providing USDA donated food to needy persons ever since as a supplement to other assistance provided at the local level.

Welfare Reform began on August 22, 1996, when President Bill Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The act amended legislation authorizing food distribution programs operated by the Food and Nutrition Service (FNS). The Act consolidated Soup Kitchens, Food Banks, and The Emergency Food Assistance Program (TEFAP) under the Emergency Food Assistance Program (EFAP). Previous legislation that authorized Soup Kitchens/Food Banks separately from TEFAP was repealed. All programs are now identified as part of The Emergency Food Assistance Program (TEFAP).

USDA foods for TEFAP are channeled to the needy through Eligible Recipient Agencies (ERAs) including Food Banks, in the form of prepared meals (i.e., Soup Kitchens) and for home consumption (i.e., Food Pantries, Mass Distributions).

Food Banks referenced in this handbook are defined as members of Feeding America that have signed a contractual agreement with the Virginia Department of Agriculture & Consumer Services, Division of Marketing, Food Distribution Program (VDACS) to receive and distribute USDA foods to eligible households and to other Emergency Feeding Organizations (EFOs) (primarily their affiliated agencies) for distribution to eligible households.

EFOs are public or private non-profit organizations that have executed an Agreement with VDACS to receive USDA foods through direct shipment or a distributor. EFOs in Virginia can include Food Banks, Food Pantries, Soup Kitchens, and Charitable Institutions.

EFOs that are affiliates of a Food Bank, such as Food Pantries, will conduct their TEFAP activities under the guidance of the Food Bank. Their contractual relationship with VDACS exists through a signed VDACS Agreement Addendum. VDACS communications and program guidelines will be conducted with such EFOs primarily through their affiliated Food Bank.

The amount of USDA food and administrative funds received by the state is based on the number of unemployed persons and the number of people with incomes below the poverty level in the state.

7 CFR 251. TEFAP is governed by the Code of Federal Regulations, Title 7, Part 251, The Emergency Food Assistance Program (TEFAP). 7 CFR 251 establishes the regulations necessary to carry out this program. Additional information and clarification is provided through USDA's Policy Memos.

Chapter 7, Section 251.4 establishes a two-tier system for distribution of USDA foods to ERAs. TEFAP foods must be distributed according to the established priorities.

Priority will be given in the following order:

- EFOs
- Soup Kitchens
- Food Pantries and Mass Household Distribution Sites
- Other Food Banks
- Temporary/Overnight (Homeless) Shelters

Second priority will be given in the following order:

- Longer Term/Residential Shelters
- Transitional Living Centers
- Substance Abuse Rehabilitation Centers
- Charitable Institutions
- Child Nutrition Programs

Applicability

The information, policies and procedures in this handbook apply to the administration, handling, storage, distribution, etc. of **all** TEFAP foods allocated and/or received in the State, whether as part of the state's allocation, entitlement or bonus.

VDACS has been designated as the Virginia state agency that provides USDA TEFAP foods to eligible recipient agencies for further distribution to needy persons, and to receive payments from USDA for the administration, storage, and distribution of USDA TEFAP foods.

TEFAP Handbook incorporates the requirements for EFOs to participate in the distribution of USDA donated foods. The handbook provides guidance to both Food Banks and Food Pantries in meeting both federal regulations and state operational procedures. Required documents are included in the Appendix.

Two goals should remain in focus at all administrative and operational levels of TEFAP:

- Program integrity: Ensuring that food assistance is provided only to those who meet the program eligibility requirements.
- Helping feed needy people: Reaching out to those in need of food assistance to the extent that resources are available.

I. VDACS RESPONSIBILITIES

VDACS responsibilities encompass the following requirements:

- VDACS will meet the terms of the Agreement between USDA and VDACS as well as ensure that the federal regulations for TEFAP are met.
- VDACS will sign Agreements with recipient Food Banks before each state fiscal year begins on July 1.
- VDACS will sign an Agreement Addendum with Food Bank affiliated EFOs annually.
- VDACS will publish eligibility criteria based on household income for use by Food Banks.
- VDACS will assess state needs within the limits of USDA's allocations.
- Upon receipt VDACS will process Invoices Requesting Reimbursement of shared maintenance fees from Food Banks to distribute USDA foods at no charge to outlets or recipients.
- VDACS will provide financial reimbursement to Food Banks based on published rates, as federal funds are available.
- VDACS will provide Food Banks with all necessary information, forms, and household eligibility criteria.
- VDACS will ensure that USDA foods are properly used by EFOs and efficiently distributed to eligible households.
- VDACS will conduct administrative and site reviews of Food Banks.
- VDACS will oversee and monitor Food Bank reviews of EFO distribution sites as required by federal regulations and the state plan.
- VDACS will determine losses due to negligence upon report and direct Food Banks to replace USDA foods or reimburse the government.
- VDACS will ensure that all counties/cities will have access to TEFAP foods.
- VDACS will maintain program records and provide reports as required by federal regulations and the current state plan.
- VDACS will ensure that all funds provided by USDA are used in accordance with federal regulations and the state plan.

- VDACS will publish and enforce Civil Rights compliance requirements and review complaints of discrimination or misuse of USDA foods.
- VDACS will ensure that remaining USDA foods are inventoried at state fiscal year end.
- VDACS will ensure receipt of a fiscal year end confirmation of federal assistance received, to be submitted annually in July.
- VDACS will offer entitlement and bonus USDA foods via USDA Ordering System (WBSCM) as made available by USDA.

II. FOOD BANK RESPONSIBILITIES

Food Bank responsibilities encompass the following requirements:

- Food Banks will execute Agreement VDACS-FD1 to be signed by the Food Bank Director and VDACS Food Distribution Program Administrator each year.
- Food Banks will retain a signed VDACS Agreement Addendum from their affiliated EFO distribution sites annually.
- Food Banks must notify their Regional Commodity Manager (RCM) in the event of a change in essential personnel.
- Food Banks must have approval by VDACS prior to any off-site storage of TEFAP foods.
- Food Banks will determine the needs of their coverage area based on periodic averages of households served. Such needs should include only amounts of USDA donated foods that can be safely stored and distributed within three to six months.
- Food Banks may request reimbursement of agreed Shared Maintenance Fees by submitting the Invoice Requesting Reimbursement form as shipments of USDA foods arrive. Food Banks will distribute these foods at no charge to their EFOs whenever VDACS pays this fee on their behalf.
- Food Banks will provide for transportation of USDA foods to EFO sites or allow pickup.
- Food Banks will not charge EFOs a yearly usage fee if they elect to participate in the USDA only program.
- Food Banks must submit Year End Fiscal Inventory of USDA foods that are on hand as of June 30 each year.
- Food Banks will submit a fiscal year end confirmation of federal assistance received annually in July.
- Food Banks will provide VDACS with a list of counties/cities in the Food Bank's service area.
- Food Banks will submit a Report of Distribution VDACS-FD203 and the In-Kind Contribution forms to VDACS quarterly.

- Food Banks must collect Self-Declaration of Income forms at least semi-annually and EFO inventory and food issuance reports monthly.
- Food Bank staff will review the SDI forms to verify that the number of eligible households approximates the number of households reported as served. They will also compare the size and number of households reported as served with the number of cases of food distributed to assure conformity with TEFAP food issuance guidelines by the EFO.
- Food Banks will conduct a pre-award civil rights questionnaire on all new **and returning** USDA EFO's. These questionnaires must be sent to the RCM for approval prior to the EFO receiving USDA foods for distribution. The approved questionnaire must be maintained in the EFO files.
- Food Banks will conduct and document an annual training on civil rights with their affiliated EFO sites.
- Food Banks will have the "Justice for All" poster displayed where recipients of the program can see it along with the Civil Rights Complaint form.
- Food Banks will review the IRS Automatic Revocation of Exemption List at least annually to ensure no affiliated EFO's are on this list.
- Food Banks will maintain records, all the above forms, Self-Declaration of Income (SDI) forms and any proxy notes for the current year plus the previous three years for review by VDACS or USDA representatives.
- Food Banks will review their affiliated EFO sites a minimum of every two years. **If feasible, these reviews will be conducted during determination of recipient household eligibility and distribution of USDA foods.**
- Food Banks are required to provide the training and oversight necessary to ensure that adequate inventory controls and security are in place at the EFO site.
- Food Banks will identify, report, and release any inventories of USDA foods for VDACS reallocation in the event of natural disasters or emergencies.
- Food Banks will immediately report all losses of USDA food to their RCM.
- **Food Banks accept final administrative and financial responsibility for all sites at which the food bank operates or delegates program activities.**
- Food Banks will replace USDA foods or reimburse the government, for any loss of USDA foods. This is to be done at the direction of VDACS and replacement or reimbursement will be determined by VDACS.
- Food Banks that elect to drop out of TEFAP will notify their RCM and the VDACS Program Administrator 30 days in advance in writing. Included in the letter should be the effective date, any TEFAP purchased equipment and the amount of USDA inventory.
- VDACS will be reimbursed for any shared maintenance fees that have been paid on USDA foods that were lost, stolen, damaged, transferred, or infested.

III. EFO RESPONSIBILITIES

EFO responsibilities encompass the following requirements:

- EFOs will sign and comply with the VDACS Agreement Addendum annually.
- EFOs will ensure that storage and distribution of USDA foods are in compliance with established guidelines.
- EFOs will ensure USDA foods are distributed to eligible households in accordance with eligibility criteria and the distribution rates provided by VDACS.
- EFOs will conduct a monthly inventory to report to the Food Banks the number of cases/units of USDA foods that were distributed to eligible households. Also a monthly total of households that were served must be tallied and reported to the Food Banks
- EFOs will comply with the Civil Rights responsibilities in this handbook as well as any future guidance. This includes training staff and volunteers on civil rights and complaint handling procedures.
- EFOs will immediately report any losses of USDA foods to their Food Bank.
- EFOs will maintain all program records for the current year and one year prior.
- EFOs that become closed on their own or by the food bank are responsible for returning any USDA foods that have not been distributed either back to the food bank and/or transfer the remaining USDA foods to an active EFO. All documentation in regards to the transfer and/or distribution of food must be recorded and maintained in the corresponding agency files.

IV. REQUESTING, RECEIPTING AND DELIVERY OF USDA FOODS

A. REQUESTING

VDACS will solicit USDA food requests via WBSCM from Food Banks. VDACS will notify Food Banks of their food allocations based on the entitlement available for food purchases and their percentage of households served. Failure to request USDA foods could result in USDA foods being limited to the Food Banks during particular delivery periods.

B. RECEIPT

Currently Virginia's Food Banks receive USDA shipments directly from USDA vendors. VDACS retains the final determination of whether they will receive USDA foods through direct shipment or through its contracted distributors. The Requisition Status Report from WBSCM can be obtained indicating the shipment specifics. Do not accept any shipments of USDA foods without the report from WBSCM or approval from VDACS.

Vendors will schedule an appointment with the Food Bank prior to delivery. Shipments are usually palletized but sometimes high bulk, low weight USDA foods like dehydrated potatoes and cereals may be shipped floor loaded. Food Banks must ensure sufficient labor and material-handling equipment is available to avoid detention charges by carriers. Refer to the Consignee Handbook for detailed procedures.

Upon receipt Food Banks must verify the case counts with the Requisition Status Report in WBSCM and Bill of Lading. If the documents agree with the physical count, electronically receipt for the load as well as sign the bill of lading and return all documentation to VDACS. If the quantity of food differs from the Requisition Status Report in WBSCM; or is out of condition for use; call VDACS while the truck driver is still on site; receipt for the order on WBSCM showing the overage, shortage, and/or damage and complete the VDACS OS&D Form. Submit immediately the VDACS OS&D Form along with the annotated bill of lading and any documentation that support the problem. The must be noted on the truckers manifest, and a copy of their manifest attached to the OS&D report. Failure to receipt for USDA shipment in WBSCM within **2 days** of receiving the USDA shipments may result in the Food Bank accepting financial responsibility for shortages and damages not reported.

C. DELIVERY

Food Banks will arrange for the delivery to or pickup of USDA foods by EFOs without charge if VDACS pays the agreed Shared Maintenance Fee. If VDACS cannot pay this fee, Food Banks have the option of waiving the delivery fee or charging their EFO outlets the Shared Maintenance Fee. Recipient households **CANNOT** be charged any service fees for receipt of USDA foods.

V. HANDLING REQUIREMENTS

A. FOOD STORAGE FACILITIES

- Refrigerated or frozen USDA foods require that temperature charts be maintained that indicate the dates and readings such recordings were made. The temperature readings must be recorded at least three times each week from an internal thermometer. Temperature charts must be maintained for each separate storage unit. Refrigeration unit temperatures should be maintained between 32 and 41 degrees Fahrenheit. Freezer temperatures must be maintained at or below 0 degrees Fahrenheit.
- Shelf stable USDA foods require dry, cool storage. Dry storage temperatures should be maintained between 40 and 70 degrees Fahrenheit and thermometers should be installed in those storage areas to ensure proper temperatures are maintained. Temperature charts must be maintained indicating the dates and readings such recordings were made at least three times each week.
- USDA foods should be stored away from steam pipes, chemicals and equipment generating heat.
- Adequate racks or shelving must be provided for storage in freezers, refrigerators and dry storage. Foods should be stacked away from walls and off the floor to allow air circulation around the cases of food.
- Adequate lighting is required to aid in rotation and inventory checks of foods.
- Adequate security by means of locks, bars, alarms, etc. is required to guard against theft or vandalism.
- Storage areas must be protected against rodents and insect infestation with routine extermination service and a record of these inspections must be maintained.
- Distributing agencies, sub-distributing agencies and recipient agencies shall ensure that storage facilities have obtained all required Federal, State and/or local health inspection and/or approvals and that such inspection/approvals are current.

B. GENERAL FOOD MANAGEMENT PRACTICES

Management must emphasize proper food handling to avoid health hazards, maximize use of space and minimize food losses. These practices include:

- Check each food delivery carefully for possible shortage, overages or damage. Inspect the condition of packaging before placing foods in storage and check frequently to detect signs of food loss from age, infestation, spoilage, etc.
- Maintain the food at the proper storage temperature range to maximize shelf life and minimize losses. Temperature records are required to support proper storage procedures were followed.
- Maintain perpetual inventory records and regularly verify records with a physical count.
- Practice “first in, first out” to assure the oldest foods are utilized first and to prevent spoilage. EFOs should also use this rule and they should not hold onto USDA foods too long. USDA

usually considers any foods that won't be used within 6 months to be excessive. USDA foods must be distributed with enough time to allow households the opportunity to consume the foods before their expiration, "best-if-used-by", or "use-by" dates have passed.

- USDA foods shall be clearly identified and, assurance that an inventory system shall be maintained and an annual physical inventory will be conducted; and reconciled with the inventory records.
- Never store cleaning supplies and equipment in the same areas as food.

Failure to provide adequate storage, to keep proper records, and/or to take reasonable security precautions could result in claims for restitution assessed against the Food Bank in the event of USDA food loss, spoilage or destruction.

USDA foods are not in tamper-resistant packaging. Once distributed to household recipients USDA foods should not be returned for re-issue. This would violate the agreement with VDACS as well as the recipients agreement and could cause personal injury and/or liability claims.

C. TRANSFER OF USDA FOODS

All transfers of USDA foods require approval by VDACS. A written Transfer Order form will provide a record of the transfer and signatures of release and acceptance. Any transfers of USDA foods must also be included as a separate line entry on the "Transfer Out" line on the Report of Distribution VDACS-FD 203. Transferred quantities are not included on Line 2 of the quarterly Report of Distribution.

D. DISPOSITION OF UNUSABLE USDA INVENTORIES

When USDA food inventories exceed potential usage within six months, contact VDACS to arrange a transfer. The RCM will find another eligible agency to receive the foods. Transfer or use of USDA foods without VDACS approval could result in a claim against the Food Bank.

USDA foods remain the Food Banks responsibility until utilized or transferred as directed. Transfer of liability does not occur until a completed Transfer Order is signed and received by VDACS.

If the USDA foods are to be transferred to another eligible agency, the RCM will provide a copy of the transfer order in advance. The transferring agency will check the amount to be transferred, sign the transfer form, secure the signature of the receiving agency to verify the quantities received, and forward copies according to instructions on the form.

Damaged or out-of-condition foods must be disposed of by the appropriate recipient agency site personnel. The method of disposal will usually depend on the quantity; always contact VDACS for appropriate procedures. In most cases, disposing of food in a garbage disposal, in a dumpster, or (for a large number of cases) in a landfill would be appropriate. Care should be taken to remove labels, separate the food from the packaging and adulterate the food so it could not mistakenly be used. If food is to be taken to the landfill to be buried or burned, a person with the recipient agency should witness the destruction of the food and obtain a receipt from the landfill operator.

Include in disposal documentation the quantity and description of the food, circumstances surrounding the loss, the method of disposal, date and location of disposal, and the signature of the person who witnesses the disposal.

E. REPORTING LOSS OF USDA FOODS

Whenever a loss of USDA foods is discovered, Food Banks must notify VDACS immediately for instructions. A letter with documentation must explain the loss and identify insurance coverage. A USDA Food Loss Report must also be completed see Appendix O. In the event of loss of USDA foods due to fire or theft, the police must be contacted and a copy of the police report included with the letter of explanation to VDACS. The Food Bank must file an insurance claim with any proceeds being given to the appropriate governmental agency. VDACS must investigate any loss of USDA foods in order to determine if a claim must be pursued.

The recipient agency ensures that they have purchased insurance coverage to protect the value of food items which are being stored.

F. DEMONSTRATIONS WITH USDA FOODS

Educational cooking demonstrations for household recipients can be authorized by the RCM. A demonstration to individual households is not an effective use of these foods. Records should be maintained and the next Report of Distribution should include these as “distributed” foods. Any release of USDA foods for unauthorized use will require restitution.

G. CHILD PROGRAMS

In accordance with Section 251.6© of the regulations, prior to permitting Food Banks to distribute TEFAP foods to children, VDACS must review the Food Bank’s Distribution Plan, and if necessary, submit an amendment to the Plan to the appropriate FNSRO for approval.

Food Banks are authorized to issue USDA foods to sponsored Kid’s Cafes, Backpack or similar programs on a very limited basis. Such issuance should be limited to bridging commercial donations or purchases. Records of issuance should be retained.

VI. REQUIRED DOCUMENT SUBMISSION TO VDACS

A. REIMBURSEMENTS OF SHARED MAINTENANCE FEES

- VDACS will reimburse the agreed upon shared maintenance fees to Food Banks only upon receipt of an Invoice Requesting Reimbursement. This form must be submitted after electronic receipt of the sales order shipment via WBSCM (or Transfer Order with prior approval) that indicates the number of cases of food received by the Food Bank. Only one claim per shipment is allowed. This must be submitted to VDACS on a minimum of a weekly basis. Reimbursement will be subject to sufficient federal funding being available when all documentation is received by VDACS.
- The Invoice Requesting Reimbursement must be filled out completely and correctly to receive reimbursement. Indicate the shipment or Transfer Order number. The quantity received must match the shipment record or Transfer Order quantity.

- Food Banks agree to accept the shared maintenance fee as full payment to distribute USDA foods in lieu of charging their EFO outlets. Any transportation, storage, handling, labor, or promotional costs incurred with the distribution of these USDA foods comes out of this payment, including handling transfers of USDA foods between member Food Banks.

B. REPORT DEADLINES FOR FOOD BANKS

- The Report of Distribution VDACS-FD203 is due to the RCM within 40 days after the calendar quarter. Only full case quantities distributed should be reported. It must also include the number of households served that quarter. EFOs will submit supporting documentation in the form of a monthly inventory report to the Food Banks in time to complete this report.
- The Quarterly Report of In-Kind Contributions should be submitted to the RCM with the Report of Distribution within 40 days after the calendar quarter. The Quarterly Report form must be signed by an authorized food bank staff member certifying that no federal funds were expended in providing the administrative oversight reported.

Food Bank staff will document time and mileage incurred in training, monitoring and reviewing EFO operations during the quarter by completing and signing the Daily Record of In-Kind Contributions form. More detailed instructions about In-Kind Contributions are provided in the appendix with the two applicable forms. Approved in-kinds should be submitted for conducting on-site reviews of EFOs, assisting VDACS staff in assembling quarterly USDA commodity orders, and providing formal TEFAP program training to EFO staffs.

Documented in-kind hours and mileage of trained qualified volunteers are allowable. Standard monitoring forms must be completed and on file.

- The Annual Fiscal Year End Inventory Report, the Confirmation of Federal Financial Assistance and a list of all EFOs receiving USDA foods with the quarterly households served are all due in July.
- Failure to meet these report deadlines may result in withholding of shared maintenance fee payments by VDACS.

C. RECORD RETENTION REQUIREMENTS

Food Banks are required to retain and have available the following records for the current year plus three previous years. Records must be available for review by VDACS and/or representatives from USDA:

- The current VDACS Agreement must be on hand and be signed by the Food Bank Director. Any time there are essential personnel changes notify VDACS immediately. A change in Food Bank Director will require that a new VDACS Agreement be signed.
- A current VDACS Agreement Addendum for each EFO affiliate must be signed and maintained at the Food Bank.

- Signed Self-Declaration of Income forms, signature sheets, proxy notes, distribution forms, and other documents indicating household certification must be on file for review, whether the household or individual was declined or approved for participation. All of these documents are official records and should be completed in ink.
- An annual listing of all Food Bank affiliate EFOs receiving USDA foods with the quarterly household distribution must be kept on file for review.
- All pre-award civil rights questionnaire forms must be kept on file for review.
- Food Banks will retain Reports of Distribution, In-Kind Contribution reports and Invoices Requesting Reimbursement on file. Copies of signed USDA Ordering System reports and VDACS OS&D form must be on file.
- Transportation bills of lading/delivery tickets must be on file. All transfer documents, records indicating the disposal of damaged/spoiled foods, and annual inventories must be retained.
- Temperature charts and extermination records must be retained.

Electronic/scanned copies of original documents or records are acceptable to meet the requirement for maintenance of records. Any records or documents maintained solely in an electronic format MUST be backed-up or copied to a second storage medium, such as a flash drive or CD, so that 2 separate sets of electronic records are maintained for the required amount of time, as described above. Failure to maintain electronic records due to an electronic storage medium failure, such as a computer drive crashing or a CD failing, is not an acceptable reason for not maintaining the required records. A recipient agency considering maintenance of records solely in electronic format must submit to VDACS a brief record-keeping plan for approval prior to disposing of original documents or records.

VII. ELIGIBILITY REQUIREMENTS

The following criteria determine household eligibility to receive USDA donated foods. EFO outlets are required to use either categorical eligibility or Self-Declaration of Income to certify household eligibility for TEFAP.

A. HOUSEHOLD ELIGIBILITY

Federal regulations require that eligibility for TEFAP foods be based on the income for the total HOUSEHOLD, not the individual. The recipient must be a resident of Virginia, but the length of residency is not used to determine eligibility.

A household is defined as “a group of related or non-related individuals, exclusive of borders, who are not residents of an institution but who are living as one economic unit sharing common cooking facilities, and for whom food is customarily purchased in common.”

“It also means a single individual living alone who has cooking facilities and prepares food for home consumption.”

Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. The USDA regulation mentions shared food purchases and preparation as part of the definition of a household. For situations where individuals (related or non-related) reside together, but prepare their meals separately, the deciding factor will be whether significant household expenses are shared. Individuals sharing housing and/or income and expenses will be considered one household/economic unit.

SNAP recipients are the only households that can exist as separate economic units within a common living arrangement and are eligible as a separate economic unit to receive TEFAP foods. The VDACS Food Distribution Office, Food Banks and the EFO do not have the ability to verify the status of separate economic units within a household. SNAP recipients are the exception only because such verification is conducted by Social Services.

In all other cases income from all individuals living together in one house or apartment must be considered in determining household eligibility for TEFAP foods.

There is no minimum age listed in the TEFAP regulation in regards to an applicant to receive USDA foods. If the applicant is under 18 but maintains his/her own household and can report an address, they would qualify as a household (recipient).

Homeless people must meet state income eligibility requirements in order to receive USDA foods. On the address of the applicant the EFO should note the location in which the homeless person spends most of their time.

USDA foods may not be used as payment or reward to volunteers or staff or for snacks or meals. Under no circumstances shall recipients be required to make payments in money, materials or services for the receipt of USDA foods. Additionally, recipients shall not be solicited to volunteer their services or for voluntary contributions or donations during the distribution of USDA foods.

Activities unrelated to the receipt of USDA foods may not be conducted at sites unless participation in such activities is expressly identified as being separate and apart from distribution involving USDA foods, and TEFAP recipients are not required to participate in order to receive such USDA foods. For example, an EFO may not require eligible persons to attend religious services in order to receive USDA foods.

B. CATEGORICAL ELIGIBILITY

Participation in a public assistance income based program listed below may be used to certify eligibility for TEFAP foods as long as the total economic unit income has been certified, not just one person within the household.

The following public assistance programs are based on income levels that automatically qualify the household for TEFAP assistance.

- Supplemental Nutrition Assistance Program (SNAP)

- Temporary Assistance for Needy Families (TANF)

Eligibility may also be by current enrollment in the following public assistance programs provided the combined income of all household members is included in determining eligibility for the program:

- Supplemental Security Income (SSI)
- Medicaid (see example below)

Individuals qualifying for SSI, Medicaid, or other programs concentrating on the individual income rather than the total household income may or may not be eligible for this program, depending on the income of the other household members. An individual who constitutes a household of one receiving SSI or Medicaid would be eligible to receive USDA foods. Likewise, households in which all members receive assistance through one or more of the above listed public assistance programs may be approved categorically.

Categorical eligibility will be valid as long as the household continues to be eligible under the public assistance program in effect at the time of certification.

C. SELF-DECLARATION OF INCOME

Applicants must provide information about household income to an EFO staff member who will complete the SDI form. The applicant must sign or mark in ink certifying that his/her household income is as reported. If the declared household income is at or below 150% of the federal poverty level, the SDI form will be accepted as proof of eligibility to receive food. If the declared household income is over 150% of the poverty income level, the applicant will not qualify to receive USDA foods. Retain all records of disapproval for review by VDACS.

VDACS updates the allowable income levels per size of household based on published USDA poverty guidelines and provides this information each year. The current poverty level guidelines must be used whenever households are being certified to receive TEFAP foods. EFOs may not establish a different income level.

Gross monthly household income must be at or below the standards listed on the Income Eligibility Guidelines that are issued each year. All sources of income for each and every member of the household must be included. Gross household income includes all wages, pensions, Social Security, Supplemental Security Income, Railroad Retirements, income from rental or leased property, interest or dividends from savings, certificates of deposit, stocks, bonds and income from all other sources. That may include, but is not limited to, strike benefits, unemployment compensation, alimony, child support, veteran's benefits and regular insurance or annuity payments.

Income should include any and all funds received by the household through jobs or benefits received through social programs or court order; this also includes gifts and income from personal property sales.

Income to foster caregivers should be treated as follows:

If the applicant declares the foster care income, the foster children can be counted toward the household size. If the foster care income is not declared, the foster children cannot be counted toward the household size.

This is consistent with SNAP eligibility policy. Applicants should consider the effect of this income or household size when declaring their income eligibility.

The SDI form will be used to document the applicant's name, full street address, number of household members, total household income, date of application and applicant's certifying signature or mark. Food Banks may also develop their own form as long as it includes the same information.

Certification of households using the SDI form should generally be for only three to six months. However, if there is a good reason as to why the applicant cannot do a face to face at the 6 month recertification phone verification with that applicant can suffice. This should be noted on the SDI form. However, a face to face verification should be done on a yearly basis. Applicants should be questioned about any changes each month they receive TEFAP food.

EFOs cannot ask for further documentation from applicants when completing the SDI forms.

D. PROXY NOTES AND PRE-AUTHORIZED ALTERNATES

A proxy note may be used by a household to authorize another individual to pick up USDA food on its behalf, on a one-time basis due to some unforeseen inability. EFOs are required to collect and keep all proxy notes on file whenever anyone picks up USDA food for another household.

Proxy notes cannot be used to certify household eligibility for TEFAP foods. Household eligibility must be determined by an EFO staff member interviewing an adult, belonging to, and applying for food assistance for a household.

A pre-authorized alternate may be named by a household at the time that eligibility is certified when it is known that the household must depend on another individual to pick up its USDA foods on a routine basis. The pre-authorized alternate is listed on the distribution form. This will avoid the necessity of a household submitting a proxy note each time it receives TEFAP foods.

EFOs are encouraged to implement procedures to verify proof of identity by persons signing for and picking up USDA foods through use of a proxy note or as a pre-authorized alternate.

If there is a good reason that the recipient could not be present, the Power of Attorney (PoA) could certify or declare eligibility for the recipient. The PoA must be attached to the recipients SDI form. The PoA would also need identification for the recipient with their address as well as their own identification. Recertification should be done every 6 months.

E. LEGAL SIGNATURES

Individuals receiving donated foods who cannot sign their name must put a mark in the designated space beside their printed name on any forms used to certify eligibility or to document issuance of TEFAP foods. This mark must be witnessed by an EFO staff member establishing eligibility by placing his/her signature as proof of witness. Use ink for signatures on all forms and records.

F. DISTRIBUTION GUIDANCE

TEFAP food distributions are not designed to meet the total food needs of a household. TEFAP distributions are meant to supplement the household in an emergency if its food resources are depleted.

USDA food will be distributed to a household **no more than** once each month. Direct or targeted distributions may be conducted for targeted low-income areas if sufficient USDA foods are available. **An average sized household may receive any combination of available USDA canned and boxed food items approximately equivalent to one case (generally 24 units) per household. This is the maximum allowable distribution of USDA foods to a household, less can be given. Large households may receive proportionately more. USDA food items in family pack sizes may be distributed in relation to available quantities and to avoid waste.**

See appendix for TEFAP household distribution scale.

Distribution of fresh produce should be a reasonable amount relative to household size and for immediate consumption to avoid spoilage.

G. ISSUANCE DOCUMENTATION

- The EFOs will conduct a monthly inventory to report to the Food Banks on a monthly basis the number of cases/units of USDA foods that were issued to eligible households.
- The EFOs must tally the monthly total of households served. It would be preferable if the inventory report also indicated the total number of households that were served during that month on the same form from the EFOs.
- The EFOs must generate and maintain a record of the households served each day the EFO is open to distribute USDA foods. Any of the following formats are appropriate for EFOs to document their distribution:
 - a. A list or pre-printed list of eligible households with recipient signatures.
 - b. Signatures on the SDI form each month a household is served.
- Food Bank staff and VDACS will review the SDI forms to verify that the number of eligible households approximates the number of households reported as served. They will also compare the size and number of households reported as served with the number of cases of food distributed to assure conformity with TEFAP food issuance guidelines by the EFO.

H. DISASTER & EMERGENCY EVACUEES

In areas covered by a Presidential declaration of a major disaster or emergency, individuals and families may be forced to evacuate their homes, and some of these evacuees may choose to reside with a host family until they can return to their own homes. In such instances, VDACS may, for the duration of the Presidential declaration, consider evacuees residing with a host family a separate household for the purpose of determining eligibility for regular program benefits under TEFAP. In instances when evacuees are considered a separate household, the host family must separately meet the eligibility requirements for the program(s) in order to receive program benefits. All other program requirements must be met, including use of the host family's place of residence, for the purpose of determining if both households meet applicable service area requirements.

In the event of an emergency or disaster declaration, the VDACS Program Administrator will notify food banks to report on-hand inventories of USDA foods. If necessary, VDACS will reallocate these foods to other sites as needed. Food Banks must report the volume of product released for emergency use. USDA must grant permission to release USDA foods for household distribution without income eligibility during

declared disasters and emergencies. Any shared maintenance fees paid to the Food Banks may be retained unless otherwise notified by VDACS.

Significant fluctuations in the number of households served by any Food Bank during an emergency or disaster declaration may be corrected by averaging the numbers submitted for the previous four quarters.

VIII. CIVIL RIGHTS RESPONSIBILITIES

The primary responsibility of the EFO is to insure that no person is excluded from participation in, denied benefits of, or is subject to any discrimination under TEFAP.

A. PUBLIC NOTIFICATION REQUIREMENTS

Food Banks will (and may on behalf of their affiliated EFOs) inform the public at least once every two years of the program availability. Broadcast or print news media are acceptable. All public announcements (including the Self Declaration of Income Forms) must include the statement:

“The U.S. Department of Agriculture (USDA) 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 if 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 and wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotope, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

USDA is an equal opportunity provider and employer.

The SDI forms must include the above full statement.

If the material is too small to permit including the full statement, it will at a minimum include "USDA is an equal opportunity provider and employer" in print size no smaller than the text.

Any materials such as brochures, flyers, press releases, church bulletins, etc., that mentions distribution of USDA foods must contain the non-discrimination statement at the EFO level as well.

Any informational materials released to the public about the program or availability of USDA foods to eligible households with photographs or graphics must display participants of different races, colors, and national origins.

All distribution sites must display the USDA civil rights poster "And Justice for All". Civil rights complaint forms must be available to clients/recipients of the USDA foods; this can be done by hanging forms with the "And Justice for All" poster.

EFO's must train their "frontline staff" staff and volunteers on civil rights and procedures to handle a complaint. "Frontline staff" that interacts with the program applicants or participants, and those persons, who supervise "frontline staff", must be provided civil rights training on an annual basis. Such training should be documented with the date; materials covered, and sign-in sheets and maintained in recipient agency files. Required training topics include:

- Knowledge of protected classes,
- Effective public notification,
- Complaint procedures and conflict resolution,
- Customer service,
- Language assistance and accommodation of persons with disabilities
- Compliance review techniques and noncompliance resolution

For Limited English Proficiency (LEP) persons, recipient agencies must take reasonable steps to assure meaningful access to the information and services they provide. What constitutes reasonable will be contingent on a number of factors. Among factors to be considered are the numbers of proportion of LEP persons eligible to be served or likely to be encountered by the program and the frequency with which LEP persons come in contact with the program. Steps that are reasonable for a recipient agency that serves an LEP person on a one-time basis will be very different than those expected of a recipient agency that serves LEP persons daily.

B. FNS-113-1 PRE-AWARD CIVIL RIGHTS QUESTIONNAIRE

Food Banks will conduct a pre-award civil rights questionnaire on all new and returning USDA EFO's. These questionnaires must be sent to the RCM for approval prior to the EFO receiving USDA foods. This will include any EFO that drops out of the USDA Program or is suspended then comes back to the USDA Program. The FNS Region or State Civil Rights official(s) must determine that all state agency, local agency, or other sub-recipient program applicants are in compliance with Civil Rights requirements prior to approval for Federal financial assistance. Such determinations must be based on a desk or onsite review of Civil Rights information provided by the program applicant. The preapproval/pre-award review report must be maintained in the appropriate program files. This is a federal law.

C. 7 CFR PART 16

Organizations that receive direct USDA assistance under any USDA program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services supported with direct USDA assistance. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services supported with direct assistance from USDA, and participation must be voluntary for beneficiaries of the programs or services supported with such direct assistance.

D. HANDLING CIVIL RIGHTS COMPLAINTS

All complaints alleging discrimination on the basis of race, color, national origin, age, sex, or handicap must be accepted by the EFO. The complaint may be mailed to the Food Distribution Program Administrator, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, or mailed directly to USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C., 20250-9410, or call (202) 720-5964.

EFOs should use the Civil Rights Complaint form to record pertinent information. All civil rights complaints must be accepted either verbally or in writing. Every effort should be made to secure all elements of data on the complaint form to help explain or resolve the situation. No complaint may be refused or ignored because it is incomplete. EFO staff members should be trained to use either the complaint form to gather the necessary information from the complainant or refer the complainant to the person in charge with cooperation and courtesy. An effort should be made to insure the complainant could read and understand the form.

IX. TAX EXEMPT STATUS

A. TEFAP

The Emergency Food Assistance Act of 1983 requires that an eligible recipient agency must be "nonprofit", per 7 U.S.C. 7501(3). TEFAP regulations at 7 CFR 251.5(a)(3) establish that if not a public

entity, an eligible organization must possess tax-exempt status, or be automatically exempt as “organized or operated exclusively for religious purposes”, as described in the IRC, or have made an application and be working towards tax-exempt status. Any agency that has an agreement with VDACS to further distribute TEFAP foods or funds must review the IRS Automatic Revocation of Exemption List, which is organized by State, and found at <http://www.irs.gov/charities/article/0,,id=240099,00.html>, and determine whether any of the agencies with an agreement are listed. This must be done at least annually to ensure current agencies do not appear on the list. This also should be done when adding a new EFO to your organization. For example, Food Banks must check this list at least annually to ensure their affiliated EFO’s do not appear on this list.

Should an EFO appear on the list, the 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. The EFO must forward documentation of IRS recognition of tax-exempt status to the Food Bank within 180 days of the written notification.

B. CHARITABLE INSTITUTIONS

Per 7 CFR 250.3, charitable institutions that are not public institutions must be private nonprofit organizations with tax-exempt status. VDACS is responsible for making sure charitable institutions with an agreement with VDACS does not appear on the list, if it does VDACS must immediately notify and terminate from the program that institution. A charitable institution may reapply for the program once its tax-exempt status is reinstated. This must also be done prior to adding any new charitable institutions.

X. ADMINISTRATIVE REVIEW REQUIREMENTS

A. EFO DISTRIBUTION SITE REVIEWS

The following items should be monitored during the review process:

- Appropriate storage facilities are in use for shelf stable, frozen or refrigerated items.
- Appropriate sanitation and rodent/insect extermination practices.
- Proper security measures are in place to prevent vandalism or theft.
- Appropriate application of household income guidelines and the categorical eligibility status.
- Adherence to TEFAP food distribution guidelines per household (monthly inventory records are the minimum required documentation).
- Conspicuous display of the civil rights poster “And Justice for All” where USDA foods are distributed, along with the civil rights complaint forms. EFO staff comprehends and follows the civil rights complaint procedure. Documentation of training to staff/volunteers. **If the EFO is advertising their USDA distribution with a flyer, brochure, pamphlet, and/or any advertising material the food bank must ensure that the non-discrimination statement is placed on those items.**
- EFO retains on file all Food Bank correspondence citing program operation deficiencies.
- Food Bank staff will document improvements when conducting on-site reviews and consider overall program operations before renewing EFO participation in the USDA donated food program.

B. FOOD BANK REVIEWS

VDACS will ensure that the Food Banks are reviewed once each year. Reviews include the following:

- VDACS and Food Bank Agreement.
- Accountability
 - Required financial records and receipts
 - Perpetual and annual food inventory records
- Receipting Paperwork (Received Shipment Report/Requisition Status Report with Consignee Information, Notice of Arrivals, Bill of Ladings, and OS&D's if applicable).
- Invoices Requesting Reimbursements.
- Daily In-Kind Contribution and Quarterly In-Kind Contribution forms.
- Fiscal Year End Inventory, Confirmation of Federal Assistance Received and Commodities Transferred by Each Agency forms.
- Distribution records including proxy notes and legal signatures, eligible categories, and SDI forms.
- Records of food issuance by EFOs (monthly inventories) compared to Reports of Distribution.
- Inventory management, transfer documentation.
- Appropriate storage areas and food management practices.
- Food ordering procedures utilizing WBSCM.
- Documentation of loss.
- Physical inventory/Book inventory.
- Review USDA foods distributed to Child Programs.
- Documentation of checking IRS Automatic Revocation of Exemption List.
- Review of civil rights, which include, posting of poster and complaint forms, trainings, complaints, investigations, and pre-award civil rights questionnaires.

APPENDIX

- A. VDACS Agreement Addendum for EFOs
- B. Emergency Food Assistance Program Data Sheet (VDACS-FD 201)
- C. Invoice Requesting Reimbursement (Shared Maintenance)
- D. Report of Distribution (VDACS-FD 203)
- E. Civil Rights Complaint Form
- F. TEFAP Pre-Award Civil Rights Questionnaire
- G. Clarification for Faith Based Organizations
- H. Income Guidelines (150% of Federal Poverty Level)
- I. Income Guidelines for Reporting In-Kind Contributions
- J. Daily Record of In-Kind Contributions
- K. Quarterly Report of In-Kind Contributions
- L. Temperature Chart
- M. TEFAP Distribution Scale
- N. VDACS OS&D Form
- O. Donated Food Loss Report

ACRONYMS

CR	Civil Rights
EFO	Emergency Feeding Organization
ERA	Eligible Recipient Agencies
FD	Food Distribution, FNS/USDA
FNS	Food and Nutrition Service, USDA
FNSRO	Food and Nutrition Service (FNS) Regional Office
FY	Fiscal Year
HHP	Household Programs, FNS/USDA
OS&D	Over, Short and Damaged
RCM	Regional Commodity Manager
SDA	State Distributing Agency
SDI	Self-Declaration of Income
SFSP	Summer Food Service Program
SNAP	Supplemental Nutrition Assistance Program/Food Stamp
SSI	Supplemental Security Income
TANF	Temporary Assistance for Needy Families
TEFAP	The Emergency Food Assistance Program, FNS/USDA
USDA	United States Department of Agriculture
VDACS	Virginia Department of Agriculture and Consumer Services
WBSCM	Web-Based Supply Chain Management System