The Emergency Food Assistance Program (TEFAP)

New York State Plan

Effective March 2025

The New York State Office of General Services (OGS) is the agency designated by the Governor of the State of New York as the distributing agency responsible for the administration and oversight of The Emergency Food Assistance Program (TEFAP). The Commissioner of the Office of General Services has given the Food Distribution (OGSFD) Unit the responsibility of administering TEFAP.

OGS Commissioner: Jeanette M. Moy

Food Distribution Director: Nicholas Barber

Food Distribution Office: 93 Broadway
Menands, NY 12204
(518) 474-5122

This plan will identify a distribution model to provide the state-level ordering, shipping, warehousing, and distribution of The Emergency Food Assistance Program (TEFAP) on behalf of the New York State Office of General Services (OGS), Food Distribution Unit.

Description and Purpose

The Emergency Food Assistance Program (TEFAP) provides low-income individuals and households with surplus foods donated by the USDA. In addition, program eligible recipients may receive privately donated products through the private sector. TEFAP is designed to supplement the nutritional needs of individuals and households that are eligible for this program. TEFAP is in no way designed to satisfy all hunger needs or nutritional requirements of individuals or households. Eligible recipients of USDA Foods through TEFAP may receive food through congregate feeding sites, where food is prepared and meals are served in a group setting, or through distribution sites, where food is distributed for household consumption.

Definitions and Terms

The following terms and definitions are useful for understanding references throughout this document at both the state and federal levels when describing and explaining TEFAP. The terms originate from Title 7 (Agriculture) of the Code of Federal Regulations (CFR) specifically 7 CFR Part 250 – Donation of Foods for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction and 7 CFR Part 251 – The Emergency Food Assistance Program.

Bonus Foods
Section 32, Section 416, and Section 709 donated foods, as defined in this section, which are purchased under surplus removal or price support authority, and provided to distributing agencies in addition to legislatively authorized levels of assistance.
USDA Foods
Foods donated or available for donation by the USDA, under any of the legislation pertaining to 7 CFR, Parts 250 & 251.
Charitable Institution
An organization that is: • Public, or • Private, possessing tax exempt status; and • Is not a penal institution (this exclusion also applies to correctional institutions which conduct rehabilitation programs); and • Provides food assistance to needy persons (Final Rule, Sec. 251.3)
Distribution Site
Locations where eligible recipient agencies distribute USDA Foods to needy persons for household consumption or serve prepared meals to needy persons.

Distributing Agency
A State agency selected by the Governor of the State or the State legislature to distribute donated foods in the state, in accordance with an agreement with FNS, and with the requirements in this part and other Federal regulations, as applicable (e.g., a State agency distributing donated foods in the Commodity Supplemental Food Program (CSFP) must comply with requirements in 7 CFR part 247). Indian Tribal Organizations may act as a distributing agency in the distribution of donated foods on, or near, Indian reservations, as provided for in applicable Federal regulations (e.g., 7 CFR part 253 or 254 for FDPIR). A distributing agency may also be referred to as a State Distributing Agency (SDA).
Eligible Persons
New York residents in need of food assistance because of their: (1) Economic status or (2) Eligibility for a specific food assistance program.
Entitlement
The value of donated foods a distributing agency is authorized to receive in a specific program, in accordance with program legislation.
Federal Fiscal Year (FFY)
The 12-month period beginning October 1 of any calendar year and ending September 30 of the following calendar year.
Household
Household means any of the following individuals or groups of individuals, exclusive of boarders or residents of an institution: (1) An individual living alone; (2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others; (3) A group of individuals living together who customarily purchase and prepare meals in common for home consumption; and (4) Other individuals or groups of individuals, as provided in FNS regulations specific to particular food assistance programs.
***Eligible Recipient Agency (ERA)**
An organization that is: • Public, or • Private, possessing tax exempt status pursuant to Final Rule, Sec. 251.5, and • Not a penal institution, and • Provides food assistance exclusively to needy persons for household consumption, pursuant to a means test, or predominantly to needy persons in the form of prepared meals, and • Has entered into an agreement with the designated State agency for the receipt of USDA Foods and/or administrative funds, or receives USDA Foods and/or administrative funds under an agreement with another ERA which has signed an agreement with the State agency, or another eligible ERA within the state, and • Falls into one of the following categories: emergency feeding organizations (EFO, including food banks, food pantries and soup kitchens); charitable institutions (CI, including hospitals and retirement homes); summer camps for children or child nutrition programs providing food service; nutrition projects operating under the Older Americans Act of 1965 (Nutrition Program for the Elderly), including projects that operate congregate nutrition sites and projects that provide home-delivered meals; and disaster relief programs.
***Emergency Feeding Organization (EFO):**
An eligible recipient agency which provides nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

Emergency feeding organizations have priority over other eligible recipient agencies in the distribution of TEFAP commodities pursuant to 7 CFR 251.4(h).
***Clarification:** EFOs are a subset of ERAs. An EFO is an ERA that provides food assistance to relieve situations of emergency and distress to needy persons, including the low-income and unemployed. The category of EFO excludes such agencies as hospitals, retirement homes, group homes, child and elderly nutrition programs, etc. EFOs do include food banks, food pantries, and soup kitchens. Since there does not exist enough food to meet the needs of all ERAs under the general category, the distinction between ERAs and EFOs and the two-tier priority system were developed to prioritize those most in need.*
Food Bank
A public or charitable institution that maintains an established operation involving the provision of food to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.
Food Pantry
A public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than USDA, to relieve situations of emergency and distress.
Formula
The formula used by the USDA to allocate among states the USDA Foods and funding available under this part. The amount of such USDA Foods and funds to be provided to each state will be based on each state's population of low-income and unemployed persons, as compared to national statistics. Each state's share of USDA Foods and funds shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the state. The surplus USDA Foods will be allocated to states based on their weight (pounds), and the USDA Foods purchased under section 214 of the Emergency Food Assistance Act of 1983 will be allocated based on their value (dollars). In instances in which a state determines that it will not accept the full amount of its allocation of USDA Foods purchased under section 214 of the Emergency Food Assistance Act of 1983, the Department will reallocate the USDA Foods to other states based on the same formula used for the initial allocation.
Nonprofit Organization
A private organization with tax-exempt status under the Internal Revenue Code. Nonprofit organizations operated exclusively for religious purposes are automatically tax-exempt under the Internal Revenue Code.
Recipients
Persons receiving donated foods, or a meal containing donated foods, provided by recipient agencies.
Soup Kitchen
A public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.
State Agency
The State government unit designated by the Governor or other appropriate State executive authority which has entered into an agreement with the United States Department of Agriculture (USDA).
Value of USDA Foods Distributed
USDA's cost of acquiring USDA Foods for distribution.

Contracts/Agreements (7 CFR 251.2)

The New York State Office of General Services, Food Distribution Unit, has agreements with eight (8) food banks where USDA Foods are shipped directly and then redistributed to approximately 2,500 eligible sub recipient agencies (EFOs). As required by 7 CFR 251.2 each food bank that receives and distributes TEFAP donated foods and/or administrative funds must enter into an agreement with all eligible sub recipient agencies. The eight (8) New York State food banks are as follows:

Food Banks by County		
Food Bank	**Counties Served**	**Phone**
Food Bank for New York City	Bronx, Kings, New York, Queens, Richmond	(718) 991-4300
Regional Food Bank of Northeastern New York	Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Sullivan, Ulster, Warren, Washington	(518) 786-3691
FeedMore WNY	Cattaraugus, Chautauqua, Erie, Niagara	(716) 852-1305
Food Bank of Central New York	Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence	(315) 437-1899
FoodLink	Allegany, Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming, Yates	(585) 328-3380
Long Island Cares	Nassau, Suffolk	(631) 582-3663
Food Bank of the Southern Tier	Broome, Chemung, Schuyler, Steuben, Tioga, Tompkins	(607) 796-6061
Feeding Westchester	Westchester	(914) 923-1100

USDA Two-tier Priority System Requirements
Federal regulations contain a Two-tier Priority System in the allocation of TEFAP USDA Foods to eligible recipient agencies (ERAs). ERAs that are emergency feeding organizations (EFOs) have priority in receiving TEFAP USDA Foods over ERAs that are not EFOs. Therefore, the first priority will be given to emergency feeding organizations that provide nutrition assistance to relieve situations of distress, e.g. food banks, pantries, soup kitchens.

If, after 90 days, TEFAP USDA Foods have been distributed in sufficient quantities to meet the needs of all emergency feeding organizations, USDA Foods will then be made available to the second priority of eligible recipient agencies, e.g., other public and private non-profit organizations that serve needy people but do not relieve situations of emergency and distress. (7 CFR 251.4 (h) (ii).

If OGSFD cannot meet the commodity needs of all ERAs, priority in the allocation of USDA Foods must be given to EFOs. OGSFD may concentrate commodity resources upon a certain type or types of such organizations, to the exclusion of others (Final Rule, Sec. 251.4).

Allocations
OGSFD allocates to the eight (8) food banks based on an annual report from the New York State Office of Temporary Disability Assistance (OTDA). The report lists the number of food stamp recipients in each county. Each food bank receives their proportionate share of administrative funding and USDA foods for the counties they serve. Example: A food bank that serves 10% of the eligible needy population will receive 10% of the food value and 10% of the total administrative funding made available to all the food banks.

Distribution Method

The New York State Office of General Services Food Distribution Unit utilizes a regional approach for the distribution of TEFAP USDA Foods. There are eight (8) food banks in New York State that receive USDA Foods and distribute to qualified eligible recipient agencies (ERA) that are emergency feeding organizations (EFO). The distributing food bank is required to enter into an agreement with the ERA that receives and distributes TEFAP USDA Foods. In addition, distributing food banks will ensure that all counties in their region have at least one distribution site and are equitably served.

The selected food banks will distribute TEFAP USDA Foods equitably and expeditiously in each county in their region. All TEFAP USDA Foods will be selected and ordered by a staff member of the food bank. All TEFAP USDA Foods will be delivered to the food banks which will store, allocate (in accordance with state approved allocations) and deliver the USDA foods to the qualified eligible recipient agencies as described in Title 7 (Agriculture) of the Code of Federal Regulations (CFR) specifically 7 CFR Part 250 – Donation of Foods for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction and 7 CFR Part 251 – The Emergency Food Assistance Program.

In the event that there is an immediate and pressing need in a geographic location that a food bank serves, but insufficient means for an ERA or EFO to address that need, the food bank may host a mobile household distribution until a permanent ERA can be established. TEFAP household eligibility criteria must be followed.

In compliance with Section 202A(b)(6) of the Emergency Food Assistance Act (EFAA) that eligible recipient agencies (ERAs) provide input on commodity preferences and the needs of the ERA and EFO, food banks will annually provide the household catalog and at minimum perform one of the following:

- Distribute detailed surveys to ERAs to solicit commodity preferences (including pack sizes)
- Solicit ERA feedback during site visits and during delivery of USDA Foods
- Conduct quarterly meetings/community gatherings to solicit commodity preference information
- Use an ordering system that allows ERAs to order USDA Foods specific to the needs of households served from their food bank.

As part of this agreement, the following are the roles and responsibilities of distributing food banks. The food banks must agree to and complete these responsibilities and actions.

Successful applicants will be required to provide the following deliverables:

- Is a public agency, or a private entity possessing tax exempt status pursuant to Section 501 (c)(3) of the Internal Revenue Code of 1986 (Non-profit organization);
- Is not a penal institution;
- Order, receipt, and distribute its pro-rata share of TEFAP USDA Foods received by New York State;
- Pursuant to FNS Policy Memo FD-107, food banks and supported recipient agencies must use a first-expired-first-out (FEFO) system of inventory management;
- In accordance with Section 501 of the OMB's Uniform Guidance (2 CFR 200.502) agencies of State, Local or Tribal governments and nonprofits that exceed $750,000 or more in Federal awards (inclusive of food value) in a given fiscal year must obtain an audit for that year. EFOs shall comply with the audit requirement in 2 CFR 200, as applicable;
- Establish and maintain agreements with sub-recipient agencies;
- Distribute donated TEFAP USDA Foods to pantries, soup kitchens, and homeless shelters through delivery services or by recipient agency pick-up in accordance with the USDA policy of non-discrimination. No fees may be charged for the delivery of TEFAP USDA Foods;

- Track financial expenditures, pounds of food distributed, inventory, and service data (number of individuals and households served by county) on a monthly basis and submit monthly reimbursement and program reports to the OGSFD;
- Comply with all program rules, policies and procedures in accordance with TEFAP policies;
- Provide recipient agencies with invoices showing USDA food values monthly and annual USDA food values report;
- Provide annual training and technical assistance to all recipient agencies regarding program regulations and civil rights;
- Provide storage facilities and insurance for TEFAP USDA Foods as outlined in 7 CFR 250.14;
- Submit required accurate reports on timely basis; and
- Monitor recipient agencies for program compliance. A minimum of 25 percent of all sites will be reviewed each year, and the largest five sites shall be reviewed annually. The food bank will submit to the SDA an annual listing of all sites, noting sites reviewed, at the end of their fiscal year or the end of the federal fiscal year, whichever is most applicable.
- The food bank agrees to maintain records to document the receipt, distribution, participation, processing and inventory of USDA foods received in this program. The food bank must retain these records for three (3) years from the close of the Federal Fiscal Year to which they pertain, and must permit inspection of these records by concerned Federal and State personnel.
    - Per 7 CFR 251.10(a)(4), each distribution site must collect and maintain on record for each household receiving USDA Foods for home consumption, the name of the household member receiving USDA Foods, the number of persons in the household, and the basis for determining that the household is eligible to receive USDA Foods for home consumption.
    - On a monthly basis, the food bank shall collect, maintain, and report household information to New York State.

Eligible Recipient Agency (ERA) Commodity Allocation to Distribution Sites
Food banks selected to provide TEFAP USDA Foods must ensure that they distribute USDA Foods to their eligible recipient agency distribution sites in accordance with the requirements of the two-tier priority system. ERAs that are emergency feeding organizations (EFOs) have priority in receiving TEFAP USDA Foods over ERAs that are not EFOs. Therefore, the first priority will be given to emergency feeding organizations that provide nutrition assistance to relieve situations of distress, e.g. food banks, pantries, soup kitchens.

If, after 90 days, TEFAP USDA Foods have been distributed in sufficient quantities to meet the needs of all emergency feeding organizations, USDA Foods will then be made available to the second priority of eligible recipient agencies, e.g., other public and private non-profit organizations that serve needy people but do not relieve situations of emergency and distress. (7 CFR 251.4 (h) (ii).

Program Eligibility Criteria
TEFAP USDA Foods may be used in two ways. They may be used to prepare meals, which are served in a congregate setting or given to participants who take them home for use by their families. OGS has established the eligibility criteria for individuals receiving TEFAP USDA Foods for household distribution.

Eligibility for Prepared Meals
There are no federal standards or procedures for determining an individual's eligibility to receive prepared meals. They are presumed to be needy because they seek meals at an approved TEFAP site. Sites do not have to maintain records of the names of participants to whom they serve meals but must keep a count of the number of meals served. Prepared meals do not need to be consumed on site.

Eligibility Criteria for Household Distribution
In accordance with federal regulations 7 CFR 251.5(b) and 251.10 (a) (3), the New York State Office of General Services has established eligibility criteria which must be met for a household to qualify to receive TEFAP USDA Foods. (**For the purposes of this program**, household is defined as any of the following individuals or groups of individuals, exclusive of boarders or residents of an institution:

1) An individual living alone;
2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others;
3) A group of individuals living together who customarily purchase and prepare meals in common for home consumption; and
4) Other individuals or groups of individuals, as provided in FNS regulations specific to particular food assistance programs.

To be eligible to receive household TEFAP USDA Foods, the household must reside in New York State (length of residency is not used as an eligibility criterion) **and** meet one of the following criteria:

- **Household Income:** The total household income for all household members must be at or below 225% of federal poverty guidelines.
  - OR -
- **Categorical:** The applicant(s) already participate(s) in one or more of the following federal means tested programs:
  - Supplemental Nutrition Assistance Program (SNAP)
  - Women, Infants, and Children (WIC)
  - Food Distribution Programs on Indian Reservations (FDPIR)
  - Temporary Assistance to Needy Families (TANF)
  - Medicaid or Supplemental Security Income (SSI)

Each household applicant is required to complete the attestation form. This form includes applicant's name, zip code, number of persons in the household and method of eligibility. New York State residency is confirmed by zip code on the attestation form. Length of residency, address, or identification documents shall not be used as eligibility criteria.

Eligible recipient agencies which conduct household distributions must keep a record of the names of all households for each day on which they distribute USDA Foods. Recipient sites must retain these records for three (3) years from the close of the Federal Fiscal Year to which they pertain, and must permit inspection of these records by concerned Federal and State personnel.

Confidentiality Protections
7 CFR 251.10(c) establishes that New York State, ERAs, and volunteers who have access to applicant and participant information, as defined by 7 CFR 251.10(c)(1), must restrict the use and disclosure of information obtain for TEFAP to persons that are directly connected to the administration or enforcement of TEFAP, per limitations outlined in 7 CFR 251.10(c)(2). This extends to the identity of persons making a complaint or allegation against an individual participating in or administering TEFAP, per 7 CFR 251.10(c)(3), except whereas necessary for the purposes of conducting investigations, hearings, or judicial proceedings (as applicable).

Applicants and participants, in accordance with 7 CFR 251.10(c)(2), may consent that New York State and its ERAs can share information with other health and welfare programs for program eligibility and outreach purposes. However, New York State must sign an agreement with the administering agencies of those health and welfare programs to ensure that the information will be used only for the specified purpose, and

that the agencies receiving the information will not future share it. Such agreement must be in place prior to sharing information.

Civil Rights
There must be no discrimination in the distribution of foods donated under this part because of race, color, national origin, sex (including gender identity and sexual orientation), age, or disability (7 CFR, 251.10). In addition to the federally-protected classes, New York State Human Rights Law protects individuals from discrimination based on: race; color, national origin; religion; sex (including pregnancy, childbirth, and related medical conditions); disability (physical or mental); sexual orientation; age (18 and older); military status; arrest record; conviction record; domestic violence victim status and genetic characteristics. Every two years, or more frequently when deemed necessary, the distributing food bank must notify the public, including minority and grass roots organizations in their service area, of the availability of TEFAP distributions in their area and eligibility requirements for the program (FNS Instruction 113).

Changes in location of TEFAP distributions, times of service, or any significant program changes, as transmitted to the distributing food bank by OGS, must be transmitted to potential TEFAP participants as appropriate and in a timely manner. This can be done through media advertising, public service announcements, distribution sites, food bank website postings or directly to individuals (FNS Instruction 113).

Applications and agreements made by the food bank with organizations or individuals for TEFAP distribution must contain a statement that the distribution site cannot discriminate in handing out TEFAP USDA Foods (FNS Instruction 113).

ERA/EFO Responsibility
Pursuant to FNS Instruction 113-1, food banks are responsible for providing their staff and volunteers that interact with clients and/or who handle personal information of clients with training on civil rights. Food banks will also set up policies to ensure their sub-recipient agencies' staff and volunteers that interact with clients, and/or who handle personal information of clients, receive the same training. OGSFD provides a training PowerPoint on its website for all agencies that distribute TEFAP USDA Foods to use as a minimum standard for civil rights training.

Monitoring Procedures
An annual physical inventory of USDA Foods and storage facility review will be conducted at each food bank that OGS has an agreement with to distribute TEFAP USDA Foods (7 CFR 251.10(e) and 251.10 (e) (2) (i) (ii).

OGSFD will also conduct an annual Recipient Agency (RA) review of one-tenth or twenty (20), whichever is fewer, of all eligible recipient agencies that have an agreement with a food bank and receives TEFAP USDA Foods and/or administrative funds.

Should conditions warrant, OGSFD reserves the right to conduct more frequent monitoring reviews than described above.

A full program review of food banks that the State has a direct agreement with is required once every four years. This review will include (at a minimum):

- Eligibility determinations;
- Food ordering procedures;
- Storage and warehouse procedures (where appropriate);
- Delivery;

- Inventory controls (where appropriate);
- Approval of distribution sites;
- Reporting and record keeping procedure;
- Allowable cost determinations, and
- Civil rights.

Emergency Procedures

If a State of Emergency is declared by the Governor of the State of New York, OGSFD may enact emergency procedure(s) to address the situation. OGSFD will notify food banks of the procedure(s) and identify the time period that the indicated procedure(s) shall be in effect.