



THE EMERGENCY FOOD ASSISTANCE PROGRAM DISTRIBUTION PLAN FOR THE STATE OF HAWAII

Administered by the
Hawaii Office of Community Services
Department of Labor and Industrial Relations
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Honolulu, Hawaii 96813-5095



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THE EMERGENCY FOOD ASSISTANCE PROGRAM

HAWAII STATE DISTRIBUTION PLAN

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A. PURPOSE

The Emergency Food Assistance Program (TEFAP) is a Federal program helping to supplement the diets of needy individuals or households by providing them with emergency food and nutrition assistance in the most cost effective and comprehensive manner possible without cost to the recipients. The program provides food and administrative funds to States to supplement the diets of these individuals or households. The Department of Labor and Industrial Relations, Office of Community Services (OCS) is the designated agency in the State of Hawaii to administer TEFAP in Hawaii as designated by the Governor's letter, dated June 19, 2015.

B. LEGAL AUTHORITY

This State Distribution Plan is promulgated pursuant to the legal authorities granted to the Office of Community Services pursuant to the Governor's letter, dated June 19, 2015, Hawaii Revised Statutes Chapter 371K, and Federal regulations described in 7 CFR Parts 250 and 251.

Pursuant to 7 CFR §251.6, each state agency administering TEFAP shall promulgate and periodically update a State Distribution Plan for distribution of TEFAP commodities. This document constitutes the Distribution Plan for the State of Hawaii updated effective as of October 2017.

C. DEFINITIONS

The following terms, acronyms and definitions are used throughout this State Distribution Plan for administration of TEFAP in Hawaii. This list is for convenience of reference only. In case of conflict, the definitions contained in 7 CFR Part 251 and 7 CFR Part 250 apply.

Code of Federal Regulations (CFR)

The *Code of Federal Regulations* contain the regulations governing all federal programs. Regulations for TEFAP are 7 CFR Part 251 and 7 CFR Part 250.

Commodities

Food donated by the United States Department of Agriculture (USDA) for distribution through TEFAP.

Disaster

Disaster means a Presidentially declared disaster or emergency, in accordance with Section 412 or 413 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5179-5180), in which Federal assistance, including donated food assistance, may be provided to persons in need of such assistance as a result of the disaster or emergency.

Distribution

The actual transfer of TEFAP commodities from the USDA via Eligible Recipient Agencies to eligible individuals and/or household recipients.

Eligible Recipient Agency (ERA)

Eligible Recipient Agencies (ERAs) that distribute TEFAP commodities from an Emergency Feeding Organizations to eligible individuals and households, pursuant to an agreement with an Emergency Feeding Organization and is subject to oversight, suspension, and termination by OCS.

Pursuant to 7 CFR §251.3, an ERA:

- 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;
- Is not a penal institution;
- Provides food assistance exclusively to persons in need for household consumption, pursuant to a means test established by 7 CFR §251.5(b), or predominantly to persons in need in the form of prepared meals pursuant to 7 CFR §251.5(a)(2); and
- Falls into one or more of the following categories:
 - emergency feeding organizations (including food pantries and soup kitchens);
 - charitable institutions (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 nutrition sites (Senior Markets and SNAP) and projects that provide home-delivered meals; and
 - disaster relief programs.

A reference to an “ERA” in this State Distribution Plan shall apply equally to Emergency Feeding Organizations and Supporting ERAs, unless the text states otherwise or the context clearly implies otherwise.

Emergency Feeding Organization (EFO)

An Emergency Feeding Organization (EFO) is one type of ERA. An EFO is a nonprofit organization that contracts with OCS to distribute TEFAP commodities in an assigned service area. An EFO is an ERA that provides nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons and has priority over other ERAs in the distribution of TEFAP commodities.

Federal Poverty Eligibility Guidelines

Federal Poverty Eligibility Guidelines are issued each year in the Federal Register by the Department of Health and Human Services (HHS). The guidelines are a simplification of the poverty thresholds for use for administrative purposes, for instance, determining financial eligibility for certain federal programs. The *Federal Register* notice for the 2017 poverty guidelines is at <https://aspe.hhs.gov/poverty-guidelines>.

Federal Fiscal Year (FFY)

A twelve-month period used for accounting and reporting purposes, which runs from October 1 of one year to September 30 of the next year. For example, FFY 2017 runs from October 1, 2016, to September 30, 2017.

First-In-First-Out (FIFO)

The practice in which the first products manufactured within a given product line should be the first products distributed.

Food and Nutrition Service (FNS)

The agency within the USDA responsible for the distribution of food commodities and allocation of funds for several federal nutrition assistance programs including TEFAP (7 CFR §251.2 (a)).

Food Bank

A nonprofit, charitable organization that is qualified under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of its normal activities, provides meals or food to feed needy persons on a regular basis.

Household

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; and
- 3) A group of individuals living together who customarily purchase and prepare meals in common for home consumption.

Situation of Distress

Situation of Distress means a natural catastrophe or other event that does not meet the definition of disaster in this section, but that, in the determination of the distributing agency, or of FNS, as applicable, warrants the use of donated foods to assist survivors of such catastrophe or other event. A situation of distress may include, for example, a hurricane, flood, or explosion.

Supporting Eligible Recipient Agency (Supporting ERA)

A Supporting Eligible Recipient Agency is an ERA that has signed an agreement with an EFO to provide distribution services for TEFAP commodities in a specified community or geographical area within the county that the EFO serves. The performance of a Supporting ERA is under the direct supervision of its EFO, but OCS may suspend or terminate the operations of a Supporting ERA, or otherwise require modifications in its operations, if OCS deems such intervention to be warranted.

United States Department of Agriculture (USDA)

The United States Department of Agriculture (USDA) is the cabinet-level department responsible for Federal programs related to agriculture, including TEFAP.

Web Based Supply Chain Management (WBSCM)

Web Based Supply Chain Management (WBSCM) is an integrated internet-based commodity acquisition distribution and tracking system that supports domestic and international food and nutrition programs administered by FNS (among others).

D. DISTRIBUTION OF TEFAP COMMODITIES TO THE STATES

Under TEFAP, commodity food and administrative funding are made available by USDA/FNS to the states. The quantity of commodities and the amount of funding allocated to each state is based on each state's population of low-income and unemployed persons, as compared to other localities in the nation on the basis of statistics maintained by the Federal government. States designate EFOs to administer the program by providing food to Supporting ERAs that directly serve the public by distributing food to households or to soup kitchens and food pantries.

All Supporting ERAs must establish regularly scheduled distribution of TEFAP commodities to eligible needy persons within their respective areas. In addition, each ERA may, when appropriate for disasters, conduct mass distributions for those eligible needy persons provided that all appropriate documentation of eligibility is made and proper records are kept.

E. ADMINISTRATIVE FUNDS

Pursuant to 7 CFR §251.9, OCS must match cash and/or in-kind contributions equal to the amount of TEFAP administrative funds received from USDA and retained by OCS for State-level administration and any sums that the OCS makes available directly to Supporting ERAs that are not EFOs as defined in 7 CFR §251.3(e). OCS is not required to match any portion of the Federal grant passed through for administrative costs that are incurred by EFOs or that the OCS directly expends for such costs in accordance with 7 CFR §251.8(e)(4).

OCS shall use the administrative funds to pay all direct expenses associated with delivering the commodities to the EFOs such as approved inter-island shipping costs. Pursuant to 7 CFR §251.8(e), direct costs include the following, regardless of whether they are charged to TEFAP as direct or indirect costs:

1. The intrastate and interstate transport, storing, handling, repackaging, processing, and distribution of commodities;
2. Costs associated with determinations of eligibility, verification, and documentation;
3. Costs of providing information to persons receiving USDA commodities concerning the appropriate storage and preparation of such commodities;
4. Costs involved in publishing announcements of times and locations of distribution; and
5. Costs of recordkeeping, auditing, and other administrative procedures required for program participation.

All EFOs must maintain fiscal records documenting the amount and nature of their expenses incurred in operating the program. OCS will notify the EFOs regarding the amount of the initial administrative funding allocation provided by FNS when notified by FNS and provide the final allocation upon receipt from FNS.

Reimbursement of administrative expenses to any given EFO will be allocated based on:

1. Federal funds available;
2. The most current U.S. Census Small Area Income and Poverty Estimate (SAIPE); and
3. Actual expenses to support the program.

The EFOs request reimbursement by submitting the designated OCS forms (Form 300 and 310) and supporting documentation of administrative expenses. The amount of reimbursement may not exceed the expenses documented in the EFO's fiscal records. Allowable expenses and required supporting documentation shall be in accordance with 2 CFR Part 200 and the State Cost Principles.

F. STATE OPERATIONS

OCS has established a statewide operational system for TEFAP. Each of the four counties of the State of Hawaii is served by an EFO that distributes food to eligible needy persons, either directly or indirectly through distribution to Supporting ERAs serving these persons. OCS contracts directly with one EFO in each county to establish, maintain, and supervise a network of Supporting ERAs in each of their county, under the overall supervision of OCS. EFOs in each county will enter into agreements with Supporting ERAs to distribute TEFAP commodities within a designated area or areas within the county. At present, there are approximately 177 Supporting ERAs in the City and County of Honolulu (Oahu), approximately 27 in the County of Hawaii, 57 in the County of Maui, and 19 in the County of Kauai.

OCS shall distribute TEFAP food commodities pursuant to the priorities set forth in 7 CFR §251.4 (h), and OCS retains the authority to make discretionary decisions regarding priorities pursuant to 7 CFR §251.4(h).

Each contract between OCS and an EFO will state:

1. The name and address of the EFO receiving commodities and administrative funds under the agreement;
2. The EFO agrees to operate the program in accordance with the requirements of 7 CFR Part 250, 7 CFR Part 251, other USDA requirements: USDA FNS Policies and Instructions, and the requirements of this State Distribution Plan; and
3. The EFO shall comply with the other conditions set forth by OCS in the contract.

The EFO shall be responsible for program oversight of contracted supporting ERAs. This shall be achieved in part through monitoring of distribution site activities to ensure compliance with all applicable Federal and State rules, regulations, and policies, including ongoing training of key distribution site staff. This does not relieve OCS from the federal monitoring requirement in 7 CFR Part 251.

The EFOs currently administering TEFAP are:

Hawaii Foodbank (City and County of Honolulu and County of Kauai)
2611 Kilihau Street
Honolulu, HI 96819-2021

The Food Basket, Inc. (County of Hawaii)
40 Holomua Street
Hilo, HI 96720

Maui Foodbank (County of Maui)
760 Kolu Street
Wailuku, HI 96793

G. AGREEMENTS WITH ELIGIBLE RECIPIENT AGENCIES

The EFO shall consider the following factors when selecting Supporting ERAs:

- Proximity of other Supporting ERAs offering similar services;
- Adequacy of the Supporting ERA's storage and distribution facility;
- Days and hours of operations;
- Whether the organization has the ability to comply with Federal and State operation/participation standards;
- Ability of the Supporting ERA to provide food from non-USDA sources; and
- Ability to ensure TEFAP foods are made available to all eligible households.

Agreements between EFOs and Supporting ERAs participating in the program must include language to ensure compliance with all TEFAP regulations, FNS policies and instructions, and compliance with this State Distribution Plan. Agreements between EFOs and their respective Supporting ERAs will be deemed to continue without re-execution during the EFO's contract period of performance, except that they will be deemed to be modified by the terms of this State Distribution Plan. Agreements may be terminated by either party, or by OCS, upon 30 days written notice with or without cause.

Whenever, in its sole discretion, OCS deems that good cause exists to suspend a contract between an EFO and OCS or to suspend an agreement between an EFO and a Supporting ERA, OCS shall notify the affected agencies, and all TEFAP operations relating to the contract or agreement in question shall be immediately suspended pending further action by OCS. Such notice by OCS shall be deemed to include a thirty (30) day notice of pending termination. The contract or agreement may then be terminated or it may be reinstated on such terms and conditions as OCS specifies.

Should a contract or agreement be terminated for any reason, or without stated reason, the ERA shall transfer its remaining inventory of commodities to another ERA selected by OCS to provide consistent distribution of TEFAP services.

The EFO shall maintain a master list of all Supporting ERAs under TEFAP agreement with them to include: the name of the organization, address, contact person, phone number for each distribution site, and the days and hours of TEFAP operation. A copy of each list shall be submitted to OCS by October 31 each year for the end of the prior FFY.

ERAs shall maintain a public outreach system that encourages participation and informs potential participants, including minorities of the availability of USDA foods and hours of operation throughout their service area. ERAs shall publicize their regularly scheduled days and hours of operation. A sign posting the scheduled days and hours should be posted at the distribution site. The distribution of posters, pamphlets, newsletters and public service announcements are recommended forms of public outreach. Word of mouth shall not be used as the sole or primary method of outreach.

H. RECEIPT OF TEFAP COMMODITIES AND DISTRIBUTION SYSTEM

USDA will ship TEFAP commodities directly to each of the EFOs based on OCS' allocation utilizing the most current SAIPE at the start of the FFY. OCS will notify the EFOs of OCS' purchases from USDA, advising them of anticipated delivery schedules and the types and quantities of commodities. If OCS learns of any changes in delivery schedules, OCS will notify the affected EFOs. OCS will use TEFAP administrative funds to pay for costs to deliver commodities to the ERAs that are not paid by USDA or the vendors, provided funds are available.

In order to meet USDA timelines for reporting receipt, each EFO must report to OCS receipt of TEFAP commodities within two (2) days of receiving such commodities. The EFOs will be required to provide documenting proof of delivery and notify OCS of any commodity damages or discrepancies.

The EFOs will distribute commodities to the Supporting ERAs, if any, within their respective counties, on a monthly basis at minimum, unless otherwise agreed. Food should be distributed using a FIFO methodology. If needed, the EFOs will either conduct or assist in conducting periodic mass distributions to eligible individuals and households.

In the operation of TEFAP, the ERAs shall, to the maximum extent practicable, use volunteer workers and foods that have been donated, pursuant to 7 CFR §251.10(g).

Volunteers shall not consume TEFAP commodities unless they are otherwise eligible to receive donated TEFAP commodities and they have already filled out and signed all relevant certifications of eligibility. The quantities and types of commodities given to eligible volunteers for their personal consumption must not differ from the quantities and types of commodities regularly distributed to all others at the site.

I. LOSS OF COMMODITIES

Upon receipt of USDA commodities, each ERA is responsible for such commodities and shall be legally liable to OCS in the event of theft, damage, destruction, deterioration or loss of TEFAP commodities caused by any event.

In the event of loss, the affected Supporting ERA and the EFO, if different, will notify OCS of such loss by submitting a **Commodity Loss Report** no later than two (2) business days after such loss is discovered. OCS will notify FNS within five (5) additional business days of such loss.

OCS shall report all claims for losses of USDA commodities pursuant to the requirements stated in FNS Instruction 410-1(rev. 2).

If and to the extent that the USDA may hold OCS legally liable for the loss of any commodities, the affected ERA shall indemnify OCS and hold it harmless for the loss.

J. NON-DISPLACEMENT REQUIREMENT

Pursuant to 7 CFR §251.4(b), an ERA receiving commodities pursuant to TEFAP may not diminish its normal expenditures for food for the needy because of receipt of commodities through TEFAP. OCS shall withhold commodities from distribution if OCS determines that the commodities would substitute for the same or similar product that would otherwise be purchased by the ERA in the market. Each ERA shall disclose to OCS all relevant information relating to its receipt, expenditures, and distribution of food commodities from sources outside TEFAP, and each ERA shall provide assurances satisfactory to OCS that the ERA is not in violation of the non-displacement requirements of 7 CFR §251.(4) (b).

K. ELIGIBILITY CRITERIA FOR RECIPIENTS OF TEFAP FOOD FOR HOME CONSUMPTION

Pursuant to 7 CFR §251.5(b), each State agency must establish uniform statewide criteria for determining the eligibility of households to receive TEFAP commodities for home consumption. The criteria must:

1. Ensure that only those households that are in need of food assistance because of inadequate household income receive TEFAP commodities;
2. Include income-based standards and specify the methods by which households may demonstrate eligibility under such standards; and
3. Include a requirement that the household reside in the geographic location (county) served by OCS at the time of applying for assistance, but length of residency shall not be used as an eligibility criterion.

In order for an individual or household to be eligible for TEFAP commodities in the State of Hawaii, they must have a total gross income no greater than 185 percent of the amount

specified in the Federal Poverty Eligibility Guidelines for the State of Hawaii. OCS will revise forms and the website annually by June 1 with updated income eligibility guidelines numbers. EFOs shall implement new forms no later than July 1.

Each month, applicants shall document their eligibility to participate in the program by filling out and signing the **TEFAP Commodity Distribution Form**. All applicants that elect a proxy must fill out a certification of **TEFAP Self-Declaration of Need/Proxy Form** to provide to their proxy to take to the distribution site. The proxy shall fill out the **TEFAP Commodity Distribution Form** on behalf of the applicant.

To comply with 7 CFR §251.10(a)(3), each EFO and Supporting ERA must collect and maintain on record for each household receiving TEFAP commodities for home consumption, the name of the household member receiving commodities, the address of the household (to the extent practicable), the number of persons in the household, and the basis for determining that the household is eligible to receive commodities for home consumption.

OCS recommends the EFO and Supporting ERA use the State of Hawaii **TEFAP Commodity Distribution Form** when distributing TEFAP commodities for household use. Should an EFO or Supporting ERA choose not to utilize OCS' **TEFAP Commodity Distribution Form**, their form must collect all of the information on the OCS form and must be approved by OCS before use. It shall also contain the nondiscrimination statement set out in Part N of this State Distribution Plan, the current TEFAP income eligibility guideline, and the following certification:

“I certify that my yearly gross household income is at or below the income listed on this form for households with the same number of people as my household. I also certify that, as of today, my household lives in the State of Hawaii and that I have only received commodities from this distribution site during the current month. I am completing this certification form in order to request receipt of Federal assistance. Program officials may verify what I have certified to be true. I understand that making a false statement may result in having to pay the State for the value of the food improperly issued to me and may subject me to criminal prosecution under State and Federal law.”

All participants must sign the form each time they participate in a TEFAP distribution.

The amount of commodities distributed shall be determined by the household size by the Supporting ERA. The rates will vary according to availability, but a household of a certain size should be provided the same amount of commodities as another household of the same size.

L. ELIGIBILITY CRITERIA FOR RECIPIENTS OF TEFAP PREPARED MEALS

When ERAs provide prepared meals for predominantly persons in need, all persons they serve are deemed eligible. No means test is required to determine eligibility for persons served through such programs. ERAs that provide prepared meals must demonstrate, to the satisfaction of OCS, that they serve predominantly persons in need. OCS may establish a higher standard than “predominantly” and may determine whether such ERAs meet the

applicable standard by considering socioeconomic data of the area in which the organization is located, or from which it draws its clientele. OCS will not, however, require ERAs to employ a means test to determine that recipients are needy or keep records solely for the purpose of demonstrating that its recipients are in need.

M. ACTIVITIES BY ERAs UNRELATED TO TEFAP PROGRAM

ERAs may incorporate the distribution of foods that have been donated by charitable organizations or other entities with the distribution of USDA-donated commodities or distribute them separately (7 CFR §251.4(i)). However, TEFAP guidelines must always be followed for the TEFAP commodities being distributed.

Pursuant to 7 CFR §251.10(f), activities unrelated to the distribution of TEFAP foods or meal service may be conducted at distribution sites as long as:

1. The person(s) conducting the activity makes clear that the activity is not part of TEFAP and is not endorsed by USDA. Impermissible activities include placing information not related to TEFAP in or printed on bags, boxes or other containers in which TEFAP commodities are distributed. Recipes or information about commodities, dates of future distributions, hours of operations, or other Federal, State, or local government programs or services for the needy may be displayed without a clarification that the information is not endorsed by USDA.
2. The person(s) conducting the activity shall make clear to all beneficiaries receiving USDA commodities that the beneficiary is not required to cooperate in the ERA's non-TEFAP activities as a condition for the receipt of TEFAP commodities for home consumption or prepared meals containing TEFAP commodities. Cooperation includes contributing money, signing petitions, or conversing with the person(s).
3. The activity is not conducted in a manner that disrupts the distribution of TEFAP commodities or meal service.

N. CIVIL RIGHTS

Civil Rights Assurances to Recipients

In accordance with 7 CFR §250.5, OCS and all EFOs will ensure that all Supporting ERAs receiving commodities shall inform all eligible recipients that participation in activities that are not related to the distribution of TEFAP commodities is not a condition of eligibility for receipt of TEFAP commodities.

Pursuant to 7 CFR §250.5 and 7 CFR §251.10(c), and in compliance with FNS Instruction 113-1, there shall be no discrimination in the distribution of foods for home consumption or availability of meals prepared from commodities donated under TEFAP because of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. In addition, pursuant to Hawaii State law, including but not limited to Hawaii Revised Statutes (HRS) §368-1 and §368-1.5, there shall be no discrimination in the distribution of commodities due to race,

color, religion, age, sex, including gender identity or expression, sexual orientation, marital status, national origin, ancestry, or disability.

Posting of Non-Discrimination Statements is Required

Pursuant to FNS Instruction 113-1, any site dispensing USDA commodities must prominently display the USDA **“And Justice for All”** nondiscrimination poster, in clear view of all TEFAP recipients. Any materials, websites or other electronic media created by the State, or other entities, for public information about TEFAP must contain the following USDA nondiscrimination statement:

“In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) Fax: (202) 690-7442; or (3) Email: program.intake@usda.gov. This institution is an equal opportunity provider.”

The foregoing USDA nondiscrimination statement must also be included on all documents intended for distribution to the public or to intended recipients related to TEFAP or where there is any mention, no matter how casual, of TEFAP or a USDA food program. These documents include but are not limited to:

1. The Self-Declaration of Need Form;
2. The TEFAP Commodity Distribution Form, if one is used;
3. Public information releases concerning the program;
4. Announcements of scheduled distributions; and
5. Flyers, brochures, pamphlets, posters, and any other publications, including all electronic media.

If the material is too small to permit the full statement to be included, the material will, at a minimum, include the statement, in print size no smaller than the main text:

“This institution is an equal opportunity provider.”

Pursuant to 7 CFR §250.15, under no circumstances shall recipients be required to make any payments in money, materials, or services for or in connection with the receipt of donated foods, nor shall voluntary contributions be solicited in connection with the receipt of donated

foods for any purpose. No recipient may be asked, encouraged, or required to participate in any religious or political ceremony or oath, or to make or endorse any statement of religious or political loyalty of any kind, as a condition of or inducement for the receipt of TEFAP commodities.

Limited English Proficiency (LEP) Protections

As is required by FNS Instruction 113-1, all ERAs must take reasonable steps to provide access to the information and services they provide to all eligible persons regardless of their proficiency in speaking, reading, or writing in the English language. Recipient agencies and sites that fail to provide services to participants or potentially eligible persons with LEP or deny them access to federally assisted programs and activities may be discriminating on the basis of national origin. OCS recommends that all ERAs maintain a Bilingual List of staff and/or volunteers who can be used and/or shared with other ERAs to provide service to those with LEP.

Mandatory Civil Rights Training and Limited Exemption

OCS will conduct training with key EFO personnel on an annual basis. To ensure that all ERAs comply with these nondiscrimination requirements, ERAs are required to utilize OCS' Civil Rights Training presentation. Additional materials may be added to the OCS' Civil Rights Training presentation by the EFOs to incorporate other subjects to meet training needs of the EFO. The training shall be mandatory for all ERA personnel, pursuant to the following:

1. All supervisors, employees, volunteers who handle personal information, and all frontline staff and volunteers must receive full civil rights training on an annual basis, as outlined in section H of FNS Instruction 113-1, Section XI. Frontline staff and volunteers are individuals who regularly interact with program applicants and participants, and those persons who supervise frontline staff and volunteers.
2. Training must take place during each individual's orientation to the program.
3. Specific subjects that must be included are:
 - a. Customer Service;
 - b. Public Notification;
 - c. Reasonable Accommodations for Persons with Disabilities;
 - d. Language Assistance;
 - e. Complaints and Procedures; and
 - f. Compliance Review.
4. Volunteers who do not handle personal information and who may infrequently interact with program applicants, participants, or with frontline staff must receive, at a minimum, civil rights training that covers customer service and any other subject matter applicable to each volunteer's role and responsibilities. This training may be less time-intensive than the full training provided to frontline volunteers. Consistent with the above, this training must first occur during volunteers' orientation to the program and through refresher training as needed.

5. Each volunteer and paid employee will sign a statement, the **TEFAP Civil Rights Training Log** upon completing the annual civil rights training, confirming that the volunteer or staff member has completed and understood all of the civil rights training required for him/her. The statement shall be signed by ERA or OCS staff person who has provided the training.
6. Volunteers who do not interact in any way with program applicants and participants, and who do not handle personal information, or who cannot understand or abide by the civil rights performance requirements will not be required to take civil rights training, but such persons shall not be allowed to interact with program applicants or beneficiaries or handle personal information related to TEFAP administration.

Requirements for Maintenance of Civil Rights Records

Each EFO and Supporting ERA shall maintain records of the civil rights training for their staff and volunteers. Such records shall be maintained for a minimum of three years which may be subject to audit during monitoring of the ERA.

Written Notice of Beneficiary Rights

Pursuant to USDA Food Distribution National Policy Memorandum FD-138, each Supporting ERA that is a faith-based or religious organization must post and make visible the TEFAP “Written Notice of Beneficiary Rights” to all TEFAP beneficiaries and prospective beneficiaries upon entrance into the distribution site that states:

1. The ERA may not discriminate against beneficiaries or prospective beneficiaries on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice;
2. The ERA may not require beneficiaries or prospective beneficiaries to attend or participate in any explicitly religious activities that are offered by the ERA, and any participation by beneficiaries or prospective beneficiaries in such activities must be purely voluntary;
3. The ERA must separate in time or location any privately funded explicitly religious activities from activities supported by direct federal financial assistance;
4. If a beneficiary objects to the religious character of the ERA, the ERA will undertake reasonable efforts to identify and refer the beneficiary to an alternate provider to which the beneficiary has no objection; the ERA may not be able to guarantee, however, that in every instance, an alternate provider will be available; and
5. Beneficiaries or prospective beneficiaries may report violations of these protections (including denial of services and benefits) by an organization to the State. The State will respond to the complaint and report the alleged violations to their respective USDA FNS Regional Office.

If a beneficiary or prospective beneficiary of TEFAP objects to the religious character of an ERA that provides services under the program, the ERA must promptly undertake reasonable efforts to identify and refer the beneficiary or prospective beneficiary to an alternate provider, if available, to which the prospective beneficiary or beneficiary has no objection. “Reasonable efforts” to refer to an alternate provider are as follows:

1. The ERA must comply with all applicable State and local privacy laws and regulations.
2. A referral may be made to another faith-based ERA, if the beneficiary has no objection to that provider. If the beneficiary requests a secular ERA and one is available, a referral must be made to that ERA.
3. The referral must be made to an alternate ERA that is in a reasonable geographic proximity to the organization making the referral and offer similar services in substance and quality, if available. The alternate ERA should have the capacity to accept additional clients.
4. If the Supporting ERA determines that it is unable to identify an alternate Supporting ERA, the Supporting ERA must notify the EFO or OCS. OCS is ultimately responsible for ensuring an alternate Supporting ERA is identified, if available.

O. PROHIBITION OF FRAUD AND SIMILAR ACTIVITIES

Any individual who receives, conceals, or retains TEFAP foods, funds, assets, or property for personal use or gain or knows such items have been embezzled, willfully misapplied, stolen, or obtained by fraud is subject to Federal and State criminal prosecution.

P. CONFIDENTIALITY

All ERAs agree to the confidentiality of all personal records, data and other information pertaining to individuals or households receiving commodities. However, confidential information may be released to OCS or USDA upon written request for such information. All ERAs are encouraged to participate in legitimate academic, scientific or similar research provided that OCS is given at least 30 days' advance notice, and approves such research. At no time shall the confidentiality of the individuals being served be compromised by such research.

Q. STORAGE, FOOD SAFETY AND INVENTORY

In accordance with 7 CFR §250.14(a), all ERAs must ensure that foods donated by the USDA are stored in a manner to protect them from spoilage, infestation, heat or weather damage, or other condition that may jeopardize the wholesomeness or safety of the foods. USDA donated foods must be maintained in sanitary conditions, at the proper temperature and humidity, and with adequate air circulation. In addition to proper storage practices, effective inventory management is necessary to ensure that USDA donated foods are distributed in a timely manner and in optimal conditions.

Pursuant to FNS Policy Memo FD-107, EFOs and Supporting ERAs must use a first-in-first-out (FIFO) system of inventory management. As part of implementing FIFO practices, ERAs should mark USDA donated food cases or other containers with the date of their receipt at the storage facility. Supporting ERAs should also be aware of "use by" dates placed on food products by the manufacturers that help to determine how long food products can be expected to remain in optimal condition. Such longevity dates must be considered, along with FIFO, in management of donated food inventories.

Each EFO is required to maintain inventory records for each TEFAP food item and reconcile the physical count with the book inventory on an annual basis. Each EFO shall take a semi-annual physical inventory of USDA commodities on hand on June 30th and December 31st of each calendar year. The EFO shall submit the physical inventory to the OCS TEFAP Program Specialist by July 15th and January 15th, respectively, of each calendar year, via email or mail. In the event that a Supporting ERA maintains an inventory level in storage that exceeds a 3-month supply, OCS reserves the right to request justification for the additional inventory. OCS may transfer the excess inventory to other ERAs in need of commodities. OCS will bear all costs associated with the transfer. Each EFO shall complete and submit to OCS an annual self-review relating to proper food storage and safety practices, using the **USDA Annual Commodity Self Review Form** at the end of the federal fiscal year (September 30th) and submit to OCS by October 31st.

R. FOOD ALERT SYSTEM – HOLDS AND RECALLS BY USDA

Each EFO shall appoint a Food Safety Coordinator and shall notify OCS of the name, email address, and phone and fax numbers for that person. Each Supporting ERA shall appoint a Food Safety Coordinator and shall notify its EFO of the name, email address, and phone and fax number for that person. All such information shall be promptly updated and the new information shall be provided to the entity that is to receive the information. The Food Safety Coordinator shall serve as the Point of Contact in the event of a food safety issue.

When USDA issues a hold or recall on a TEFAP commodity, all ERAs must comply with the instructions provided by USDA and FNS concerning the handling of the commodity in question. OCS will notify all EFOs of the TEFAP food recall. In turn, the EFOs are responsible for notifying their respective Supporting ERAs and ensuring compliance with the hold and/or recall instructions. The following procedures shall be observed:

1. **24-Hour Notification Procedure:** When OCS receives a food alert from WBSCM, OCS will contact all EFOs within 24 hours of receiving the notification. OCS will disseminate the recall notification, pass information and other information needed to track the product and document reimbursable costs to affected EFOs.
2. **EFO Responsibilities:** All EFOs will notify their respective Supporting ERAs of the recall notification, identify the location of the affected products, verify that the food item bears the product identification codes, isolate the commodities to avoid accidental use, and take an accurate inventory by location. EFOs will be responsible to confirm with OCS within 24 hours by fax, email or telephone that the EFO has communicated this recall notification to all of its Supporting ERAs.
3. **Notification to OCS:** When a TEFAP commodity has been placed on “hold”, the ERAs that have the commodity in their possession must report the following information to OCS within five (5) days of the notification:
 - a. Quantity received;
 - b. Quantity distributed;
 - c. Quantity on hand; and
 - d. Location of recalled product on hold.

4. **Commodities placed on hold:** USDA may place a TEFAP commodity on “hold” due to inspection problems, packaging problems or contamination. The product may or may not be found fit for human consumption. Regardless of the reason, a sign stating “HOLD” should be immediately placed on the commodity item (case or pallet[s]) at all storage and distribution sites to clearly identify those items on hold to prevent their distribution.
5. **ERA Responsibilities:** When a TEFAP commodity is placed on hold, each ERA must hold that commodity until notified by the EFO or OCS that:
 - a. It has been released by USDA as fit for human consumption; or
 - b. That it is being recalled and can be destroyed locally or will be picked up by the vendor or the EFO. Any recalled product to be picked up shall be consolidated at one location for pickup as soon as reasonably practicable.

The ERA may not destroy, distribute or use the product until it is notified to do so by the EFO or OCS. A claim can be assessed against an ERA for doing so without prior approval from OCS.

6. **Reimbursement of costs associated with removal of commodities that pose a health or safety risk and replacement of commodities:** USDA may reimburse OCS and or the ERAs for costs associated with the removal of TEFAP commodities that have been determined by USDA to pose a health or safety risk. These costs include costs for storage, transportation, processing and destruction. USDA may purchase additional TEFAP commodities to replace those commodities that have been destroyed. However, USDA offers no assurance that the product will be replaced or that costs will be reimbursed.

S. DISTRIBUTION OF COMMODITIES IN TIMES OF DECLARED DISASTER OR EMERGENCY

During a declaration of a disaster affecting the State of Hawaii or a “situation of distress” resulting from a disaster or emergency, low-income households are unable to purchase adequate amounts of nutritious foods, ERAs may distribute donated foods for congregate feeding or mass distributions.

For disaster-related congregate feedings or mass distributions to individuals and households, the ERA that coordinates the distribution shall prepare a distribution report to OCS in the form specified by OCS.

T. RECORDS AND REPORTS

All EFOs shall maintain complete fiscal and programmatic records of the receipt and distribution of TEFAP commodities. Such records shall include completed Self-Declaration Forms, completed Distribution Forms, records of all USDA food received (including date and quantity), inventory records of TEFAP foods on hand at the end of each month, receipts

of delivery (including bills of lading), invoices for distribution to Supporting ERAs, household information, and an up-to-date listing of Supporting ERAs.

The EFOs are responsible for collecting, reviewing, and storing the monthly TEFAP client sign-in/reporting form required of all Supporting ERAs receiving and distributing TEFAP commodities.

Each EFO shall maintain fiscal records documenting all costs incurred and funds received to operate the TEFAP program. Semi-annually, each EFO shall provide these fiscal records to OCS. This information shall be submitted by each EFO on or before April 30th for the six-month period from October 1st to March 31st, and on or before October 31st of each year for the six-month period from April 1st to September 30th. In addition, EFOs must submit a quarterly written Program Progress Report, which includes household participation numbers, to OCS by the end of the month after the close of each quarter.

In compliance with 7 CFR §250.19, EFOs will maintain and keep all records relating to TEFAP administration for a period of three (3) years from the close of the FFY to which they pertain, or longer if related to an audit or investigation in progress. Records may be maintained in paper or electronic format. Pursuant to 7 CFR §251.10(3), such records must be reasonably accessible at all times for use during management evaluation reviews, audits or investigations.

Below is a TEFAP Reports Timetable listing the reports, frequency and due dates:

TEFAP REPORTS TIMETABLE				
Report/Receipt	Frequency		Due Date	
	Frequency	Dates	Due On	Date
Program Progress Report	Quarterly	10/1 - 12/31	Last day of following month	1/31
		1/1 - 3/31		4/30
		4/1 - 6/30		7/31
		7/1 - 9/30		10/31
Fiscal Report 300 & 310	Semi-Annually	10/1 - 3/31	Last day of following month	4/30
		4/1 - 9/30		10/31
Physical Inventory	Semi-Annually	1/1 - 6/30	Last day of following month	7/31
		7/1 - 12/31		1/31
List of ERAs	Annually	10/1 - 9/30	Last day of following month	10/31
USDA Annual Commodity Self Review Form	Annually	9/30	Last day of following month	10/31
Delivery Receipts/Bill of Lading	Upon receipt of commodities		2 days after delivery	

The following State forms may be found on the OCS website at

- <http://labor.hawaii.gov/ocs/service-programs-index/federal-food-assistance-programs/tefap/>

- Fiscal Reports – Sample of Form 300 and 310
- TEFAP Civil Rights Training Log
- TEFAP Commodity Distribution Form
- TEFAP Commodity Loss Report
- TEFAP Commodity Self Review Form
- TEFAP Income Eligibility Form
- TEFAP Notice of Beneficiary-Referral Request
- TEFAP Program Progress Report
- TEFAP Self-Declaration of Need/Proxy Form

U. MONITORING AND INVESTIGATION

Pursuant to 7 CFR §251.10 (e) (2), OCS shall monitor the TEFAP operations of all ERAs to ensure that TEFAP commodities are being administered in accordance with Federal and State requirements. Unless specific exceptions are approved in writing by FNS, the OCS monitoring shall be on the following schedule:

1. An annual monitoring of at least twenty-five percent (25%) of all EFOs provided that each such agency must be monitored no less frequently than once every four (4) years and
2. An annual monitoring of one-tenth or twenty (20), whichever is fewer, of all Supporting ERAs that receive TEFAP commodities and/or administrative funds.

Monitoring sessions will be conducted, to the maximum extent feasible, to observe the actual distribution of commodities and/or meal service, and eligibility determinations, if applicable.

Each monitoring session will encompass, as applicable, eligibility determinations, storage and warehousing practices, inventory controls, approval of distribution sites, reporting and record keeping requirements, and compliance with civil rights requirements (7 CFR §251.10(e)(3)).

OCS reserves the right to revisit and or investigate any ERA at any time. If deficiencies are identified through the monitoring session, OCS shall report its findings within 60 days and require that corrective action be taken to eliminate the deficiencies identified. OCS shall state:

1. Description of the identified deficiency;
2. Description of corrective action(s) required or request for corrective action(s), and
3. Timeline for corrective action(s) and a request for documentation as needed to confirm compliance.

Failure of an ERA to take corrective action within sixty (60) days will result in termination from further participation in TEFAP operations.

V. AUDITS

In accordance with Section 501 of the OMB's Uniform Guidance (2 CFR 200.501) agencies of State, Local or Tribal governments and nonprofits that expend \$750,000 or more in Federal awards (inclusive of food value) in a given school or fiscal year must obtain an audit for that year. EFOs shall comply with the audit requirement in 2 CFR 200, as applicable.

W. GENERAL RESERVATIONS OF AUTHORITY AND DISCRETIONARY POWERS OF THE HAWAII OFFICE OF COMMUNITY SERVICES

Except as may be expressly stated in this State Distribution Plan, nothing herein is intended to constitute a waiver of any authority of OCS under applicable federal statutes, federal regulations, or Hawaii state laws, and OCS retains all discretionary powers allowed to it under all such laws and regulations.

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