



South Carolina
DEPARTMENT OF AGRICULTURE

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**THE EMERGENCY FOOD
ASSISTANCE PROGRAM (TEFAP)**

POLICY MANUAL 2020

AGRICULTURE.SC.GOV

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DEFINITIONS

BONUS COMMODITIES

Commodities that are provided by the USDA and are not considered a part of the SDA's federal entitlement.

CHARITABLE INSTITUTION

A public or nonprofit organization which is not a penal institution that provides food assistance to the needy.

DISTRIBUTION SITE

A location where the eligible recipient agency actually distributes commodities or serves prepared meals for needy persons.

ENTITLEMENT COMMODITIES

Commodities that are offered by USDA and count against the State's fair share allocation.

ELIGIBLE RECIPIENT AGENCY (ERA)

A public or private nonprofit organization which is not a penal facility that meets all requirements as defined within this document.

EMERGENCY FEEDING ORGANIZATION (EFO)

An ERA that provides nutrition assistance to relieve situations of emergency and distress. EFOs have priority over non-emergency ERAs in the distribution of TEFAP commodities.

FOOD BANK

A public or charitable institution that maintains an established operation involving the provision of food or edible commodities that, as an integral part of the normal activities, provide meals or food to feed needy persons on a regular basis.

FOOD PANTRY

A public or private nonprofit institution that distributes food to low income and unemployed households, including food from sources other than SCDA/USDA, to relieve situations of emergency and distress.

STATE DISTRIBUTING AGENCY (SDA)

The state government unit designated by appropriate state executive authority, which has entered into agreement with USDA. In the state of South Carolina, the South Carolina Department of Agriculture is the SDA.

SOUP KITCHEN

A public or charitable institution that, as an integral part of their normal activities, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

VALUE OF COMMODITIES DISTRIBUTED

USDA's cost of acquiring commodities for distribution.

WBSCM

Web Based Supply Chain Management System that enables the SDA/ERA to place orders for TEFAP commodities offered by the USDA.

PROGRAM ADMINISTRATION

The South Carolina Department of Agriculture (SCDA) has been designated by the Governor as the SDA to administer TEFAP. As such, the SCDA provides access to USDA commodity foods and funds to the ERAs in accordance with the agreement signed between the USDA and SCDA.

Prior to making donated foods or funds available, SCDA must enter into written agreements with ERAs to distribute USDA commodities. All ERAs that plan to provide USDA commodities or funds to other ERAs must also enter into written agreement approved by the SCDA. All agreements are considered permanent with amendments and the option for either party to terminate upon 30 days written notice.

Agreements between the SCDA/ERAs and between ERAs must provide:

1. The name and address of the agency receiving USDA commodities/funds under the agreement.
2. A requirement that the ERA operate the program in accordance with federal regulations 7CFR Part 251 and Part 250.
3. All responsibilities delegated to the ERA must be clearly defined in the agreement. The responsibility for establishing eligibility criteria cannot be delegated by the SDA to an ERA.
4. ERAs and any entity that has entered into agreement with them must distribute commodities in accordance with the following priorities:
 - a. First Priority: ERAs that provide nutrition assistance to relieve situations of emergency or distress, ie food pantries, soup kitchens, and shelters.
 - b. Second Priority: After first priority needs have been met, any remaining commodities may be distributed to other ERAs that serve needy people but do not relieve situations of emergency or distress.
5. EFOs are encouraged to identify ERAs in rural areas in order that commodity distribution activities can be provided to needy households in those areas throughout the state.

If the SDA restricts the use of TEFAP administrative funds by ERAs by disallowing one or more types of expenses expressly allowed in 251.8, Payment of Funds for Administrative Costs, the specific types of expenses the EFO will be allowed to incur must be identified in the agreement.

USDA commodities must be used in accordance with USDA regulations and cannot be sold, exchanged, or otherwise disposed of without prior USDA approval. ERAs receiving TEFAP commodities shall not diminish their normal expenditures of food because of receipt of commodities. ERAs are always required to have non-USDA food on hand to serve people in need that do not qualify for USDA commodities.

COMMODITY LOSSES

The SDA is responsible to USDA for the loss of commodities when the loss arises from improper distribution, storage, care, or handling by the SDA or when the SDA fails to pursue claims arising in its favor, fails to provide for the rights to assert such claims, or fails to require the ERAs to provide for such rights.

If an ERA improperly distributes or uses any donated commodities or causes the loss of or damage to commodities through its failure to provide proper storage, care, and handling or due to an excessive inventory, SCDA will pursue a claim for the value of the lost commodities. This policy also covers claims arising from improper use of funds derived from the sale of USDA food containers, distribution of salvaged commodities or insurance.

All instances of lost commodities must be reported to SCDA within 3 to 10 business days after the occurrence of the loss. This reporting requirement does not necessarily require the submission of a written commodity loss report. The written report must be submitted within 30 business days. USDA food that has spoiled, become infested, or otherwise is unsuitable for consumption must be reported to SCDA immediately upon discovery.

SCDA requires corrective action be taken to eliminate/correct the conditions that caused the loss to occur. In the absence of mitigating circumstances, all losses attributed to inadequate temperature control will be considered negligence and subject to claim. The burden of proof will be on the ERA to validate that the failure was not due to negligence. SCDA is ultimately responsible to the USDA for all losses, therefore SCDA will monitor agencies to ensure that USDA commodities are being properly stored, transported and distributed.

SCDA shall begin claim action immediately upon

receipt of a commodity loss report and assess a claim determination within 30 days of receipt of the report of lost food. No claim determination is required where the value of the lost food is \$500.00 or less except in cases where there is evidence of theft or fraud. Losses of \$500.00 or less do not need to be documented.

If it is determined that a claim is warranted and the value of the lost food does not exceed \$2,500.00, the fully documented facts and findings will be sent to the USDA Southeastern Regional Office (SERO). If SERO confirms that a claim should be assessed, SCDA will proceed with the restitution from liable organization.

In-Kind replacement is defined as replacement of lost USDA food with a quantity of the same foods of US origin that are equal or better quality than the lost foods and that are of equal monetary value. The replacement products must always be equal or greater in monetary value, of the same food group, desirable to recipients, and of the same types as those normally supplied by USDA.

If the loss is due to recurring negligence, cash repayment will be mandatory. SCDA may approve the offset of claims with funds collected from the salvage of spoiled food to reduce claims.

Funds collected from the recycling of container, packaging materials and pallets may not be used to offset lost commodity claims. These funds are considered program income and may only be used as allowable costs for program improvement. This revenue is derived from items that were initially purchased with Federal funds and must be maintained in the salvage account.

When a claim is assessed against an ERA and there is no evidence of fraud or negligence, SCDA or SERO may consider the special needs and circumstances of the ERA and adjust the claim.

OUT OF CONDITION COMMODITIES

The USDA Meat and Poultry Hotline provides trained specialists to answer food safety questions. For assistance call toll free 1-800-535-4555.

INDICATORS OF OUT OF CONDITION FOOD

- Canned Foods: leaking, bulging top, bottom or side seams, rusty or pitted interior, discolored interior, mushy content and foul-smelling contents.
- Bagged or Boxed Foods: the package is torn exposing the food, insect infestation internally or externally, adulteration of the package inside or outside from rodents, caking or hardening of the contents.
- Spoilage.

If the unfit commodity is such that it constitutes an immediate hazard to the health and welfare of potential consumers, the situation must be reported immediately to SCDA. This initial report must be followed up in writing within 10 days.

If the situation is not an emergency, then a report must be completed and mailed or faxed to the SCDA within 10 days of the date of discovery. Only commodities unfit for human consumption are to be reported. Commodities damaged in shipment, hidden damage found at the warehouse, trucks arriving at a warehouse with improper temperatures and other such problems are to be reported in accordance with Policy and Procedures 250.14, Receiving and Storing USDA commodities.

If USDA advises the vendor will pick up the remaining quantities, SCDA will assist in coordinating the pickup. Usually, if an agency has 50 cases or less in inventory, USDA will direct the commodity to be disposed of on

site. In this event, it must be rendered inedible. The usual method is to pour bleach directly on the product (not the packaging). Local health regulations must be considered. All USDA markings must be obliterated or covered up with an indelible pen. If the commodity is taken directly from where it is stored to a government owned or contracted land fill the commodity does not have to be rendered inedible or have the markings removed because it will be buried or destroyed. USDA may reimburse the cost associated with the destruction of the commodity. Accordingly, detailed records must be kept on all expenses incurred in the destruction of the commodity.

When a food alert is received from the USDA, SCDA will notify all ERAs within 24 hours. USDA may place a commodity on hold due to inspection problems, packaging problems, or contamination. When placed on hold, all agencies must not distribute that commodity until notified by USDA/SCDA that it has been released or ordered destroyed. A claim can be assessed against any agency for destroying or using the commodity without prior approval. USDA may reimburse agencies for cost associated with removal/destruction of commodities determined by USDA to pose a safety or health risk. If a commodity has been placed on hold, the following information will be needed from each agency:

- A. Commodity Identification
- B. Sales Order Number
- C. Federal Establishment Number (FEN)
- D. Vendor Name and Contract Number
- E. USDA Quantity
- F. Location where the product is stored.

ERA REGULATIONS

PANTRY REQUIREMENTS

1. Pantries must be a public or private nonprofit organization with 501(c)3 status or an affiliate of a religious organization.
 2. Pantries must sign an agreement with only one Food Bank which states the responsibilities of each part.
 3. Pantries must maintain regular and consistent hours of operations. Distribution hours may vary from weekdays, weekends, and evenings to meet the needs of diverse customers.
 4. Food Banks are required to encourage regular hours of operations among their participating agencies to assure optimal accessibility to customers.
 5. Pantries must be public, safe and appropriate for storing and distributing food, abiding by federal, state, and local food safety regulations.
 6. Pantries must screen all participants for eligibility using current TEFAP eligibility criteria. All pantries must maintain a fair, non-discriminatory method of distributing TEFAP food to eligible recipients.
 7. Federal regulations require pantries to maintain written records that document client eligibility determinations as well as the receipt, storage, distribution and inventory of TEFAP commodities.
 8. Records must be maintained for three years from the close of the federal fiscal year (September 30th of each year) or until final audit resolution.
 9. SCDA requires that pantries report the number of households and meals served on a monthly basis to the Food Bank they have signed an agreement with.
2. Persons who voluntarily seek a meal at a soup kitchen are considered eligible for participation and are not required to complete an application to determine eligibility.
 3. The ERA must ensure that predominately needy persons are receiving meals at these sites.
 4. Sites must maintain regularly scheduled hours for meal service.
 5. Meals must be served in a clean, secure environment following proper food handling procedures.
 6. SCDA requires that soup kitchens/on-site feeding organizations report the number of meals served on a monthly basis to the assigned Food Bank.

SOUP KITCHENS / ON-SITE FEEDING RESPONSIBILITIES

1. Serve nutritious meals without charge in a congregate setting, also known as congregate or on-site feeding agencies.
2. SCDA requires that shelters report the number of meals served on a monthly basis to the assigned Food Bank.

SHELTER RESPONSIBILITIES

1. A homeless shelter is a facility that provides temporary residence and at least one meal a day to homeless people.
2. A domestic violence shelter is a facility that provides temporary residence for battered women and children.
3. Persons who choose to seek residence in a shelter are considered eligible for participation and are not required to complete an application to determine eligibility.
4. Shelters must maintain regularly scheduled hours for meal service.
5. Meals must be served in a clean, secure environment following proper food handling procedures.
6. SCDA requires that shelters report the number of meals served on a monthly basis to the assigned Food Bank.

ELIGIBILITY DETERMINATIONS

TEFAP eligibility is determined by self-declaration of the household member seeking benefits on behalf of the household. Only the identity of the applicant must be verified.

A household may become eligible for commodities if they participate in one of the following automatic qualifier programs: Temporary Assistance to Needy Families (TANF), Supplemental Nutritional Assistance Program (SNAP), or Supplemental Security Income (SSI).

If not participating in one of the qualifier programs, the household must have a total household income that does not exceed 150% of the current poverty level for the number of persons in the household as defined by the federal government. When applying, all income must be included on the application. This includes gross income (before taxes), child support, retirement, etc.

An eligibility determination must be completed each time food is distributed to households to attest to their continued eligibility. The ERA must maintain a log for each day of operation and obtain the signature of the head of household that documents the receipt of goods.

Clients who cannot read or write must receive full verbal documentation of the application form, means test, poverty guidelines and self-determination statement. Volunteers are required to write in the required information and witness the customer's signature with an "X".

Participants must reside in the State of South Carolina for at least one day in the county assigned to the distributing agency. This required residency is self-declared. Those who live outside of the agency's serving area may be served if the agency has enough donated product, but the participant should be advised of the correct location for future visits.

Staff and volunteers are encouraged to refer any

homeless or disabled person to local resources which may assist the individual with obtaining identification or other needed services.

Organizations receiving USDA commodities may not impose any eligibility requirements beyond those established herein for applications/recipients. Therefore, activities unrelated to the receipt of USDA commodities may not be conducted at sites unless participation in such activities is expressly identified as being separate and apart from food service or distribution involving USDA commodities, and not required in order to receive such commodities or meals that contain them. For example, an overnight shelter that receives USDA commodities may not require otherwise eligible persons to attend religious activities in order to receive meals. Other examples of unrelated activities include political rallies, meeting, or solicitation of monetary contributions at the distribution or meal site for use by religious and other groups.

Under no circumstances shall recipients be required to make payments in money, materials or services for the receipt of USDA commodities. Additionally, recipients shall not be solicited for voluntary contributions during the distribution of USDA foods.

If ERAs charge fees for transportation, shelter, classes, social activities, recreational facilities, etc., those ERAs must ensure in writing, either by posted signage or by handout during the distribution that any money solicited or charged is not for the USDA commodities received.

If a household has specified in writing, a third party may stand in for the household completing the application or other eligibility documents. The signed written authorization must be attached to the application. The third party can pick up commodities for the household if that person is listed on the application.

Food Banks must keep documentation showing that the allocation of USDA donated commodities was made only to ERAs for feeding needy and homeless persons in compliance with the priority system established by SCDA. The Food Bank must have a written agreement with any ERA to which they in turn plan to sub-distribute commodities. The agreement must contain:

1. Name and address of the ERA receiving commodities
2. Statement the ERA will agree to operate the program in accordance with USDA regulations
3. If the ERA is allowed to further sub-distribute TEFPA commodities to other ERAs, the specific terms and conditions for doing so
4. Food banks are encouraged to obtain and keep on file a copy of the IRS tax exempt determination letter for each ERA they enter into agreement with
5. The food bank must keep a signed receipt on file

from these organizations listing the commodities and quantities provided to that organization. These organizations should maintain a daily, weekly, or monthly inventory list of commodities received.

Food pantries must keep a record of household name, address, and criteria for recipient eligibility. A copy of the completed form must be maintained on file for 3 years. ERAs are not required to verify income or produce any other documentation to support eligibility under any other criteria.

There are no eligibility requirements in determining if a recipient is eligible to receive a meal from a soup kitchen. Anyone can receive a meal without application or signature.

In compliance with the Freedom of Information Act, section 5 U.S.C. 552. (b)(4) and (6), all information obtained from clients for participation in the TEFAP programs is confidential and privileged. Unauthorized disclosure would constitute an invasion of privacy.

CHAPTER 6

COMMODITY ORDERING

Each year USDA allocates funds to each SDA that may be used to purchase foods made available by the department periodically during the fiscal year.

SCDA will allocate those funds to the participating food banks. Once the food banks have been notified of their allocation, they may start ordering food in

WBSCM. They may order the entire year at one time or do periodic orders.

The SCDA will coordinate the ordering of FPDP and Bonus orders.

SCDA will approve/consolidate/deny orders in WBSCM.

FOOD BANK / ERA RESPONSIBILITIES

Food Banks must be fully aware of their responsibility and accountability in operating the program as outlined in their agreement with the SDA. Food Banks are responsible for ensuring that ERAs distribute commodities only to needy households as defined by regulations and must be able to account for all distributions made by the ERAs. Food Banks must have a written agreement with the ERA.

The Food Bank must be certain that all costs claimed are actual costs incurred by the organization. The organization is totally responsible for maintaining all cost records in support of storage and distribution costs submitted to SCDA for reimbursement.

Food Banks are responsible for monitoring ERAs as often as necessary to ensure that the program is being conducted according to regulatory requirements. Non-compliant agencies must be terminated from participation in the program. The Food Bank is also responsible for evaluating its performance of overall program administration.

ERAs must follow sound handling and storage practices for USDA commodities to safeguard the food against theft, spoilage or other loss.

Each distribution site 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, the number of persons in the household and the basis for determining that the household is eligible to receive commodities for home consumption.

An acknowledgment of the food received is required. If the participant does not want to sign, a worker at the distribution site may write the recipient's name on the acknowledgment form.

All sites must sign a receipt for the USDA commodities they receive. A copy of the receipt must be maintained by the agency from which they receive the commodities. ERAs must also keep a copy for their records.

A site that operates a soup kitchen and distributes food for home consumption is only required to complete income eligibility determinations for households taking the food home.

ERAs must ensure that hours of operation are clearly posted, all required Civil Rights posters are in place, all proxy forms collected, and signature sheets are completed properly.

All ERAs that distribute USDA commodities must always have non-USDA foods on hand.

ERAs must post the written notice of beneficiary rights in a prominent place in lieu of providing individual written notice to each beneficiary.

CIVIL RIGHTS

It is the responsibility of the agency to provide public notification within its service area with the agency's site name, address, distribution dates, and hours of operations.

Posters, pamphlets, newsletters, and public service announcements can be used to make potential participants aware of the availability of donated food. Word of mouth is never acceptable as the sole or primary method of public outreach.

The distribution of USDA foods shall not be used as a means for furthering the political interest of any individual or party. Information unrelated to TEFAP may not be placed in or printed on TEFAP bags or boxes unless it's to educate participants about other government sponsored programs and services.

The following statement must be included on eligibility applications, public releases concerning the program, flyers, posters, websites and other publications:

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: [How to File a Complaint](#), 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.

A Limited English Proficiency Plan (LEP) is required. The LEP must provide support and direction for interacting with non-English speaking participants or applicants. This plan should include resources and or documents for identifying language needs, contact information for translation services, and an outline for collecting information, providing translation, and distribution of USDA food. Program information must be provided in a bilingual method when servicing language minority areas.

The "And Justice for All" poster must be prominently displayed.

Faith Based or religious organizations that receive USDA Foods or administrative funds for TEFAP must give written notice in the manner prescribed by FNS Policy Memo FD-138 to all beneficiaries and prospective beneficiaries of the right to be referred to an alternate provider.

DISASTER PLANNING

TEFAP requirements are not to be waived or modified by the ERA in the event of a natural disaster or any declared emergency. Any variations from normal distribution must come from the State or Federal level. TEFAP foods may not be distributed as part of a disaster without permission from the Federal level. The State Agency will notify food bank and pantries if any changes are instituted.