



Office of General Services

THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)

Food Bank/Recipient Agency (RA) Agreement

In accordance with the provisions of [The Emergency Food Assistance Act of 1983, Public Law 98-8](#), as amended, together with regulations of the United States Department of Agriculture (“USDA”) and under the purview of the State Distributing Agency (“SDA”), Office of General Services Food Distribution (“OGSFD”), which administers The Emergency Food Assistance Program (“TEFAP”) in New York State

Food Bank	
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-and-

Recipient Agency (RA)	
Address	
Telephone Number	

Mutually agree to the following terms and conditions applicable to TEFAP and the distribution and use of USDA Foods and the expenditure of federal funds:

Qualifications as a TEFAP Recipient Agency (RA) in New York State

1. The above-referenced RA shall maintain eligibility as a TEFAP agency as defined by [7 CFR 251.3\(d\)](#) and in accordance with [7 CFR 251.5](#), the NYS Distribution plan ([Appendix B](#)) and this agreement, which includes, but is not limited to:
 - a) Maintain tax-exempt status
 - b) Ensure that recipient of household distribution and distribution of prepared meals meet the eligibility criteria established by [7 CFR 251.5\(b\)](#), which is outline in #3 below and the NYS Distribution Plan ([Appendix B](#)).
 - c) Demonstrate to the satisfaction of the State agency or food bank, to which they have applied for the receipt of USDA Foods or administrative funds, that they serve exclusively needy persons.
2. The RA agrees to operate the TEFAP program in compliance with the requirements of [7 CFR Part 250](#) and [7 CFR Part 251](#); regulations, policies and FNS instructions applicable to operating the TEFAP program; TEFAP New York State Plan ([Appendix B](#)); and this agreement.

Qualifications as an Eligible TEFAP Program Recipient in New York State

3. The above-referenced RA shall provide USDA Foods received under this agreement to eligible persons for consumption at home or shall use them in the preparation of congregate meals. Only program eligible recipients will receive the USDA Foods supplied under this agreement. Eligibility criteria is defined in the NYS Distribution Plan ([Appendix B](#)) and, for household distribution, is concurrent with the NYS TEFAP Attestation and Appendix A (Income Eligibility Guidelines).

For distribution at a TEFAP congregate feeding site, there is no means test and a recipient is deemed eligible by the showing up.

For distribution at a site that provides food for household consumption, applicants may be eligible if they (1) qualify based on household income and/or are categorically eligible and (2) must reside within New York State. Length of residency, address, or identification documents shall not be used as an eligibility criterion.

Household Income: An applicant is eligible if their gross household income is at or below 225 percent of the U.S. Federal Poverty Guidelines published annually by the U.S. Department of Health and Human Services (HHS); OR

Categorical: An applicant is categorically eligible if they participate in another federally means tested program (WIC, SNAP, TANF, Medicaid, or SSI).

4. For household distribution, The RA must use the NYS TEFAP Attestation form and Appendix A (Income Eligibility Guidelines) to determine applicant or participant eligibility. Attestation must be completed at least once annually. Attestation must re-occur anytime the Income Eligibility Guidelines changes. The RA must verify, at each visit, if a participant's household information has changed pertaining to their eligibility. If household information has changed since the last attestation, a new attestation must be completed. Recordkeeping of attestations must be kept in accordance with 7e of this agreement.

Applicants that do not meet eligibility or refuse to complete the NYS TEFAP Attestation, may still receive food that is not TEFAP.

5. An intake process that collects or verifies information, beyond the criteria of the NYS Attestation and Appendix A (Income Eligibility Guidelines) or for programs other than TEFAP, must not automatically disqualify an applicant or participant from receiving TEFAP USDA Foods.

Qualification to receive TEFAP USDA Foods must be based on the criteria outlined in 3 of this agreement. The intake process cannot impose additional requirements.

As per 7 CFR 251.5(b)(3), length of residency, address, or identification documents shall not be used as an eligibility criterion. In addition, NYS does not require verification of income, household size, zip code, or participation in a categorically eligible program.

The attestation is a self-declaration that a recipient is eligible for TEFAP USDA Foods.

For example, if an applicant or participant completes the NYS TEFAP Attestation Form and is categorically eligible to receive TEFAP USDA Foods because they receive Medicaid, but they are unable to provide identification, proof of residency, income verification, or any other requirement, they must be given food.

TEFAP Reporting & Recordkeeping

6. The RA must provide timely and accurate participation reporting each month to the food bank. The reporting must include the total number of persons served for the reporting period.
7. The RA must maintain accurate records to document the receipt, distribution, participation, inventory of USDA Foods received in this program, as well as financial records.
 - a) **Receipt:** The RA must retain signed documentation of the TEFAP USDA Foods received (i.e., delivery slips).
 - b) **Distribution:** The RA must retain record of the distribution of TEFAP USDA Foods.
 - c) **Inventory of USDA Foods:** The RA must retain an inventory of the TEFAP USDA Foods received.
 - d) **Financial Records:** Those records will include complete financial records documenting all costs for which funds received are used, including labor, and transportation costs incurred in providing USDA Foods received under this agreement to eligible persons. Any funds made available to the RA shall be used only for allowable purposes and costs. Allowable costs include:
 - i. Costs or expenses directly associated with the storage and distribution of USDA Foods.
 - ii. Costs incurred for providing information to recipients relative to appropriate storage and

- preparation of USDA Foods.
 - iii. Costs for the processing of USDA Foods.
 - e) **Recordkeeping:** The RA must retain these records for three (3) years plus current from the close of the Federal Fiscal Year to which they pertain and must permit inspection of these records by concerned Federal, State, and Food Bank personnel.
8. RA agrees to submit required participation reporting for each month by the _____ day of the following month. Failure to do so may cause temporary or permanent hold on distribution of USDA product.

Receiving TEFAP USDA Foods

9. Under no circumstances will recipients be required to make any payments in money, materials, or services for, or in connection with, the receipt of USDA Foods nor shall voluntary contributions be solicited in connection with the receipt of USDA Foods for any purpose ([Appendix F: FD-155](#)).

Distributing TEFAP USDA Foods

10. RA agrees to post the following signage where distribution of TEFAP USDA Foods occurs:
- a) And Justice for All Poster – must be visible to recipients at distribution location.
 - b) [Written Notice of Beneficiary Rights](#) - must be visible to recipients at distribution location.
 - c) Hours of Operation – entrance of agency.
11. RA agrees to remove donation collection or materials (religion or otherwise) that may be interpreted as a requirement to receive food (i.e., posters/signage, baskets, jars, bowls, etc.) from the distribution location while distribution occurs.
12. There shall be no discrimination in the distribution of USDA Foods for home consumption or availability of meals prepared from USDA Foods under this agreement because of race, color, national origin, sex, age, or disability. The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 ([42 U.S.C. § 2000d et seq.](#)), Title IX of the Education Amendments of 1972 ([20 U.S.C. § 1681 et seq.](#)), Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. § 794](#)), the Age Discrimination Act of 1975 ([42 U.S.C. § 6101 et seq.](#)); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, [28 CFR Part SO.3 and 42](#); and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex (including gender identity and sexual orientation), age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.
13. USDA Foods received under this agreement will be used solely for the benefit of those persons served or assisted by the RA and will not be traded or sold; and will not be otherwise disposed of without prior written approval of the Food Bank and the SDA.
14. No warranty, either express or implied, in law or fact, is to be deemed to exist from the Food Bank or the SDA to any persons, groups, or other recipients, with respect to the USDA Foods distributed under this agreement. No liability upon the part of the Food Bank or the SDA shall arise under or by virtue of this agreement.

Confidentiality Protection

15. RAs must restrict the use and disclosure of information obtained from TEFAP applicants and participants to persons that directly administer or enforce TEFAP (such as state agency staff, ERA staff, and volunteers who process TEFAP intake forms). The RA, pursuant to [7 CFR 251.10](#), must keep applicant and participant information confidential. Below, are the limits established on the disclosure of information

obtained from applicants or participants (as it pertains to receiving TEFAP USDA Foods) and the identity of persons making a complaint or allegation against persons participating in or administering TEFAP (except as necessary to conduct an investigation, hearing, or judicial proceeding, as applicable).

Applicant and participant information is defined by 7 CFR 251.10(c)(1), as any information about an applicant or participant, whether it is obtained from the applicant or participant, another source, or generated as a result of a TEFAP application, certification, or participation, that individually identifies an applicant, participant, and/or their family members. This includes information provided during the intake process for TEFAP eligibility purposes (e.g., name, number of persons in the household, household income) in addition to information collected from TEFAP applicants and participants for purposes unrelated to TEFAP eligibility (e.g., date of birth, occupation, education level, household address). Applicant and participant information is confidential regardless of the original source and exclusive of previously applicable confidentiality provided in accordance with other Federal, State, or local law. However, this does not include anonymous, deidentified information (removal of any links between the data and the individuals or households associated with the data). Prior to sharing de-identified information obtained from or about applicants or participants, state distributing agencies, food banks, and RAs must ensure information has been deidentified to an extent that there is no reasonable basis to believe that the information can identify the individual or household of origin.

An example of this might include training RA staff and volunteers overseeing the TEFAP intake process to cover up the name of all previous participants who signed in, with an additional sheet of paper, leaving only the blank sign-in row visible to the next recipient.

With the consent of the participant, state distributing agencies, foodbanks, and RAs may share information obtained from TEFAP applicants and participants with other health and welfare programs for use in determining eligibility in those programs, or for program outreach. However, the State agency (OGSFD) 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 further share it. These requirements are not intended to limit the use of data sharing for eligibility purposes; they are intended to safeguard confidential information and protect the identity of TEFAP applicants and participants.

Applicant and participant consent can be achieved by incorporating a written consent question or form into the intake or sign-in process at the RA. The consent question/form must clearly list the other health and welfare programs that will receive the application or participant information, the specific applicant and participant information that will be shared, and show allow the applicant or participant to easily agree to or opt out of the data sharing. The consent question/form must also clearly indicate that the receipt of the USDA Foods is not contingent upon their consent to sharing their information.

An example of a written consent questions is, "Your information (name, number of people in the household, household income information, and e-mail address) may be shared with the Community Veggie Program – a Statewide program that provides nutrition assistance to individuals in need - for purposes of determining eligibility and program outreach for that program. By selecting "agree" below, you consent to the use of your information for this purpose. Your eligibility to receive USDA Foods through The Emergency Food Assistance Program (TEFAP) is not dependent on providing consent to share your information. You can still receive food today if you disagree with the information sharing."

Civil Rights

16. All RA staff and volunteers that assist with TEFAP require Civil Rights training no less than annually. RA agrees to the Civil Rights training requirement and agrees to receive this from the food bank. RA must keep an up-to-date training log.
17. RA agrees to investigate promptly all complaints received in connection with the distribution or use of donated foods, and to correct any irregularities disclosed, reporting promptly to the Food Bank in each instance, which will in turn report to the State Distributing Agency (SDA). If SDA determines that a claim

be made for failure to have complied with Federal or State regulations, the RA shall promptly pay any such claim presented.

Storage of TEFAP USDA Foods

- 18. The RA agrees that care will be exercised at all times to prevent USDA Foods from being distributed or stored in such quantities or manner as to encourage waste, deterioration, or misuse.
- 19. The RA agrees to furnish adequate personnel and proper facilities to receive, handle, store, and distribute the USDA Foods in accordance with instructions issued by the SDA and the Food Bank.
- 20. The RA agrees to accept, store, and distribute donated foods in accordance with this agreement. Any authorized act of an agent of the RA shall be deemed to be an act of the RA.
- 21. If TEFAP USDA Foods are stored with food provided by other commodity programs (i.e., National School Lunch Program, Commodity Supplemental Food Program, etc.), the RA must ensure that TEFAP USDA Foods are only utilized for the purposes of TEFAP and not in any other program.
- 22. The RA agrees to comply with all requirements relating to food safety and food recalls

Advertising

- 23. RA may advertise the food pantry or soup kitchen, however, if language such as “government food”, “TEFAP”, or “USDA Foods” are used, then the full USDA non-discrimination statement must be used in the advertisement.

Miscellaneous

- 24. The RA agrees to allow on-site monitoring visits by authorized representative(s) of the Food Bank, the SDA, or the USDA.
- 25. The RA agrees to collaborate with the authorized representative(s) of the food bank, the SDA, or the USDA in resolving deficiencies and/or any complaints.
- 26. The term of this agreement shall commence effective _____ and shall be considered permanent, with amendments to be made as necessary, unless terminated by either party upon 30 days’ written notice.

<u>Food Bank</u>	<u>Recipient Agency</u>
Print Name	Print Name
Signature	Signature
Title	Title
Date	Date