



NORTH DAKOTA DEPARTMENT OF
PUBLIC INSTRUCTION

**The Emergency Food Assistance Program
(TEFAP)**

Standard Operating Procedures

February 2025

**State of North Dakota
Department of Public Instruction
Kirsten Baesler, State Superintendent
State Capitol
Bismarck, North Dakota 58505**

Published by the NDDPI

Notice of Non-Discrimination

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.

Table of Contents:

1. Introduction
 2. Definitions
 3. Requirements for Eligible Recipient Agencies
 4. Eligibility for Individuals/Households
 5. Food Distribution Process
 6. Financial Management and Reporting
 7. Civil Rights and Nondiscrimination Compliance
 8. Recordkeeping and Monitoring
 9. Training
-

1. Introduction

The Emergency Food Assistance Program (TEFAP) is a federally funded program governed by 7 CFR Part 251, which provides food assistance to low-income individuals and households. This manual outlines the operational procedures, compliance requirements, and best practices for entities participating in TEFAP. The Emergency Food Assistance Program (TEFAP) is a federal program that helps supplement the diets of low-income Americans, including elderly people, by providing them with emergency food and nutrition assistance at no cost. Through TEFAP, the U.S. Department of Agriculture (USDA) purchases USDA Foods, including processing and packaging, and makes it available to State Distributing Agencies. The amount of food each State receives out of the total amount of food provided is based on the number of unemployed people and the number of people with incomes below the poverty level in the State. States provide the food to local agencies that they have selected, usually food banks, which in turn distribute the food to local organizations, such as soup kitchens and food pantries that directly serve the public. States also provide food to other types of local organizations, such as community action agencies, which distribute the food directly to low-income households. These local organizations distribute USDA Foods to eligible recipients for household consumption or use them to prepare and serve meals in a congregate setting. Under TEFAP, States also receive administrative funds to support the storage and distribution of USDA Foods. These funds must, in part, be passed down to local agencies. TEFAP is administered at the Federal level by the Food and Nutrition Service (FNS), an agency of the USDA.

In North Dakota, NDDPI partners with the Great Plains Food Bank to administer TEFAP. Great Plains Food Bank arranges for the delivery and distribution of USDA food to all food pantries, mobile food pantries, and soup kitchens across the state who have a TEFAP agreement with the food bank.

For more information go to: <https://www.nd.gov/dpi/> or contact:

Child Nutrition and Food Distribution Programs
North Dakota Department of Public Instruction
600 E Boulevard Ave Dept. 201
Bismarck ND 58505-0440
Telephone: 701-328-2294
Fax: 701-328-9566

An eligible recipient agency directory is available at: [Great Plains Food Bank Partner Listing](#)

2. Definitions

Charitable institution - is public or private, possessing tax-exempt status and is not a penal institution (this exclusion also applies to correctional institutions that conduct rehabilitation programs); and provides food assistance to needy persons.

Distribution site - a location where the eligible recipient agency actually distributes USDA Foods to needy persons for household consumption or serves prepared meals to needy persons under this part.

Eligible recipient agency - an organization that is public, or private, possesses tax-exempt status; is not a penal institution; and provides food assistance exclusively to needy persons for household consumption, pursuant to a means test established or predominantly to needy persons in the form of prepared meals; and has entered into an agreement with the designated State agency for the receipt of USDA Foods or administrative funds, or receives USDA Foods or administrative funds under an agreement with another eligible recipient agency which has signed such an agreement with the State agency or another eligible recipient agency within the State falls into one of the following categories:

- Emergency feeding organizations (including food banks, 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 congregate Nutrition sites and projects that provide home-delivered meals; and
- Disaster relief programs.

Emergency feeding organization—an eligible recipient agency that provides nutrition assistance to relieve situations of emergency and distress by providing food to needy persons, including low-income and unemployed persons. Emergency feeding organizations have priority over other eligible recipient agencies in the distribution of USDA Foods.

Food bank – is a public or charitable institution that maintains an established operation involving the provision of food-to-food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

Food pantry - a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

Formula – is the formula used by the Department to allocate among States the USDA Foods and funding available under this part. The amount of such USDA Foods and funds to be provided to each State will be based on each State's population of low-income and unemployed persons, as compared to national statistics. Each State's share of USDA Foods and funds shall be based 60

percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State. The surplus USDA Foods will be allocated to States on the basis of their weight (pounds), and the USDA Foods purchased under section 214 of the Emergency Food Assistance Act of 1983 will be allocated on the basis of their value (dollars). In instances in which a State determines that it will not accept the full amount of its allocation of USDA Foods purchased under section 214 of the Emergency Food Assistance Act of 1983, the Department will reallocate the USDA Foods to other States on the basis of the same formula used for the initial allocation.

State agency – is the state government unit designated by the Governor or other appropriate State executive authority that has entered into an agreement with the United States Department of Agriculture.

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

Value of USDA Foods Distributed - means the Department's cost of acquiring USDA Foods for distribution under this part.

3. Requirements for Eligible Recipient Agencies

Prior to making USDA Foods or administrative funds available, NDDPI must ensure that an organization applying for participation in the program meets the definition of an “eligible recipient agency.”

Recipient Agency Eligibility

NDDPI must approve all eligibility recipient agencies based on the following criteria which are provided to Great Plains Food Bank staff for review and completion:

- Public or private non-profit (possess tax-exempt status).
 - Be currently operating another Federal program requiring tax-exempt status under the Internal Revenue Code (IRC), or
 - Possess documentation from the Internal Revenue Service (IRS) recognizing tax-exempt status under the IRC, or
 - If not in possession of such documentation, be automatically tax-exempt as “organized or operated exclusively for religious purposes” under the IRC, or
 - If not in possession of such documentation but required to file an application under the IRC to obtain tax-exempt status, have made an application for recognition of such status and be moving toward compliance with the requirements for recognition of tax-exempt status. If the IRS denies a participating organization's application for recognition of tax-exempt status, the organization must immediately notify the State agency or the eligible recipient agency, whichever is appropriate, of such denial, and that agency will terminate

the organization's agreement and participation immediately upon receipt of such notification. If documentation of IRS recognition of tax-exempt status has not been obtained and forwarded to the appropriate agency within 180 days of the effective date of the organization's approval for participation in TEFAP, the State agency or eligible recipient agency must terminate the organization's participation until such time as recognition of tax-exempt status is actually obtained, except that the State agency or eligible recipient agency may grant a single extension not to exceed 90 days if the organization can demonstrate, to the State agency's or eligible recipient agency's satisfaction, that its inability to obtain tax-exempt status within the 180 day period is due to circumstances beyond its control. It is the responsibility of the organization to document that it has complied with all IRS requirements and has provided all information requested by the IRS in a timely manner.

- Indian Tribal Organizations (ITOs)
 - Both public and private ITOs and other Tribal entities that provide food assistance to individuals in need and that meet the definition at 7 CFR 251.3(d) are eligible to enter into agreements with state agencies or other ERAs (i.e., food banks) to serve as TEFAP ERAs.
 - A specific 501(c)(3) status is not required for private organizations to participate; and private organizations may have a tax-exempt status outside of a 501(c)(3) status. Many ITOs and other Tribal entities are also Tribal governments or agencies of Tribal governments and are, therefore, public organizations. A tax-exempt status is not required for public organizations to participate in TEFAP.
- Priority must be given to Emergency Feeding Organizations (EFOs) such as food pantries and soup kitchens, which directly provide services to relieve emergency situations and distress by providing food to needy people, including low-income, unemployed, and homeless people.
- Enter into an agreement with Great Plains Food Bank.
- Front-line staff or volunteers must complete the required annual civil rights training and provide documentation to the Department of Public Instruction.
- Post the “And Justice for All” poster in an area that is clearly visible to clients.
- Distribute, accept, store, and distribute USDA foods to needy persons for household consumption or as prepared meals.
- Agree to distribute USDA foods at no cost to eligible persons, without imposing any requirements upon recipients of USDA foods beyond those established by the SA.
- Accept the responsibility for any improper distribution, or use of donated foods or for any loss of, or damage to, donated foods caused by their fault or negligence.
- Adhere to the eligibility requirements under TEFAP
 - Use the most current TEFAP income guidelines when determining eligibility.
 - Certification procedures only require self-declaration
 - Record client information in electronic or handwritten form.
 - Name of household
 - Number in household
 - Date of receipt of USDA foods Must comply with federal and state regulations

4. Eligibility for Individuals/Households

Each state agency must establish uniform statewide criteria for determining the eligibility of households to receive USDA Foods provided under this part for home consumption and must make these criteria publicly available. NDDPI's TEFAP State Plan of Operation, which outlines individual/household eligibility requirements is posted on the NDDPI website.

Individual/Household Eligibility

North Dakota's income-based standards include a maximum income eligibility threshold of 200 percent of the U.S. Federal Poverty Guidelines, which is published annually by the U.S. Department of Health and Human Services (HHS). Applicants receiving benefits in the Fuel Assistance, Supplemental Security Income, Supplemental Nutrition Assistance Program (SNAP), and The Temporary Assistance for Needy Families (TANF) programs shall receive categorical approval to receive program benefits. Applicants are not required to provide proof of income or categorical eligibility and can attest to meeting all eligibility requirements on the application.

Recipients must reside within the State of North Dakota. Length of residency shall not be considered a factor when determining eligibility for TEFAP. Recipients are not required to provide an address on the TEFAP application and can instead provide a signature or initial to attest to their residency in North Dakota by indicating as such on the TEFAP Application. Recipients receiving food for household consumption must complete the TEFAP Application, or equivalent document, to record that each household receiving USDA food meets the eligibility criteria. Recipients shall attest to their eligibility by signing or initialing the TEFAP Application or equivalent document. Recipients receiving food as a prepared meal in a congregate meal setting are presumed to be needy and do not have to attest to their eligibility to receive TEFAP foods.

5. Food Distribution Process

USDA Foods and Priority System

USDA allocates entitlement and USDA food to state agencies. NDDPI collaborates with Great Plains Food Bank to determine food needs for each program year. NDDPI and Great Plains Food Bank resource staff make decisions regarding the purchase of entitlement foods and acceptance of bonus foods by evaluating current inventory levels and demand for said products and examining future incoming foods to prevent an excess of inventory.

NDDPI requires that Great Plains Food Bank distribute USDA Foods made available under the TEFAP program to eligible recipient agencies in accordance with the following priorities:

- **First priority.** When TEFAP inventories at Great Plains Food Bank cannot meet the needs of all eligible recipient agencies' requests for USDA Foods, the availability of food will give priority to emergency feeding organizations.

- **Second priority.** During times of limited inventory for TEFAP, once Great Plains Food Bank has distributed USDA Foods sufficient to meet the needs of all emergency feeding organizations, food can be made available to any remaining program USDA Foods to other eligible recipient agencies that serve needy people but do not relieve situations of emergency and distress.

Storage and Handling

All eligible recipient agencies must follow USDA guidelines for food safety and storage:

- Foods must be stored on pallets or on shelves off the floor
- Dry storage temperature range: 50-70 degrees F
- Cooler storage temperature range: 36-40 degrees F
- Freezer storage temperature range: 0 degrees F or below
- Thermometers must be used in dry, cooler, and freezer storage areas
- Temperature logs must be kept for cooler and freezer storage
- Pest control measures must be in place, either commercial or self-application

Great Plains Food Bank is also required to conduct monthly physical inventory counts and a year-end count in June and report quantities to NDDPI. All inventory counts must include reporting any damages or out-of-conditioned foods.

Distribution to End Recipients

Eligible recipient agencies must distribute TEFAP directly to individuals or through meal preparation programs. There shall be no discrimination in the distribution of USDA Foods for home consumption or availability of meals prepared from USDA Foods because of race, color, national origin, sex, age, or handicap. ERAs must ensure fair and equitable distribution.

NDDPI allows multiple methods for determining household issuance rates. Methods should be determined based on food availability, community size, frequency of distribution, and staffing/volunteer resources. However, NDDPI recommends allowing access to benefits at least monthly.

6. Financial Management and Reporting

NDDPI allocates administrative funds to Great Plains Food Bank annually. When funding is available, funding is allocated via a grant award through NDDPI's grant management system, Webgrants. Requests for reimbursement are submitted in Webgrants on a monthly basis, as funding is available. Allowable program expenses include both direct and indirect costs:

- The intra-state and interstate transport, storing, handling, repackaging, processing, and distribution of foods (including donated wild game); except that for interstate expenditures

to be allowable, the foods must have been specifically earmarked for the particular State or eligible recipient agency which incurs the cost;

- Costs associated with determinations of eligibility, verification, and documentation;
- Costs of providing information to persons receiving USDA Foods concerning the appropriate storage and preparation of such foods;
- Costs involved in publishing announcements of times and locations of distribution; and
- Costs of recordkeeping, auditing, and other administrative procedures required for program participation.

Capital expenditure, which include the acquisition of facilities or equipment, or enhancements to such capital assets, with a cost per unit of at least \$5,000, are allowable only with prior approval of FNS. Examples of equipment include automated information systems, automated data processing equipment, and other computer hardware and software.

The procedures that State and local agencies must follow in procuring property, equipment, or services with program funds, or disposing of such property or equipment, are contained in 2 CFR part 200, subpart E, and USDA implementing regulations 2 CFR parts 400 and 415, which set out the principles for determining whether specific costs are allowable. State, local, and Indian tribal governments must comply with 2 CFR part 200, subpart E, and USDA implementing regulations 2 CFR parts 400 and 415, while nonprofit subgrantees must comply with 2 CFR part 200, subpart E, and USDA implementing regulations 2 CFR parts 400 and 415. State and local agencies may use procurement procedures established by State and local regulations as long as these procedures do not conflict with Federal regulations. Federal regulations do not relieve State or local agencies from responsibilities established in contracts relating to the procurement of property, equipment, or services. The State agency is the responsible authority regarding the settlement of all contractual and administrative issues arising out of procurements for the program.

Administrative funding includes but is not limited to TEFAP administrative funding, Commodity Credit Corporation, or other funding that USDA may allocate for use in TEFAP operations.

7. Civil Rights and Nondiscrimination Compliance

State and eligible recipient agencies must comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by federal and state regulations.

Non-discrimination Statement and “And Justice for All” Poster

Each eligible recipient agency must prominently display the “And Justice for All” poster, which is also available on the web at <https://www.fns.usda.gov/cr/and-justice-all-posters> and translated into several different languages.

Written materials used to promote or advertise the program must contain the non-discrimination statement and procedures for filing a complaint. 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 text, that “*This institution is an equal opportunity provider.*” Contact NDDPI for the most up-to-date full non-discrimination statement.

Civil Rights Training

All staff and volunteers must receive annual training on all aspects of civil rights compliance. Staff should be able to identify a civil rights complaint, know what to do if they receive one, and understand that filing a complaint is the basic right of the individual.

NDDPI annual civil rights training is located on the website at: [Child Nutrition Programs Civil Rights Training | North Dakota Department of Public Instruction](#)

After reading through the Civil Rights training document, eligible recipient agency staff/volunteers should sign and date the completion portion of the training document. All training documentation must be turned into NDDPI for recording in NDFoods.

Civil Rights Complaint Procedures

All complaints alleging discrimination 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 will be accepted, either verbally or written. In the event of a verbal complaint, the person to whom the allegations are made must write up the elements of the complaint for the complainant. Every effort should be made to have the complainant provide the following information:

- Name, address, and telephone number or other means of contacting the complainant,
- The specific location and name of the State agency, local agency, or other volunteer staff delivering the service or benefit,
- The nature of the incident or action that led the complainant to feel discrimination was a factor, and an example of the method of administration that is having a disparate effect on the public, potential eligible persons, applicants, or participants,
- The basis on which the complainant believes discrimination exists. The bases for nondiscrimination are race, color, national origin, age, disability or sex.
- The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action, and
- The date(s) during which the alleged discriminatory actions occurred or, if continuing, the duration of such actions.

All complaints, either verbal or written, received by the local agency or NDDPI alleging discrimination shall be referred to the USDA-FNS/MPRO and processed in accordance with the complaint processing procedures and timelines in FNS Instruction 113-1.

Non-English or Limited-English Speakers

If a significant proportion of the population in an area is comprised of non-English or limited-English-speaking persons with a common language, the State agency must ensure that local agencies inform such persons of their rights and responsibilities in the program, as listed under §

247.12, in an appropriate language. State and eligible recipient agencies must also ensure that bilingual staff members or interpreters are available to serve these people.

If a significant proportion of the population in an area is comprised of non-English or limited-English speaking persons with a common language, the State agency must ensure that eligible recipient agencies provide other program information, except application forms, to such persons in their appropriate language.

8. Recordkeeping and Monitoring

Recordkeeping

State agencies and eligible recipient agencies must maintain records to document the receipt, disposal, and inventory of USDA foods received and amounts distributed to eligible recipient agencies. Eligible recipient agencies must sign a receipt for USDA Foods for distribution to households or for use in preparing meals, and records of all such receipts must be maintained.

Each distribution site must collect and maintain on record for each household receiving USDA foods for home consumption, the name of the household member receiving USDA Foods, the number of persons in the household, and the basis for determining that the household is eligible to receive USDA Foods for home consumption.

All records required by this section must be retained for 3 years from the close of the Federal Fiscal Year to which they pertain, or longer if related to an audit or investigation in progress. State agencies may take physical possession of such records on behalf of their eligible recipient agencies. However, such records must be reasonably accessible at all times for use during management evaluation reviews, audits, or investigations.

Program Monitoring

NDDPI will complete an administrative review of Great Plains Food Bank once every four years in accordance with current regulations to ensure compliance with the regulations and the State Plan of Operation. Additionally, in accordance with USDA policy, the NDDPI will review 1/10 or twenty, whichever is fewer, of the ERAs under agreement with Great Plains Food Bank annually.

An administrative review of the food bank will include:

- Eligible recipient agency and participant eligibility
- Food ordering procedures/distribution
- Storage and warehousing
- Inventory management
- Program administration
- Financial records and receipts for expenses charged to TEFAP grants

- Civil rights compliance

A warehouse review and annual physical inventory count is conducted annually in June. ERA administrative reviews will include:

- Participant eligibility
- Food ordering procedures, storage, and inventory levels
- Overall program administration
- Civil rights compliance
- ERAs will be asked to provide the following documentation:
 - Current Income Guidelines
 - Intake Forms and Client Records
 - Records for distribution to clients
 - Pest Inspection Documentation
 - Refrigerator and Freezer Temperature Logs
 - Civil Rights training documentation and “And Justice for All” poster

Agencies must correct any deficiencies found during reviews.

9. Training

In addition to civil rights training and general program training for staff/volunteers, it is also recommended that food safety training is offered.

Food Safety Training Recommendations and Requirements

Food handler training helps staff safely prepare, handle, and serve food. ServSafe Food Protection Manager Certification is required for food pantries with on-site food preparation or soup kitchens with a meal service. Food safety training for volunteers is also recommended.